

ORDERS FROM MARCH 10 THROUGH
MAY 12, 1969.

MARCH 10, 1969.

Miscellaneous Orders.

No. —. KAPLYSH ET AL. *v.* HERSHEY ET AL.; and
No. 1637, Misc. SCHWARTZ *v.* LOCAL BOARD No. 23
ET AL. C. A. 6th Cir. Applications for stays of induc-
tion presented to MR. JUSTICE STEWART, and by him
referred to the Court, denied. MR. JUSTICE DOUGLAS
is of the opinion that the stays should be granted. *Ralph
Rudd* for applicants Kaplysh et al. *Solicitor General
Griswold* for respondents in each case in opposition.

No. 573. NATIONAL LABOR RELATIONS BOARD *v.* GISSEL
PACKING Co., INC., ET AL.; and

No. 691. FOOD STORE EMPLOYEES UNION, LOCAL No.
347, AMALGAMATED MEAT CUTTERS & BUTCHER WORK-
MEN OF NORTH AMERICA, AFL-CIO *v.* GISSEL PACKING
Co., INC. C. A. 4th Cir. [Certiorari granted, 393 U. S.
997.] Motion of American Federation of Labor & Con-
gress of Industrial Organizations for leave to file a brief
as *amicus curiae* granted. *J. Albert Woll, Laurence
Gold, and Thomas E. Harris* on the motion.

No. 488. DANIEL ET AL. *v.* PAUL. C. A. 8th Cir.
[Certiorari granted, 393 U. S. 975.] Request of the
United States to participate in oral argument as *amicus
curiae* granted and a total of 20 minutes allotted for
that purpose. Counsel appointed to argue in support
of judgment of lower court [393 U. S. 1061] shall like-
wise be allotted an additional 20 minutes to present oral
argument in this case.

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No. 1700, Misc. *IN RE DISBARMENT OF SILL*. It is ordered that Norman E. Sill of Washington, District of Columbia, be suspended from the practice of law in this Court and that a rule issue, returnable within 40 days, requiring him to show cause why he should not be disbarred from the practice of law in this Court.

No. 899. *UNITED STATES v. INTERSTATE COMMERCE COMMISSION ET AL.*;

No. 942. *BRUNDAGE ET AL. v. UNITED STATES ET AL.*;

No. 999. *CITY OF AUBURN v. UNITED STATES ET AL.*;
and

No. 1003. *LIVINGSTON ANTI-MERGER COMMITTEE v. INTERSTATE COMMERCE COMMISSION ET AL.* Appeals from D. C. D. C. [Probable jurisdiction noted, 393 U. S. 1077.] Motions of certain appellees to advance and to dispense with printing appendix denied. MR. JUSTICE FORTAS took no part in the consideration or decision of these motions. *Robert W. Ginnane, Fritz R. Kahn, and Jerome Nelson* for the Interstate Commerce Commission on motion to advance and to dispense with printing appendix. *Hugh B. Cox, Ray Garrett, D. Robert Thomas, Lee B. McTurnan, Anthony Kane, Louis E. Torinus, Earl F. Requa, Frank S. Farrell, Eldon Martin, and Richard J. Flynn* for Great Northern Railway Co. et al. on motion to advance. *Louis B. Dailey and Harry Tyson Carter* for appellants Brundage et al. in opposition to motions to advance.

No. 1371, Misc. *MITCHELL v. ATTORNEY GENERAL OF THE UNITED STATES*;

No. 1423, Misc. *MONTANO v. TURNER, WARDEN*; and

No. 1453, Misc. *FOURNIER v. PINTO, PRISON FARM SUPERINTENDENT*. Motions for leave to file petitions for writs of habeas corpus denied.

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No. 986. HILAND DAIRY, INC., ET AL. *v.* KROGER CO. C. A. 8th Cir. The Solicitor General is invited to file a brief expressing the views of the United States. MR. JUSTICE FORTAS took no part in the consideration or decision of this order.

No. 744, Misc. GREEN ET AL. *v.* UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF INDIANA ET AL. Motion for leave to file petition for writ of mandamus denied. *William C. Erbecker* for petitioners.

No. 1413, Misc. SKOLNICK ET AL. *v.* MAYOR OF CHICAGO ET AL. Motion for leave to file petition for writ of mandamus denied. *Raymond F. Simon, Marvin E. Aspen, and Edmund Hatfield* for respondents Mayor of Chicago et al.

Certiorari Granted. (See No. 133, October Term, 1967, *ante*, p. 165; No. 429, Misc., *ante*, p. 216; No. 559, Misc., *ante*, p. 212; and No. 665, Misc., *ante*, p. 214.)

Certiorari Denied. (See also No. 377, *ante*, p. 212; No. 958, *ante*, p. 213; No. 961, *ante*, p. 213; No. 1072, Misc., *ante*, p. 215; and No. 1267, Misc., *ante*, p. 214.)

No. 928. ANDERSON ET AL. *v.* UNITED STATES. C. A. 7th Cir. *Certiorari* denied. *Melvin B. Lewis* for petitioners. *Solicitor General Griswold, Assistant Attorney General Wilson, Beatrice Rosenberg, and Roger A. Pauley* for the United States. Reported below: 403 F. 2d 451.

No. 969. THOMSON *v.* NEW HAMPSHIRE. Sup. Ct. N. H. *Certiorari* denied. *Lawrence H. Miller* for petitioner. Reported below: 109 N. H. 205, 247 A. 2d 179.

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No. 953. MAURO *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. *Solicitor General Griswold, Assistant Attorney General Wilson, Beatrice Rosenberg, and Edward Fenig* for the United States. Reported below: 399 F. 2d 158.

No. 956. WEISBLUM *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. *Edward J. Ennis* for petitioner. *Solicitor General Griswold, Assistant Attorney General Wilson, Beatrice Rosenberg, and Leonard H. Dickstein* for the United States. Reported below: 404 F. 2d 631.

No. 959. CROWLEY *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. *Solicitor General Griswold, Assistant Attorney General Wilson, and Beatrice Rosenberg* for the United States. Reported below: 405 F. 2d 400.

No. 967. SHARPE *v.* OKLAHOMA EX REL. OKLAHOMA BAR ASSN. App. Div., Ct. on the Judiciary of Okla. Certiorari denied. *Charles Hill Johns and James F. Howell* for petitioner.

No. 972. MUSTACCHIO *v.* UNITED STATES; and
No. 973. RESTAINO *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied. *Peter S. Valentine* for petitioner in No. 973. *Solicitor General Griswold, Assistant Attorney General Wilson, Beatrice Rosenberg, and Roger A. Pauley* for the United States in both cases. Reported below: 405 F. 2d 628.

No. 975. GENERAL ELECTRIC Co., BATTERY PRODUCTS, CAPACITOR DEPARTMENT *v.* NATIONAL LABOR RELATIONS BOARD. C. A. 5th Cir. Certiorari denied. *O. R. T. Bowden* for petitioner. *Solicitor General Griswold, Arnold Ordman, Dominick L. Manoli, and Norton J. Come* for respondent. Reported below: 400 F. 2d 713.

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No. 980. AKIN DISTRIBUTORS, INC., OF FLORIDA *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. *Lawrence A. Johnson* for petitioner. *Solicitor General Griswold, Assistant Attorney General Wilson, Beatrice Rosenberg, and Marshall Tamor Golding* for the United States. Reported below: 399 F. 2d 306.

No. 901. BARKER ET AL. *v.* HARDWAY, PRESIDENT OF BLUEFIELD STATE COLLEGE, ET AL. C. A. 4th Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. *Melvin L. Wulf, Norman Dorsen, and Lewis M. Steel* for petitioners. *Chauncey H. Browning, Jr., Attorney General of West Virginia, and Leo Catsonis, Assistant Attorney General,* for respondents. Reported below: 399 F. 2d 638.

MR. JUSTICE FORTAS, concurring.

I agree that certiorari should be denied. The petitioners were suspended from college *not* for expressing their opinions on a matter of substance, but for violent and destructive interference with the rights of others. An adequate hearing was afforded them on the issue of suspension. The petitioners contend that their conduct was protected by the First Amendment, but the findings of the District Court, which were accepted by the Court of Appeals, establish that the petitioners here engaged in an aggressive and violent demonstration, and not in peaceful, nondisruptive expression, such as was involved in *Tinker v. Des Moines Independent Community School District*, 393 U. S. 503. The petitioners' conduct was therefore clearly not protected by the First and Fourteenth Amendments.

No. 741, Misc. LEWTER *v.* COMMONWEALTH'S ATTORNEY. Ct. App. Ky. Certiorari denied. *John B. Breckinridge, Attorney General of Kentucky, and George F. Rabe, Assistant Attorney General,* for respondent.

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No. 732. *MARTIN v. BETO*, CORRECTIONS DIRECTOR. C. A. 5th Cir. Certiorari denied. THE CHIEF JUSTICE and MR. JUSTICE DOUGLAS are of the opinion that certiorari should be granted. *Clyde W. Woody* and *Marian S. Rosen* for petitioner. *Crawford C. Martin*, Attorney General of Texas, *Nola White*, First Assistant Attorney General, *Hawthorne Phillips*, Executive Assistant Attorney General, *Robert C. Flowers*, *Michael E. Stork*, and *Lonny F. Zwiener*, Assistant Attorneys General, and *W. V. Geppert* for respondent. Reported below: 397 F. 2d 741.

No. 971. *JACKSON v. FILLIBEN*. Sup. Ct. Del. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. *Louis L. Redding*, *Jack Greenberg*, *James M. Nabrit III*, *Michael Meltsner*, and *Melvin Zarr* for petitioner. Reported below: — Del. —, 247 A. 2d 913.

No. 1011. *O'BRYAN v. CHANDLER*, CHIEF JUDGE, U. S. DISTRICT COURT. C. A. 10th Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. MR. JUSTICE MARSHALL took no part in the consideration or decision of this petition. *Harvey L. Davis* for petitioner. *Carl L. Shipley* for respondent. Reported below: 399 F. 2d 916.

No. 987. *ALAMEDA CONSERVATION ASSN. v. CITY OF ALAMEDA ET AL.* Ct. App. Cal., 1st App. Dist. Motion to dispense with printing petition granted. Certiorari denied. *Neil Cunningham* for petitioner. *Lawrence D. Becker* and *William H. Orrick, Jr.*, for respondents. Reported below: 264 Cal. App. 2d 284, 70 Cal. Rptr. 264.

No. 387, Misc. *SADLER v. PENNSYLVANIA*. C. A. 3d Cir. Certiorari denied. *James D. Crawford* and *Arlen Specter* for respondent.

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No. 1030. COLEMAN ET AL. *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. MR. JUSTICE MARSHALL took no part in the consideration or decision of this petition. *George W. Nilsson* for petitioners. *Solicitor General Griswold* for the United States. Reported below: 405 F. 2d 72.

No. 605, Misc. SPINKS *v.* CIRCUIT COURT OF CAL-LAWAY COUNTY. Sup. Ct. Mo. Certiorari denied. *Norman Anderson*, Attorney General of Missouri, and *William L. Culver*, Assistant Attorney General, for respondent.

No. 619, Misc. EVANS *v.* UNITED STATES; and

No. 850, Misc. PHILSON *v.* UNITED STATES. C. A. D. C. Cir. Certiorari denied. *Gerhard P. Van Arkel* and *Eugene Gressman* for petitioner in No. 850, Misc. *Solicitor General Griswold*, *Assistant Attorney General Vinson*, and *Beatrice Rosenberg* for the United States in No. 619, Misc.; and *Mr. Griswold*, *Mr. Vinson*, *Jerome M. Feit*, and *Roger A. Pauley* for the United States in No. 850, Misc. Reported below: 130 U. S. App. D. C. 114, 397 F. 2d 675.

No. 755, Misc. ALEXANDER *v.* CALIFORNIA. Sup. Ct. Cal. Certiorari denied. *Thomas C. Lynch*, Attorney General of California, *Doris H. Maier*, Assistant Attorney General, and *Charles P. Just*, Deputy Attorney General, for respondent.

No. 813, Misc. CARDEN *v.* RUSSELL, WARDEN. C. A. 6th Cir. Certiorari denied. *George F. McCannless*, Attorney General of Tennessee, for respondent.

No. 1198, Misc. CHAMBERS ET UX. *v.* COLONIAL PIPE-LINE Co. Sup. Ct. Tenn. Certiorari denied.

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No. 1120, Misc. CRUTCHER ET AL. *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. *Solicitor General Griswold, Assistant Attorney General Vinson, and Beatrice Rosenberg* for the United States. Reported below: 405 F. 2d 239.

No. 1158, Misc. HYLER *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. *Solicitor General Griswold, Acting Assistant Attorney General Kossack, and Beatrice Rosenberg* for the United States. Reported below: 402 F. 2d 558.

No. 1161, Misc. JACKSON *v.* KANSAS. Sup. Ct. Kan. Certiorari denied. *Charles S. Scott* for petitioner. *Robert C. Londerholm, Attorney General of Kansas, Richard H. Seaton, Assistant Attorney General, and Robert D. Hecht* for respondent. Reported below: 201 Kan. 795, 443 P. 2d 279.

No. 1162, Misc. DAVIS *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. *Thomas G. Lilly* for petitioner. *Solicitor General Griswold, Acting Assistant Attorney General Kossack, Beatrice Rosenberg, and Paul C. Summitt* for the United States. Reported below: 400 F. 2d 577.

No. 1193, Misc. MCGEE *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. *Solicitor General Griswold, Acting Assistant Attorney General Kossack, Beatrice Rosenberg, and Sidney M. Glazer* for the United States. Reported below: 402 F. 2d 434.

No. 1183, Misc. GENOVESE ET AL. *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. *Solicitor General Griswold* for the United States. Reported below: 401 F. 2d 514.

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No. 851, Misc. CLAYTON *v.* NEW YORK. Ct. App. N. Y. Certiorari denied. *George J. Aspland* and *Joseph F. O'Neill* for respondent.

No. 1185, Misc. SPEARS *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. *Solicitor General Griswold*, *Acting Assistant Attorney General Kossack*, and *Beatrice Rosenberg* for the United States.

No. 1200, Misc. SMITH *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. *Robert G. Breetz* for petitioner. *Solicitor General Griswold*, *Acting Assistant Attorney General Kossack*, *Beatrice Rosenberg*, and *Kirby W. Patterson* for the United States.

No. 1216, Misc. MILLER *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. *Solicitor General Griswold*, *Acting Assistant Attorney General Kossack*, *Beatrice Rosenberg*, and *Edward Fenig* for the United States.

No. 1226, Misc. BLUNT *v.* UNITED STATES. C. A. D. C. Cir. Certiorari denied. *James L. Highsaw, Jr.*, for petitioner. *Solicitor General Griswold* for the United States. Reported below: 131 U. S. App. D. C. 306, 404 F. 2d 1283.

No. 1261, Misc. TIPPETT *v.* SCHNECKLOTH, CONSERVATION CENTER SUPERINTENDENT. Sup. Ct. Cal. Certiorari denied.

No. 1270, Misc. BALLOU *v.* MASSACHUSETTS ET AL. C. A. 1st Cir. Certiorari denied. *Elliot L. Richardson*, Attorney General of Massachusetts, and *Howard M. Miller* and *David C. Hawkins*, Assistant Attorneys General, for respondents. Reported below: 403 F. 2d 982.

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No. 1224, Misc. *PEAK v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. *Solicitor General Griswold, Assistant Attorney General Vinson, Beatrice Rosenberg, and Jerome M. Feit* for the United States.

No. 1221, Misc. *ROBERTS v. COPINGER, WARDEN*. C. A. 4th Cir. Certiorari denied.

No. 1243, Misc. *LEE v. CALIFORNIA*. Ct. App. Cal., 2d App. Dist. Certiorari denied.

No. 1246, Misc. *TODD v. MISSOURI*. Sup. Ct. Mo. Certiorari denied. Reported below: 433 S. W. 2d 550.

No. 1249, Misc. *PEREZ v. FIELD, MEN'S COLONY SUPERINTENDENT*. Sup. Ct. Cal. Certiorari denied.

No. 1263, Misc. *CAREY v. GEORGE WASHINGTON UNIVERSITY*. C. A. D. C. Cir. Certiorari denied.

No. 1264, Misc. *ALFORD v. VIRGINIA*. C. A. 4th Cir. Certiorari denied.

No. 1265, Misc. *BROWN v. CALIFORNIA*. Ct. App. Cal., 2d App. Dist. Certiorari denied.

No. 1272, Misc. *LINDSEY v. ILLINOIS*. Sup. Ct. Ill. Certiorari denied.

No. 1307, Misc. *DAVIS v. KANSAS*. Sup. Ct. Kan. Certiorari denied. Reported below: 202 Kan. 61, 446 P. 2d 831.

No. 1320, Misc. *CARRIER v. BETO, CORRECTIONS DIRECTOR*. C. A. 5th Cir. Certiorari denied. Reported below: 402 F. 2d 294.

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No. 1310, Misc. HAINES *v.* McDONOUGH. C. A. 7th Cir. Certiorari denied.

No. 1317, Misc. CORRAL *v.* CRAVEN, WARDEN. C. A. 9th Cir. Certiorari denied.

No. 1321, Misc. HAYES *v.* PINTO, PRISON FARM SUPERINTENDENT. C. A. 3d Cir. Certiorari denied.

No. 1330, Misc. ZIDE *v.* FLORIDA. Dist. Ct. App. Fla., 3d Dist. Certiorari denied. Reported below: 212 So. 2d 788.

No. 1331, Misc. BELL *v.* NEW JERSEY. Sup. Ct. N. J. Certiorari denied.

No. 1334, Misc. VIVIAN *v.* BOOKBINDER, WARDEN. C. A. 3d Cir. Certiorari denied. *Sam Polur* for petitioner. Reported below: 403 F. 2d 156.

No. 1342, Misc. KAMSLER *v.* ILLINOIS. Sup. Ct. Ill. Certiorari denied. Reported below: 40 Ill. 2d 532, 240 N. E. 2d 590.

No. 1351, Misc. KAGAN *v.* CALIFORNIA. Ct. App. Cal., 1st App. Dist. Certiorari denied. Reported below: 264 Cal. App. 2d 648, 70 Cal. Rptr. 732.

No. 1355, Misc. FAIR *v.* BOARD OF ELECTIONS, CITY OF TAMPA. Dist. Ct. App. Fla., 2d Dist. Certiorari denied. *Wm. Reece Smith, Jr.*, for respondent.

No. 1391, Misc. MORGAN *v.* PEYTON, PENITENTIARY SUPERINTENDENT. C. A. 4th Cir. Certiorari denied.

No. 1415, Misc. URTADO *v.* BETO, CORRECTIONS DIRECTOR. C. A. 5th Cir. Certiorari denied.

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No. 1340, Misc. GUNZBURGER *v.* WASHINGTON TERMINAL CO. ET AL. C. A. D. C. Cir. Certiorari denied. *Thomas A. Flannery* and *Stephen A. Trimble* for respondents.

No. 656, Misc. REECE *v.* UNITED STATES ET AL. C. A. 10th Cir. Certiorari denied. MR. JUSTICE DOUGLAS would grant the petition for writ of certiorari and reverse on the basis of *Johnson v. Avery*, 393 U. S. 483. *Solicitor General Griswold* for the United States et al.

No. 1276, Misc. JENNISON *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. *Victor Rabinowitz*, *Leonard B. Boudin*, *Michael B. Standard*, and *Dorian Bowman* for petitioner. *Solicitor General Griswold*, *Acting Assistant Attorney General Kossack*, *Beatrice Rosenberg*, and *Roger A. Pauley* for the United States. Reported below: 402 F. 2d 51.

Rehearing Granted. (See No. 133, October Term 1967, *ante*, p. 165.)

Rehearing Denied.

No. 44. SKINNER ET AL. *v.* LOUISIANA, 393 U. S. 473. Petition for rehearing denied.

No. 330, Misc. COLEMAN *v.* MAXWELL, WARDEN, 393 U. S. 1007. Motion for leave to file petition for rehearing denied.

MARCH 17, 1969.

Dismissals Under Rule 60.

