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S.C. SUPREME COURT

(ORDER LIST: 598 U.S.)

MONDAY, MAY 22, 2023

CERTIORARI -- SUMMARY DISPOSITIONS

21-1161 AIELLO, STEVEN, ET AL. V. UNITED STATES

The petition for a writ of certiorari is granted. The judgment is vacated, and the case is remanded to the United States Court of Appeals for the Second Circuit for further consideration in light of *Percoco v. United States*, 598 U. S. ____ (2023) and *Ciminelli v. United States*, 598 U. S. ____ (2023).

21-1169 KALOYEROS, ALAIN V. UNITED STATES

21-1241 BINDAY, MICHAEL L. V. UNITED STATES

The petitions for writs of certiorari are granted. The judgments are vacated, and the cases are remanded to the United States Court of Appeals for the Second Circuit for further consideration in light of *Ciminelli v. United States*, 598 U. S. ____ (2023).

ORDERS IN PENDING CASES

22A889 LA RICCIA, MARY, ET VIR V. CLEVELAND CLINIC, ET AL.
(22-638)

The application for writ of injunction addressed to Justice Alito and referred to the Court is denied.

22A921 WOMEN OF COLOR FOR EQUAL JUSTICE V. NEW YORK, NY, ET AL.

The application for stay addressed to Justice Kavanaugh and referred to the Court is denied.

22M105 SEALED APPELLANT V. UNITED STATES

The motion for leave to file a petition for a writ of certiorari under seal with redacted copies for the public record

is granted.

22M106 VILLA, DANIEL V. CIR

The motion for leave to file a petition for a writ of certiorari under seal is denied.

22M107 SEALED APPELLANT V. GARLAND, ATT'Y GEN., ET AL.

The motion for leave to file a petition for a writ of certiorari under seal with redacted copies for the public record is denied.

22M108 SINE, DEREK V. KOSMIDES, KATHRYN

The motion for leave to file a petition for a writ of certiorari with the supplemental appendix under seal is granted.

22-340 PULSIFER, MARK E. V. UNITED STATES

The motion of petitioner to dispense with printing the joint appendix is granted.

22-6648 PLOURDE, GLEN V. REDINGTON-FAIRVIEW HOSP., ET AL.

The motion of petitioner for reconsideration of order denying leave to proceed *in forma pauperis* is denied.

22-7058 HELMSTETTER, MICHAEL S. V. HERZOG, DAVID, ET AL.

The motion of petitioner for leave to proceed *in forma pauperis* is denied. Petitioner is allowed until June 12, 2023, within which to pay the docketing fee required by Rule 38(a) and to submit a petition in compliance with Rule 33.1 of the Rules of this Court.

CERTIORARI DENIED

22-472 ASSOCIATION DES ÉLÈVEURS, ET AL. V. BONTA, ATT'Y GEN. OF CA

22-481 MOORE, DAPHNE V. UNITED STATES

22-518 PETROBRAS AMERICA INC., ET AL. V. TRANSCOR ASTRA GROUP S.A., ET AL.

22-639 ARTHREX, INC. V. SMITH & NEPHEW, INC., ET AL.

