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Rehearing Denied.

## CASES DISPOSED OF WITHOUT CONSIDERATION BY THE COURT, FROM APRIL 24, 1945, THROUGH JUNE 18, 1945.

No. 1148. *MURPHY ET AL. v. UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA ET AL.* On petition for writ of certiorari to the Circuit Court of Appeals for the Ninth Circuit. April 30, 1945. Dismissed per stipulation of counsel. *Mr. Sidney M. Ehrman* for petitioners. Reported below: 145 F. 2d 1018.

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No. 1259. *DROSTE, EXECUTRIX, v. HARRY ATLAS SONS, INC. ET AL.* June 4, 1945. On petition for writ of certiorari to the Circuit Court of Appeals for the Second Circuit. Dismissed on motion of counsel for the petitioner. *Mr. Otto C. Sommerich* for petitioner. Reported below: 145 F. 2d 899.

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## DECISIONS DENYING REHEARING, FROM APRIL 24, 1945, THROUGH JUNE 18, 1945.\*

No. —. *EX PARTE WILLIAM M. LEE.* April 30, 1945. 323 U. S. 669.

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No. 379. *COLORADO INTERSTATE GAS Co. v. FEDERAL POWER COMMISSION ET AL.*; and

No. 380. *CANADIAN RIVER GAS Co. v. FEDERAL POWER COMMISSION ET AL.* April 30, 1945. 324 U. S. 581.

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No. 809. *McCoy v. PESCOR, WARDEN.* April 30, 1945. 324 U. S. 868.

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\*See Table of Cases Reported in this volume for earlier decisions in these cases, unless otherwise indicated.

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No. 935. COMPAGNA ET AL. *v.* UNITED STATES. April 30, 1945. 324 U. S. 867.

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No. 946. KAUFMAN *v.* UNITED STATES. April 30, 1945. 324 U. S. 867.

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No. 1027. MALLINCKRODT *v.* COMMISSIONER OF INTERNAL REVENUE. April 30, 1945. 324 U. S. 871.

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No. 296. PANHANDLE EASTERN PIPE LINE CO. ET AL. *v.* FEDERAL POWER COMMISSION ET AL. See *ante*, p. 834.

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No. 897, October Term, 1936. McDONALD *v.* UNITED STATES;

No. 520, October Term, 1941. McDONALD *v.* HUDSPETH, WARDEN; and

No. 477, October Term, 1943. McDONALD *v.* UNITED STATES. May 7, 1945. Petition for other relief also denied. 301 U. S. 697, 314 U. S. 617, 320 U. S. 804.

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No. 38. HOOVEN & ALLISON CO. *v.* EVATT, TAX COMMISSIONER OF OHIO. May 7, 1945. 324 U. S. 652.

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No. 354. COMMISSIONER OF INTERNAL REVENUE *v.* WHEELER ET AL., EXECUTORS, ET AL. May 7, 1945. 324 U. S. 542.

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No. 614. MEURER STEEL BARREL CO., INC. *v.* COMMISSIONER OF INTERNAL REVENUE. May 7, 1945. 324 U. S. 860.

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No. 922. ATLANTIC COMPANY *v.* BROUGHTON ET AL.; and

No. 923. ATLANTIC COMPANY *v.* CARTHAN ET AL. May 7, 1945. 324 U. S. 883.

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No. 966. DICKEY *v.* RAISIN PRORATION ZONE No. 1  
ET AL. May 7, 1945. 324 U. S. 869.

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No. 1065. OIL WORKERS INTERNATIONAL UNION,  
LOCAL 463, ET AL. *v.* TEXOMA NATURAL GAS Co. May 7,  
1945. 324 U. S. 872.

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No. —. EX PARTE BRYAN SCHWAB. May 21, 1945.  
The second petition for rehearing is denied. 324 U. S.  
891.

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No. 177. LEDBETTER, ADMINISTRATOR, ET AL. *v.*  
FARMERS BANK & TRUST Co. ET AL. See *ante*, p. 837.

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No. —. EX PARTE NOEL GAINES. May 21, 1945. 324  
U. S. 831.

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No. —. NOBLE ET AL. *v.* BOTKIN. May 21, 1945.  
323 U. S. 680.

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No. 24. HERB *v.* PITCAIRN ET AL., RECEIVERS FOR  
WABASH RAILWAY Co. May 21, 1945. *Ante*, p. 77.

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No. 25. BELCHER *v.* LOUISVILLE & NASHVILLE RAIL-  
ROAD Co. May 21, 1945. *Ante*, p. 77.

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No. 377. PRECISION INSTRUMENT MANUFACTURING  
Co. ET AL. *v.* AUTOMOTIVE MAINTENANCE MACHINERY Co.  
May 21, 1945. 324 U. S. 806.

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No. 445. BROOKLYN SAVINGS BANK *v.* O'NEIL. May  
21, 1945. 324 U. S. 697.

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No. 761. GALLAGHER *v.* RAGEN, WARDEN. May 21, 1945. 324 U. S. 868.

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No. 888. CARTER *v.* JOHNSTON, WARDEN. May 21, 1945. 324 U. S. 874.

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No. 963. BISSELL *v.* AMRINE, WARDEN. May 21, 1945. 324 U. S. 875.

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No. 990. LESSER *v.* NEW YORK. May 21, 1945. 324 U. S. 875.

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No. 1039. PUTNAM ET AL. *v.* FEDERAL LAND BANK OF BALTIMORE. May 21, 1945. 324 U. S. 882.

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No. 1040. EX PARTE HAWKE. May 21, 1945. 324 U. S. 878.

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No. 1055. HOWARD *v.* CHICAGO, BURLINGTON & QUINCY RAILROAD CO. May 21, 1945. 324 U. S. 879.