No. 1637, Misc. SCHWARTZ *v.* LOCAL BOARD No. 23 ET AL. C. A. 6th Cir. Petition for writ of certiorari dismissed pursuant to Rule 60 of the Rules of this Court.

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No. 1496, Misc. *MIZE v. CROUSE, WARDEN*. C. A. 10th Cir. Petition for writ of certiorari dismissed pursuant to Rule 60 of the Rules of this Court. Reported below: 399 F. 2d 593.

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Miscellaneous Orders.

No. 163. *YOUNGER, DISTRICT ATTORNEY OF LOS ANGELES COUNTY v. HARRIS ET AL.* Appeal from D. C. C. D. Cal. [Probable jurisdiction noted, 393 U. S. 1013.] Motion of appellee Harris for leave to proceed further herein *in forma pauperis* granted. *Frank S. Pestana, A. L. Wirin, Fred Okrand, and Sam Rosenwein* on the motion.

No. 173. *GORMAN v. UNITED STATES*, 393 U. S. 832. In light of the Court's decision in *Alderman v. United States*, *Ivanov v. United States*, and *Butenko v. United States*, *ante*, p. 165, the United States is requested to file a response to petition for rehearing in this case specifically with respect to petitioner's allegation that he "appeared before the District Court where that Court summarily, without taking evidence or hearing argument, and apparently on the representation of non-materiality by the government ruled the purported log not material to the petitioner's case."

No. 798. *UNITED STATES v. MONTGOMERY COUNTY BOARD OF EDUCATION ET AL.*; and

No. 997. *CARR ET AL. v. MONTGOMERY COUNTY BOARD OF EDUCATION ET AL.* C. A. 5th Cir. [Certiorari granted, 393 U. S. 1116.] Motion of petitioners to advance granted. *Solicitor General Griswold* for the United States in No. 798 and for petitioners in No. 997. *Vaughn Hill Robison* and *Joseph D. Phelps* for respondents in both cases in opposition.

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No. 573. NATIONAL LABOR RELATIONS BOARD *v.* GISSEL PACKING CO., INC., ET AL.; and

No. 691. FOOD STORE EMPLOYEES UNION, LOCAL NO. 347, AMALGAMATED MEAT CUTTERS & BUTCHER WORKMEN OF NORTH AMERICA, AFL-CIO *v.* GISSEL PACKING CO., INC. C. A. 4th Cir. [Certiorari granted, 393 U. S. 997.] Motion of Associated Builders & Contractors, Inc., for leave to file a brief as *amicus curiae* granted.

No. 620. MOORE ET AL. *v.* SHAPIRO, GOVERNOR OF ILLINOIS, ET AL. Appeal from D. C. N. D. Ill. [Probable jurisdiction noted, 393 U. S. 996.] Motion of appellees for permission for two attorneys to participate in oral argument granted. *William J. Scott*, Attorney General of Illinois, on the motion.

No. 662. DEBACKER *v.* BRAINARD, SHERIFF. Appeal from Sup. Ct. Neb. [Probable jurisdiction noted, 393 U. S. 1076.] Motion of appellant for leave to proceed further herein *in forma pauperis* granted. Motion for appointment of counsel granted. It is ordered that *William G. Line, Esquire*, of Fremont, Nebraska, a member of the Bar of this Court, be, and he is hereby, appointed to serve as counsel for appellant in this case. Joint motion to dispense with printing appendix denied. *William G. Line* for appellant, and *Melvin Kent Kammerlohr*, Assistant Attorney General of Nebraska, for appellee on the joint motion.

No. 791. CRANE *v.* CEDAR RAPIDS & IOWA CITY RAILWAY CO. Sup. Ct. Iowa. [Certiorari granted, 393 U. S. 1047.] Motion of Railway Labor Executives' Assn. for leave to file a brief as *amicus curiae* granted. *Edward J. Hickey, Jr.*, and *James L. Highsaw, Jr.*, on the motion.

No. 1533, Misc. McCARTNEY *v.* NELSON, WARDEN. Motion for leave to file petition for writ of habeas corpus and other relief denied.

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No. 672. UNITED STATES *v.* KING. Ct. Cl. [Certiorari granted, 393 U. S. 1013.] Motion of respondent to remove case from summary calendar denied. *Neil B. Kabatchnick* on the motion.

No. 717. UNITED STATES ET AL. *v.* RADIO TELEVISION NEWS DIRECTORS ASSN. ET AL. C. A. 7th Cir. [Certiorari granted, 393 U. S. 1014.] Motion of respondents to remove case from summary calendar granted and 30 additional minutes allotted to each side. MR. JUSTICE FORTAS took no part in the consideration or decision of this motion. *Lloyd N. Cutler* for respondent Columbia Broadcasting System, Inc., and *Raymond L. Falls, Jr.*, for respondent National Broadcasting Co., Inc., on the motion.

No. 1485, Misc. WILLIAMS *v.* UNITED STATES;

No. 1558, Misc. WATERS *v.* FIELD, MEN'S COLONY SUPERINTENDENT;

No. 1567, Misc. SMITH *v.* CALIFORNIA ET AL.; and

No. 1573, Misc. HARRIS *v.* PINTO, PRISON FARM SUPERINTENDENT. Motions for leave to file petitions for writs of habeas corpus denied.

No. 785, Misc. HAILEY *v.* RUSSELL, WARDEN, ET AL. Upon suggestion of mootness by reason of death of petitioner, motion for leave to file petition for writ of habeas corpus dismissed.

No. 1215, Misc. LAUCHLI *v.* POOS, CHIEF JUDGE, U. S. DISTRICT COURT;

No. 1300, Misc. PATTON *v.* VETERANS ADMINISTRATION; and

No. 1329, Misc. LEVY *v.* SECURITIES AND EXCHANGE COMMISSION ET AL. Motions for leave to file petitions for writs of mandamus denied. *Solicitor General Griswold* in opposition in all three cases.

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No. 841. WILLIAMS *v.* CITY OF OKLAHOMA CITY ET AL. Ct. Crim. App. Okla. [Certiorari granted, 393 U. S. 998.] Motion to require certification of additional parts of the record granted. *Jon F. Gray* for petitioner on the motion.

No. 1373, Misc. MAGEE *v.* CARR, JUDGE, U. S. DISTRICT COURT, ET AL. Motion for leave to file petition for writ of mandamus denied.

No. 1311, Misc. BROWN *v.* UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA. Motion for leave to file petition for writ of mandamus and/or prohibition denied.

Certiorari Granted. (See also No. 28, *ante*, p. 310; No. 54, *ante*, p. 310; No. 84, *ante*, p. 310; No. 106, *ante*, p. 310; No. 124, *ante*, p. 310; No. 129, *ante*, p. 310; No. 168, *ante*, p. 310; No. 271, *ante*, p. 310; No. 317, *ante*, p. 310; No. 446, *ante*, p. 316; No. 474, *ante*, p. 310; No. 546, *ante*, p. 310; No. 668, *ante*, p. 310; No. 715, *ante*, p. 310; No. 895, *ante*, p. 310; and No. 911, *ante*, p. 310.)

No. 1014. ANDERSON'S-BLACK ROCK, INC. *v.* PAVEMENT SALVAGE CO., INC. C. A. 4th Cir. Certiorari granted. *Nathaniel L. Leek* for petitioner. *Walter J. Blenko, Jr.*, for respondent. Reported below: 404 F. 2d 450.

No. 867, Misc. COLEMAN ET AL. *v.* ALABAMA. Ct. App. Ala. Motion for leave to proceed *in forma pauperis* granted. Certiorari granted and case transferred to appellate docket. *MacDonald Gallion*, Attorney General of Alabama, and *David W. Clark*, Assistant Attorney General, for respondent. Reported below: 44 Ala. App. 429, 211 So. 2d 917.

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No. 992. ROSS ET AL., TRUSTEES *v.* BERNHARD ET AL. C. A. 2d Cir. Certiorari granted. *William E. Haudek* for petitioners. *Marvin Schwartz* for respondents Clark et al., *William J. Manning* for respondents Bernhard et al., and *E. Roger Frisch* for respondent Lehman Corp. Reported below: 403 F. 2d 909.

Certiorari Denied. (See also No. 84, *ante*, p. 310; No. 317, *ante*, p. 310; No. 823, *ante*, p. 319; and No. 1324, Misc., *ante*, p. 323.)

No. 720. CACI, AKA MILANO *v.* UNITED STATES; and No. 954. CINO *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. *Nathan S. Silverberg* for petitioner in No. 720, and *Abraham Glasser* and *Peter L. Parrino* for petitioner in No. 954. *Solicitor General Griswold*, *Assistant Attorney General Wilson*, *Jerome M. Feit*, and *Kirby W. Patterson* for the United States in both cases. Reported below: 401 F. 2d 664.

No. 939. TYLER *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. *Wesley R. Asinof* for petitioner. *Solicitor General Griswold*, *Assistant Attorney General Wilson*, *Beatrice Rosenberg*, and *Charles Ruff* for the United States. Reported below: 397 F. 2d 565.

No. 955. NATIONAL CASH REGISTER Co. *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. *Joseph G. Blandi*, *C. Rudolf Peterson*, and *George W. Beatty* for petitioner. *Solicitor General Griswold*, *Assistant Attorney General Walters*, and *Stuart A. Smith* for the United States. Reported below: 400 F. 2d 820.

No. 993. UNIVERSITY OF ILLINOIS FOUNDATION *v.* WINEGARD Co. C. A. 8th Cir. Certiorari denied. *Charles J. Merriam* for petitioner. *Keith J. Kulie* and *Donald B. Southard* for respondent. Reported below: 402 F. 2d 125.

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No. 981. PILOT FREIGHT CARRIERS, INC. *v.* WALKER;
No. 1000. GASTON COUNTY DYEING MACHINE CO. *v.*
BROWN; and

No. 1001. OBSERVER TRANSPORTATION CO. *v.* LEE ET
AL. C. A. 4th Cir. Certiorari denied. *Whiteford S.*
Blakeney for petitioner in each case. *Jack Greenberg,*
James M. Nabrit III, Norman C. Amaker, Conrad O.
Pearson, Joseph W. Bishop, Jr., and Albert J. Rosenthal
for respondents in each case. Reported below: No. 981,
405 F. 2d 645; Nos. 1000 and 1001, 405 F. 2d 887.

No. 984. CEDAR RAPIDS STEEL TRANSPORTATION, INC.
v. IOWA STATE COMMERCE COMMISSION ET AL. Sup. Ct.
Iowa. Certiorari denied. *Robert R. Rydell* for peti-
tioner. *Leo J. Steffen, Jr.,* for Iowa State Commerce
Commission, *D. C. Nolan,* for H & W Motor Express, and
Bennett A. Webster for Rock Island Motor Transit, re-
spondents. Reported below: — Iowa —, 160 N. W.
2d 825.

No. 989. ARNOLD *v.* MCGUINNESS. C. A. 9th Cir.
Certiorari denied. Reported below: 400 F. 2d 392.

No. 991. TERRY INDUSTRIES OF VIRGINIA, INC. *v.*
NATIONAL LABOR RELATIONS BOARD. C. A. 4th Cir.
Certiorari denied. *Lawrence T. Zimmerman* and *Hugh*
J. Scallon for petitioner. *Solicitor General Griswold,*
Arnold Ordman, Dominick L. Manoli, Norton J. Come,
and *Robert M. Lieber* for respondent. Reported below:
403 F. 2d 633.

No. 994. P. R. MALLORY & Co., INC. *v.* NATIONAL
LABOR RELATIONS BOARD. C. A. 7th Cir. Certiorari
denied. *Frederic D. Anderson* for petitioner. *Solicitor*
General Griswold, Arnold Ordman, Dominick L. Manoli,
and *Norton J. Come* for respondent. Reported below:
400 F. 2d 956.

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No. 978. AIR LINE PILOTS ASSOCIATION, INTERNATIONAL, ET AL. *v.* TISCHLER. C. A. 5th Cir. Certiorari denied. *Wyatt Johnson* for petitioners. Reported below: 401 F. 2d 777.

No. 998. TREY PACKING, INC., ET AL. *v.* NATIONAL LABOR RELATIONS BOARD. C. A. 2d Cir. Certiorari denied. *John J. Bracken* for petitioners. *Solicitor General Griswold* and *Arnold Ordman* for respondent. Reported below: 405 F. 2d 334.

No. 1004. COX ET AL. *v.* KATZ, CLERK OF CITY OF NEW YORK, ET AL. Ct. App. N. Y. Certiorari denied. *Milton H. Friedman* and *Marshall Perlin* for petitioners. *J. Lee Rankin* for Katz et al., *Louis J. Lefkowitz*, Attorney General of New York, *pro se*, and *Samuel A. Hirshowitz*, First Assistant Attorney General, *George D. Zuckerman*, Assistant Attorney General, and *Philip Weinberg* for Lefkowitz, respondents. Reported below: 22 N. Y. 2d 903, 241 N. E. 2d 747.

No. 1005. HOWE *v.* GENERAL MOTORS CORP. C. A. 7th Cir. Certiorari denied. *Warren C. Horton* for petitioner. *George N. Hibben* and *Eugene W. Christen* for respondent. Reported below: 401 F. 2d 73.

No. 1007. MOGLIA *v.* GEOGHEGAN ET AL. C. A. 2d Cir. Certiorari denied. *Isidore Englander* for petitioner. *Samuel J. Cohen* for respondents. Reported below: 403 F. 2d 110.

No. 1008. DANIEL *v.* GEORGIA. Ct. App. Ga. Certiorari denied. *Albert M. Horn* and *Frank B. Stow* for petitioner. *Lewis R. Slaton* and *Joel M. Feldman* for respondent. Reported below: 118 Ga. App. 370, 163 S. E. 2d 863.

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No. 1012. NATIONAL SPONGE CUSHION Co., INC. *v.* ALLEN INDUSTRIES, INC., ET AL. C. A. 3d Cir. Certiorari denied. *Sidney Neuman, William J. Birmingham, and Louis M. Welsh* for petitioner. *Don K. Harness* for respondents. Reported below: 403 F. 2d 717.

No. 1019. CHAS. PFIZER & Co., INC. *v.* FEDERAL TRADE COMMISSION. C. A. 6th Cir. Certiorari denied. *Arthur G. Connolly, John E. F. Wood, Thomas S. Lodge, and F. L. Peter Stone* for petitioner. *Solicitor General Griswold, Assistant Attorney General McLaren, and Jerold D. Cummins* for respondent. Reported below: 401 F. 2d 574.

No. 1020. JARKA CORP. *v.* MITSUI SEMPAKU K. K. C. A. 3d Cir. Certiorari denied. *F. Hastings Griffin, Jr.*, for petitioner. *Thomas F. Mount* for respondent. Reported below: 405 F. 2d 763.

No. 1023. RATH *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. *William J. MacDaniels* for petitioner. *Solicitor General Griswold* for the United States. Reported below: — F. 2d —.

No. 1025. COCHRANE *v.* LANGLOIS, WARDEN. Sup. Ct. R. I. Certiorari denied. *Milton Stanzler and Melvin L. Wulf* for petitioner. *Herbert F. DeSimone*, Attorney General of Rhode Island, and *Donald P. Ryan*, Assistant Attorney General, for respondent. Reported below: — R. I. —, 247 A. 2d 91.

No. 1027. WHITE *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied. *Dan L. Johnston* for petitioner. *Solicitor General Griswold, Assistant Attorney General Wilson, Beatrice Rosenberg, and Kirby W. Patterson* for the United States. Reported below: 403 F. 2d 1005.

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No. 1026. ZIMMERMAN *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. *Bernard A. Berkman, Larry S. Gordon, Joshua J. Kancelbaum, and Gerald A. Messerman* for petitioner. *Solicitor General Griswold, Assistant Attorney General Wilson, and Philip R. Monahan* for the United States. Reported below: 405 F. 2d 180.

No. 1038. UNITED MEDICAL LABORATORIES, INC. *v.* COLUMBIA BROADCASTING SYSTEM, INC., ET AL. C. A. 9th Cir. Certiorari denied. *Kenneth E. Roberts* for petitioner. *Manley B. Strayer and Cleveland C. Cory* for respondents. Reported below: 404 F. 2d 706.

No. 1046. BARWICK ET AL. *v.* V'SOSKE ET AL. C. A. 2d Cir. Certiorari denied. *Richard Joyce Smith, Forbes D. Shaw, John V. Thornton, and T. David Mullen* for petitioners. *Harold L. Warner, Jr., and Carl S. Rowe* for respondents. Reported below: 404 F. 2d 495.

No. 1058. CHUFF *v.* BOARD OF EDUCATION OF CENTRAL SCHOOL DISTRICT #2 OF TOWNS OF FRANKFORT AND SCHUYLER ET AL. App. Div., Sup. Ct. N. Y., 3d Jud. Dept. Certiorari denied. *Stewart T. Schantz* for petitioner. *George H. Getman* for Board of Education of Central School District #2 of Towns of Frankfort and Schuyler et al., and *John P. Jehu* for Allen et al., respondents. Reported below: 30 App. Div. 2d 590, 290 N. Y. S. 2d 936.

No. 37. MCGARRY *v.* UNITED STATES. C. A. 1st Cir. Certiorari denied. MR. JUSTICE MARSHALL took no part in the consideration or decision of this petition. *Edward Bennett Williams and Harold Ungar* for petitioner. *Solicitor General Griswold, Assistant Attorney General Rogovin, and Joseph M. Howard* for the United States. Reported below: 388 F. 2d 862.

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No. 917. *COCKE ET AL. v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. MR. JUSTICE MARSHALL took no part in the consideration or decision of this petition. *Homer L. Bruce* for petitioners. *Solicitor General Griswold, Assistant Attorney General Walters, Grant W. Wiprud, and Stuart A. Smith* for the United States. Reported below: 399 F. 2d 433.

No. 792. *BIRNBAUM v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. MR. JUSTICE MARSHALL took no part in the consideration or decision of this petition. *Harold F. Reis, Edward P. Taptich, and Alan M. Dershowitz* for petitioner. *Solicitor General Griswold, Assistant Attorney General Vinson, Beatrice Rosenberg, and Edward Fenig* for the United States. *William J. vanden Heuvel and Charles G. Moerdler* for St. Augustine's Episcopal School et al. as *amici curiae* in support of the petition. Reported below: 402 F. 2d 24.

MR. CHIEF JUSTICE WARREN, with whom MR. JUSTICE DOUGLAS joins, dissenting.

This case raises troublesome issues concerning the federal sentencing process and its impact on the exercise of appellate rights, issues I believe we should confront because of our duty both to enforce specific congressional commands and to exercise our supervisory power over the lower federal courts.

The sentencing problems involved here arose after petitioner was convicted in the United States District Court for the Southern District of New York on two counts charging him with having conspired with others to bribe, and with having bribed, an Internal Revenue Agent. At the sentencing hearing, the District Judge noted that petitioner, who continued to maintain his innocence, was appealing his conviction; the judge therefore declined at that time to explore the relevant aspects of petitioner's character that might be taken into con-

sideration in imposing a final sentence. Instead, the District Judge imposed a "tentative," "for the present" sentence of one year, promising to reconsider the sentence after appeal and stating that he "might" grant probation if certain conditions were adequately fulfilled. The District Judge explained his imposition of the "tentative" sentence as follows:

"However, now is not the time to explore that phase [*i. e.*, the 'factors that might be considered in mitigation of sentence'], for you have not accepted the jury's verdict and faced up to its import. You protest your innocence and you are on the way to appeal. Certainly that is your legal right.

"For the present, then, in the light of your frame of mind, let me just add that if your conviction is sustained, this Court might, and I emphasize might, upon an impressively convincing showing that you have realized, or rather realigned your sights and devoutly wish to give a hunk of yourself as well as your wealth to doing with constancy those acts which will really help your fellow Americans and at the same time enhance your personal well-being immeasurably, I say this Court might consider . . . a program of rehabilitation without confinement . . ."