22-733 PACIFIC GAS & ELECTRIC CO. V. AD HOC COMM. OF HOLDERS TRADE
22-747 PENNINGTON, TRACY R. V. WEST VIRGINIA
22-751 LIU, CHARLES C., ET AL. V. SEC
22-772 ULTRA PETROLEUM CORP., ET AL. V. OpCO UNSECURED CREDITORS, ET AL.
22-891 ERICKSON, JOHN E., ET UX. V. POWER, VANESSA, ET AL.
22-892 WANG, GUANGYU V. NV SYS. OF HIGHER ED.
22-898 PAUL, RONALD I. V. SC DEPT. OF TRANSP., ET AL.
22-901 GARDINER, RICHARD E. V. ANDERSON, NELS
22-909 KROGER LIMITED PARTNERSHIP I V. UNITED FOOD & COMMERCIAL WORKERS
22-910 JAVITCH BLOCK, LLC V. REDMAN, JEROME
22-911 SNYDER, ROBERT R. V. CA DOC, ET AL.
22-917 GRAY, NAYONN V. AUTOZONERS, LLC, ET AL.
22-925 FALL LINE PATENTS, LLC V. UNIFIED PATENTS, LLC, ET AL.
22-954 ZINMAN, JUSTIN M. V. CALIFORNIA
22-956 JOHNSON, PAUL V. BASTROP CENTRAL APPRAISAL
22-960 KELLEY, CHRISTEN R. V. HOWDEN, CATHERINE, ET AL.
22-980 NOBLE, NEIL P. V. TEXAS
22-986 NYHAMMER, GRANT V. BASTA, PAULA
22-1000 CASIANO, WILLIAM V. DIXON, SEC., FL DOC, ET AL.
22-1023 ADKINS, DORA L. V. AM. SERV. CTR. ASSOC., ET AL.
22-6540 WILLIAMS, BRANDON V. UNITED STATES
22-6661 MORRIS, BRENT A. V. OKLAHOMA
22-6772 BOWMAN, MARION V. STIRLING, COMM'R, SC DOC, ET AL.
22-6774 LEWIS, DEWAYNE V. UNITED STATES
22-6777 SMITH, FHARIS D. V. UNITED STATES
22-6811 A. B. V. WEST VIRGINIA
22-7013 PUCKETT, CARL, ET UX. V. AIN JEEM, INC.
22-7027 BARNETT, LESTER V. NORTH CAROLINA

22-7036 CASSIDY, MICHAEL L. V. DIXON, SEC., FL DOC
22-7039 BROOKS, MICHAEL T. V. AGATE RESOURCES, INC., ET AL.
22-7042 SERRANO, ROSA V. LUMPKIN, DIR., TX DCJ
22-7047 RIGWAN, ILANA V. SOUTH BEACH BAYSIDE ASSN.
22-7049 MARTINEZ, ROBERT A. V. LUCAS COUNTY JAIL
22-7050 WEIGMAN, DOROTHY V. WERTZ, VICTORIA
22-7051 LEWALLEN, WILLIAM T. V. CROW, SCOTT
22-7054 TRAVILLION, JAMAR L. V. SALAMON, SUPT., ROCKVIEW
22-7063 LEONARD, COLBY D. V. LeBLANC, SEC., LA DOC, ET AL.
22-7064 BONNER, RYAN R. V. LUMPKIN, DIR., TX DCJ
22-7070 CLARK, KENNETH D. V. PENNSYLVANIA
22-7072 SIMS, MONTOYYA V. FOX RIDGE APARTMENTS
22-7078 SEARCY, RICK L. V. CIA, ET AL.
22-7083 SEARCY, RICK L. V. USDC WD MO
22-7086 FEREBEE, LORENZA G. V. MANIS, WARDEN, ET AL.
22-7099 SIMMONS, DANA V. BESHEAR, ANDREW, ET AL.
22-7115 KIFOR, IMRE V. MASSACHUSETTS, ET AL.
22-7118 CREECH, SCOTT D. V. OH DOC
22-7123 CHAMBERS, KENNETH V. INDIANA, ET AL.
22-7128 McMAHON, JAMES C. V. LOUISIANA
22-7185 DONALDSON, BRANDON S. V. TENNESSEE
22-7186 MANN, DANIEL R. V. CLARK, WARDEN, ET AL.
22-7187 WARD, JODY L. V. SOUTH CAROLINA
22-7192 PIZARRO, DAN V. UNITED STATES
22-7200 PAN, SU Q. V. GARLAND, ATT'Y GEN.
22-7203 K. Y. V. GARLAND, ATT'Y GEN.
22-7210 McCALL, DAVID V. UNITED STATES
22-7240 LUSBY, COLE V. UNITED STATES

