

DECISIONS PER CURIAM, ETC., FROM JANUARY  
19, 1943, THROUGH APRIL 19, 1943.\*

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No. 631. UNITED STATES *v.* NICKERSON. Appeal from the District Court of the United States for the District of New Jersey. February 1, 1943. *Per Curiam*: The judgment is affirmed on the authority of *Jerome v. United States*, ante, p. 101. *Solicitor General Fahy* for the United States.

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No. 238. MARTIN *v.* CITY OF STRUTHERS. February 1, 1943. Upon reconsideration the judgment entered herein October 12, 1942, 317 U. S. 589, is vacated, the mandate is recalled, and probable jurisdiction is noted.

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No. 358. HOOPESTON CANNING CO. ET AL. *v.* PINK, SUPERINTENDENT OF INSURANCE, ET AL. This case reported under the title *Hoopeston Canning Co. et al. v. Cullen, Superintendent of Insurance, et al.*, ante, p. 313.

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No. 77. DUNN ET AL. *v.* OHIO. Appeal from the Supreme Court of Ohio. Argued January 7, 1943. Decided February 8, 1943. *Per Curiam*: The appeal is dismissed for want of a substantial federal question. *Nebbia v. New York*, 291 U. S. 502; *Olsen v. Nebraska*, 313 U. S. 236; *Federal Power Comm'n v. Pipeline Co.*, 315 U. S. 575, 582-83; *Sproles v. Binford*, 286 U. S. 374. *Mr. James H. Nacey*, with whom *Mr. Meyer A. Cook* was on the

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\*MR. JUSTICE MURPHY took no part in the consideration or decision of orders announced on April 12, 1943.

For decisions on applications for certiorari, see *post*, pp. 747, 755; for rehearing, *post*, pp. 796, 797. For cases disposed of without consideration by the Court, *post*, p. 795.

brief, for appellants. *Mr. Kenneth L. Sater*, with whom *Messrs. Thomas J. Herbert*, Attorney General of Ohio, and *Frank T. Cullitan* were on the brief, for appellee. Reported below: 139 Ohio St. 621, 41 N. E. 2d 577.

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No. 396. *PEDERSEN v. J. F. FITZGERALD CONSTRUCTION Co.* On petition for writ of certiorari to the Supreme Court of New York. February 8, 1943. *Per Curiam*: Petition for writ of certiorari granted. Judgment reversed on the authority of *Overstreet v. North Shore Corporation*, ante, p. 125. MR. JUSTICE MURPHY took no part in the consideration or decision of this case. *Mr. Daniel H. Prior* for petitioner. *Messrs. Henry E. Foley* and *Charles E. Nichols* for respondent. Reported below: 288 N. Y. 687, 43 N. E. 2d 83.

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No. —, original. *EX PARTE WILLIAM W. BOEHMAN*. February 8, 1943. The motion for leave to file petition for writ of mandamus is denied.

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No. 554. *NATIONAL BROADCASTING Co., INC., ET AL. v. UNITED STATES ET AL.* Appeal from the District Court of the United States for the Southern District of New York. February 12, 1943. Appeal dismissed as to appellant, Woodmen of the World Life Insurance Society, on motion of counsel for said appellant. *Mr. David M. Wood* for the Woodmen of the World Life Insurance Society, appellant. Reported below: 47 F. Supp. 940.

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No. 669. *ALLIED MILLS, INC. v. DEPARTMENT OF TREASURY OF INDIANA ET AL.* Appeal from the Supreme Court of Indiana. February 15, 1943. *Per Curiam*: The judgment is affirmed. *McGoldrick v. Felt & Tarrant Co.*,

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309 U. S. 70; *Felt & Tarrant Co. v. Gallagher*, 306 U. S. 62. *Mr. Frank T. Miller* for appellant. *Mr. Joseph W. Hutchinson* for appellees. Reported below: 220 Ind. 340, 42 N. E. 2d 34.

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No. 670. UNITED STATES *v.* AMERICAN FEDERATION OF MUSICIANS ET AL. Appeal from the District Court of the United States for the Northern District of Illinois. February 15, 1943. *Per Curiam*: The judgment is affirmed. Act of March 23, 1932, 47 Stat. 70, 29 U. S. C. §§ 101-115; *New Negro Alliance v. Sanitary Grocery Co.*, 303 U. S. 552; *Milk Wagon Drivers' Union v. Lake Valley Co.*, 311 U. S. 91. *Assistant Attorney General Arnold* for the United States. *Mr. Joseph A. Padway* for appellees. Reported below: 47 F. Supp. 304.

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No. —. EX PARTE JAMES B. GOODRICH. February 15, 1943. Application denied.

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No. —, original. EX PARTE FRANK SMITH;

No. —, original. EX PARTE DEWEY WALLACE McMURTREY; and

No. —, original. EX PARTE HUGH A. BOWEN. February 15, 1943. The motions for leave to file petitions for writs of habeas corpus are denied.