Interpreting the District Court's comments to mean that probation would be granted if the court's suggestions were followed, petitioner requested advice as to his proper course of action from a New York State judge, who had been referred to in the District Court's sentencing remarks as a person who "still believed in" petitioner. The state judge, in turn, contacted the District Judge, informing him that petitioner was having difficulty understanding how to comply with the sentencing suggestions. The District Judge responded: "Why don't you guide him? You have had a great deal of experience

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in charitable endeavors. . . . If you want to help him, why don't you act as his unofficial probation officer . . . ?" Agreeing to do so, the state judge introduced petitioner to three New York charities, the list of which the District Judge approved. For the following 18 months, petitioner became deeply involved with the three suggested charities and others as well, contributing a great deal of his time and over \$100,000 in personal funds. When the state judge reported to the District Judge at an informal social occasion how well petitioner was progressing, the District Judge replied, "That's good, that's fine."

When petitioner's case was argued on appeal to the Court of Appeals for the Second Circuit, his counsel made some strong attacks on the District Judge's conduct of the trial and his comments and instructions to the jury. After the conviction was affirmed, petitioner moved for reduction and suspension of the tentative one-year sentence under Rule 35 of the Federal Rules of Criminal Procedure, arguing that he had fully complied with the suggested conditions. After "long and careful consideration" and "reflection seemingly without end," however, the District Court declined to reduce the original sentence. Another district judge then denied an application for probation by way of a writ of *coram nobis*. These rulings, denying the writ and the Rule 35 motion, were consolidated and affirmed on appeal to the Court of Appeals.

Certiorari should be granted, I believe, for two reasons that are inescapably clear from this record: (1) the District Judge's imposition of a "tentative" sentence clearly violated the principle, inherent in 18 U. S. C. § 4208 (b) and our decisions dealing with that statute, that a defendant must be given the option of waiting until the tentative sentence becomes final before appealing his conviction; (2) the District Judge's refusal to suspend

sentence, after petitioner fully complied with the conditions laid down for such suspension, is inconsistent "with that regularity and fairness which should characterize the administration of criminal justice in the federal courts." *Saldana v. United States*, 365 U. S. 646, 647 (1961).

I.

I think it implicit in our rulings in *United States v. Behrens*, 375 U. S. 162 (1963), and the companion case of *Corey v. United States*, 375 U. S. 169 (1963), that a trial court's sentence must be final in every respect before an appeal need be taken, and that a district judge may impose a tentative sentence only if he follows the limitations and safeguards of 18 U. S. C. § 4208 (b). Section 4208 (b) specifically provides that a trial judge can impose a temporary sentence which "postpones action as to the final sentence" for the purpose of obtaining more detailed sentencing information, *United States v. Behrens*, *supra*, at 165. But we have ruled that if a trial judge proceeds under this statute, the defendant, once informed of the trial judge's intention to do so, can choose to note his appeal *either* at the time the temporary sentence is imposed (to take immediate advantage, for instance, of bail rights), *or* after the final sentence is imposed, *Corey v. United States*, *supra*, at 175. One of the reasons for allowing the defendant the discretion to defer the appellate decision until final action is taken at the trial level was pointed out in *Corey v. United States*, *supra*, at 175, and is particularly applicable here in view of petitioner's virulent attacks on the trial judge on appeal: "[A] defendant might think, rightly or wrongly, that the trial court's knowledge that an appeal had already been taken might adversely influence the court's discretion in imposing final sentence." Such a worry on a defendant's part might well inhibit him from exercising his appellate rights altogether, or

from making certain arguments once he has decided to take an appeal.

It is no answer to say that petitioner acted precipitately in going ahead with his projected appeal after the trial court imposed its "for the present" sentence, for the court indicated that it had no intention of making a final decision until after the appeal was concluded, thereby depriving petitioner of his option under § 4208 (b). As it was, petitioner had cause to believe that he had been given conditional probation, a "final" sentence that would stand if he followed the conditions, and that he had better appeal then or be out of time before the Court of Appeals. Certainly the record is fairly susceptible of such an interpretation, and surely petitioner was entitled to the protection afforded by § 4208—that exercise of appellate rights would not result in a heavier, prison sentence. And even if the trial court's remarks are interpreted, at the other extreme, as imposing a one-year prison term, surely petitioner should have to serve only that sentence, without the added restraints imposed on his time during the 18 months while the appeal was pending.

Thus, no matter how the District Judge's sentencing remarks are interpreted, he exceeded his authority under § 4208 (b). If the District Judge was imposing conditional probation, he erred in revoking the probation after petitioner had fully complied with its terms; and if the District Judge was imposing a one-year prison term, he had no authority to extract, in addition, a lengthy period of probation. Moreover, as I have noted above, petitioner was justified in making the first interpretation. He was equally justified, I think, in viewing that interpretation as final to the extent that probation would be withheld only if petitioner did not comply with the conditions, and not if the District Judge happened to change

his mind for reasons known only to him and based either on factors of which he was aware all along or on the nature of petitioner's appeal. For it is clear that the District Judge had before him all the necessary sentencing information, which he should have explored at the time; he therefore did not need to resort to the temporary sentencing device to obtain "more detailed information"—the "whole point of using section 4208 (b)," *United States v. Behrens, supra*, at 165. The charitable device used here instead to test out petitioner's rehabilitation is simply not within the purview of § 4208 (b).

II.

The District Court's "wait and see" charitable experiment was not just a violation of rules and statutes, however; it was also, in my view, a serious departure from accepted judicial behavior, the second reason why I believe certiorari should be granted. In *Saldana v. United States, supra*, the trial judge promised the petitioner a five-year sentence if he testified at a later trial of a co-indictee without at the same time trying to assume responsibility for a number of offenses, thereby absolving the other defendant; the second trial was never held, however, because the defendant became a fugitive, and petitioner was sentenced finally by another judge to 20 years. At the suggestion of the Solicitor General, and after an independent examination of the record, we concluded that a "due regard for the fair administration of justice" required a reversal of three counts of a five-count indictment. I think the circumstances of this case demand at least that the trial court's promise be kept and that the prison sentence be reduced to one year's probation. I cannot accept the Government's effort to distinguish *Saldana* on the grounds that the "promise" there was unequivocal, while here the trial court indicated only that it "might" reconsider the sentence.

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Given his situation, petitioner had no choice but to treat the trial court's remarks as a promise and then proceed, as he did, to comply with its conditions. I cannot believe that anyone, including the District Judge who approved the manner of compliance, could expect petitioner to follow a different course of action.

The impropriety of this sentencing procedure rests not on the fact that the punishment was disproportionate to the offense because it was not. The crime could have supported a punishment greater than that accorded. Cf. *Saldana, supra*. The impropriety of the sentencing procedure rests instead on the fact that the petitioner's meaningful right of appeal was prejudiced, and that he was led to believe that if he contributed to certain charities approved by the judge, he would not be imprisoned, and that after contributing \$100,000 and 18 months of personal service to them, he was told unceremoniously that his efforts were of no avail. This was neither in keeping with the statutory procedure nor with the fairness of the judicial process.

For these reasons, I would grant certiorari and, in the absence of any justification on briefing and oral argument, I would reverse the judgment.

No. 1013. *ESPLIN ET AL. v. HIRSCHI ET UX.* C. A. 10th Cir. Certiorari denied. MR. JUSTICE WHITE is of the opinion that certiorari should be granted. *Hardin A. Whitney, Jr.*, for petitioners. Reported below: 402 F. 2d 94.

No. 985. *EATON v. HOBSON.* C. A. 6th Cir. Certiorari denied. MR. JUSTICE FORTAS took no part in the consideration or decision of this petition. *Milton V. Freeman, Werner J. Kronstein, William F. Snyder, and James J. Schiller* for petitioner. *Alexander H. Hadden* for respondent. Reported below: 399 F. 2d 781.

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No. 699. DALY *v.* CALIFORNIA. App. Dept., Super. Ct. Cal., County of Santa Clara. Certiorari denied. MR. JUSTICE BLACK is of the opinion that certiorari should be granted and judgment reversed. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. *Stanley Fleishman* and *Sam Rosenwein* for petitioner. *Thomas C. Lynch*, Attorney General of California, *Arlo E. Smith*, Chief Assistant Attorney General, *Albert W. Harris, Jr.*, Assistant Attorney General, and *Michael J. Phelan*, Deputy Attorney General, for respondent.

924. LEWES DAIRY, INC., ET AL. *v.* HARDIN, SECRETARY OF AGRICULTURE. C. A. 3d Cir. Certiorari denied. MR. JUSTICE MARSHALL took no part in the consideration or decision of this petition. *James M. Tunnell, Jr.*, and *Andrew B. Kirkpatrick, Jr.*, for petitioners. *Solicitor General Griswold*, *Assistant Attorney General Ruckelshaus*, *Alan S. Rosenthal*, and *Robert E. Kopp* for respondent. Reported below: 401 F. 2d 308.

No. 1021. SCHONBRUN *v.* COMMANDING OFFICER, ARMED FORCES, ET AL. C. A. 2d Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. *Julius B. Kuriansky* and *Emanuel Margolis* for petitioner. *Solicitor General Griswold*, *Assistant Attorney General Ruckelshaus*, *Alan S. Rosenthal*, and *Ralph A. Fine* for respondents. Reported below: 403 F. 2d 371.

No. 1010. HAMPTON *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. *Albert A. Goldfarb* for petitioner. *Solicitor General Griswold*, *Assistant Attorney General Wilson*, *Beatrice Rosenberg*, and *Edward Fenig* for the United States.

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No. 970. *YOUNG v. MADER ET AL.* C. A. 6th Cir. Certiorari denied. MR. JUSTICE WHITE is of the opinion that certiorari should be granted. *Robert H. Hoffman* and *Katheleen K. Haase* for petitioner. *Lyman Brownfield* for respondents. Reported below: 402 F. 2d 158.

No. 979. *BERNARD, TRUSTEE IN BANKRUPTCY v. BENEFICIAL FINANCE Co.* C. A. 5th Cir. Certiorari denied. MR. JUSTICE WHITE is of the opinion that certiorari should be granted. *Fred Simon* for petitioner. Reported below: 402 F. 2d 796.

No. 990. *ANTI-DEFAMATION LEAGUE OF B'NAI B'RITH, PACIFIC SOUTHWEST REGIONAL OFFICE v. FEDERAL COMMUNICATIONS COMMISSION ET AL.* C. A. D. C. Cir. Certiorari denied. MR. JUSTICE FORTAS took no part in the consideration or decision of this petition. *Harry M. Plotkin, George R. Kucik, Arnold Forster, Sol Rabkin,* and *David A. Brody* for petitioner. *Solicitor General Griswold, Assistant Attorney General McLaren, Henry Geller, John H. Conlin,* and *Stuart F. Feldstein* for respondent Federal Communications Commission. Reported below: 131 U. S. App. D. C. 146, 403 F. 2d 169.

No. 1018. *JOHNSON ET AL. v. UNITED STATES ET AL.* C. A. 5th Cir. Certiorari denied. MR. JUSTICE FORTAS took no part in the consideration or decision of this petition. *William L. McGovern* and *Clifton S. Carl* for petitioners. *Solicitor General Griswold, Assistant Attorney General Ruckelshaus,* and *Morton Hollander* for the United States et al. Reported below: 402 F. 2d 778.

No. 485. Misc. *McCORMICK v. MISSOURI.* Sup. Ct. Mo. Certiorari denied. *Norman H. Anderson,* Attorney General of Missouri, and *Maxim N. Bach,* Assistant Attorney General, for respondent. Reported below: 426 S. W. 2d 62.

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No. 1054. *CHILDS v. OREGON*. Sup. Ct. Ore. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. *Paul R. Meyer* for petitioner. *George Van Hoomissen* and *Jacob B. Tanzer* for respondent. Reported below: — Ore. —, 447 P. 2d 304.

No. 379, Misc. *THOMAS v. UNITED STATES*. C. A. 10th Cir. Certiorari denied. *James J. Mullins, Jr.*, for petitioner. *Solicitor General Griswold*, *Assistant Attorney General Vinson*, *Beatrice Rosenberg*, and *Roger A. Pauley* for the United States. Reported below: 394 F. 2d 247.

No. 606, Misc. *SCHOONOVER v. LOUISIANA*. Sup. Ct. La. Certiorari denied. *Guy P. Johnson* for petitioner. *Jack P. F. Gremillion*, Attorney General of Louisiana, *William P. Schuler*, Second Assistant Attorney General, and *Frank H. Langridge* for respondent. Reported below: 252 La. 311, 211 So. 2d 273.

No. 1230, Misc. *RIVERS v. NEW YORK*. App. Div., Sup. Ct. N. Y., 4th Jud. Dept. Certiorari denied. *Michael F. Dillon* for respondent.

No. 1095, Misc. *NELSON v. UNITED STATES*; and

No. 1314, Misc. *JONES v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. *Solicitor General Griswold*, *Assistant Attorney General Vinson*, *Beatrice Rosenberg*, and *Robert G. Maysack* for the United States in both cases. Reported below: 401 F. 2d 521.

No. 1112, Misc. *SORGI v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. *Solicitor General Griswold*, *Assistant Attorney General Wilson*, *Jerome M. Feit*, and *Kirby W. Patterson* for the United States. Reported below: 401 F. 2d 664.

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No. 982, Misc. *ALLSTON v. PROSECUTING ATTORNEY ET AL.* C. A. 4th Cir. Certiorari denied.

No. 1133, Misc. *PABON v. UNITED STATES.* C. A. 2d Cir. Certiorari denied. *Solicitor General Griswold, Assistant Attorney General Vinson, Beatrice Rosenberg, and Edward Fenig* for the United States. Reported below: 387 F. 2d 351.

No. 1140, Misc. *TANNENBAUM v. UNITED STATES.* C. A. 2d Cir. Certiorari denied. *Daniel H. Greenberg* for petitioner. *Solicitor General Griswold, Assistant Attorney General Vinson, and Beatrice Rosenberg* for the United States. Reported below: 401 F. 2d 644.

No. 1170, Misc. *SANCHEZ v. CALIFORNIA.* Ct. App. Cal., 2d App. Dist. Certiorari denied.

No. 1173, Misc. *MOORE v. CALIFORNIA.* Ct. App. Cal., 1st App. Dist. Certiorari denied.

No. 1231, Misc. *KILGORE v. UNITED STATES;* and

No. 1381, Misc. *MORRIS v. UNITED STATES.* C. A. 4th Cir. Certiorari denied. *Solicitor General Griswold, Acting Assistant Attorney General Kossack, Beatrice Rosenberg, and Sidney M. Glazer* for the United States in both cases. Reported below: 403 F. 2d 627.

No. 1252, Misc. *ALLSTON v. UNITED STATES.* C. A. 4th Cir. Certiorari denied. *Solicitor General Griswold* for the United States.

No. 1237, Misc. *DURHAM v. UNITED STATES.* C. A. 10th Cir. Certiorari denied. *Solicitor General Griswold, Acting Assistant Attorney General Kossack, Beatrice Rosenberg, and Roger A. Pauley* for the United States. Reported below: 400 F. 2d 879.

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No. 1202, Misc. SKELTON *v.* UNITED STATES COURTS
ET AL. C. A. 9th Cir. Certiorari denied.

No. 1241, Misc. STONE *v.* UNITED STATES. C. A. 6th
Cir. Certiorari denied. *Solicitor General Griswold,*
Acting Assistant Attorney General Kossack, and *Beatrice*
Rosenberg for the United States.

No. 1258, Misc. JACKSON *v.* UNITED STATES. C. A.
3d Cir. Certiorari denied. *Solicitor General Griswold*
for the United States. Reported below: 401 F. 2d 659.

No. 1269, Misc. HOLMES *v.* CALIFORNIA. Sup. Ct.
Cal. Certiorari denied.

No. 1273, Misc. FORTUNATO *v.* UNITED STATES. C. A.
2d Cir. Certiorari denied. *Eugene Feldman* and *Joseph*
Rosenzweig for petitioner. *Solicitor General Griswold,*
Acting Assistant Attorney General Kossack, *Beatrice*
Rosenberg, and *Roger A. Pauley* for the United States.
Reported below: 402 F. 2d 79.

No. 1285, Misc. PRITCHETT *v.* LLOYD. C. A. 4th Cir.
Certiorari denied.

No. 1287, Misc. ANGLIN *v.* MARYLAND. C. A. 4th
Cir. Certiorari denied.

No. 1293, Misc. KOCHER *v.* UNITED STATES. C. A.
4th Cir. Certiorari denied. *Solicitor General Griswold*
for the United States.

No. 1337, Misc. McCONNELL *v.* UNITED STATES.
C. A. 5th Cir. Certiorari denied. *Solicitor General*
Griswold, *Assistant Attorney General Wilson,* and *Bea-*
trice Rosenberg for the United States. Reported below:
402 F. 2d 852.

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No. 1316, Misc. *BOYLE v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. *Solicitor General Griswold* for the United States. Reported below: 402 F. 2d 757.

No. 1327, Misc. *PIPES v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. *Solicitor General Griswold* for the United States. Reported below: 399 F. 2d 471.

No. 1328, Misc. *GREEN v. UNITED STATES*. C. A. D. C. Cir. Certiorari denied. *Solicitor General Griswold* for the United States.

No. 1339, Misc. *PICARD v. ALLGOOD, WARDEN*. C. A. 5th Cir. Certiorari denied. Reported below: 400 F. 2d 887.

No. 1344, Misc. *PRINCIPE v. CALIFORNIA ET AL.* C. A. 9th Cir. Certiorari denied.

No. 1345, Misc. *VALE v. RUSSELL, WARDEN*. C. A. 5th Cir. Certiorari denied.

No. 1346, Misc. *HERNANDEZ v. CALIFORNIA*. Ct. App. Cal., 3d App. Dist. Certiorari denied.

No. 1349, Misc. *DiTOMMASO v. UNITED STATES*; and No. 1350, Misc. *WAUGAMAN v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. *Arnold M. Weiner* for petitioner in No. 1349, Misc., and *Edward L. Coleman* for petitioner in No. 1350, Misc. *Solicitor General Griswold* for the United States in both cases. Reported below: 405 F. 2d 385.

No. 1362, Misc. *SMITH v. LAIRD, SECRETARY OF DEFENSE*. C. A. 10th Cir. Certiorari denied. *Solicitor General Griswold* for respondent. Reported below: 395 F. 2d 896.

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No. 1353, Misc. *TRIBBLE v. UNITED STATES*. C. A. D. C. Cir. Certiorari denied. *Solicitor General Griswold, Acting Assistant Attorney General Kossack, Beatrice Rosenberg, and Robert G. Maysack* for the United States.

No. 1356, Misc. *CRAWFORD v. RUSSELL, WARDEN*. C. A. 6th Cir. Certiorari denied.

No. 1357, Misc. *BRAVO v. CRAVEN, WARDEN*. Sup. Ct. Cal. Certiorari denied.

No. 1358, Misc. *BYNUM v. UNITED STATES*. C. A. D. C. Cir. Certiorari denied. *Solicitor General Griswold, Acting Assistant Attorney General Kossack, and Beatrice Rosenberg* for the United States. Reported below: 133 U. S. App. D. C. 4, 408 F. 2d 1207.

No. 1359, Misc. *GERBERDING v. MINNESOTA*. Sup. Ct. Minn. Certiorari denied. Reported below: 282 Minn. 524, 162 N. W. 2d 204.

No. 1360, Misc. *HAYS v. PROCUNIER, CORRECTIONS DIRECTOR*. C. A. 9th Cir. Certiorari denied.

No. 1364, Misc. *HANDLEY v. PAGE, WARDEN*. C. A. 10th Cir. Certiorari denied. Reported below: 398 F. 2d 351.

No. 1375, Misc. *MEEKINS v. NEW YORK*. App. Div., Sup. Ct. N. Y., 1st Jud. Dept. Certiorari denied. *Joseph Calderon* for petitioner. *Frank S. Hogan* and *Michael R. Juviler* for respondent.

No. 1376, Misc. *GAINES v. CALIFORNIA*. Ct. App. Cal., 1st App. Dist. Certiorari denied. Reported below: 265 Cal. App. 2d 642, 71 Cal. Rptr. 468.

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No. 1377, Misc. *DI NIRO v. MANCUSI, WARDEN*.
C. A. 2d Cir. Certiorari denied.

No. 1378, Misc. *COLE v. UNITED STATES*. C. A. 9th
Cir. Certiorari denied. *Solicitor General Griswold, Acting Assistant Attorney General Kossack, Beatrice Rosenberg, and Edward Fenig* for the United States.