22-7251 SHRADER, THOMAS C. V. UNITED STATES
22-7277 TONEY, GENARD A. V. UNITED STATES
22-7303 SMITH, PATRICK D. V. UNITED STATES
22-7308 SOLIS, JOSE A. V. UNITED STATES
22-7310 MINNIS, ANTONIO V. UNITED STATES
22-7312 MITCHELL, JACKIE V. UNITED STATES
22-7313 MOBERLY, RAKIM V. UNITED STATES
22-7329 GILLMAN, ROBERT W. V. FLORIDA
22-7330 PEREZ-HERNANDEZ, PEDRO V. UNITED STATES
22-7333 JAH, DAVID V. UNITED STATES
22-7335 HOLGUIN, ENRIQUE V. UNITED STATES
22-7336 DRAKE, SHAWN K. V. UNITED STATES
22-7338 LEMKE, ROBERT V. UNITED STATES
22-7342 PENN, DUPREE V. UNITED STATES
22-7344 SALAIS, OSCAR J. V. PFEIFFER, WARDEN
22-7345 ELMZAYEN, ALI F. V. UNITED STATES
22-7349 GOODIN, THOMAS V. UNITED STATES
22-7350 HIGUERA, EMANUEL V. UNITED STATES
22-7351 SCAGGS, LEONARD V. CIOLLI, WARDEN
22-7352 AVILA, SAMUEL J. V. UNITED STATES
22-7354 BEIER, RAFAEL L. V. UNITED STATES
22-7361 KELLY, DEMONTE T. V. UNITED STATES
22-7363 VAHLKAMP, DAVID V. DIXON, SEC., FL DOC
22-7366 SMITH, DONALD J. V. AKINTOLA, OMONIYI
22-7367 BAILEY, CHRISTOPHER J. V. UNITED STATES
22-7371 BUCHHEIM, RYAN W. V. UNITED STATES
22-7378 COCHRAN, PATRICK E. V. CLARKE, DIR., VA DOC
22-7381 LADSON, LARRY A. V. UNITED STATES

The petitions for writs of certiorari are denied.

21-867 MIDWEST AIR TRAFFIC CONTROL V. BADILLA, JESSICA T., ET AL.

The motion of the Chamber of Commerce of the United States of America for leave to file a brief as *amicus curiae* is granted. The motion of Professional Services Council for leave to file a brief as *amicus curiae* is granted. The petition for a writ of certiorari is denied.

22-490 CHESTNUT, DEPUTY WARDEN V. ALLEN, QUINCY J.

The motion of respondent for leave to proceed *in forma pauperis* is granted. The petition for a writ of certiorari is denied.

22-698 COHEN, ANDREW, ET AL. V. APPLE INC.

The motion of City of Berkeley for leave to file a brief as *amicus curiae* is denied. The petition for a writ of certiorari is denied.

22-906 GRAYSON, ALAN V. NO LABELS, INC., ET AL.

The motion of Professor David A. Logan for leave to file a brief as *amicus curiae* is denied. The petition for a writ of certiorari is denied.

22-7040 GORDON, MICHAEL L. V. DOE, OFFICIAL, ET AL.

The motion of petitioner for leave to proceed *in forma pauperis* is denied, and the petition for a writ of certiorari is dismissed. See Rule 39.8.

22-7056 CAMERON, ALEXANDER V. CLARKE, DIR., VA DOC

The motion of petitioner for leave to proceed *in forma pauperis* is denied, and the petition for a writ of certiorari is dismissed. See Rule 39.8. As the petitioner has repeatedly abused this Court's process, the Clerk is directed not to accept

any further petitions in noncriminal matters from petitioner unless the docketing fee required by Rule 38(a) is paid and the petition is submitted in compliance with Rule 33.1. See *Martin v. District of Columbia Court of Appeals*, 506 U. S. 1 (1992) (*per curiam*).

