

DECISIONS PER CURIAM, ETC., FROM APRIL 23,  
1946, THROUGH JUNE 10, 1946.\*

No. 1009. GOSSELIN *v.* KELLEY, SUPERINTENDENT. Appeal from the Supreme Judicial Court of Maine. April 29, 1946. *Per Curiam*: The appeal is dismissed for want of a substantial federal question. MR. JUSTICE DOUGLAS and MR. JUSTICE RUTLEDGE dissent. *F. Harold Dubord* for appellant. Reported below: 141 Me. 412, 44 A. 2d 882.

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No. 115, Misc. UNITED STATES EX REL. FOXALL *v.* RAGEN, WARDEN; and

No. 116, Misc. DOBRY *v.* OLSON, WARDEN. April 29, 1946. The motions for leave to file petitions for writs of habeas corpus are denied.

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No. 946. BADT, CAPTAIN, U. S. NAVY, *v.* UNITED STATES EX REL. REEL. On petition for writ of certiorari to the Circuit Court of Appeals for the Second Circuit. April 29, 1946. Petition for certiorari dismissed on motion of *Solicitor General McGrath*. Reported below: 152 F. 2d 627.

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No. 40. DEFENSE PLANT CORPORATION *v.* BEAVER COUNTY. April 30, 1946. Reconstruction Finance Corporation substituted for Defense Plant Corporation, which has been ordered dissolved by Act of June 30, 1945, c. 215, 59 Stat. 310.

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\*MR. JUSTICE JACKSON took no part in the consideration or decisions of the cases in which judgments or orders were announced during this period.

For orders on applications for certiorari, see *post*, pp. 825, 833; rehearing, *post*, p. 876.

No. 627. *HOWARD HALL CO., INC. v. UNITED STATES ET AL.* Appeal from the District Court of the United States for the Northern District of Alabama. Argued April 30 and May 1, 1946. Decided May 6, 1946. *Per Curiam*: The judgment is affirmed. *Alton R. Co. v. United States*, 315 U. S. 15; *United States v. Carolina Freight Carriers Corp.*, 315 U. S. 475; *Howard Hall Co. v. United States*, 315 U. S. 495. *Harold G. Hernly* argued the cause for appellant. With him on the brief was *James W. Wrape*. *Daniel W. Knowlton* argued the cause for the United States and Interstate Commerce Commission, appellees. With him on the brief were *Solicitor General McGrath*, *Assistant Attorney General Berge*, *Edward Dumbauld*, *David O. Mathews*, *Nelson Thomas* and *Allen Crenshaw*. Reported below: 65 F. Supp. 166.

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No. 1087. *FEDERAL TRADE COMMISSION v. S. BUCHSBAUM & Co.* On petition for writ of certiorari to the Circuit Court of Appeals for the Seventh Circuit. May 6, 1946. *Per Curiam*: The petition for a writ of certiorari is granted. A trial examiner of the Federal Trade Commission died after having heard some of the witnesses in these proceedings. Respondent moved that the new trial examiner start the proceedings anew and hear all the evidence *de novo*. The Commission denied this motion. In the enforcement proceeding before the Circuit Court of Appeals respondent assigned this denial as one of a number of alleged errors. On that ground alone, and without passing on others urged by petitioner, the Circuit Court of Appeals refused to enforce the Commission's order. Respondent here moves for leave to file a written waiver of the assigned error relied on by the court below and also moves that the Circuit Court of Appeals judgment be reversed and that the case be remanded for consideration of the other errors assigned below. Motion for leave to file

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written waiver is granted. The judgment of the Circuit Court of Appeals is vacated and the case is remanded for consideration of the other errors assigned below. *Solicitor General McGrath* for petitioner. *Walter H. Moses* for respondent. Reported below: 153 F.2d 85.