No. 1379, Misc. *AMARO v. CALIFORNIA*. Ct. App.
Cal., 2d App. Dist. Certiorari denied.

No. 1382, Misc. *LOCKHART v. HENDRICK, COUNTY PRISONS SUPERINTENDENT*. C. A. 3d Cir. Certiorari denied.

No. 1383, Misc. *IYOTTE v. UNITED STATES*. C. A. 8th
Cir. Certiorari denied. *Solicitor General Griswold, Acting Assistant Attorney General Kossack, Beatrice Rosenberg, and Roger A. Pauley* for the United States. Reported below: 402 F. 2d 698.

No. 1388, Misc. *BROOKMAN v. VIRGINIA*. C. A. 4th
Cir. Certiorari denied.

No. 1389, Misc. *FREEMAN v. FRYE, WARDEN*. C. A.
7th Cir. Certiorari denied.

No. 1392, Misc. *ROSS v. MICHIGAN*. Sup. Ct. Mich.
Certiorari denied. *Frank J. Kelley, Attorney General of Michigan, Robert A. Derengoski, Solicitor General, and Stewart H. Freeman, Assistant Attorney General, for respondent.*

No. 1409, Misc. *GOMEZ v. BETO, CORRECTIONS DIRECTOR*. C. A. 5th Cir. Certiorari denied. *Maury Maverick, Jr.*, for petitioner. Reported below: 402 F. 2d 766.

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No. 1395, Misc. TUCKER *v.* MARYLAND. C. A. 4th Cir. Certiorari denied.

No. 1396, Misc. WALTERS *v.* UNITED STATES. C. A. D. C. Cir. Certiorari denied. *Gary L. Cowan* for petitioner. *Solicitor General Griswold, Assistant Attorney General Wilson, Beatrice Rosenberg, and Roger A. Pauley* for the United States.

No. 1398, Misc. GORDON *v.* PENNSYLVANIA. Sup. Ct. Pa. Certiorari denied. Reported below: 431 Pa. 512, 246 A. 2d 325.

No. 1403, Misc. JENKINS *v.* DUNN ET AL. C. A. 6th Cir. Certiorari denied.

No. 1404, Misc. LASITER *v.* CALIFORNIA. Ct. App. Cal., 2d App. Dist. Certiorari denied. Reported below: 265 Cal. App. 2d 361, 71 Cal. Rptr. 218.

No. 1405, Misc. MATHEWS *v.* MATHEWS ET AL. Sup. Ct. Ga. Certiorari denied.

No. 1406, Misc. DAUGHERTY *v.* CRAVEN, WARDEN, ET AL. C. A. 9th Cir. Certiorari denied.

No. 1411, Misc. AMES *v.* RUSSELL, WARDEN, ET AL. C. A. 5th Cir. Certiorari denied.

No. 1414, Misc. HICKOK *v.* CRAVEN, WARDEN. C. A. 9th Cir. Certiorari denied.

No. 1416, Misc. ROY *v.* MANCHESTER GAS Co. C. A. 1st Cir. Certiorari denied.

No. 1417, Misc. BELL *v.* PEYTON, PENITENTIARY SUPERINTENDENT. C. A. 4th Cir. Certiorari denied.

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No. 1418, Misc. *HARRIS v. NORTH CAROLINA ET AL.* C. A. 4th Cir. Certiorari denied.

No. 1419, Misc. *LINEBARGER v. PAGE, WARDEN.* C. A. 10th Cir. Certiorari denied. Reported below: 404 F. 2d 1092.

No. 1426, Misc. *MASON ET UX. v. LONG ISLAND SAVINGS BANK, FORMERLY LONG ISLAND CITY SAVINGS BANK.* Sup. Ct. N. Y., Suffolk County. Certiorari denied. *Joseph N. Friedman* for respondent.

No. 1430, Misc. *WORTHY v. UNITED STATES.* C. A. D. C. Cir. Certiorari denied. *Solicitor General Griswold, Assistant Attorney General Wilson, Beatrice Rosenberg, and Edward Fenig* for the United States.

No. 1447, Misc. *FIGUEROA v. UNITED STATES.* C. A. 9th Cir. Certiorari denied. *Solicitor General Griswold* for the United States.

No. 1452, Misc. *FOX v. BROWN, SECRETARY OF THE AIR FORCE, ET AL.* C. A. 2d Cir. Certiorari denied. *Moses M. Falk* for petitioner. *Solicitor General Griswold, Assistant Attorney General Ruckelshaus, Morton Hollander, and Robert E. Kopp* for respondents. Reported below: 402 F. 2d 837. [For earlier order herein, see 393 U. S. 1114.]

No. 1456, Misc. *YOUNGLOVE v. HANNAH ET AL.* Sup. Ct. Mich. Certiorari denied. *Leland W. Carr, Jr.,* for Hannah, *Frank J. Kelley,* Attorney General of Michigan, *pro se,* and *Robert A. Derengoski,* Solicitor General, and *James J. Wood,* Assistant Attorney General, for other respondents.

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No. 1457, Misc. *GLASS v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. *Solicitor General Griswold* for the United States. Reported below: 405 F. 2d 471.

No. 1469, Misc. *FURTAk v. MANCUSI, WARDEN*. C. A. 2d Cir. Certiorari denied.

No. 1498, Misc. *PEEL v. FLORIDA*. Sup. Ct. Fla. Certiorari denied. *Harry W. Fogle* for petitioner.

No. 1218, Misc. *PYLES v. UNITED STATES*. C. A. D. C. Cir. Certiorari denied. MR. JUSTICE MARSHALL took no part in the consideration or decision of this petition. *Solicitor General Griswold, Acting Assistant Attorney General Kossack, and Beatrice Rosenberg* for the United States.

Rehearing Denied.

No. 590. *JAYSON ET AL. v. UNITED STATES*, 393 U. S. 981;

No. 500, Misc. *METZE v. NEW YORK*, 393 U. S. 1091;

No. 876, Misc. *JOHNSON v. NEW YORK ET AL.*, 393 U. S. 1036;

No. 1057, Misc. *THERIAULT v. UNITED STATES*, 393 U. S. 1100; and

No. 1208, Misc. *VINSON v. EYMAN, WARDEN, ET AL.*, 393 U. S. 1075. Petitions for rehearing denied.

No. 11. *IVANOV v. UNITED STATES*, ante, p. 165. Petition for rehearing denied. MR. JUSTICE MARSHALL took no part in the consideration or decision of this petition.

No. 519. *HAYUTIN v. UNITED STATES*, 393 U. S. 961, 1045. Motion for leave to file second petition for rehearing denied.

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Miscellaneous Order.

No. 770. CHIMEL *v.* CALIFORNIA. Sup. Ct. Cal. [Certiorari granted, 393 U. S. 958.] Motion of petitioner for appointment of counsel granted. It is ordered that *Keith C. Monroe, Esquire*, of Santa Ana, California, a member of the Bar of this Court, be, and he is hereby, appointed to serve as counsel for petitioner in this case.

APRIL 1, 1969.

Miscellaneous Orders.

No. —. MARCUCILLI *v.* UNITED STATES ET AL. (C. A. 2d Cir.) Application for stay presented to MR. JUSTICE DOUGLAS, and by him referred to the Court, denied. *Samuel J. Landau* for applicant. *Solicitor General Griswold* in opposition.

No. —. MORSE *v.* LAIRD, SECRETARY OF DEFENSE, ET AL. C. A. 9th Cir. Application for return of petitioner to the United States presented to MR. JUSTICE DOUGLAS, and by him referred to the Court, denied. MR. JUSTICE DOUGLAS and MR. JUSTICE FORTAS would grant the application. *Solicitor General Griswold* in opposition.

No. 463. NATIONAL LABOR RELATIONS BOARD *v.* WYMAN-GORDON CO. C. A. 1st Cir. [Certiorari granted, 393 U. S. 932.] Motion of respondent for leave to file supplemental brief after argument granted. *Quentin O. Young* on the motion.

No. 1502, Misc. URRY *v.* ARIZONA ET AL.; and

No. 1572, Misc. MUELLER *v.* CRAVEN, WARDEN. Motions for leave to file petitions for writs of habeas corpus denied.

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No. 610. SULLIVAN, TAX COMMISSIONER OF CONNECTICUT, ET AL. *v.* UNITED STATES ET AL. C. A. 2d Cir. [Probable jurisdiction noted, 393 U. S. 1012.] Motion of Stanley Fissel for leave to file a brief as *amicus curiae* granted. *Benjamin M. Wall* on the motion. *Robert K. Killian*, Attorney General of Connecticut, and *F. Michael Ahern*, *Ralph G. Murphy*, and *Richard A. Gitlin*, Assistant Attorneys General, for appellants in opposition.

No. 974. CONWAY *v.* CALIFORNIA ADULT AUTHORITY ET AL. C. A. 9th Cir. [Certiorari granted, 393 U. S. 1062.] Motion of petitioner for appointment of counsel granted. It is ordered that *Charles S. Ralston, Esquire*, of San Francisco, California, a member of the Bar of this Court, be, and he is hereby, appointed to serve as counsel for petitioner in this case.

No. 1084. WADE *v.* WILSON, WARDEN, ET AL. C. A. 9th Cir. [Certiorari granted, 393 U. S. 1079.] Motion of petitioner for appointment of counsel granted. It is ordered that *Marshall L. Small, Esquire*, of San Francisco, California, be, and he is hereby, appointed to serve as counsel for petitioner in this case.

No. 1099. ASHE *v.* SWENSON, WARDEN. C. A. 8th Cir. [Certiorari granted, 393 U. S. 1115.] Motion of petitioner for appointment of counsel granted. It is ordered that *Clark M. Clifford, Esquire*, of Washington, District of Columbia, a member of the Bar of this Court, be, and he is hereby, appointed to serve as counsel for petitioner in this case.

No. 1515, Misc. HANIBLE *v.* KROPP, WARDEN, ET AL. Motion for leave to file petition for writ of habeas corpus denied. *Frank J. Kelley*, Attorney General of Michigan, *Robert A. Derengoski*, Solicitor General, and *Stewart H. Freeman*, Assistant Attorney General, in opposition.

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No. 738, Misc. *COULTER v. NELSON, WARDEN, ET AL.* Motion for leave to file petition for writ of habeas corpus denied. Treating the papers submitted as a petition for writ of certiorari, certiorari denied. MR. JUSTICE FORTAS is of the opinion that in treating the papers as a petition for writ of certiorari, certiorari should be granted. *Thomas C. Lynch*, Attorney General of California, and *Robert R. Granucci* and *Horace Wheatley*, Deputy Attorneys General, for respondents.

No. 770, Misc. *HANING v. KINNEARY*, U. S. DISTRICT JUDGE; and

No. 1532, Misc. *MCCARTNEY v. HABERKORN, JUDGE, ET AL.* Motions for leave to file petitions for writs of mandamus denied.

No. 1503, Misc. *LAUCHLI v. NOLAND*, U. S. DISTRICT JUDGE. Motion for leave to file petition for writ of mandamus denied. *Solicitor General Griswold* in opposition.

No. 1309, Misc. *WION v. ARRAJ, CHIEF JUDGE, U. S. DISTRICT COURT, ET AL.* Motion for leave to file petition for writ of mandamus and other relief denied. *Solicitor General Griswold* in opposition.

Certiorari Granted. (See also No. 880, *ante*, p. 454; No. 1041, *ante*, p. 458; and No. 1274, Misc., *ante*, p. 457.)

No. 929. *SULLIVAN ET AL. v. LITTLE HUNTING PARK, INC., ET AL.* Sup. Ct. App. Va. Motion to use record in No. 1188, October Term, 1967, granted. Certiorari granted. *Allison W. Brown, Jr.*, *Peter Ames Eveleth*, *Robert M. Alexander*, *Jack Greenberg*, and *James M. Nabrit III* for petitioners. *John Chas. Harris* for respondents. Reported below: 209 Va. 279, 163 S. E. 2d 588.

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Certiorari Denied. (See also No. 988, *ante*, p. 455; No. 1044, *ante*, p. 456; No. 1052, *ante*, p. 454; No. 1460, Misc., *ante*, p. 457; and No. 738, Misc., *supra*.)

No. 1002. *HORN v. CIA DE NAVEGACION FRUCO, S. A., ET AL.* C. A. 5th Cir. *Certiorari* denied. *John H. Tappan* for petitioner. *T. K. Jackson, Jr.*, for respondents. Reported below: 404 F. 2d 422.

No. 1016. *THOMAS v. GEORGIA.* Ct. App. Ga. *Certiorari* denied. *Frank B. Hester* and *Richard M. Hester* for petitioner. *Lewis R. Slaton* and *J. Robert Sparks* for respondent. Reported below: 118 Ga. App. 359, 163 S. E. 2d 850.

No. 1031. *MORSE v. HINDMAN ET AL.* C. A. 10th Cir.; and

No. 1081. *MORSE v. HINDMAN ET AL.* Sup. Ct. Kan. *Certiorari* denied. *Malcolm Miller* and *Robert Martin* for respondents in both cases.

No. 1042. *GOULD ET UX. v. AMERICAN WATER WORKS SERVICE Co., INC., ET AL.* Sup. Ct. N. J. *Certiorari* denied. *Herman A. Linger* for petitioners. Reported below: 52 N. J. 226, 245 A. 2d 14.

No. 1043. *COHEN v. UNITED STATES.* C. A. 8th Cir. *Certiorari* denied. *John M. Bray* for petitioner. *Solicitor General Griswold*, *Assistant Attorney General Walters*, *John P. Burke*, and *John M. Brant* for the United States. Reported below: 405 F. 2d 34.

No. 1080. *FLUOR CORP., LTD., ET AL. v. CUNNYNGHAM.* C. A. 5th Cir. *Certiorari* denied. *Henry B. Alsbrook* and *James E. Blazek* for petitioners. *Robert B. Neblett, Jr.*, for respondent. Reported below: 403 F. 2d 223.

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No. 1034. HARPER & ROW PUBLISHERS, INC., ET AL. v. DECKER, U. S. DISTRICT JUDGE. C. A. 7th Cir. Motion for leave to supplement record granted. Certiorari denied. *Horace S. Manges*, *Donald J. Williamson*, and *A. Paul Victor* for petitioners Harper & Row Publishers, Inc., et al.; *H. Templeton Brown* and *Lee N. Abrams* for petitioner William Morrow & Co., Inc.; *W. Donald McSweeney* for petitioners Bobbs-Merrill Co., Inc., et al.; *Earl A. Jinkinson* for petitioner Franklin Watts, Inc.; *Conrad W. Oberdorfer* for petitioner Houghton Mifflin Co.; *David P. List* for petitioner American News Co.; *Samuel Weisbard* for petitioner Golden Press, Inc.; *Bruce A. Hecker* for petitioner Campbell & Hall, Inc.; *Edgar E. Barton* for petitioner McGraw-Hill, Inc.; *Earl E. Pollock* for petitioner Baker & Taylor Co.; and *Leo Rosen* for petitioners Thomas Y. Crowell Co. et al. *Lee A. Freeman* for respondent and certain real parties in interest; *Paul W. Brown*, Attorney General, and *Donald Weckstein*, Assistant Attorney General, for the State of Ohio; *Chauncey H. Browning, Jr.*, Attorney General, and *Benjamin F. Yancey, Jr.*, Assistant Attorney General, for the State of West Virginia; *Kent Frizzell*, Attorney General, for the State of Kansas; *Robert W. Warren*, Attorney General, and *George F. Sieker*, Assistant Attorney General, for the State of Wisconsin; *Douglas M. Head*, Attorney General, and *Roger E. Montgomery*, Assistant Attorney General, for the State of Minnesota; *Louis J. Lefkowitz*, Attorney General, for the State of New York; *William J. Scott*, Attorney General, for the State of Illinois; *Crawford C. Martin*, Attorney General, and *Thomas W. Mack*, Assistant Attorney General, for the State of Texas; *Theodore L. Sendak*, Attorney General, for the State of Indiana; *Raymond F. Simon* for the City of Chicago; *J. Lee Rankin* for the City of New York; *Harold E. Kohn* and *David Berger* for the City of Philadelphia et al.; *John A.*

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Murray for the City of St. Paul et al.; and *David J. Young* for Archbishop and Bishops of the Six Dioceses in Ohio, certain real parties in interest.

No. 1028. *VICK ET AL. v. COLORADO*. Sup. Ct. Colo. Certiorari denied. *Fred M. Winner* for petitioners. Reported below: — Colo. —, 445 P. 2d 220.

No. 1051. *FORREST v. VIRGINIA*. Sup. Ct. App. Va. Certiorari denied. *Calvin W. Breit* for petitioner. *Jefferson B. Brown* for respondent.

No. 1073. *KOZAK v. KOZAK*. App. Ct. Ill., 1st Dist. Certiorari denied. *Franklin J. Kramer* for petitioner. *Burton Y. Weitzenfeld* for respondent. Reported below: 98 Ill. App. 2d 477, 240 N. E. 2d 155.

No. 1102. *WESTERN TREE FARMS, INC., ET AL. v. HOOD RIVER COUNTY*. Sup. Ct. Ore. Certiorari denied. *Ervin W. Potter* for petitioners. Reported below: — Ore. —, —, —, 448 P. 2d 518, 519, 520.

No. 1056. *BOOTH ET AL. v. UNITED STATES*. C. A. 5th Cir. Motion to dispense with printing petition granted. Certiorari denied. *Guy B. Scott, Jr.*, for petitioners. *Solicitor General Griswold* for the United States. Reported below: 404 F. 2d 1096.

No. 762, Misc. *PAGAN-CRUZ v. NEW YORK*. Ct. App. N. Y. Certiorari denied. *Manuel Nelson Zapata* for petitioner. *Eugene Gold* and *Harold M. Brown* for respondent.

No. 1283, Misc. *FERNANDEZ v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. *Solicitor General Griswold* for the United States. Reported below: 401 F. 2d 183.

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No. 1057. *WOLFSON ET AL. v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. MR. JUSTICE FORTAS took no part in the consideration or decision of this petition. *William O. Bittman* and *E. Barrett Prettyman, Jr.*, for Wolfson, and *Milton V. Freeman* and *Edgar H. Brenner* for Gerbert, petitioners. *Solicitor General Griswold*, *Assistant Attorney General Wilson*, *Beatrice Rosenberg*, and *Roger A. Pauley* for the United States. Reported below: 405 F. 2d 779.

No. 1074. *AMERICAN HOME ASSURANCE CO. v. SPICER ET AL.* C. A. 5th Cir. Motion to dispense with printing respondents' brief denied. Certiorari denied. *Anthony J. Siciliano* for petitioner. *James Harold Weeks* for respondents. Reported below: 402 F. 2d 988.

No. 804, Misc. *SCHUTZ v. UNITED STATES*. C. A. 10th Cir. Certiorari denied. *Max P. Flusche, Jr.*, for petitioner. *Solicitor General Griswold*, *Assistant Attorney General Vinson*, and *Jerome M. Feit* for the United States. Reported below: 395 F. 2d 225.

No. 1004, Misc. *ACEVES v. CALIFORNIA ET AL.* C. A. 9th Cir. Certiorari denied. *Thomas C. Lynch*, Attorney General of California, *Albert W. Harris, Jr.*, Assistant Attorney General, and *Timothy A. Reardon*, Deputy Attorney General, for respondents.

No. 1209, Misc. *CECCHINI v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. *Solicitor General Griswold*, *Assistant Attorney General Wilson*, *Beatrice Rosenberg*, and *Mervyn Hamburg* for the United States. Reported below: 402 F. 2d 924.

No. 1436, Misc. *HARRIS v. PENNSYLVANIA*. Sup. Ct. Pa. Certiorari denied. *Mary Bell Hammerman* for petitioner.

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No. 1262, Misc. *MUTTER v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. *James L. Mayson* for petitioner. *Solicitor General Griswold, Acting Assistant Attorney General Kossack, and Beatrice Rosenberg* for the United States. Reported below: 400 F. 2d 183.