22-7141 McDONALD, DONALD V. ILLINOIS

The motion of petitioner for leave to proceed *in forma pauperis* is denied, and the petition for a writ of certiorari is dismissed. See Rule 39.8.

HABEAS CORPUS DENIED

22-7416 IN RE RONALD PACK

The petition for a writ of habeas corpus is denied.

MANDAMUS DENIED

22-7038 IN RE MOHAMMAD SHARIFI

22-7044 IN RE JORDAN POWELL

22-7073 IN RE GREGORY K. CLINTON

22-7116 IN RE RAMONE L. WRIGHT

The petitions for writs of mandamus are denied.

REHEARINGS DENIED

21-1373 D. D. V. LOS ANGELES UNIFIED SCH. DIST.

22-612 SPIEGEL, MARSHALL V. CONDOMINIUM ASSN., INC., ET AL.

22-638 LA RICCIA, MARY, ET VIR V. CLEVELAND CLINIC, ET AL.

22-667 BING, CHEN V. BIDEN, PRESIDENT OF U.S., ET AL.

22-820 McLAUGHLIN, LORI D. V. GARLAND, ATT'Y GEN.

22-6518 IN RE BEVERLY A. JENKINS

22-6525 ARLINE, KEITH D. V. CALIFORNIA

22-6539 ROMERO, ISRAEL V. ABSOLUTE TOTAL CARE, ET AL.

22-6588 IN RE BEVERLY A. JENKINS

22-6598 JIANG, YVONNE V. XU, HELEN

The petitions for rehearing are denied.

22-6206 HOLLAND, ALBERT V. FLORIDA

The petition for rehearing is denied. Justice Kagan took no part in the consideration or decision of this petition. See 28 U.S.C. §455(b)(3) and Code of Conduct for U.S. Judges, Canon 3C(1)(e) (prior government employment).

ATTORNEY DISCIPLINE

D-3089 IN THE MATTER OF DISBARMENT OF ATHANASIOS T. TSIMPEDES

Athanasios T. Tsimpedes, of Bethesda, Maryland, having been suspended from the practice of law in this Court by order of October 11, 2022; and a rule having been issued requiring him to show cause why he should not be disbarred; and the time to file a response having expired;

It is ordered that Athanasios T. Tsimpedes is disbarred from the practice of law in this Court.

D-3095 IN THE MATTER OF DISBARMENT OF RANDOLPH WALKER

Randolph Walker, of Corinth, Mississippi, having been suspended from the practice of law in this Court by order of December 5, 2022; and a rule having been issued requiring him to show cause why he should not be disbarred; and the time to file a response having expired;

It is ordered that Randolph Walker is disbarred from the practice of law in this Court.

D-3096 IN THE MATTER OF DISBARMENT OF GEORGE McDOWELL YODER, III

George McDowell Yoder, III, of Laurel, Mississippi, having been suspended from the practice of law in this Court by order of December 5, 2022; and a rule having been issued and served

upon him requiring him to show cause why he should not be
disbarred; and the time to file a response having expired;

It is ordered that George McDowell Yoder, III is disbarred
from the practice of law in this Court.

D-3097

IN THE MATTER OF DISBARMENT OF ROBERT B. MACHEN

Robert B. Machen, of Arlington, Virginia, having been
suspended from the practice of law in this Court by order of
December 5, 2022; and a rule having been issued and served upon
him requiring him to show cause why he should not be disbarred;
and the time to file a response having expired;

It is ordered that Robert B. Machen is disbarred from the
practice of law in this Court.

D-3099

IN THE MATTER OF DISBARMENT OF ROBERT TERRY WILSON, JR.

Robert Terry Wilson, Jr., of Jasper, Alabama, having been
suspended from the practice of law in this Court by order of
December 12, 2022; and a rule having been issued and served upon
him requiring him to show cause why he should not be disbarred;
and the time to file a response having expired;

It is ordered that Robert Terry Wilson, Jr. is disbarred
from the practice of law in this Court.