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No. —, original. EX PARTE ROBERT L. PEYTON. March 1, 1943. The motion for leave to file petition for writ of mandamus is denied.

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No. —, original. EX PARTE E. C. LILLY;

No. —, original. EX PARTE JOHN RUSSELL MILLER; and



No. —, original. *EX PARTE* JAMES RAYMOND BUCHANAN. March 1, 1943. The motions for leave to file petitions for writs of habeas corpus are denied.

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No. —, original. *EX PARTE* ROBERT SPIES. March 8, 1943. The motion for leave to file petition for writ of habeas corpus is denied.

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No. —, original. *EX PARTE* MARGARET E. WALEY. March 8, 1943. The motion for leave to file petition for writ of habeas corpus is denied without prejudice to an application to the District Court.

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No. —. *EX PARTE* ROSS CUMMINGS PATTON. March 8, 1943. Application for stay denied.

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No. 396. *PEDERSEN v. J. F. FITZGERALD CONSTRUCTION Co.* March 8, 1943. The judgment entered in this case on February 8, 1943, *ante*, p. 740, is amended by adding the following: "and without prejudice to a determination of the nature of the employment of any members of the class on whose behalf this suit has been brought." The petition for rehearing is denied. MR. JUSTICE MURPHY and MR. JUSTICE RUTLEDGE took no part in the consideration or decision of this application.

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No. 704. *REDUS v. ALABAMA.* March 11, 1943. The application for a stay of execution, referred to the Court by MR. JUSTICE BLACK, is granted and an order is entered staying execution to and including April 5, next.

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No. 554. NATIONAL BROADCASTING CO., INC. ET AL. *v.* UNITED STATES ET AL.; and

No. 555. COLUMBIA BROADCASTING SYSTEM, INC. *v.* UNITED STATES ET AL. March 12, 1943. The motion for a temporary restraining order in each case is granted, and the stay entered by the District Court is continued until 10 days after the filing in the District Court of this Court's mandates upon decision of the appeals. See 319 U. S. 190.

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No. —. UNITED STATES EX REL. PURCELL *v.* STATE OF NEW YORK ET AL. March 15, 1943. Application denied.

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No. —, original. EX PARTE DAISY D. WILSON. March 15, 1943. Applications denied.

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No. —, original. EX PARTE CHARLES H. COCHRAN. March 15, 1943. Application denied.

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No. —, original. EX PARTE MARTIN M. GOLDMAN ET AL. March 15, 1943. The motion for leave to file petition for writ of mandamus is denied.

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No. —, original. EX PARTE SAM MINER;

No. —, original. EX PARTE JOE SOWDER; and

No. —, original. EX PARTE JOSEPH GRECO. March 15, 1943. The motions for leave to file petitions for writs of habeas corpus are denied.

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No. 12, original. UNITED STATES *v.* LOUISIANA ET AL. March 15, 1943. Streeter B. Flynn, Esq., of Oklahoma

City, Oklahoma, appointed a Commissioner in this cause, for the purpose of perpetuating testimony.

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No. 490. CLEARFIELD TRUST CO. ET AL. v. UNITED STATES. March 15, 1943. Ordered that the opinion in this case dated March 1, 1943, be amended by striking the sentence beginning on the 5th line from the bottom of page 3, which reads: "Its facts are practically on all fours with those of the present case."

Opinion reported as amended, *ante*, p. 363.

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No. 630. GOLDSMITH v. SANFORD, WARDEN. March 15, 1943. Application denied. MR. JUSTICE MURPHY and MR. JUSTICE RUTLEDGE took no part in the consideration or decision of this application. *H. Ely Goldsmith, pro se. Solicitor General Fahy, Assistant Attorney General Berge, and Messrs. Oscar A. Provost and W. Marvin Smith and Miss Melva M. Graney* for respondent.

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No. 288. AGRICULTURAL PRORATE COMMISSION OF CALIFORNIA ET AL. v. MUTUAL ORANGE DISTRIBUTORS ET AL. Appeal from the District Court of the United States for the Southern District of California. April 5, 1943. *Per Curiam*: The motion to vacate the judgment is granted. The judgment of the District Court is vacated, without costs to either party in this Court, and the cause is remanded to the District Court with directions to dismiss the bill of complaint as moot. *United States v. Hamburg-American Co.*, 239 U. S. 466, 477-8; *Brownlow v. Schwartz*, 261 U. S. 216; *Paramount Pictures v. Langer*, 306 U. S. 619; *Retail Food Clerks & Managers Union v. Union*

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*Premier Food Stores*, 308 U. S. 526. *Messrs. Earl Warren*, Attorney General of California, and *Walter L. Bowers*, Deputy Attorney General, for appellants. *Mr. Guy Richards Crump* for appellees. Reported below: 35 F. Supp. 108.