No. 1281, Misc. *JONES v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. *Stanley A. Bass* for petitioner. *Solicitor General Griswold, Assistant Attorney General Wilson, and Beatrice Rosenberg* for the United States. Reported below: 403 F. 2d 498.

No. 1291, Misc. *PALUMBO v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. *Solicitor General Griswold, Assistant Attorney General Wilson, and Beatrice Rosenberg* for the United States. Reported below: 401 F. 2d 270.

No. 1299, Misc. *MURDOCK v. CALIFORNIA*. Ct. App. Cal., 2d App. Dist. Certiorari denied.

No. 1305, Misc. *COLON v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. *Solicitor General Griswold, Assistant Attorney General Wilson, Beatrice Rosenberg, and Edward Fenig* for the United States.

No. 1308, Misc. *FEARING v. UNITED STATES*. C. A. 10th Cir. Certiorari denied. *Solicitor General Griswold, Assistant Attorney General Wilson, and Beatrice Rosenberg* for the United States. Reported below: 403 F. 2d 60.

No. 1341, Misc. *MALONEY ET AL. v. UNITED STATES*. C. A. 1st Cir. Certiorari denied. *Francis J. Kiernan* for petitioners. *Solicitor General Griswold, Assistant Attorney General Wilson, and Beatrice Rosenberg* for the United States. Reported below: 402 F. 2d 448.

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No. 1365, Misc. MALONEY *v.* WEST VIRGINIA. Sup. Ct. App. W. Va. Certiorari denied. Reported below: 152 W. Va. 437, 164 S. E. 2d 205.

No. 1385, Misc. HAYES *v.* DIRECTOR, PATUXENT INSTITUTION. Ct. Sp. App. Md. Certiorari denied.

No. 1394, Misc. GRAY *v.* RUSSELL, WARDEN. C. A. 6th Cir. Certiorari denied. *George F. McCanless*, Attorney General of Tennessee, for respondent. Reported below: 403 F. 2d 59.

No. 1400, Misc. VENEY *v.* MARYLAND. Ct. App. Md. Certiorari denied. *Daniel E. Klein, Jr.*, for petitioner. *Francis B. Burch*, Attorney General of Maryland, *Edward F. Borgerding*, First Assistant Attorney General, and *Thomas N. Biddison, Jr.*, Assistant Attorney General, for respondent. Reported below: 251 Md. 182, 246 A. 2d 568.

No. 1431, Misc. WILLIAMS *v.* NEW YORK. App. Div., Sup. Ct. N. Y., 2d Jud. Dept. Certiorari denied.

No. 1401, Misc. VENEY *v.* MARYLAND. Ct. App. Md. Certiorari denied. *Daniel E. Klein, Jr.*, for petitioner. *Francis B. Burch*, Attorney General of Maryland, *Edward F. Borgerding*, First Assistant Attorney General, and *Thomas N. Biddison, Jr.*, Assistant Attorney General, for respondent. Reported below: 251 Md. 159, 246 A. 2d 608.

No. 1433, Misc. WILLIAMS *v.* PROCUNIER, CORRECTIONS DIRECTOR. C. A. 9th Cir. Certiorari denied.

No. 1437, Misc. ADAMS *v.* CAMERON, HOSPITAL SUPERINTENDENT. C. A. D. C. Cir. Certiorari denied. *Solicitor General Griswold* for respondent.

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No. 1434, Misc. CLARKE *v.* CALIFORNIA. Ct. App. Cal., 2d App. Dist. Certiorari denied.

No. 1439, Misc. BAKER *v.* NEBRASKA. Sup. Ct. Neb. Certiorari denied. *Richard J. Bruckner* for petitioner. Reported below: 183 Neb. 499, 161 N. W. 2d 864.

No. 1444, Misc. METZ *v.* MARONEY, CORRECTIONAL SUPERINTENDENT. C. A. 3d Cir. Certiorari denied. Reported below: 404 F. 2d 233.

No. 1446, Misc. SWANSON *v.* PENNSYLVANIA. Sup. Ct. Pa. Certiorari denied. Reported below: 432 Pa. 293, 248 A. 2d 12.

No. 1448, Misc. BAREFIELD *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied. *Solicitor General Griswold* for the United States. Reported below: 403 F. 2d 647.

No. 1435, Misc. VALENZUELA *v.* CALIFORNIA. Ct. App. Cal., 2d App. Dist. Certiorari denied.

No. 1451, Misc. GARRETT *v.* TEXAS. Ct. Crim. App. Tex. Certiorari denied. Reported below: 434 S. W. 2d 142.

No. 1455, Misc. GARNETT *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. *Solicitor General Griswold, Assistant Attorney General Wilson, Beatrice Rosenberg, and Edward Fenig* for the United States. Reported below: 404 F. 2d 26.

No. 1463, Misc. EHRLICH *v.* ILLINOIS ET AL. C. A. 7th Cir. Certiorari denied.

No. 1466, Misc. DICKERSON *v.* LEE. C. A. 5th Cir. Certiorari denied.

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No. 1465, Misc. *MASON v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. *Solicitor General Griswold* for the United States. Reported below: 402 F. 2d 732.

No. 1471, Misc. *CONRAD v. CALIFORNIA*. Ct. App. Cal., 3d App. Dist. Certiorari denied.

No. 1472, Misc. *CHAVEZ v. BAKER, WARDEN*. C. A. 10th Cir. Certiorari denied. Reported below: 399 F. 2d 943.

No. 1473, Misc. *LOTT v. BAKER, WARDEN*. C. A. 10th Cir. Certiorari denied.

No. 1478, Misc. *KONCZAK v. MEEHAN ET AL.* C. A. 7th Cir. Certiorari denied.

No. 1479, Misc. *DOUGLAS v. PERINI, CORRECTIONAL SUPERINTENDENT*. C. A. 6th Cir. Certiorari denied.

No. 1480, Misc. *PIERCE v. TURNER, WARDEN*. C. A. 10th Cir. Certiorari denied. *Delbert M. Draper, Jr.*, for petitioner. Reported below: 402 F. 2d 109.

No. 1484, Misc. *CANTRELL v. ALABAMA*. Sup. Ct. Ala. Certiorari denied. *Fred Blanton, Jr.*, for petitioner. *MacDonald Gallion*, Attorney General of Alabama, and *Robert P. Bradley* and *Walter S. Turner*, Assistant Attorneys General, for respondent. Reported below: 283 Ala. 225, 215 So. 2d 440.

No. 1487, Misc. *HOLQUIN v. ARIZONA ET AL.* C. A. 9th Cir. Certiorari denied.

No. 1494, Misc. *CARTER v. SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN BERNARDINO*. Ct. App. Cal., 4th App. Dist. Certiorari denied.

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No. 1488, Misc. *COTA v. FIELD, MEN'S COLONY SUPERINTENDENT*. Sup. Ct. Cal. Certiorari denied.

No. 1489, Misc. *HANCOCK v. TENNESSEE*. Sup. Ct. Tenn. Certiorari denied. *George F. McCanless*, Attorney General of Tennessee, and *C. Hayes Cooney*, Assistant Attorney General, for respondent.

No. 1495, Misc. *RIOS-RAMIREZ v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. *Solicitor General Griswold*, *Assistant Attorney General Wilson*, and *Beatrice Rosenberg* for the United States. Reported below: 403 F. 2d 1016.

No. 1497, Misc. *McFALLS v. PEYTON, PENITENTIARY SUPERINTENDENT*. C. A. 4th Cir. Certiorari denied. Reported below: 401 F. 2d 890.

No. 1506, Misc. *HILLERY v. CALIFORNIA*. C. A. 9th Cir. Certiorari denied.

No. 1505, Misc. *HARSHAW v. FIELD, MEN'S COLONY SUPERINTENDENT, ET AL.* C. A. 9th Cir. Certiorari denied.

No. 1507, Misc. *JOHNSON v. VIRGINIA*. C. A. 4th Cir. Certiorari denied.

No. 1508, Misc. *CORTMAN v. OREGON*. Sup. Ct. Ore. Certiorari denied. Reported below: 251 Ore. 566, 446 P. 2d 681.

No. 1514, Misc. *BELL v. PEYTON, PENITENTIARY SUPERINTENDENT*. C. A. 4th Cir. Certiorari denied.

No. 1516, Misc. *ANDREWS v. PEYTON, PENITENTIARY SUPERINTENDENT*. C. A. 4th Cir. Certiorari denied.

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No. 508, Misc. JOHNSON ET AL. v. UNITED STATES. C. A. 5th Cir. Certiorari denied. *Lawrence A. Aschenbrenner* for petitioners. *Louis F. Claiborne*, Deputy Solicitor General, for the United States. Reported below: 394 F. 2d 984.

MR. JUSTICE MARSHALL, with whom MR. CHIEF JUSTICE WARREN joins, dissenting.

Petitioners were convicted of disorderly conduct in a federal recreational area after a jury trial in the United States District Court for the Southern District of Mississippi.* Specifically, they were charged with making "offensively coarse utterances and gestures and . . . addressing abusive language" to a group of people using the recreational area. In his charge to the jury, the trial judge simply read the regulation under which petitioners were charged, without defining or limiting any of the terms contained therein. There was no objection to the charge. On appeal, petitioners challenged the sufficiency of the evidence. Petitioners raise several challenges to the validity of their convictions in their petition before this Court.

The Government, without conceding the more extreme of petitioners' arguments, does not oppose granting the writ and reversing the judgments of conviction on the ground that the minimal instructions given the jury make it "quite possible that the present convictions rest upon

*The applicable regulation, 36 CFR § 2.7, provides in part:

"§ 2.7. Disorderly conduct.

"(a) Disorderly conduct is prohibited.

"(b) Offense defined: A person is guilty of disorderly conduct if, with purpose to cause public inconvenience, annoyance or alarm, or recklessly creating a risk thereof, he shall:

"(2) Make unreasonable noise or offensively coarse utterance, gesture, or display, or address abusive language to any person present."

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an unacceptably broad reading of the regulation," and that such a defect can be noticed by this Court even though no objection was made to the instruction in the trial court. Fed. Rules Crim. Proc. 30, 52 (b).

I agree. Accordingly, I would grant the writ and reverse the judgment of conviction.

No. 1519, Misc. *BECTON v. WILLINGHAM, WARDEN*. C. A. 10th Cir. Certiorari denied.

No. 1524, Misc. *ESTRADA v. NEW YORK*. Ct. App. N. Y. Certiorari denied. *Leon B. Polsky* for petitioner.

No. 1525, Misc. *ELDER v. GEORGIA*. Sup. Ct. Ga. Certiorari denied. *Reuben A. Garland* for petitioner. Reported below: 224 Ga. 704, 164 S. E. 2d 118.

No. 1530, Misc. *HOLMES v. PEYTON, PENITENTIARY SUPERINTENDENT*. C. A. 4th Cir. Certiorari denied.

No. 1534, Misc. *BLYTHER v. UNITED STATES*. C. A. D. C. Cir. Certiorari denied. *Solicitor General Griswold* for the United States. Reported below: — U. S. App. D. C. —, 407 F. 2d 1279.

No. 1542, Misc. *NOLTIMIER v. NOLTIMIER*. Sup. Ct. Minn. Certiorari denied. Reported below: 282 Minn. 526, 162 N. W. 2d 707.

No. 1551, Misc. *WILLIAMS v. CALIFORNIA*. Ct. App. Cal., 1st App. Dist. Certiorari denied.

No. 1552, Misc. *ROBINSON v. PEYTON, PENITENTIARY SUPERINTENDENT*. C. A. 4th Cir. Certiorari denied.

No. 1553, Misc. *JORDAN v. VIRGINIA*. C. A. 4th Cir. Certiorari denied.

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No. 1563, Misc. *MASTERS v. IOWA*. Sup. Ct. Iowa. Certiorari denied.

No. 757, Misc. *HEATH v. PATTERSON, WARDEN, ET AL.* C. A. 10th Cir. Certiorari denied. MR. JUSTICE DOUGLAS, MR. JUSTICE FORTAS, and MR. JUSTICE MARSHALL are of the opinion that certiorari should be granted. *Benton S. Clark, Jr.*, and *Robert G. Hanson* for petitioner. *Duke W. Dunbar*, Attorney General of Colorado, *John P. Moore*, Deputy Attorney General, and *George E. DeRoos*, Assistant Attorney General, for respondents.

No. 1372, Misc. *KOPETKA v. YOUNG, WARDEN*. Sup. Ct. Minn. Certiorari and other relief denied. Reported below: 282 Minn. 529, 163 N. W. 2d 49.

No. 1412, Misc. *MILLS v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. MR. JUSTICE MARSHALL took no part in the consideration or decision of this petition. *Solicitor General Griswold*, *Assistant Attorney General Wilson*, *Beatrice Rosenberg*, and *Roger A. Pauley* for the United States.

No. 1475, Misc. *BARNETT v. UNITED STATES*. C. A. D. C. Cir. Certiorari denied. MR. JUSTICE MARSHALL took no part in the consideration or decision of this petition. *Solicitor General Griswold*, *Assistant Attorney General Wilson*, *Beatrice Rosenberg*, and *Robert G. Maysack* for the United States.

No. 1547, Misc. *TREST v. UNITED STATES*. C. A. D. C. Cir. Certiorari denied. MR. JUSTICE MARSHALL took no part in the consideration or decision of this petition. *Solicitor General Griswold*, *Assistant Attorney General Wilson*, *Beatrice Rosenberg*, and *Edward Fenig* for the United States.

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No. 1490, Misc. DE LA CRUZ-MARTINEZ *v.* IMMIGRATION AND NATURALIZATION SERVICE. C. A. 9th Cir. Certiorari denied. MR. JUSTICE FORTAS is of the opinion that certiorari should be granted. *Stella Gramer* for petitioner. *Solicitor General Griswold*, *Assistant Attorney General Wilson*, and *Philip R. Monahan* for respondent. Reported below: 404 F. 2d 1198.

Rehearing Denied.

No. 735. BRADY *v.* TRANS WORLD AIRLINES, INC., ET AL., 393 U. S. 1048;

No. 742, Misc. JOHNSON *v.* CALIFORNIA, 393 U. S. 991;

No. 1280, Misc. FURTAK *v.* NEW YORK, 393 U. S. 1122;

No. 1335, Misc. FURTAK *v.* MANCUSI, WARDEN, 393 U. S. 1123;

No. 1369, Misc. FURTAK *v.* MANCUSI, WARDEN, 393 U. S. 1123; and

No. 1340, Misc. GUNZBURGER *v.* WASHINGTON TERMINAL Co. ET AL., *ante*, p. 912. Petitions for rehearing denied.

No. 735, Misc. HOPKINS *v.* UNITED STATES, 393 U. S. 1032; and

No. 791, Misc. PEABODY *v.* UNITED STATES, 393 U. S. 1033. Motions for leave to file petitions for rehearing denied.

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Dismissal Under Rule 60.

No. 820. PHELPS *v.* MISSOURI-KANSAS-TEXAS RAILROAD Co. Sup. Ct. Mo. [Certiorari granted, 393 U. S. 1061.] Writ of certiorari dismissed pursuant to Rule 60 of the Rules of this Court. *John H. Haley, Jr.*, *James T. Williamson*, and *Thomas J. Conway* for petitioner. *Howard A. Crawford* for respondent.

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Miscellaneous Order.

No. 436. RODRIGUE ET AL. *v.* AETNA CASUALTY & SURETY CO. ET AL. C. A. 5th Cir. [Certiorari granted, 393 U. S. 932.] The parties and the Solicitor General as *amicus curiae* are invited to file further briefs within 30 days addressing the following question: "In light of the cases in this Court relating to the limits of admiralty jurisdiction, such as *Phoenix Construction Co. v. The Steamer Poughkeepsie*, 212 U. S. 558, affirming 162 F. 494 (D. C. S. D. N. Y. 1908), and in light of the language and legislative history of the Outer Continental Shelf Lands Act, does the Death on the High Seas Act apply to these accidents?" See *Pure Oil Co. v. Snipes*, 293 F. 2d 60 (C. A. 5th Cir. 1961).

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Miscellaneous Orders.

No. —. YOUNG *v.* MCGEE. C. A. 9th Cir. Application for bail denied.

No. 1675, Misc. SAAVEDRA *v.* CONNECTICUT. Sup. Ct. Conn. Application for stay and for admission to bail presented to MR. JUSTICE DOUGLAS, and by him referred to the Court, denied.

No. 1655, Misc. IN RE ADAMS. Motion for leave to file petition for writ of habeas corpus denied.

No. 1620, Misc. DAYE *v.* LARKINS. Motion for leave to file petition for writ of mandamus denied.

Probable Jurisdiction Noted or Postponed.

No. 1064. NORTH CAROLINA *v.* ALFORD. Appeal from C. A. 4th Cir. Motion of appellee for leave to proceed *in forma pauperis* granted. Probable jurisdiction noted. *Robert B. Morgan*, Attorney General of North Carolina, and *Andrew A. Vanore, Jr.*, for appellant. Reported below: 405 F. 2d 340.

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No. 876. *MANN v. VERMONT EDUCATIONAL BUILDINGS FINANCING AGENCY*. Appeal from Sup. Ct. Vt. Motion of College of Saint Joseph the Provider for leave to file brief as *amicus curiae* granted. Further consideration of question of jurisdiction in this case postponed to hearing of case on the merits. Parties are directed to express their views as to whether there is presented a genuine case or controversy. *Neil J. Cohen* for appellant. *Chester S. Ketcham* for appellee. *Edward Bennett Williams* and *Charles Ryan* on the motion. Reported below: 127 Vt. 262, 247 A. 2d 68.

No. 909, Misc. *SIMMONS ET UX. v. WEST HAVEN HOUSING AUTHORITY*. Appeal from App. Div., Cir. Ct. Conn. Motion for leave to proceed *in forma pauperis* granted. Probable jurisdiction noted and case transferred to appellate docket. *Francis X. Dineen* for appellants. *John J. Philbin*, *Dennis J. Donahue, Jr.*, and *Louis Smith Votto* for appellee. Reported below: 5 Conn. Cir. 282, 250 A. 2d 527

Certiorari Granted. (See also No. 1146, Misc., *ante*, p. 574; and No. 1425, Misc., *ante*, p. 575.)

No. 1024. *UNITED STATES v. WHITE*. C. A. 7th Cir. *Certiorari* granted. *Solicitor General Griswold* for the United States. *Morris A. Shenker* for respondent. Reported below: 405 F. 2d 838.

No. 1079. *BAIRD v. STATE BAR OF ARIZONA*. Sup. Ct. Ariz. *Certiorari* granted. *John P. Frank* for petitioner. *Mark Wilmer* for respondent.

No. 691, Misc. *HESTER v. ILLINOIS*. Sup. Ct. Ill. Motion for leave to proceed *in forma pauperis* granted. *Certiorari* granted and case transferred to appellate docket. *Marshall Kaplan* for petitioner. *William J. Scott*, Attorney General of Illinois, and *John J. O'Toole*, Assistant Attorney General, for respondent. Reported below: 39 Ill. 2d 489, 237 N. E. 2d 466.

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No. 861. ZUBER ET AL. *v.* ALLEN ET AL.; and
No. 1076. HARDIN, SECRETARY OF AGRICULTURE *v.*
ALLEN ET AL. C. A. D. C. Cir. Certiorari granted.
Cases consolidated and a total of two hours allotted for
oral argument. MR. JUSTICE MARSHALL took no part in
the consideration or decision of these petitions. *Lawrence
D. Hollman* and *Carlyle C. Ring, Jr.*, for petitioners
in No. 861, and *Solicitor General Griswold*, *Assistant
Attorney General Ruckelshaus*, and *Alan S. Rosenthal*
for petitioner in No. 1076. *Charles P. Ryan* and *Edward
J. Ryan* for respondents in both cases. Briefs of *amicus
curiae* in support of the petition in No. 861 were filed
by *Elliot L. Richardson*, Attorney General, and *Charles
M. Burnim*, Assistant Attorney General, for the State
of Massachusetts; *Robert K. Killian*, Attorney General,
and *Michael J. Scanlon*, Assistant Attorney General, for
the State of Connecticut; and *Herbert F. DeSimone*,
Attorney General, and *Charles G. Edwards*, Assistant
Attorney General, for the State of Rhode Island. A
brief was filed by *James M. Jeffords*, Attorney General,
for the State of Vermont as *amicus curiae* in opposition
to the petitions in both cases. Reported below: 131
U. S. App. D. C. 109, 402 F. 2d 660.