D-3100

IN THE MATTER OF DISBARMENT OF JEFFREY ALLEN McINTYRE

Jeffrey Allen McIntyre, of Madison, Wisconsin, having been
suspended from the practice of law in this Court by order of
December 12, 2022; and a rule having been issued requiring him
to show cause why he should not be disbarred; and the time to
file a response having expired;

It is ordered that Jeffrey Allen McIntyre is disbarred from
the practice of law in this Court.

D-3103

IN THE MATTER OF DISBARMENT OF TIMOTHY A. BENEDICT

Timothy A. Benedict, of Rome, New York, having been suspended from the practice of law in this Court by order of January 17, 2023; and a rule having been issued and served upon him requiring him to show cause why he should not be disbarred; and the time to file a response having expired;

It is ordered that Timothy A. Benedict is disbarred from the practice of law in this Court.

D-3104

IN THE MATTER OF DISBARMENT OF GERALD HECHT

Gerald Hecht, of Danbury, Connecticut, having been suspended from the practice of law in this Court by order of January 17, 2023; and a rule having been issued requiring him to show cause why he should not be disbarred; and the time to file a response having expired;

It is ordered that Gerald Hecht is disbarred from the practice of law in this Court.

D-3105

IN THE MATTER OF DISBARMENT OF FREDDIE JAY BERG

Freddie Jay Berg, of Brooklyn, New York, having been suspended from the practice of law in this Court by order of January 17, 2023; and a rule having been issued and served upon him requiring him to show cause why he should not be disbarred; and the time to file a response having expired;

It is ordered that Freddie Jay Berg is disbarred from the practice of law in this Court.

D-3106

IN THE MATTER OF ARTHUR L. HARRIS, SR.

It having been reported that Arthur L. Harris, Sr., of New Orleans, Louisiana, has died, the Rule to Show Cause, issued on January 17, 2023 is discharged.

D-3107

IN THE MATTER OF DISBARMENT OF JACQUELINE J. SPRADLING

Jacqueline J. Spradling, of Iola, Kansas, having been suspended from the practice of law in this Court by order of January 17, 2023; and a rule having been issued and served upon her requiring her to show cause why she should not be disbarred; and the time to file a response having expired;

It is ordered that Jacqueline J. Spradling is disbarred from the practice of law in this Court.

D-3108

IN THE MATTER OF DISBARMENT OF PETER CRANE ANDERSON

Peter Crane Anderson, of Asheville, North Carolina, having been suspended from the practice of law in this Court by order of April 24, 2023; and a rule having been issued and served upon him requiring him to show cause why he should not be disbarred; and a response having been filed;

It is ordered that Peter Crane Anderson is disbarred from the practice of law in this Court.

D-3120

IN THE MATTER OF DISCIPLINE OF DONALD VARNADO WATKINS

Donald Varnado Watkins, of Birmingham, Alabama, is suspended from the practice of law in this Court, and a rule will issue, returnable within 40 days, requiring him to show cause why he should not be disbarred from the practice of law in this Court.

D-3121

IN THE MATTER OF DISCIPLINE OF STEVEN BERNARD FABRIZIO

Steven Bernard Fabrizio, of Chevy Chase, Maryland, is suspended from the practice of law in this Court, and a rule will issue, returnable within 40 days, requiring him to show cause why he should not be disbarred from the practice of law in this Court.

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SUPREME COURT OF THE UNITED STATES

**HARRY C. CALCUTT, III v. FEDERAL DEPOSIT
INSURANCE CORPORATION**

ON PETITION FOR WRIT OF CERTIORARI TO THE UNITED
STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT

No. 22–714. Decided May 22, 2023

PER CURIAM.