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No. 609. COMET CARRIERS, INC. *v.* WALLING, WAGE & HOUR ADMINISTRATOR. Certiorari, 326 U. S. 716, to the Circuit Court of Appeals for the Second Circuit. May 6, 1946. Writ of certiorari dismissed on motion of counsel for petitioner. *Ralph D. Elmer* for petitioner. *Solicitor General McGrath* and *Bessie Margolin* for respondent. Reported below: 151 F.2d 107.

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No. 118, Misc. SANTA FE PACIFIC RAILROAD Co. *v.* LING, U. S. DISTRICT JUDGE. May 13, 1946. The motion for leave to file a petition for a writ of mandamus is denied. *Roche v. Evaporated Milk Assn.*, 319 U. S. 21. *J. C. Gibson*, *Lawrence Cake* and *Richard Fennemore* for petitioner. *Solicitor General McGrath*, *J. Edward Williams* and *Roger P. Marquis* for respondent.

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No. 117, Misc. NOWAK *v.* NIERSTHEIMER, WARDEN;

No. 119, Misc. IN RE BROWN; and

No. 120, Misc. POVICH *v.* NICHOLSEN, WARDEN. May 13, 1946. The motions for leave to file petitions for writs of habeas corpus are denied.

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No. 104, Misc. DALE *v.* HEINZE, WARDEN. May 13, 1946. Dismissed. The matters were presented and disposed of by denial of petition for certiorari in No. 949, *Dale v. California*, 327 U. S. 809.



No. 918. *LYNCH ET AL. v. NEW JERSEY ET AL.* On petition for writ of certiorari to the Court of Errors and Appeals of New Jersey. May 13, 1946. Petition for certiorari dismissed on motion of counsel for petitioners. *Samuel L. Rothbard* for petitioners.

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No. 1140. *COGSWELL v. CHICAGO & EASTERN ILLINOIS RAILROAD Co.* On petition for writ of certiorari to the Circuit Court of Appeals for the Seventh Circuit. May 20, 1946. *Per Curiam*: The petition is granted, except as to the question whether the jury could have found respondent guilty of a violation of Rule 152 of the Interstate Commerce Commission. The judgment is reversed. *Tiller v. Atlantic Coast Line R. Co.*, 318 U. S. 54, 67-8; *Bailey v. Central Vermont R. Co.*, 319 U. S. 350, 353-4; *Lavender v. Kurn*, 327 U. S. 645. *Royal W. Irwin* for petitioner. *Edward W. Rawlins* for respondent. Reported below: 153 F. 2d 94.

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No. 121, Misc. *JONES v. WELCH, SUPERINTENDENT*; and

No. 122, Misc. *DUGGAN v. OLSON, WARDEN*. May 20, 1946. The motions for leave to file petitions for writs of habeas corpus are denied.

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No. 732. *HELWIG v. UNITED STATES*. On petition for writ of certiorari to the Circuit Court of Appeals for the Third Circuit. May 27, 1946. *Per Curiam*: The petition for writ of certiorari is granted. The judgment of the Circuit Court of Appeals is vacated and the cause remanded to the Circuit Court of Appeals with directions to require the District Court to perfect the record. Rule 39 of the Federal Rules of Criminal Procedure. See *Miller*

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*v. United States*, 317 U. S. 192, 199-200. Petitioner *pro se*. Solicitor General McGrath, Robert S. Erdahl and Leon Ulman for the United States. Reported below: 151 F. 2d 535.

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No. 1008. *JORDAN v. FEDERAL FARM MORTGAGE CORPORATION ET AL.* May 27, 1946. The petition for writ of certiorari to the Circuit Court of Appeals for the Eighth Circuit is dismissed for failure to comply with the Rules. *G. P. North* for petitioner. Reported below: 152 F. 2d 642.

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No. 124, Misc. *BUTZ v. UNITED STATES POSTMASTER GENERAL.* May 27, 1946. Application denied.

