

5 Rapp no. 19 (2024)

NAVARRO V. U.S.

HEADNOTE

by Ira Brad Matetsky

Source: U.S. Supreme Court website (under “In Chambers Opinions”).

Opinion by: John G. Roberts, Jr. (given in source).

Opinion date: March 18, 2024 (given in source).

Citation: *Navarro v. United States*, 601 U.S. ___, 144 S. Ct. 771, 5 Rapp no. 19 (2024).

Additional information:

This writing, while short, was officially designated by the Court as an in-chambers opinion – the first one in more than a decade. Peter Navarro, who had been convicted and sentenced to four months in prison for contempt of Congress, applied to Chief Justice John Roberts, as Circuit Justice for the D.C. Circuit, for release pending appeal. In this one-paragraph opinion, Roberts denied relief. Navarro then re-presented his application to Justice Neil Gorsuch, who referred it to the full Court, which denied it. *Navarro v. United States*, 144 S. Ct. 1454 (2024); *see also* Steve Vladek, “Shopping for Justices,” <https://www.stevevladeck.com/p/bonus-74-shopping-for-justices> (Apr. 4, 2024) (discussing this case and the “old quirk in the Supreme Court’s rules allowing unsuccessful stay applications to be renewed before another justice). Navarro then surrendered and served his sentence. The Court subsequently denied certiorari. *Navarro v. United States*, 145 S. Ct. 998 (2024).

OPINION

SUPREME COURT OF THE UNITED STATES

No. 23A843

PETER K. NAVARRO *v.* UNITED STATES

ON APPLICATION FOR RELEASE PENDING APPEAL

[March 18, 2024]

CHIEF JUSTICE ROBERTS, Circuit Justice.

The application for release pending appeal under 18 U. S. C. §3143(b) is denied. This application concerns only the question whether the applicant, Peter Navarro, has met his burden to establish his entitlement to relief under the Bail Reform Act. The Court of Appeals disposed of the proceeding on the ground that Navarro “forfeited” any argument in this release proceeding challenging the District Court’s conclusion that “executive privilege was not invoked,” “forfeited any challenge” to the conclusion that relief would not be required in any event because of the qualified nature of executive privilege, and “forfeited any challenge” to the conclusion that apart from executive privilege, he was still obligated to appear before Congress and answer questions seeking information outside the scope of the asserted privilege. Order in No. 24–3006 (DC, Mar. 14, 2024). I see no basis to disagree with the determination that Navarro forfeited those arguments in the release proceeding, which is distinct from his pending appeal on the merits.