The Federal Deposit Insurance Corporation (FDIC) brought an enforcement action against petitioner, the former CEO of a Michigan-based community bank, for mismanaging one of the bank’s loan relationships in the wake of the “Great Recession” of 2007–2009. After proceedings before the agency concluded, the FDIC ordered petitioner removed from office, prohibited him from further banking activities, and assessed \$125,000 in civil penalties. Petitioner subsequently filed a petition for review in the Court of Appeals for the Sixth Circuit. That court determined that the FDIC had made two legal errors in adjudicating petitioner’s case. But instead of remanding the matter back to the agency, the Sixth Circuit conducted its own review of the record and concluded that substantial evidence supported the agency’s decision.

That was error. It is “a simple but fundamental rule of administrative law” that reviewing courts “must judge the propriety of [agency] action solely by the grounds invoked by the agency.” *SEC v. Chenery Corp.*, 332 U. S. 194, 196 (1947). “[A]n agency’s discretionary order [may] be upheld,” in other words, only “on the same basis articulated in the order by the agency itself.” *Burlington Truck Lines, Inc. v. United States*, 371 U. S. 156, 169 (1962). By affirming the FDIC’s sanctions against petitioner based on a legal rationale different from the one adopted by the FDIC, the Sixth Circuit violated these commands. We accordingly grant the petition for certiorari limited to the first question

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presented; reverse the judgment of the Sixth Circuit; and order that court to remand this matter to the FDIC so it may reconsider petitioner’s case anew in a manner consistent with this opinion.

I

Under §8(e) of the Federal Deposit Insurance Act (FDIA), 12 U. S. C. §1818(e), as amended by the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, §903, 103 Stat. 453, the FDIC may remove and prohibit individuals from working in the banking sector if certain conditions are met. First, the FDIC must determine that an individual committed misconduct. That occurs when, as relevant here, the individual has “engaged or participated in any unsafe or unsound practice,” or breached his “fiduciary duty.” §§1818(e)(1)(A)(ii)–(iii). Second, the FDIC must find that a bank or its depositors were harmed, or that the individual personally benefited, “by reason of” the individual’s misconduct. §1818(e)(1)(B). Finally, the individual’s misconduct must “involv[e] personal dishonesty” or “demonstrat[e] willful or continuing disregard . . . for the safety or soundness” of the bank. §1818(e)(1)(C).

In this case, the FDIC brought an enforcement action under these provisions against petitioner Harry C. Calcutt, III. From 2000 to 2013, Calcutt served as CEO of Northwestern Bank, headquartered in Traverse City, Michigan. During Calcutt’s tenure, the Bank developed a lending relationship with the Nielson Entities, a group of 19 family-owned businesses that operate in the real estate and oil industries. In 2009, the lending relationship—by then, the Bank’s biggest—began to sour. On September 1 of that year, facing financial difficulties due to the Great Recession, the Entities stopped paying their loans outright. At the time, they owed the Bank \$38 million.

A few months later, the parties reached a multistep agreement known as the Bedrock Transaction to bring all

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of the Entities' loans current. That agreement stabilized the Nielson lending relationship for the following year. But on September 1, 2010, the Entities again stopped making their loan payments. Another short-term agreement was reached, allowing the Entities to continue servicing their debt for the next few months. But in January 2011, the Entities once more stopped making their loan payments. They have remained in default ever since.

On April 13, 2012, the FDIC opened an investigation into the Bank's officers for their role in the Nielson matter. The investigation concluded on August 20, 2013, at which time the agency issued a notice of intention to remove petitioner as well as two other Bank executives from office, and to prohibit them from further participation in the banking industry. The agency also issued a notice of assessment of civil penalties. The bases for the proposed sanctions were the agency's allegations that petitioner had, in violation of §1818(e), mishandled the Nielson Entities lending relationship in various ways: The Bedrock Transaction failed to comply with the Bank's internal loan policy; the Bank's board of directors was misled or misinformed of the nature of the Transaction; petitioner failed to respond accurately to FDIC inquiries about the Transaction; and the Transaction was misreported on the Bank's financial statements.