Certiorari Denied. (See also No. 844, *ante*, p. 573; No.
857, *ante*, p. 573; and No. 984, *Misc., ante*, p. 574.)

No. 944. FINCHUM *v.* VIRGINIA. Sup. Ct. App. Va.
Certiorari denied. *James T. Edmunds* for petitioner.
William F. Watkins, Jr., for respondent.

No. 1049. WEATHERFORD OIL TOOL CO., INC., ET AL. *v.*
UNITED STATES. C. A. 5th Cir. Certiorari denied.
George H. Jewell, Jr., for petitioners. *Solicitor General
Griswold*, *Assistant Attorney General Walters*, *Crombie
J. D. Garrett*, and *Loring W. Post* for the United States.
Reported below: 403 F. 2d 344.

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No. 1015. ALLEN *v.* GEORGIA. Ct. App. Ga. Certiorari denied. *Frank B. Hester* and *Richard M. Hester* for petitioner. *Lewis R. Slaton* for respondent. Reported below: 118 Ga. App. 354, 163 S. E. 2d 839.

No. 1062. RISO *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied. *Anna R. Lavin* for petitioner. *Solicitor General Griswold*, *Assistant Attorney General Wilson*, *Beatrice Rosenberg*, and *Kirby W. Patterson* for the United States. Reported below: 405 F. 2d 134.

No. 1065. CROCKETT ET AL. *v.* ILLINOIS. Sup. Ct. Ill. Certiorari denied. *Leo E. Holt* for petitioners. Reported below: 41 Ill. 2d 226, 242 N. E. 2d 235.

No. 1066. ROSEN ET AL. *v.* EASTERN AIRLINES, INC. C. A. 5th Cir. Certiorari denied. *Leonard Moriber* for petitioners. *W. Glen Harlan* and *E. Smythe Gambrell* for respondent. Reported below: 400 F. 2d 462.

No. 1068. PHOENIX NEWSPAPERS, INC., ET AL. *v.* CHURCH. Sup. Ct. Ariz. Certiorari denied. *Mark Wilmer* for petitioners. Reported below: 103 Ariz. 582, 447 P. 2d 840.

No. 1072. KARCHER *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. *Jack J. Taffer* for petitioner. *Solicitor General Griswold*, *Assistant Attorney General Wilson*, *Jerome M. Feit*, and *Edward Fenig* for the United States. Reported below: 404 F. 2d 343.

No. 1077. WILLIAMS *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. *Charles M. Berg* for petitioner. *Solicitor General Griswold*, *Assistant Attorney General Wilson*, *Beatrice Rosenberg*, and *Roger A. Pauley* for the United States. Reported below: 406 F. 2d 704.

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No. 1082. OHIO CITIZENS TRUST CO., TRUSTEE, ET AL. *v.* LEAR JET CORP. C. A. 10th Cir. Certiorari denied. *Myron C. Cass* for petitioners. *Malcolm Miller* and *Truman S. Safford* for respondent. Reported below: 403 F. 2d 956.

No. 1086. MICR-SHIELD CO. ET AL. *v.* FIRST NATIONAL BANK OF MIAMI. C. A. 5th Cir. Certiorari denied. *Frederick Bernays Wiener* and *William H. Drummond* for petitioners. *Phillip Goldman* for respondent. Reported below: 404 F. 2d 157.

No. 1087. ASHTON *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied. *J. B. Tietz* for petitioner. *Solicitor General Griswold* for the United States. Reported below: 404 F. 2d 95.

No. 1088. OFFSHORE CO. *v.* G & H OFFSHORE TOWING CO. C. A. 5th Cir. Certiorari denied. *Robert M. Julian* for petitioner. *M. L. Cook* for respondent. Reported below: 403 F. 2d 715.

No. 1097. HICKMAN *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. *Joseph H. Davis* for petitioner. *Solicitor General Griswold*, *Assistant Attorney General Wilson*, *Beatrice Rosenberg*, and *Robert G. Maysack* for the United States. Reported below: 406 F. 2d 414.

No. 358. DOUGLAS ET AL. *v.* MASSACHUSETTS. Sup. Jud. Ct. Mass. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. *Alan M. Dershowitz* and *Joseph S. Oteri* for petitioners. *Elliot L. Richardson*, Attorney General of Massachusetts, and *Howard M. Miller*, Assistant Attorney General, for respondent. Reported below: 354 Mass. 212, 236 N. E. 2d 865.

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No. 1182. YEAGER, PRINCIPAL KEEPER *v.* SCHULTZ. C. A. 3d Cir. Certiorari denied. *Thomas P. Ford, Jr.*, for petitioner. Reported below: 403 F. 2d 639.

No. 784. SANDBANK *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. *Stanley Faulkner* for petitioner. *Solicitor General Griswold, Acting Assistant Attorney General Kossack, Beatrice Rosenberg, and Jerome M. Feit* for the United States. Reported below: 403 F. 2d 38.

No. 893. KONS *v.* TAHASH, WARDEN. Sup. Ct. Minn. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. *Robert Wm. Rischmiller* for petitioner. *Douglas M. Head, Attorney General of Minnesota, Richard H. Kyle, Solicitor General, and Arne L. Schoeller, Assistant Attorney General,* for respondent. Reported below: 281 Minn. 467, 161 N. W. 2d 826.

No. 977. WRIGHT *v.* WASHINGTON. Sup. Ct. Wash. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. *R. Max Etter, Sr.*, for petitioner. *George A. Kain* for respondent. Reported below: 74 Wash. 2d 355, 444 P. 2d 676.

No. 52, Misc. ROBERTS *v.* NELSON, WARDEN. C. A. 9th Cir. Certiorari denied. *Thomas C. Lynch, Attorney General of California, Albert W. Harris, Jr., Assistant Attorney General, and Edward P. O'Brien and Charles R. B. Kirk, Deputy Attorneys General,* for respondent. Reported below: 387 F. 2d 632.

No. 534, Misc. JOHNSON *v.* OHIO. Sup. Ct. Ohio. Certiorari denied. *Lawrence Herman* for petitioner. *Lee C. Falke* for respondent.

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No. 1039. *GAIR v. GILL ET AL.* App. Div., Sup. Ct. N. Y., 1st Jud. Dept. Motion to dispense with printing petition granted. Certiorari denied. *Vito F. Lanza* for petitioner. *Irving Kirschenbaum* for respondents. *Leon Leighton*, Guardian ad Litem, in opposition.

No. 562, Misc. *RODRIQUEZ v. NELSON, WARDEN, ET AL.* C. A. 9th Cir. Certiorari denied. *Thomas C. Lynch*, Attorney General of California, *Albert W. Harris, Jr.*, Assistant Attorney General, and *Edward P. O'Brien, Derald E. Granberg*, and *Jerome C. Utz*, Deputy Attorneys General, for respondents.

No. 776, Misc. *RHODES v. UNITED STATES.* C. A. 7th Cir. Certiorari denied. *Robert S. Bailey* for petitioner. *Solicitor General Griswold*, *Assistant Attorney General Wilson*, *Beatrice Rosenberg*, and *Ronald L. Gainer* for the United States. Reported below: 398 F. 2d 655.

No. 929, Misc. *WALKER v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. *Solicitor General Griswold*, *Assistant Attorney General Vinson*, *Beatrice Rosenberg*, and *Kirby W. Patterson* for the United States. Reported below: 397 F. 2d 789.

No. 1315, Misc. *SANCHEZ v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. *Solicitor General Griswold*, *Assistant Attorney General Wilson*, *Beatrice Rosenberg*, and *Robert G. Maysack* for the United States. Reported below: 401 F. 2d 771.

No. 1380, Misc. *BROWN v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. *Solicitor General Griswold*, *Acting Assistant Attorney General Kossack*, *Beatrice Rosenberg*, and *Roger A. Pauley* for the United States. Reported below: 401 F. 2d 769.

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No. 1018, Misc. GARZA-FUENTES ET AL. *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. *David Hume* for petitioner Garza-Fuentes. *Solicitor General Griswold, Assistant Attorney General Vinson, Beatrice Rosenberg, and Roger A. Pauley* for the United States. Reported below: 400 F. 2d 219.

No. 1366, Misc. PEARSON *v.* NEW YORK. Ct. App. N. Y. Certiorari denied. *Thomas J. Mackell and Peter J. O'Connor* for respondent.

No. 1386, Misc. MILLER *v.* UNITED STATES; and
No. 1402, Misc. VALLEE *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. *Solicitor General Griswold, Assistant Attorney General Leonard, and Nathan Lewin* for the United States in both cases. Reported below: 404 F. 2d 611.

No. 1393, Misc. MARES *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. *Solicitor General Griswold, Assistant Attorney General Wilson, Beatrice Rosenberg, and Mervyn Hamburg* for the United States. Reported below: 409 F. 2d 1083.

No. 1407, Misc. SMITH, AKA JEFFRIES *v.* UNITED STATES. C. A. D. C. Cir. Certiorari denied. *Solicitor General Griswold, Assistant Attorney General Wilson, Beatrice Rosenberg, and Robert G. Maysack* for the United States.

No. 1458, Misc. MALBRUE *v.* CALIFORNIA. C. A. 9th Cir. Certiorari denied.

No. 1474, Misc. BARRETT *v.* CALIFORNIA. Ct. App. Cal., 2d App. Dist. Certiorari denied. Reported below: 267 Cal. App. 2d 135, 72 Cal. Rptr. 681.

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No. 1464, Misc. PEEK *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. *Solicitor General Griswold, Assistant Attorney General Wilson, Beatrice Rosenberg, and Robert G. Maysack* for the United States.

No. 1476, Misc. ELDER *v.* BOLES, WARDEN. C. A. 4th Cir. Certiorari denied.

No. 1511, Misc. CINNAMON *v.* EATON, SHERIFF. C. A. 6th Cir. Certiorari denied.

No. 1512, Misc. PARGA *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. *Solicitor General Griswold, Assistant Attorney General Wilson, Beatrice Rosenberg, and Edward Fenig* for the United States. Reported below: 404 F. 2d 878.

No. 1520, Misc. BRONSON *v.* CALIFORNIA. Ct. App. Cal., 2d App. Dist. Certiorari denied. *I. A. Kanarek* for petitioner. Reported below: 263 Cal. App. 2d 831, 70 Cal. Rptr. 162.

No. 1523, Misc. JACKSON *v.* CRAVEN, WARDEN. C. A. 9th Cir. Certiorari denied.

No. 1527, Misc. ORTEGA-LIRA *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. *Solicitor General Griswold, Assistant Attorney General Wilson, Beatrice Rosenberg, and Roger A. Pauley* for the United States. Reported below: 406 F. 2d 834.

No. 1538, Misc. CLEMONS *v.* UNITED STATES. C. A. D. C. Cir. Certiorari denied. *Solicitor General Griswold, Assistant Attorney General Wilson, Beatrice Rosenberg, and Roger A. Pauley* for the United States. Reported below: 133 U. S. App. D. C. 27, 408 F. 2d 1230.

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No. 1535, Misc. FRANKLIN *v.* NEW MEXICO. Sup. Ct. N. M. Certiorari denied. *W. D. Girand, Jr.*, for petitioner. *James A. Maloney*, Attorney General of New Mexico, and *James V. Noble*, Assistant Attorney General, for respondent. Reported below: 79 N. M. 608, 446 P. 2d 883.

No. 1526, Misc. SCHWEITZER *v.* KROPP, WARDEN, ET AL. C. A. 6th Cir. Certiorari denied.

No. 1529, Misc. ANDERSON *v.* PAGE, WARDEN, ET AL. C. A. 10th Cir. Certiorari denied.

No. 1544, Misc. TASSONE *v.* ILLINOIS. Sup. Ct. Ill. Certiorari denied. *Albert I. Zemel* for petitioner. Reported below: 41 Ill. 2d 7, 241 N. E. 2d 419.

No. 1555, Misc. ANDERSON *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. *Solicitor General Griswold*, *Assistant Attorney General Wilson*, *Beatrice Rosenberg*, and *Kirby W. Patterson* for the United States. Reported below: 405 F. 2d 492.

No. 1564, Misc. RHODES *v.* LUMBERMENS MUTUAL CASUALTY Co. C. A. 10th Cir. Certiorari denied. *John R. Baylor* for respondent. Reported below: 403 F. 2d 2.

No. 1571, Misc. PROPP *v.* CRAVEN, WARDEN. C. A. 9th Cir. Certiorari denied.

No. 1608, Misc. MONTAGUE *v.* RHAY, PENITENTIARY SUPERINTENDENT. Sup. Ct. Wash. Certiorari denied.

No. 1593, Misc. ADAMS *v.* BRENNER, COMMISSIONER OF PATENTS. C. A. D. C. Cir. Certiorari denied. *Solicitor General Griswold* for respondent.

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No. 1610, Misc. DELGADO *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. *Solicitor General Griswold, Assistant Attorney General Wilson, and Beatrice Rosenberg* for the United States. Reported below: 403 F. 2d 208.

No. 1609, Misc. BENNETT *v.* CALIFORNIA. C. A. 9th Cir. Certiorari denied. Reported below: 406 F. 2d 36.

No. 1613, Misc. ANDERSON *v.* PINTO, PRISON FARM SUPERINTENDENT, ET AL. Sup. Ct. N. J. Certiorari denied.

No. 640, Misc. LUNA *v.* BETO, CORRECTIONS DIRECTOR. C. A. 5th Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. *John J. Browne* for petitioner. *Crawford C. Martin*, Attorney General of Texas, *Nola White*, First Assistant Attorney General, *Robert C. Flowers* and *Lonny F. Zwiener*, Assistant Attorneys General, and *W. V. Geppert* for respondent. Reported below: 395 F. 2d 35.

No. 1138, Misc. CLEAVER *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. *Solicitor General Griswold, Assistant Attorney General Vinson, Beatrice Rosenberg, and Sidney M. Glazer* for the United States. Reported below: 402 F. 2d 148.

No. 1266, Misc. TZANTARMAS *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. *Solicitor General Griswold, Acting Assistant Attorney General Kossack, and Beatrice Rosenberg* for the United States. Reported below: 402 F. 2d 163.

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Rehearing Denied.

No. 262. NAPLES *v.* MAXWELL, WARDEN, 393 U. S. 1080;

No. 587. SHELTON *v.* STYNCHCOMBE, SHERIFF, 393 U. S. 1089;

No. 851. GEFEN *v.* UNITED STATES, 393 U. S. 1119;

No. 882. REDDY *v.* UNITED STATES, 393 U. S. 1085;

No. 885. HOLT *v.* UNITED STATES, 393 U. S. 1086;

No. 903. BAILEY'S BAKERY, LTD. *v.* CONTINENTAL BAKING CO. ET AL., 393 U. S. 1086;

No. 909. HAHN *v.* KENTUCKY ALCOHOLIC BEVERAGE CONTROL BOARD ET AL., 393 U. S. 1086;

No. 1185, Misc. SPEARS *v.* UNITED STATES, *ante*, p. 909;

No. 1198, Misc. CHAMBERS ET UX. *v.* COLONIAL PIPELINE Co., *ante*, p. 907;

No. 1330, Misc. ZIDE *v.* FLORIDA, *ante*, p. 911; and

No. 1342, Misc. KAMSLER *v.* ILLINOIS, *ante*, p. 911.
Petitions for rehearing denied.

No. 879. HENZEL *v.* FLORIDA, 393 U. S. 1085. Petition for rehearing denied. MR. JUSTICE FORTAS took no part in the consideration or decision of this petition.

No. 878. SERTA ASSOCIATES, INC. *v.* UNITED STATES, 393 U. S. 534. Petition for rehearing denied. MR. JUSTICE WHITE took no part in the consideration or decision of this petition.

Assignment Order.

An order of THE CHIEF JUSTICE designating and assigning Mr. Justice Clark (retired) to perform judicial duties in the United States Court of Customs and Patent Appeals on April 9, 1969, and for such further time as may be required to complete unfinished business, pursuant to 28 U. S. C. § 294 (a), is ordered entered on the minutes of this Court, pursuant to 28 U. S. C. § 295.

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Miscellaneous Orders.

NO. —. *NEGRE v. LARSEN*, COMMANDING GENERAL, ET AL. C. A. 9th Cir. Application for stay and alternative writ of mandate presented to MR. JUSTICE DOUGLAS, and by him referred to the Court, denied. *Solicitor General Griswold* in opposition.

MR. JUSTICE DOUGLAS, dissenting.

Petitioner, a member of the Armed Forces who was inducted in August 1967, applied for discharge as a conscientious objector in January 1969.

The Army hearing officer recommended that petitioner be discharged as a religiously motivated CO. But the Army denied relief. Petitioner then appealed to the Army Board for Correction of Military Records, which denied relief.

Meanwhile petitioner filed a petition for habeas corpus in the Federal District Court (D. C. N. D. Calif.) asking *inter alia* for a stay of his shipment overseas pending disposition of his claim before the Army Board. The District Court denied relief and petitioner appealed to the Court of Appeals.

On April 7, 1969, petitioner asked me as Circuit Justice to stay his shipment overseas, pending disposition of his appeal by the Court of Appeals. The application reached me at 7:30 p. m., April 7. The shipment of petitioner overseas was scheduled for April 8, 1969, at 10 a. m. (E. S. T.). So I issued the stay about 8:15 p. m., April 7. My stay ran through April 18, and was issued so that the Conference could pass on the questions which seemed to me to be substantial.

Federal courts do not intervene on the merits pending exhaustion of military administrative remedies. *Gusik v. Schilder*, 340 U. S. 128. But the question is whether the federal courts have any oversight over members of

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the Armed Forces when they are seeking to exhaust their military administrative remedies. Moreover, when military administrative remedies are exhausted, can a federal court maintain the *status quo* while it determines the merits? That is to say, can a federal court "in aid of" its jurisdiction, 28 U. S. C. § 1651, keep a member of the Armed Services from being spirited out of the country? Some lower courts have granted interim relief pending exhaustion of military administrative remedies. *Schwartz v. Covington*, 341 F. 2d 537. Cf. *Nelson v. Miller*, 373 F. 2d 474.

Army Regulation 15-185, § III, par. 9 (Jan. 8, 1962), provides: "The application to the Board for correction of a record will not operate as a stay of any proceedings being taken with respect to the person involved." While that gives the Army a directive, it is of no significance in resolving the "in aid of" question under 28 U. S. C. § 1651.

This question is, in my mind, so substantial that it warrants issuance of the stay.

No. 1115. HENDERSON, WARDEN *v.* PRYOR. C. A. 6th Cir. Motion to dispense with printing petition denied and the Clerk is directed to proceed under Rule 39 (4) of the Rules of this Court. MR. JUSTICE BLACK dissents.

No. 1574, Misc. LUPINO *v.* YOUNG, WARDEN ;

No. 1669, Misc. MADISON *v.* WASHINGTON ET AL. ; and

No. 1723, Misc. STONE *v.* TRUJILLO, SHERIFF, ET AL.

Motions for leave to file petitions for writs of habeas corpus denied.

No. 1113. TELEPHONE USERS ASSOCIATION, INC. *v.* PUBLIC SERVICE COMMISSION OF THE DISTRICT OF COLUMBIA ET AL. C. A. D. C. Cir. Motion to dispense with printing petition denied and the Clerk is directed to proceed under Rule 39 (4) of the Rules of this Court. *Arthur S. Curtis* on the motion.

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No. 1184, Misc. TYLER ET UX. *v.* INGRAHAM, U. S. DISTRICT JUDGE, ET AL. Motion for leave to file petition for writ of mandamus denied. *Edward A. Cazares* for respondents in opposition.

No. 1585, Misc. SMITH *v.* SUPREME COURT OF ILLINOIS. Motion for leave to file petition for writ of mandamus denied.