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No. 1083. COHEN *v.* UNITED STATES. May 21, 1945.

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No. 693, October Term, 1940. BAKER *v.* UNITED STATES. May 28, 1945. 312 U. S. 692.

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No. 452. NATIONAL LABOR RELATIONS BOARD *v.* LE TOURNEAU COMPANY OF GEORGIA. May 28, 1945. 324 U. S. 793.

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No. 1036. OHIO EX REL. FOSTER *v.* EVATT, TAX COMMISSIONER. May 28, 1945. 324 U. S. 878.

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No. 1071. RINKO *v.* UNITED STATES. May 28, 1945.

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No. 514. *ROBINSON v. UNITED STATES*. May 28, 1945.  
Second petition for rehearing denied. 324 U. S. 889.

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No. 1168. *DULANEY v. COPPARD, TRUSTEE*. June 4,  
1945.

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No. 907. *PARK, CHAIRMAN, v. GROUP OF INSTITU-  
TIONAL INVESTORS ET AL.* June 11, 1945. MR. JUSTICE  
JACKSON and MR. JUSTICE RUTLEDGE took no part in the  
consideration or decision of these applications. 324  
U. S. 857.

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No. 995. *METRIK v. FORT TRYON GARDENS, INC.*  
June 11, 1945. 324 U. S. 866.

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No. 1185. *TELFIAN v. SANFORD, WARDEN*. June 11,  
1945.

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No. —. *SNOW v. JOHNSTON, WARDEN*. June 18,  
1945.

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No. 84. *WILLIAMS ET AL. v. NORTH CAROLINA*. June  
18, 1945. *Ante*, p. 226.

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No. 610. *ANGELUS MILLING Co. v. COMMISSIONER OF  
INTERNAL REVENUE*. June 18, 1945. *Ante*, p. 293.

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No. 1151. *MOORE v. BAILEY*. June 18, 1945.

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No. 1160. *FISHER v. MEDWEDEFF, TRUSTEE*. June 18,  
1945.

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No. 1162. *SPRUILL v. BALLARD ET AL.* June 18, 1945.

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No. 1210. *TAMESA v. UNITED STATES*. June 18, 1945.

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No. 110. *CHASE SECURITIES CORP., NOW KNOWN AS AMEREX HOLDING CORP., v. DONALDSON ET AL.* June 18, 1945. MR. JUSTICE ROBERTS and MR. JUSTICE DOUGLAS took no part in the consideration or decision of this application. *Ante*, p. 304.

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No. 446. *AMBASSADOR, INC. ET AL. v. UNITED STATES ET AL.* June 18, 1945. MR. JUSTICE ROBERTS, MR. JUSTICE BLACK, and MR. JUSTICE DOUGLAS took no part in the consideration or decision of this application. *Ante*, p. 317.

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No. 1208. *MAYS v. BURGESS ET AL.* June 18, 1945. MR. JUSTICE ROBERTS, MR. JUSTICE REED, and MR. JUSTICE JACKSON took no part in the consideration or decision of this application.

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No. 661, October Term, 1934. *AWOTIN v. ATLAS EXCHANGE NATIONAL BANK*. See *ante*, p. 843.

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No. 663. *UNITED STATES ET AL. v. CAPITAL TRANSIT CO. ET AL.* June 18, 1945. The petitions for rehearing and the petition for a modification of the opinion are denied. *Ante*, p. 357.

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No. 815. *SECURITIES & EXCHANGE COMMISSION v. OKIN*. See *ante*, p. 843.

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No. 950. *SUPERIOR COAL CO. v. COMMISSIONER OF INTERNAL REVENUE*. June 18, 1945. The motion for leave to file petition for rehearing is denied for want of jurisdiction. *R. Simpson & Co. v. Commissioner*, 321 U. S. 225. 324 U. S. 864.

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NO. 721. JEWELL RIDGE COAL CORPORATION *v.* LOCAL NO. 6167, UNITED MINE WORKERS OF AMERICA. June 18, 1945. Petition for rehearing denied.

MR. JUSTICE JACKSON, concurring:

Since announcement of a mere denial of this petition for rehearing might be interpreted to rest upon any one of several grounds, I consider it appropriate to disclose the limited grounds on which I concur.

The unusual feature of the petition in this case is that it suggests to the Court a question as to the qualification of one of the Justices to take part in the decision of the cause. This petition is addressed to all of the Court and must either be granted or denied in the name of the Court and on the responsibility of all of the Justices. In my opinion the complaint is one which cannot properly be addressed to the Court as a whole and for that reason I concur in denying it.

No statute prescribes grounds upon which a Justice of this Court may be disqualified in any case. The Court itself has never undertaken by rule of Court or decision to formulate any uniform practice on the subject. Because of this lack of authoritative standards it appears always to have been considered the responsibility of each Justice to determine for himself the propriety of withdrawing in any particular circumstances. Practice of the Justices over the years has not been uniform, and the diversity of attitudes to the question doubtless leads to some confusion as to what the bar may expect and as to whether the action in any case is a matter of individual or collective responsibility.

There is no authority known to me under which a majority of this Court has power under any circumstances to exclude one of its duly commissioned Justices from sitting or voting in any case. As to the other and usual grounds, applications for rehearing in this Court, as in other bodies,

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are addressed to the majority which promulgated the decision. This is so formulated by our Rule 33. It is always obvious that unless one or more of them is willing to reconsider his position no good can come of reargument. Hence, being in dissent, I have no voice as to rehearing, except that I continue to adhere to the dissent.

Because of these considerations I concur in denial of the petition.

MR. JUSTICE FRANKFURTER concurs in this statement.

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NO. 467. ESTATE OF GARRETT ET AL. v. GREENBERG, TRUSTEE, ET AL. June 18, 1945. 323 U. S. 766.