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No. 947. *PEARSON, POST COMMANDING OFFICER, v. UNITED STATES EX REL. HOROWITZ*; and

No. 948. *PEARSON, POST COMMANDING OFFICER, v. UNITED STATES EX REL. SAMUELS.* See *post*, p. 830.

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No. 1240. *MARLEY v. CALIFORNIA.* Appeal from the Superior Court in and for the County of Los Angeles, Appellate Department, California. June 3, 1946. *Per Curiam*: The appeal is dismissed for want of a substantial federal question. MR. JUSTICE RUTLEDGE dissents. *Hiram T. Kellogg* and *Ralph C. Curren* for appellant. *Ray L. Chesebro* and *John L. Bland* for appellee.

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No. 123, Misc. *IN RE DOMINION OF CANADA.* June 3, 1946. The motion for leave to file a petition for writ of mandamus or prohibition is denied. MR. JUSTICE DOUGLAS dissents. *Lane Summers*, *F. T. Merritt* and *G. H. Bucey* for petitioner.

No. 125, Misc. IN RE REFRIGERATION PATENTS CORPORATION. June 3, 1946. The motion for leave to file a petition for writ of prohibition or mandamus is denied. *Tracy R. V. Fike* for petitioner.

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No. 126, Misc. SHERIDAN *v.* BENSON, WARDEN. June 3, 1946. The motion for leave to file a petition for writ of habeas corpus is denied.

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No. 1090. CAROTHERS, DOING BUSINESS AS ALLRIGHT AUTO PARK, ET AL. *v.* BOWLES. See *post*, p. 859.

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No. 629. PERLSTEIN *v.* HIATT, WARDEN. Certiorari, 327 U. S. 777, to the Circuit Court of Appeals for the Third Circuit. June 10, 1946. *Per Curiam*: It appearing that the case is moot, the writ of certiorari is dismissed. Petitioner *pro se*. *Solicitor General McGrath* and *Robert S. Erdahl* for respondent. Reported below: 151 F. 2d 167.

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No. 789. PRUDENTIAL INSURANCE CO. *v.* HOBBS, INSURANCE COMMISSIONER;

No. 790. AETNA INSURANCE CO. *v.* HOBBS, COMMISSIONER OF INSURANCE;

No. 791. AMERICAN INDEMNITY CO. *v.* HOBBS, COMMISSIONER OF INSURANCE; and

No. 792. PACIFIC MUTUAL LIFE INSURANCE CO. *v.* HOBBS, COMMISSIONER OF INSURANCE. Appeals from the Supreme Court of Kansas. June 10, 1946. *Per Curiam*: The judgments are affirmed. *Prudential Insurance Co. v. Benjamin*, 328 U. S. 408; *Robertson v. California*, 328 U. S. 440. *Joseph W. Henderson* and *W. E. Stanley* for appellant in No. 789. *John L. Hunt* for appellant in No. 790. *John L. Hunt* and *Neth L. Leachman* for appellant



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in No. 791. *Robert Stone* for appellant in No. 792. Reported below: 160 Kan. 300, 161 P. 2d 726.

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No. 987. *WILSON v. UNITED STATES*. On petition for writ of certiorari to the Circuit Court of Appeals for the Second Circuit. June 10, 1946. *Per Curiam*: The petition for writ of certiorari is granted limited to Question I in the Government's brief. The judgment of the Circuit Court of Appeals is vacated and the cause is remanded to the District Court for resentencing. *J. Bertram Wegman, William G. Fullen and Emanuel H. Reichart* for petitioner. *Solicitor General McGrath and Robert S. Erdahl* for the United States. Reported below: 154 F. 2d 802.

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No. 1085. *PRUDENTIAL INSURANCE CO. v. INDIANA*. Appeal from the Supreme Court of Indiana. June 10, 1946. *Per Curiam*: The judgment is affirmed. *Prudential Insurance Co. v. Benjamin*, 328 U. S. 408. *Joseph J. Daniels and William G. Davis* for appellant. Reported below: 223 Ind. 198, 64 N. E. 2d 150.