No. 776. UTAH PUBLIC SERVICE COMMISSION *v.* EL PASO NATURAL GAS CO. ET AL. Appeal from D. C. Utah. The motion of appellant to dismiss the appeal under Rule 60 and the motion of William M. Bennett for a hearing are set for oral argument on April 29, 1969. The Solicitor General is invited to file a brief and present oral argument if he so desires. MR. JUSTICE HARLAN and MR. JUSTICE STEWART dissent, believing that the action taken by the Court abuses its own processes. See Rule 60. MR. JUSTICE WHITE, MR. JUSTICE FORTAS, and MR. JUSTICE MARSHALL took no part in the consideration or decision of this matter. *David L. Berman*, Special Assistant to the Attorney General of Utah, on the motion to dismiss. *William M. Bennett, pro se*, on the motion for hearing.

No. 1504, Misc. BURHOE *v.* JULIAN, U. S. DISTRICT JUDGE. Motion for leave to file petition for writ of mandamus denied. *David Berman* on the motion. *Solicitor General Griswold, Assistant Attorney General Ruckelshaus, Alan S. Rosenthal, and J. F. Bishop* in opposition.

Probable Jurisdiction Noted.

No. 634. WHEELER ET AL. *v.* MONTGOMERY, DIRECTOR, DEPARTMENT OF SOCIAL WELFARE OF CALIFORNIA, ET AL. Appeal from D. C. N. D. Cal. Probable jurisdiction noted. The Solicitor General is invited to file a brief expressing the views of the United States. *Charles*

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Stephen Ralston for appellants. *Thomas C. Lynch*, Attorney General of California, *Richard L. Mayers* and *Elizabeth Palmer*, Deputy Attorneys General, and *Thomas M. O'Connor* for appellees. *Martin Garbus* for Roger Baldwin Foundation of the American Civil Liberties Union et al. as *amici curiae* in support of the petition. Reported below: 296 F. Supp. 138.

No. 675. UNITED STATES *v.* KNOX. Appeal from D. C. W. D. Tex. Probable jurisdiction noted and case set for oral argument immediately following No. 934 [certiorari granted, 393 U. S. 1079]. *Solicitor General Griswold*, former *Assistant Attorney General Vinson*, *Assistant Attorney General Wilson*, *Beatrice Rosenberg*, *Jerome M. Feit*, and *Charles Ruff* for the United States. *J. Edwin Smith* for appellee.

No. 1120. GOLDBERG, COMMISSIONER OF SOCIAL SERVICES OF THE CITY OF NEW YORK *v.* KELLY ET AL. Appeal from D. C. S. D. N. Y. Probable jurisdiction noted and case set for oral argument immediately following No. 634, *ante*, p. 970. The Solicitor General is invited to file a brief expressing the views of the United States. *J. Lee Rankin*, *Stanley Buchsbaum*, and *John J. Lofin* for appellant. *Martin Garbus* for appellees. Reported below: 294 F. Supp. 893.

Certiorari Granted. (See also No. 1040, *ante*, p. 700; No. 807, Misc., *ante*, p. 720; and No. 1107, Misc., *ante*, p. 705.)

No. 1133. MILLS ET AL. *v.* ELECTRIC AUTOLITE CO. ET AL. C. A. 7th Cir. *Certiorari* granted. The Solicitor General is invited to file a brief expressing the views of the United States. *Arnold I. Shure*, *Robert A. Sprecher*, and *Mozart G. Ratner* for petitioners. *Albert E. Jenner, Jr.*, and *Jerold S. Solovy* for respondents. Reported below: 403 F. 2d 429.

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No. 976. CHOCTAW NATION ET AL. *v.* OKLAHOMA ET AL.; and

No. 1104. CHEROKEE NATION OR TRIBE OF INDIANS IN OKLAHOMA *v.* OKLAHOMA ET AL. C. A. 10th Cir. Certiorari granted. Cases consolidated and a total of two hours allotted for oral argument. *J. D. McLaughlin* for petitioners in No. 976, and *Peyton Ford*, *Earl Boyd Pierce*, and *Paul M. Niebell* for petitioner in No. 1104. *G. T. Blankenship*, Attorney General, for respondent State of Oklahoma, *N. A. Gibson* for respondents Commissioners of the Land Office of Oklahoma, *James H. Ross* for respondent Eason Oil Co., *Robert W. Richards* for respondent Mobil Oil Corp., *David O. Cordell*, *Riley B. Fell*, and *Oscar L. Hasty* for respondent Marathon Oil Co., and *S. W. Wells* for respondent Skelly Oil Co., in both cases. *Solicitor General Griswold*, *Acting Assistant Attorney General Taylor*, *Louis F. Claiborne*, and *Roger P. Marquis* for the United States as *amicus curiae* in support of the petitions in both cases. Reported below: 402 F. 2d 739.

No. 668, Misc. MORALES *v.* NEW YORK. Ct. App. N. Y. Motion for leave to proceed *in forma pauperis* granted. Certiorari granted and case transferred to appellate docket. *Henry B. Rothblatt* for petitioner. *Burton B. Roberts* and *Daniel J. Sullivan* for respondent. Reported below: 22 N. Y. 2d 55, 753; 238 N. E. 2d 307, 239 N. E. 2d 221.

Certiorari Denied. (See also No. 582, *ante*, p. 714; No. 834, *ante*, p. 715; No. 1092, *ante*, p. 713; and No. 1125, *ante*, p. 713.)

No. 1094. BORCHERT *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. *Robert A. Neeb, Jr.*, for petitioner. *Solicitor General Griswold*, *Assistant Attorney General Wilson*, *Beatrice Rosenberg*, and *Edward Fenig* for the United States. Reported below: 405 F. 2d 735.

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No. 902. *IRWIN v. TEXAS*. Ct. Crim. App. Tex. Certiorari denied. *J. Edwin Smith* and *Clayton Malone* for petitioner. *Crawford C. Martin*, Attorney General of Texas, *Nola White*, First Assistant Attorney General, *Hawthorne Phillips*, Executive Assistant Attorney General, *Robert C. Flowers*, *Allo B. Crow, Jr.*, and *Gilbert J. Pena*, Assistant Attorneys General, and *W. V. Geppert* for respondent.

No. 996. *BURHOE v. JULIAN*, U. S. DISTRICT JUDGE, ET AL. C. A. 1st Cir. Certiorari denied. *David Berman* for petitioner. *Solicitor General Griswold*, *Assistant Attorney General Ruckelshaus*, *Alan S. Rosenthal*, and *J. F. Bishop* for Julian, and *Howard M. Miller*, Assistant Attorney General of Massachusetts, for Byrne, respondents.

No. 1032. *CONTINENTAL ILLINOIS NATIONAL BANK & TRUST CO. OF CHICAGO v. UNITED STATES*. Ct. Cl. Certiorari denied. *James A. Velde* and *John F. Beggan* for petitioner. *Solicitor General Griswold*, *Assistant Attorney General Walters*, *Joseph Kovner*, and *Elmer J. Kelsey* for the United States. Reported below: 185 Ct. Cl. 642, 403 F. 2d 721.

No. 1037. *RUSSELL v. MUTUAL OF OMAHA INSURANCE Co.* C. A. 10th Cir. Certiorari denied. *Donald C. Little* for petitioner. *Roy P. Swanson* for respondent. Reported below: 402 F. 2d 339.

No. 1085. *ZUDICK ET AL. v. UNITED STATES ET AL.* C. A. 3d Cir. Certiorari denied. *Herbert L. Zuckerman* for petitioners. *Solicitor General Griswold*, *Assistant Attorney General Walters*, *Joseph M. Howard*, and *John P. Burke* for the United States et al. Reported below: 405 F. 2d 926 and 929.

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No. 1090. *McMENAMA v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. *William H. Beck* for petitioner. *Solicitor General Griswold, Assistant Attorney General Wilson, Jerome M. Feit, and Kirby W. Patterson* for the United States. Reported below: 403 F. 2d 969.

No. 1098. *POTOMAC COOPERATORS, INC., ET AL. v. AMERICAN SECURITY & TRUST Co., TRUSTEE IN REORGANIZATION*. C. A. D. C. Cir. Certiorari denied. *John M. Bray and Burton A. Schwalb* for petitioners. *Alexander B. Hawes and Samuel M. Greenbaum* for respondent.

No. 1100. *INTERNATIONAL WOODWORKERS OF AMERICA, AFL-CIO, ET AL. v. MASONITE CORP.* Sup. Ct. Miss. Certiorari denied. *James E. Youngdahl* for petitioners. *Hulse Hays, Jr., and Frank H. Stewart* for respondent. Reported below: 215 So. 2d 691.

No. 1105. *BERK, DBA BERK TRADE SCHOOL v. UNITED STATES*. Ct. Cl. Certiorari denied. *Moe D. Karash* for petitioner. *Solicitor General Griswold, Assistant Attorney General Ruckelshaus, and Alan S. Rosenthal* for the United States.

No. 1108. *CHERTKOF v. HARRY C. WEISKITTEL Co., INC.* Ct. App. Md. Certiorari denied. *Benjamin Lipsitz* for petitioner. *Joseph Sherbow, Edward F. Shea, Jr., and Robert W. Kernan* for respondent. Reported below: 251 Md. 544, 248 A. 2d 373.

No. 1117. *BARROWS ET AL. v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. *Allen B. Gresham* for petitioners. *Solicitor General Griswold, Acting Assistant Attorney General Taylor, Roger P. Marquis, and Robert S. Lynch* for the United States. Reported below: 404 F. 2d 749.

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No. 1107. *WILSON v. MARYLAND*. Ct. App. Md. Certiorari denied. *Martin H. Freeman* for petitioner.

No. 1119. UNITED STATES FOR THE USE AND BENEFIT OF TRANE Co. *v. GELMAN, DBA GELCO BUILDERS ET AL.* C. A. 2d Cir. Certiorari denied. *Herman N. Schwartz* for petitioner. *Jack Hart* for respondents. Reported below: 406 F. 2d 280.

No. 1122. FUND OF FUNDS, LTD. *v. ROTH*. C. A. 2d Cir. Certiorari denied. *Allan F. Conwill* for petitioner. *Philip B. Kurland* for respondent. Reported below: 405 F. 2d 421.

No. 1136. GLENS FALLS INSURANCE Co. *v. NATION-WIDE MUTUAL INSURANCE Co. ET AL.* Sup. Ct. Mont. Certiorari denied. *Joseph F. Meglen* for petitioner. *Cale Crowley* for Nationwide Mutual Insurance Co., and *Charles C. Collins* for State Farm Mutual Automobile Insurance Co., respondents. Reported below: — Mont. —, 451 P. 2d 515.

No. 1137. *HABER v. GREASON*. App. Div., Sup. Ct. N. Y., 2d Jud. Dept. Certiorari denied. *Sam Haber*, petitioner, *pro se*. *Edward Margolin* for respondent. Reported below: 27 App. Div. 2d 576, 276 N. Y. S. 2d 353.

No. 887. 3259 M STREET, INC. *v. CITIZENS ASSOCIATION OF GEORGETOWN*. C. A. D. C. Cir. Certiorari denied. MR. JUSTICE FORTAS took no part in the consideration or decision of this petition. *Frank H. Strickler* for petitioner. *E. Barrett Prettyman, Jr.*, and *Robert C. Maynard* for respondent. Reported below: 131 U. S. App. D. C. 152, 403 F. 2d 175.

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No. 1139. *GULF STEVEDORE CORP. ET AL. v. WATSON ET AL.* C. A. 5th Cir. Certiorari denied. *Carl O. Bue, Jr.*, for petitioners. *W. Jiles Roberts* for Watson, and *Solicitor General Griswold* for Shea, respondents. Reported below: 400 F. 2d 649.

No. 1151. *BROADVIEW CHEMICAL CORP. v. LOCTITE CORP.* C. A. 2d Cir. Certiorari denied. *Granger Cook, Jr.*, and *James P. Hume* for petitioner. *Walter D. Ames* for respondent. Reported below: 406 F. 2d 538.

No. 897. *COATES v. SECURITIES AND EXCHANGE COMMISSION*; and

No. 937. *KLINE v. SECURITIES AND EXCHANGE COMMISSION.* C. A. 2d Cir. Certiorari denied. *Albert R. Connelly*, *Gordon Gooch*, and *Donald Strauber* for petitioner in No. 897, and *Orison S. Marden* for petitioner in No. 937. *Solicitor General Griswold*, *Philip A. Loomis, Jr.*, *David Ferber*, and *Donald M. Feuerstein* for respondent in both cases. Reported below: 401 F. 2d 833.

MR. JUSTICE WHITE, dissenting.

I would grant certiorari in No. 937 and set the case for oral argument. The issues are of general importance, and the judgment of the Court of Appeals ordering cancellation of petitioner's stock option has sufficient finality to warrant review now rather than after further proceedings in the District Court.

No. 1009. *DANIELS, AKA JONES v. MICHIGAN.* Ct. App. Mich. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. *Wendell A. Miles* for petitioner. *Frank J. Kelley*, Attorney General of Michigan, and *Robert A. Derengoski*, Solicitor General, for respondent. Reported below: 12 Mich. App. 369, 163 N. W. 2d 22.

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No. 1061. *TEAGUE ET AL. v. REGIONAL COMMISSIONER OF CUSTOMS, REGION II, ET AL.* C. A. 2d Cir. Certiorari denied. *Henry Winestine, Osmond K. Fraenkel, Melvin L. Wulf, and Alan H. Levine* for petitioners. *Solicitor General Griswold* for respondents. Reported below: 404 F. 2d 441.

MR. JUSTICE BLACK, with whom MR. JUSTICE DOUGLAS joins, dissenting.

This case presents a highly important question under the First Amendment, namely, whether, as the court below held, American citizens can be required to apply to the Treasury Department's Office of Foreign Assets Control for a license in order to receive magazines, films, or other publications sent to them from mainland China, North Korea, or North Vietnam. The decision of the Court of Appeals may well be inconsistent with *Lamont v. Postmaster General*, 381 U. S. 301 (1965), in which we recently invalidated a somewhat similar regulation of the Post Office Department. Nevertheless, the Court denies certiorari here. It seems plain that the sole explanation for the Court's action is the fact that the petition for certiorari, having been delayed by an unusually severe snowstorm, arrived here two days after the 90-day period allowed for seeking certiorari, 28 U. S. C. § 2101 (c), would normally expire. Because I think the important First Amendment issue in this case demands consideration by this Court, and because I cannot accept the Court's interpretation of § 2101 (c), which penalizes petitioners for a snowstorm, an act of God, I must dissent.

I.

Petitioners are addressees of mail packages containing publications originating in China and North Vietnam. When these packages reached the United States they were detained by the Commissioner of Customs pursuant

to the Foreign Assets Control Regulations, 31 CFR § 500.808. The Commissioner then sent notices to petitioners, advising them that this mail would be released only if licenses were obtained from the Office of Foreign Assets Control. Petitioners did not apply for licenses but instead brought this suit, claiming that the regulations were unconstitutional. Their primary claim was and is that the regulations, by authorizing customs officials to refuse delivery under some circumstances and by requiring in all cases that the addressees submit to the cumbersome and time-consuming licensing process, abridged their First Amendment rights to receive published material.

The decision below, upholding these regulations, seems difficult to reconcile with our recent decision in *Lamont*, *supra*. In that case we held unconstitutional a Post Office regulation that required addressees of "communist political propaganda" to notify the Post Office explicitly of their desire to receive such publications in order to obtain delivery. We stated that the fatal flaw of the scheme was that "it requires an official act (*viz.*, returning the reply card) as a limitation on the unfettered exercise of the addressee's First Amendment rights." 381 U. S., at 305. In the present case the burden imposed on addressees is, if anything, far greater than that involved in *Lamont*. The addressee is not merely required to fill out and return a reply card, after which the magazine will automatically be sent. In the present case something quite different is required. The addressee must fill out a detailed license application and file it in duplicate.¹ He has no assurance that his application, once filed, will be granted, and in fact the regulations provide only general guidance as to the factors that will be considered in determining whether to

¹ 31 CFR § 500.801 (b) (2).

grant a license.² Processing of the application normally requires about 10 days, according to the Government, but this period, which is itself not inconsiderable, may in fact represent only the minimum delay.³

Only one justification is suggested for the very severe prior restraint on First Amendment rights that results from this licensing scheme. The Court of Appeals said that the regulations are permissible as a means of restricting the flow of American currency to designated foreign countries determined to be hostile to the United States. Petitioners, on the other hand, argue broadly that they have a right under the First Amendment to purchase publications from any source of their choosing, even a country with which we might be at war. It may not, however, even be necessary to reach this important question because there is considerable doubt whether

² 31 CFR § 500.204 App. (108) (1969) provides as follows:

"Publications and films from China, North Korea and North Viet Nam. Publications and films originating in mainland China, North Korea or North Viet Nam are licensed for commercial importation provided all payments due to the suppliers are made into blocked accounts. Publications and films originating in mainland China, North Korea, and North Viet Nam are also licensed without restrictions as to method of payment under programs approved by the Librarian of Congress or the National Science Foundation for universities, libraries, research and scientific institutions. Such publications and films are also licensed in exchange for publications from the United States. Additionally, such publications and films are licensed when the Office of Foreign Assets Control is satisfied that they are bona fide gifts to the importers and that there is not and has not been since the effective date any direct or indirect financial or commercial benefit to designated countries or nationals thereof from the importations."

³ After the commencement of this suit, petitioner Pollin applied for a license and after waiting four weeks received only a request for additional information; the license was finally granted after a total delay of eight weeks. Similarly, petitioner Teague waited five weeks after submitting a license application, only to receive a request that he answer an additional number of detailed questions; he did not pursue the matter further.

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the regulations relating to publications can be considered necessary for preventing the outflow of American currency. Other regulations promulgated under the President's emergency power to control transactions in foreign exchange, 40 Stat. 415, as amended, 50 U. S. C. App. § 5 (b), broadly prohibit the making of any payments directly or indirectly to the designated foreign countries or their nationals by any person or corporation subject to the jurisdiction of the United States, regardless of how such payments are effectuated and regardless of whether the banks or other institutions serving as intermediaries are located in third countries. 31 CFR § 500.201. Violation of these regulations is a felony punishable by heavy penalties. 50 U. S. C. App. § 5 (b)(3). Although the licensing provisions related to publications may make it more difficult to evade this direct prohibition against foreign exchange transactions with the designated countries, such incidental benefits in the enforcement of even a permissible governmental policy ordinarily do not justify infringement on First Amendment rights. Cf. *Smith v. California*, 361 U. S. 147 (1959). In addition, the regulations explicitly permit the purchase of publications from these countries "without restrictions as to method of payment" in the case of universities, libraries, research, and scientific institutions acting under programs approved by the Librarian of Congress or the National Science Foundation. 31 CFR § 500.204 App. (108). The additional demand for these publications by private parties may be insignificant compared to the volume of transactions the Government has chosen to permit in the case of "approved" institutions. In fact, the remaining potential dollar outflow, and especially the part of it that would not be checked by the general prohibitions relating to foreign exchange transactions, may be so insubstantial that the only significant effect of the regulations would

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be to choke off the flow of these publications to readers who would not actually pay for them but who may not take the trouble to fill out the required forms or who may not be able to establish, to the satisfaction of the Government's licensing officials, that the publications involved were in fact gifts. Under these circumstances, the regulations involved here surely raise a serious First Amendment question that should be heard and decided by this Court.

II.

The only apparent explanation for the Court's denial of certiorari in this case is the fact that the petition arrived here two days after the 90-day period allowed by 28 U. S. C. § 2101 (c) for seeking certiorari in a civil case would normally have expired. The circumstances under which this occurred are these. The judgments sought to be reviewed were entered on November 14, 1968, and the 90-day period therefore expired on Wednesday, February 12, 1969. The petition for certiorari, along with the required number of copies, was sent from New York City by first-class mail at about noon on Monday, February 10. A severe snowstorm had hit New York City the night before, causing considerable disruption of many services including, as it turned out, the mails. Counsel for petitioners no doubt anticipated that some delay might possibly result from the storm, but since first-class mail from New York normally reaches Washington overnight, they could not have anticipated that it would take more than the remaining two and one-half days for their petition to arrive. In fact, however, the petition took four days to reach Washington and was docketed here on Friday, February 14, 1969.