On October 29, 2019, an FDIC Administrative Law Judge (ALJ) began a 7-day evidentiary hearing into petitioner's conduct. Petitioner was among one of 12 witnesses who testified. On April 3, 2020, the ALJ issued his written decision, recommending that petitioner be barred from the banking industry and be assessed a \$125,000 civil penalty based on his mishandling of the Nielson Loan relationship. Petitioner appealed the ALJ's decision to the FDIC Board.

The FDIC Board began its review by determining, first, whether petitioner had engaged in an unsafe or unsound banking practice. Such a practice, according to the Board, "is one that is 'contrary to generally accepted standards of

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prudent operation’ whose consequences are an ‘abnormal risk of loss or harm’ to a bank.” App. to Pet. for Cert. 150a (quoting *Michael v. FDIC*, 687 F. 3d 337, 352 (CA7 2012)). The Board held that standard satisfied, concluding that “the record in this matter overwhelmingly establishes that [petitioner] engaged in numerous unsafe or unsound practices.” App. to Pet. for Cert. 150a.

The Board then addressed the issue of causation. In doing so, the Board concluded that an individual “need not be the proximate cause of the harm to be held liable under section 8(e).” *Id.*, at 160a. With that understanding in mind, the Board found that petitioner had caused the Bank harm in three ways: First, the Bank had to charge off (*i.e.*, forgive) \$30,000 of one of the loans made in the Bedrock Transaction; second, the Bank suffered \$6.4 million in losses on other Nielson Loans; and third, the Bank incurred investigative, auditing, and legal expenses in managing the Bedrock Transaction and its fallout. *Id.*, at 159a–166a.

Finally, the Board turned to the issue of culpability. It found that the record “well supported” the ALJ’s conclusions that petitioner “persistently concealed . . . the true common nature of the Nielson Entities Loan portfolio, [and] problems with that portfolio.” *Id.*, at 167a–168a. The Board also found that petitioner “falsely answered questions presented to him during examinations,” “concealed documents showing the true condition of the loans,” and “falsely testified that Board members had been fully apprised of the nature of the Nielson Loan portfolio.” *Ibid.*

Based on these findings, the Board issued a final decision imposing the penalties that the ALJ had recommended. *Id.*, at 184a–185a.

Petitioner then filed a petition for review in the Sixth Circuit, identifying several purported errors in the Board’s decision. Two are relevant here.

First, petitioner contended that the Board had misapplied the FDIA’s “by reason of” requirement by concluding

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that a showing of proximate cause was not needed. 12 U. S. C. §1818(e)(1)(B). The Sixth Circuit agreed. The court “observed that [t]he Supreme Court has repeatedly and explicitly held that when Congress uses the phrase ‘by reason of’ in a statute, it intends to require a showing of proximate cause.” 37 F. 4th 293, 329 (2022) (some internal quotation marks omitted); see also *ibid.* (citing for that proposition *Hemi Group, LLC v. City of New York*, 559 U. S. 1, 9 (2010), and *Holmes v. Securities Investor Protection Corporation*, 503 U. S. 258, 268 (1992)).

Second, petitioner argued that he had not proximately caused the harms that the Board had identified or, in the alternative, that those harms did not qualify as harmful effects as a matter of law. See §1818(e)(1)(B). The Sixth Circuit agreed in part. Petitioner had indeed proximately caused the \$30,000 charge off on one of the Bedrock Transaction loans, the court held, because he had “participated extensively in negotiating and approving the Bedrock Transaction.” 37 F. 4th, at 330. But the \$6.4 million in losses on other Nielson Loans were a different matter. Petitioner could be held responsible only for “part” of that harm, the court explained, because “[t]he Bank probably would have incurred *some* loss no matter what Calcutt did.” *Id.*, at 331. Finally, none of the investigative, auditing, and legal expenses incurred in dealing with the Nielson Entities could qualify as harms to the Bank, because those expenses occurred as part of the Bank’s “normal business.” *Ibid.*

Despite identifying these legal errors in the Board’s analysis, the Sixth Circuit nevertheless affirmed the Board’s decision by a 2-to-1 vote. The court concluded that substantial evidence supported the Board’s sanctions determination, even though the Board never applied the proximate cause standard itself or considered whether the sanctions against Calcutt were warranted on the narrower set of harms that the Sixth Circuit identified. See *id.*, at 333–335.

