NOTE: Where it is feasible, a syllabus (headnote) will be released, as is being done in connection with this case, at the time the opinion is issued. The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See *United States* v. *Detroit Lumber Co.,* 200 U. S. 321, 337.

SUPREME COURT OF THE UNITED STATES

Syllabus

UNITED STATES *v.* WILLIAMS

CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE TENTH CIRCUIT

No. 90–1972. Argued January 22, 1992—Decided May 4, 1992

Respondent Williams was indicted by a federal grand jury for alleged violations of 18 U.S.C. §1014. On his motion, the District Court ordered the indictment dismissed without prejudice because the Government had failed to fulfill its obligation under Circuit precedent to present ``substantial exculpatory evidence'' to the grand jury. Following that precedent, the Court of Appeals affirmed.

Held:

1.The argument that the petition should be dismissed as improvidently granted because the question presented was not raised below was considered and rejected when this Court granted certiorari and is rejected again here. The Court will not review a question that was *neither* pressed *nor* passed on below, see *e. g., Stevens* v. *Department of Treasury,* 500 U.S. ___, ___, but there is no doubt that the Court of Appeals passed on the crucial issue of the prosecutor's duty to present exculpatory evidence to the grand jury. It is appropriate to review an important issue expressly decided by a federal court where, as here, although the petitioner did not contest the issue in the case immediately at hand, it did so as a party to the recent proceeding upon which the lower courts relied for their resolution of the issue, and did not concede in the current case the correctness of that precedent. Pp.3–9.

2.A district court may not dismiss an otherwise valid indictment because the Government failed to disclose to the grand jury ``substantial exculpatory evidence'' in its possession. Pp.9–19.

(a)Imposition of the Court of Appeals' disclosure rule is not supported by the courts' inherent ``supervisory power'' to formulate procedural rules not specifically required by the Constitution or the Congress. This Court's cases relying upon

that power deal strictly with the courts' control over their *own* procedures, whereas the grand jury is an institution separate from the courts, over whose functioning the courts do not preside. Any power federal courts may have to fashion, on their own initiative, rules of grand jury procedure is very limited and certainly would not permit the reshaping of the grand jury institution that would be the consequence of the proposed rule here. Pp.9–14.

Syllabus

(b)The Court of Appeals' rule would neither preserve nor enhance the traditional functioning of the grand jury that the ``common law'' of the Fifth Amendment demands. To the contrary, requiring the prosecutor to present exculpatory as well as inculpatory evidence would alter the grand jury's historical role, transforming it from an accusatory body that sits to assess whether there is adequate basis for bringing a criminal charge into an adjudicatory body that sits to determine guilt or innocence. Because it has always been thought sufficient for the grand jury to hear only the prosecutor's side, and, consequently that the suspect has no right to present, and the grand jury no obligation to consider, exculpatory evidence, it would be incompatible with the traditional system to impose upon the prosecutor a legal obligation to present such evidence. Moreover, motions to quash indictments based upon the sufficiency of the evidence relied upon by the grand jury have never been allowed, and it would make little sense to abstain from reviewing the evidentiary support for the grand jury's judgment while scrutinizing the sufficiency of the prosecutor's presentation. Pp.14–18.

(c)This Court need not pursue respondent's argument that the Court of Appeals' rule would save valuable judicial time. If there is any advantage to the proposal, Congress is free to prescribe it. Pp.18–19.

899 F.2d 898, reversed and remanded.

SCALIA, J., delivered the opinion of the Court, in which REHNQUIST, C. J., and WHITE, KENNEDY, and SOUTER, JJ., joined. STEVENS, J., filed a dissenting opinion, in which BLACKMUN and O'CONNOR, JJ., joined, and in Parts II and III of which THOMAS, J., joined.