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No. 1255. *WEST PUBLISHING CO. v. MCCOLGAN, FRANCHISE TAX COMMISSIONER*. Appeal from the Supreme Court of California. June 10, 1946. *Per Curiam*: The motion to affirm is granted and the judgment is affirmed. *United States Glue Co. v. Town of Oak Creek*, 247 U. S. 321; *Interstate Busses Corp. v. Blodgett*, 276 U. S. 245; *Memphis Natural Gas Co. v. Beeler*, 315 U. S. 649, 656; *International Shoe Co. v. Washington*, 326 U. S. 310. *John W. Preston* for appellant. *Robert W. Kenny*, Attorney General of California, and *John L. Nourse*, Deputy Attorney General, for appellee. Reported below: 27 Cal. 2d 705, 166 P. 2d 861.

No. —, original. *WATSON, ATTORNEY GENERAL, v. BOWLES, ECONOMIC STABILIZATION DIRECTOR, ET AL.* June 10, 1946. The motion for leave to file bill of complaint is denied. *J. Tom Watson*, Attorney General of Florida, and *Lamar Warren*, Assistant Attorney General, for complainant.

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No. —. *UNITED STATES ET AL. v. NEW YORK ET AL.* June 10, 1946. The motion to vacate injunction pending appeal is denied.

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No. 19. *LIGGETT & MYERS TOBACCO CO. ET AL. v. UNITED STATES*; and

No. 20. *R. J. REYNOLDS TOBACCO CO. ET AL. v. UNITED STATES.* Certiorari, 324 U. S. 836, to the Circuit Court of Appeals for the Sixth Circuit. June 10, 1946. The motion for leave to file petition for enlargement of the scope of review is denied. MR. JUSTICE REED took no part in the consideration or decision of this application. Reported below: 147 F. 2d 93.

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No. 517. *D. A. SCHULTE, INC. v. GANGI ET AL.* June 10, 1946. Order entered amending the dissenting opinion of MR. JUSTICE FRANKFURTER.

Opinion reported as amended, 328 U. S. 108, 121.

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No. 127, Misc. *RESCO v. RAGEN, WARDEN*; and

No. 130, Misc. *BAILEY v. STOUTAMIRE, SHERIFF.* June 10, 1946. The motions for leave to file petitions for writs of certiorari are denied.



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No. 128, Misc. UNITED STATES EX REL. JAMES *v.* RAGEN, WARDEN; and

No. 129, Misc. UNITED STATES EX REL. MANCIONE *v.* RAGEN, WARDEN. June 10, 1946. The motions for leave to file petitions for writs of habeas corpus are denied.

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No. 131, Misc. POPE *v.* CHIEF JUSTICE AND ASSOCIATE JUDGES OF THE COURT OF CLAIMS. June 10, 1946. The motion for leave to file a petition for writ of mandamus is denied.

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No. 1306. UYEKI *v.* STYER, COMMANDING GENERAL. June 10, 1946. A petition for writ of certiorari having been granted in this case, *post*, p. 832, it is ordered that all further proceedings in this matter be stayed pending the final disposition of this case by this Court.

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No. 1124. SCHREFFLER, DOING BUSINESS AS SCHREFFLER STEEL & SUPPLY Co., ET AL. *v.* BOWLES, PRICE ADMINISTRATOR. See *post*, p. 870.

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#### ORDERS GRANTING CERTIORARI, FROM APRIL 23, 1946, THROUGH JUNE 10, 1946.

No. 973. BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM ET AL. *v.* AGNEW ET AL. April 29, 1946. Petition for writ of certiorari to the United States Court of Appeals for the District of Columbia granted. *Solicitor General McGrath* and *George B. Vest* for petitioners. *Hugh H. Obear* for respondents. Reported below: 153 F. 2d 785.