We now reverse.

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II

It is a well-established maxim of administrative law that “[i]f the record before the agency does not support the agency action, [or] if the agency has not considered all relevant factors, . . . the proper course, except in rare circumstances, is to remand to the agency for additional investigation or explanation.” *Florida Power & Light Co. v. Lorion*, 470 U. S. 729, 744 (1985). A “reviewing court,” accordingly, “is not generally empowered to conduct a *de novo* inquiry into the matter being reviewed and to reach its own conclusions based on such an inquiry.” *Ibid.* For if the grounds propounded by the agency for its decision “are inadequate or improper, the court is powerless to affirm the administrative action by substituting what it considers to be a more adequate or proper basis.” *Chenery*, 332 U. S., at 196; see also *Smith v. Berryhill*, 587 U. S. ___, ___ (2019) (slip op., at 15) (“Fundamental principles of administrative law . . . teach that a federal court generally goes astray if it decides a question that has been delegated to an agency if that agency has not first had a chance to address the question”).

As both petitioner and the Solicitor General representing respondent agree, the Sixth Circuit should have followed the ordinary remand rule here. That court concluded the FDIC Board had made two legal errors in its opinion. The proper course for the Sixth Circuit after finding that the Board had erred was to remand the matter back to the FDIC for further consideration of petitioner’s case. “[T]he guiding principle, violated here, is that the function of the reviewing court ends when an error of law is laid bare.” *FPC v. Idaho Power Co.*, 344 U. S. 17, 20 (1952); see also *Gonzales v. Thomas*, 547 U. S. 183, 187 (2006) (*per curiam*) (remanding to agency based on failure by Court of Appeals to “appl[y] the ordinary remand rule” (internal quotation marks omitted)); *INS v. Orlando Ventura*, 537 U. S. 12, 18 (2002) (*per curiam*).

The Sixth Circuit, for its part, believed that remand was

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unnecessary because it “would result in yet another agency proceeding that amounts to ‘an idle and useless formality.’” 37 F. 4th, at 335 (quoting *NLRB v. Wyman-Gordon Co.*, 394 U. S. 759, 766, n. 6 (1969) (plurality opinion)). It is true that remand may be unwarranted in cases where “[t]here is not the slightest uncertainty as to the outcome” of the agency’s proceedings on remand. *Id.*, at 767, n. 6. But we have applied that exception only in narrow circumstances. Where the agency “was *required*” to take a particular action, we have observed, “[t]hat it provided a different rationale for the necessary result is no cause for upsetting its ruling.” *Morgan Stanley Capital Group Inc. v. Public Util. Dist. No. 1 of Snohomish Cty.*, 554 U. S. 527, 544–545 (2008).

That exception does not apply in this case. The FDIC was not *required* to reach the result it did; the question whether to sanction petitioner—as well as the severity and type of any sanction that could be imposed—is a discretionary judgment. And that judgment is highly fact specific and contextual, given the number of factors relevant to petitioner’s ultimate culpability. To conclude, then, that any outcome in this case is foreordained is to deny the agency the flexibility in addressing issues in the banking sector as Congress has allowed.

* * *

The petition for writ of certiorari is granted limited to the first question presented. The judgment of the Court of Appeals for the Sixth Circuit is reversed, and the case is remanded for further proceedings consistent with this opinion.

It is so ordered.