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No. —, original. *EX PARTE FOREST G. WOOD*. April 5, 1943. The motion for leave to file petition for writ of habeas corpus is denied without prejudice for the reasons stated in *Ex parte Elmer Davis*, ante, p. 412.

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No. —, original. *EX PARTE EDWARD J. BORAH*;

No. —, original. *EX PARTE CLARENCE M. HOLMES*;  
and

No. —, original. *EX PARTE CHARLES JENNINGS*. April 5, 1943. The motions for leave to file petitions for writs of habeas corpus are denied.

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No. —. *EX PARTE FRANK KUCZYNSKI*. April 5, 1943. Application denied.

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No. 844. *PEARSON v. CALIFORNIA ET AL.* Appeal from the Supreme Court of California. April 12, 1943. *Per Curiam*: The appeal is dismissed for the want of a properly presented substantial federal question. *Clarence Pearson, pro se*.

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No. —, original. *EX PARTE RAYMOND BARTON*;

No. —, original. *EX PARTE CHESTEEN MCCONNELL*;  
and

No. —, original. *EX PARTE FRANK CONTARDI*. April 12, 1943. The motions for leave to file petitions for writs of habeas corpus are denied.



No. —, original. *Ex PARTE HENRY HAWK*. April 12, 1943. The motion for leave to file petition for writ of habeas corpus is denied without prejudice to an application to the District Court.

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No. —, original. *Ex PARTE DEWEY WALLACE McMURTRY*. April 12, 1943. The motion for leave to file petition for writ of certiorari is denied.

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No. 792. *STEPHAN v. UNITED STATES*. April 14, 1943. The motion for a stay of execution is granted and it is ordered that execution of the sentence of death in this case be stayed until further order of this Court.

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No. 720. *BAYUK CIGARS, INC. v. PENNSYLVANIA*. Appeal from the Supreme Court of Pennsylvania. April 19, 1943. *Per Curiam*: The motion to affirm is granted and the judgment is affirmed. (1) *Butler Bros. v. McColgan*, 315 U. S. 501, and cases cited; *Wisconsin v. J. C. Penney Co.*, 311 U. S. 435, 441; *Department of Treasury v. Wood Preserving Corp.*, 313 U. S. 62, 66-67; *Wheeling Steel Corp. v. Fox*, 298 U. S. 193; (2) *Madden v. Kentucky*, 309 U. S. 83, 87-90. *Mr. Jerome J. Rothschild* for appellant. *Mr. Frank A. Sinon* for appellee. Reported below: 345 Pa. 348, 28 A. 2d 134.

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No. 876. *JEWEL INCANDESCENT LAMP Co., INC. v. GENERAL ELECTRIC Co. ET AL.* Appeal from the District Court of the United States for the District of New Jersey. April 19, 1943. *Per Curiam*: The appeal is dismissed on the authority of *Ex parte Cutting*, 94 U. S. 14; *Credits Commutation Co. v. United States*, 177 U. S. 311, and *United States v. California Coöperative Canneries*, 279



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U. S. 553, 556. *Mr. Samuel E. Darby, Jr.* for appellant.  
*Mr. Alexander C. Neave* for appellees. Reported below:  
47 F. Supp. 818.

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No. —, original. *EX PARTE EMMET H. BOZEL*;

No. —, original. *EX PARTE ELMER DAVIS*;

No. —, original. *EX PARTE CHARLES ERICKSON*; and

No. —, original. *EX PARTE FRANK ROBERSON*. April  
19, 1943. The motions for leave to file petitions for writs  
of habeas corpus are denied.

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No. —, original. *EX PARTE THOMAS B. MULRENNAN*.  
April 19, 1943. The motion for leave to file petition for  
writ of habeas corpus is denied without prejudice to an  
application to the District Court.

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No. —. *DANIELS v. ALABAMA*; and

No. —. *ROBINSON v. ALABAMA*. April 19, 1943. The  
applications for stay of execution are granted and it is  
ordered that execution of the sentence of death in each  
of these cases be stayed until further order of this Court.

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DECISIONS GRANTING CERTIORARI, FROM JAN-  
UARY 19, 1943, THROUGH APRIL 19, 1943.

No. 396. *PEDERSEN v. J. F. FITZGERALD CONSTRUCTION*  
*Co.* See *ante*, p. 740.

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No. 584. *ROCHE, U. S. DISTRICT JUDGE, ET AL. v.*  
*EVAPORATED MILK ASSOCIATION ET AL.* February 8, 1943.  
Petition for writ of certiorari to the Circuit Court of Ap-  
peals for the Ninth Circuit granted. *Solicitor General*  
*Fahy* for petitioners. *Messrs. Marshall P. Madison,*