The statute governing the time for seeking certiorari in a civil case, 28 U. S. C. § 2101 (c), provides that a petition for review of any judgment or decree "shall be taken or applied for within ninety days after the entry

of such judgment or decree." It is suggested by the Solicitor General, on behalf of respondents here, that this statute is "jurisdictional," and that we must follow it. I agree, of course, that we should follow the statute. But we must first determine what the statute means. Commentators and this Court alike have often said that the statute is "jurisdictional," and no doubt this statement is true in certain senses of that term. But the statement certainly is not true if it is intended to suggest that the statute deprives this Court of all power to hear cases filed after the 90-day period, regardless of whether the delay was caused by snowstorms making the transportation of the mails impossible. Under no known principle of statutory construction can such an interpretation of § 2101 (c) be supported. Nor have I been able to find any case interpreting the statute in this way. Although many cases repeat the "jurisdictional" formula, none of them that I have found involved situations where the delay was wholly caused by circumstances entirely beyond the petitioner's control. In fact, many of the early cases interpreting Rev. Stat. §§ 997 and 1008, the predecessors of § 2101 (c), made clear that this Court had power to waive the time requirement of these provisions under appropriate circumstances.⁴ In recent years this Court has on occasion granted certiorari and decided on the merits civil cases that had been filed after the 90-day period, without making any mention of the time question. See, e. g., *Ray v. Pierson*, 386 U. S. 547 (1967) (No. 94, October Term, 1966).

In addition, we have squarely adopted this approach in interpreting several related statutes. The provision governing direct appeals to this Court from a district court, now § 2101 (a), provides that "[t]he record shall

⁴ See, e. g., *Grigsby v. Purcell*, 99 U. S. 505, 506-507 (1879); *Richardson v. Green*, 130 U. S. 104, 111 (1889); *Green v. Elbert*, 137 U. S. 615, 621-623 (1891).

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be made up and the case docketed within sixty days from the time such appeal is taken under rules prescribed by the Supreme Court." The Court held, under circumstances much less compelling than those present here, that this provision did not eliminate our power to hear appeals docketed after the 60-day period, noting that "[i]t will not expedite determination of constitutional questions to dismiss appeals because of errors of practice." *United Public Workers v. Mitchell*, 330 U. S. 75, 86 (1947). The cases deciding the timeliness of an appeal to the court of appeals have reached the same result under statutes that were even more clearly phrased in mandatory terms, and did not explicitly include even an indirect reference to a judicial rule-making power on the subject. *E. g.*, *Georgia Lumber Co. v. Compania*, 323 U. S. 334 (1945); *R. F. C. v. Prudence Group*, 311 U. S. 579 (1941).

As all these cases show, the Court's Draconian interpretation of the statute is not supported by our prior decisions. Nor does the language of the statute itself dictate the Court's result. The statute does not say explicitly that the time limitation may be inapplicable under certain extenuating circumstances, but it also does not say that the time limit must be ruthlessly applied in every conceivable situation, without regard to hardships involved or extenuating circumstances present. The Court therefore must decide what is the more sensible interpretation of the statute. I for one cannot think of any purpose Congress might have had that could possibly be served by holding that a litigant can be defeated solely because of a delay that was entirely beyond his control. As we stressed in the *R. F. C.* case, *supra*:

"If that were true, the existence of the right to appeal would be subject to contingencies which no

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degree of diligence by an appellant could control. Ambiguities in statutory language should not be resolved so as to imperil a substantial right which has been granted." 311 U. S., at 582.

It might be well to imagine for a moment what would have happened if some Senator or Representative had suggested an amendment to "clarify" the proposed § 2101 (c) by stating that a petition filed after the 90-day period will not be out of time "when the delay is caused solely by an interruption of the mail service due to snowstorms." It is conceivable that more than a few members of Congress would consider such an amendment an insult to this Court's intelligence and would feel it unnecessary to lead this Court by the hand on such matters of elementary common sense. It is impossible, however, to believe that any of them would have regarded an amendment to the opposite effect as properly reflecting the purpose of the statute, and yet this opposite amendment, ruling a petition out of time under these circumstances, is precisely the amendment that the Court today tacitly engrafts onto § 2101 (c).

I would not adopt any such pointlessly harsh interpretation of the statute, one that furthers no congressional objective whatsoever and denies litigants their opportunity to seek review in this Court on the basis of atmospheric events wholly beyond their control. This is a return to all the cruel technicalities of common-law pleading, and then some. I would grant certiorari and hear argument on the vital First Amendment issues at stake in this case.

MR. JUSTICE HARLAN would also grant certiorari, but would postpone the question of jurisdiction to consideration of the case on the merits.

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No. 1070. *BALISTRIERI v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. MR. JUSTICE MARSHALL took no part in the consideration or decision of this petition. *Edward Bennett Williams, Harold Ungar, and Maurice Walsh* for petitioner. *Solicitor General Griswold, Assistant Attorney General Walters, Joseph M. Howard, and Charles A. McNelis* for the United States. Reported below: 403 F. 2d 472.

MR. JUSTICE FORTAS, with whom MR. JUSTICE DOUGLAS joins, dissenting.

Petitioner was adjudged guilty of income tax evasion. Petitioner claims and the Government does not deny the following astounding record of lawless invasion of his rights by government agents:

1. An electronic "bug," installed by trespass, was maintained in his office for over a year.
2. A "bug" was unlawfully installed and maintained for almost six months in the office of petitioner's counsel.
3. A "bug" was installed by trespass and maintained in the office-apartment of petitioner's secretary for some eight months.
4. FBI agents broke into the apartment of petitioner's secretary and photographed papers in a private file belonging to petitioner.
5. IRS agents searched the secretary's apartment and seized records of petitioner pursuant to a warrant later held invalid. *Alioto v. United States*, 216 F. Supp. 48 (D. C. E. D. Wis. 1963).

FBI and IRS agents also kept the secretary's office-apartment under observation through a peephole in the door of a room across the hall and, at the request of IRS officials, the Post Office maintained a mail cover of the petitioner, recording the addressee and sender of all mail delivered to certain addresses believed to be connected with petitioner.

Much evidence was suppressed by the District Court as the product of the unlawful activities of the federal agents, and one count of the indictment was dismissed. However, the District Court held that the Government had adequately shown that on two other counts its case rested on independently obtained evidence, free of the taint of the illegal searches. The Seventh Circuit affirmed. 403 F. 2d 472. This Court now refuses to review the case.

I do not agree. This is not merely a factual problem which must be regarded by this Court as finally disposed of by the findings below. It presents a fundamental question of law: The Government contends and the courts below found that the federal agents obtained incriminating evidence relating to unreported income from a scrap metal company as a result of assertedly nontainted leads gleaned from the mail cover. It is true that the agent who decided to examine the company's records knew that 14 months earlier the mail cover had turned up a letter addressed to the company at one of petitioner's addresses. But the agent also admittedly had access to the inventory of illegally seized documents. That inventory included documents explicitly showing many transactions by the company in which petitioner might have been involved. The agent therefore had access to a great mass of illegally obtained information unmistakably suggesting a line of further inquiry, as well as to the isolated fact that a letter—of unknown contents—to the scrap metal company had been delivered many months before to an address associated with petitioner.

Whether in these circumstances the IRS agent's decision to examine the scrap metal company's records was "gained from an independent source" (*Silverthorne Lumber Co. v. United States*, 251 U. S. 385, 392 (1920)) and was not an "exploitation of . . . illegality" (*Wong Sun*

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v. United States, 371 U. S. 471, 488 (1963)) raises basic questions of the burden of proof and the standard to be applied in determining whether and to what extent widespread lawlessness in an investigation should deny the prosecution use of evidentiary material. I would grant certiorari to examine these important questions.

No. 1093. *BEST MEDIUM PUBLISHING Co., INC. v. VARNISH*. C. A. 2d Cir. Certiorari denied. MR. JUSTICE BLACK is of the opinion that certiorari should be granted. *Irwin M. Taylor* for petitioner. *Ernest Allen Cohen* for respondent. Reported below: 405 F. 2d 608.

No. 1095. *ACUFF ET AL. v. UNITED PAPERMAKERS & PAPERWORKERS, AFL-CIO, ET AL.* C. A. 5th Cir. Certiorari denied. MR. JUSTICE BLACK is of the opinion that certiorari should be granted. *Reber Boulton, Jr., Charles Morgan, Jr., Melvin L. Wulf, and Eleanor Holmes Norton* for petitioners. *Warren Woods, Betty Southard Murphy, Benjamin Wyle, and Willis C. Darby, Jr.,* for United Papermakers & Paperworkers, AFL-CIO, et al., and *T. K. Jackson, Jr.,* for Scott Paper Co., Southern Division, respondents. Reported below: 404 F. 2d 169.

No. 1116. *BUFALINO v. MICHIGAN BELL TELEPHONE Co. ET AL.* C. A. 6th Cir. Certiorari denied. MR. JUSTICE MARSHALL took no part in the consideration or decision of this petition. *William E. Bufalino*, petitioner, *pro se.* *Leslie W. Fleming* for respondents Michigan Bell Telephone Co. et al., and *John F. Hathaway* for respondents Bullock et al. Reported below: 404 F. 2d 1023.

No. 627, Misc. *LEMASTER v. TEXAS ET AL.* Ct. Crim. App. Tex. Certiorari denied. *Crawford C. Martin*, Attorney General of Texas, *Nola White*, First Assistant Attorney General, and *Robert C. Flowers and Lonny F. Zwiener*, Assistant Attorneys General, for respondents.

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No. 1112. LEIGHTON *v.* ONE WILLIAM STREET FUND, INC., ET AL. C. A. 2d Cir. Motion of petitioner to require certification of additional portions of appendix granted. Certiorari denied. MR. JUSTICE MARSHALL took no part in the consideration or decision of this motion and petition. *Arthur W. Murphy* for respondent One William Street Fund, Inc., *Benjamin C. Milner III* and *Anthony L. Fletcher* for respondents Lehman Brothers et al., and *Harvey D. Myerson* for respondent Reed. Reported below: 404 F. 2d 351.

No. 1129. MOTORISTS MUTUAL INSURANCE Co. *v.* SIMPSON, ADMINISTRATRIX. C. A. 7th Cir. Motion to dispense with printing respondent's brief granted. Certiorari denied. MR. JUSTICE FORTAS is of the opinion that certiorari should be granted. *Martin J. Flynn* for petitioner. *Alex M. Clark* for respondent. Reported below: 404 F. 2d 511.

No. 1135. KAUFMAN *v.* NEW YORK CENTRAL RAILROAD Co., NOW KNOWN AS PENN CENTRAL Co. Sup. Ct. Ohio. Motion to change title of respondent from New York Central Railroad Co. to New York Central Railroad Co., now known as Penn Central Co., granted. Certiorari denied. *Charles H. Brady* for petitioner. *George J. Gould* and *Richard F. Ellenberger* for respondent.

No. 943, Misc. HAYES *v.* WISCONSIN. Sup. Ct. Wis. Certiorari denied. *Robert W. Warren*, Attorney General of Wisconsin, and *William A. Platz*, *Betty R. Brown*, and *William F. Eich*, Assistant Attorneys General, for respondent. Reported below: 39 Wis. 2d 125, 158 N. W. 2d 545.

No. 973, Misc. WIDEMAN *v.* PENNSYLVANIA. Sup. Ct. Pa. Certiorari denied. *James D. Crawford* and *Arlen Specter* for respondent.

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No. 964, Misc. EDWARDS *v.* KANSAS. Sup. Ct. Kan. Certiorari denied. *Kent Frizzell*, Attorney General of Kansas, and *Edward G. Collister, Jr.*, Assistant Attorney General, for respondent.

No. 1119, Misc. LAWHON *v.* TEXAS. Ct. Crim. App. Tex. Certiorari denied. *Charles W. Tessmer* for petitioner. *Crawford C. Martin*, Attorney General of Texas, *Nola White*, First Assistant Attorney General, and *Robert C. Flowers* and *Lonny F. Zwiener*, Assistant Attorneys General, for respondent. Reported below: 429 S. W. 2d 147.

No. 1179, Misc. MAESTAS *v.* UTAH. Sup. Ct. Utah. Certiorari denied. *Vernon B. Romney*, Attorney General of Utah, and *Lauren N. Beasley*, Assistant Attorney General, for respondent. Reported below: 21 Utah 2d 367, 445 P. 2d 983.

No. 1302, Misc. RAMER *v.* WISCONSIN. Sup. Ct. Wis. Certiorari denied. *Robert W. Warren*, Attorney General of Wisconsin, and *William A. Platz*, *Betty R. Brown*, and *William F. Eich*, Assistant Attorneys General, for respondent. Reported below: 40 Wis. 2d 79, 161 N. W. 2d 209.

No. 1352, Misc. CAPALDO *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. *Solicitor General Griswold*, *Assistant Attorney General Wilson*, *Beatrice Rosenberg*, and *Jerome M. Feit* for the United States. Reported below: 402 F. 2d 821.

No. 1361, Misc. MEYER *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. *Solicitor General Griswold*, *Assistant Attorney General Wilson*, *Beatrice Rosenberg*, and *Kirby W. Patterson* for the United States. Reported below: 404 F. 2d 254.

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No. 1427, Misc. *SILVER v. DICKSON ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 403 F. 2d 642.

No. 1438, Misc. *BLACK v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. *William F. Walsh* for petitioner. *Solicitor General Griswold, Assistant Attorney General Wilson, Jerome M. Feit, and Leonard H. Dickstein* for the United States. Reported below: 405 F. 2d 187.

No. 1442, Misc. *MOWER v. UNITED STATES.* C. A. 8th Cir. Certiorari denied. *J. B. Stoner* for petitioner. *Solicitor General Griswold, Assistant Attorney General Wilson, and Beatrice Rosenberg* for the United States. Reported below: 402 F. 2d 982.

No. 1449, Misc. *REESE v. MEIER, WARDEN, ET AL.* C. A. 9th Cir. Certiorari denied. *Solicitor General Griswold* for respondents.

No. 1482, Misc. *HARRISON v. UNITED STATES.* C. A. D. C. Cir. Certiorari denied. *Solicitor General Griswold, Assistant Attorney General Wilson, and Beatrice Rosenberg* for the United States.

No. 1461, Misc. *CAMAK v. MICHIGAN.* Sup. Ct. Mich. Certiorari denied. *Frank J. Kelley, Attorney General of Michigan, Robert A. Derengoski, Solicitor General, and James J. Wood, Assistant Attorney General,* for respondent.

No. 1462, Misc. *CRACHY v. KROPP, WARDEN.* C. A. 6th Cir. Certiorari denied. *Frank J. Kelley, Attorney General of Michigan, Robert A. Derengoski, Solicitor General, and James J. Wood, Assistant Attorney General,* for respondent.

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No. 1450, Misc. *HORTON v. NEW YORK*. App. Div., Sup. Ct. N. Y., 3d Jud. Dept. Certiorari denied. Reported below: 30 App. Div. 2d 709, 290 N. Y. S. 2d 767.

No. 1477, Misc. *CARTER v. VIRGINIA*. Sup. Ct. App. Va. Certiorari denied. Reported below: 209 Va. 317, 163 S. E. 2d 589.

No. 1492, Misc. *WILLIAMS v. PEYTON, PENITENTIARY SUPERINTENDENT*. C. A. 4th Cir. Certiorari denied.

No. 1500, Misc. *JONES v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. *Solicitor General Griswold, Assistant Attorney General Wilson, Beatrice Rosenberg, and Mervyn Hamburg* for the United States. Reported below: 400 F. 2d 892.

No. 1501, Misc. *SILVA v. FIELD, MEN'S COLONY SUPERINTENDENT, ET AL.* Sup. Ct. Cal. Certiorari denied.

No. 1531, Misc. *DELORME ET AL. v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. *Solicitor General Griswold, Assistant Attorney General Wilson, and Jerome M. Feit* for the United States.

No. 1539, Misc. *RODRIGUEZ v. CALIFORNIA*. Ct. App. Cal., 3d App. Dist. Certiorari denied.

No. 1541, Misc. *GEETER v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. *Solicitor General Griswold, Assistant Attorney General Wilson, and Jerome M. Feit* for the United States. Reported below: 401 F. 2d 176.

No. 1556, Misc. *SCOTT v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. *Solicitor General Griswold, Assistant Attorney General Wilson, Beatrice Rosenberg, and Roger A. Pauley* for the United States. Reported below: 405 F. 2d 495.

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No. 1545, Misc. *McKINNEY v. BOYLE ET AL.* C. A. 9th Cir. Certiorari denied. *Harold R. Scoville* for respondents. Reported below: 404 F. 2d 632.

No. 1550, Misc. *DOWLING v. ILLINOIS.* Sup. Ct. Ill. Certiorari denied.

No. 1566, Misc. *WILLIAMS v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. *Solicitor General Griswold, Assistant Attorney General Wilson, and Beatrice Rosenberg* for the United States. Reported below: 404 F. 2d 1372.

No. 1581, Misc. *FIELDS v. MANCUSI, WARDEN.* C. A. 2d Cir. Certiorari denied.

No. 1583, Misc. *HANSEN v. UTAH.* Sup. Ct. Utah. Certiorari denied. Reported below: 22 Utah 2d 63, 448 P. 2d 720.

No. 1592, Misc. *SUMLIN v. ILLINOIS.* Sup. Ct. Ill. Certiorari denied. *Gerald W. Getty* and *James J. Doherty* for petitioner. Reported below: 41 Ill. 2d 390, 243 N. E. 2d 825.

No. 1598, Misc. *CARR v. CRAVEN, WARDEN.* C. A. 9th Cir. Certiorari denied.

No. 1601, Misc. *HARRELL v. WISCONSIN.* Sup. Ct. Wis. Certiorari denied. Reported below: 40 Wis. 2d 536, 162 N. W. 2d 590.

No. 1602, Misc. *BROUSSARD v. CALIFORNIA.* Ct. App. Cal., 2d App. Dist. Certiorari denied.

No. 1641, Misc. *BROWN v. PEYTON, PENITENTIARY SUPERINTENDENT.* C. A. 4th Cir. Certiorari denied.

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No. 1629, Misc. *JONES v. MARYLAND*. Ct. Sp. App. Md. Certiorari denied. Reported below: 3 Md. App. 608, 240 A. 2d 347.

No. 1640, Misc. *OLENIN v. CURTIN & JOHNSON, INC., ET AL.* C. A. D. C. Cir. Certiorari denied. *Arthur S. Curtis* for petitioner. *Denver H. Graham* and *Albert E. Brault* for respondents. Reported below: — U. S. App. D. C. —, — F. 2d —.

No. 1649, Misc. *BROTZE v. KENTUCKY*. Ct. App. Ky. Certiorari denied. Reported below: 433 S. W. 2d 340.

No. 732, Misc. *RICH v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. THE CHIEF JUSTICE is of the opinion that certiorari should be granted. MR. JUSTICE MARSHALL took no part in the consideration or decision of this petition. *Solicitor General Griswold*, *Assistant Attorney General Vinson*, *Jerome M. Feit*, and *Marshall T. Golding* for the United States.

No. 751, Misc. *McKNIGHT v. ILLINOIS*. Sup. Ct. Ill. Certiorari denied. MR. JUSTICE DOUGLAS, MR. JUSTICE BRENNAN, and MR. JUSTICE WHITE are of the opinion that certiorari should be granted and judgment reversed. *Gerald W. Getty* for petitioner. *William J. Scott*, Attorney General of Illinois, and *John J. O'Toole*, Assistant Attorney General, for respondent. Reported below: 39 Ill. 2d 577, 237 N. E. 2d 488.

No. 1570, Misc. *RUBIO v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. MR. JUSTICE MARSHALL took no part in the consideration or decision of this petition. *Terence F. MacCarthy* for petitioner. *Solicitor General Griswold* for the United States. Reported below: 404 F. 2d 678.

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Rehearing Denied.

No. 9, Orig. UNITED STATES *v.* LOUISIANA ET AL. (LOUISIANA BOUNDARY CASE), *ante*, p. 11. Petition for rehearing denied. THE CHIEF JUSTICE and MR. JUSTICE MARSHALL took no part in the consideration or decision of this petition.

No. 964. INTER NATIONAL BANK OF MIAMI *v.* BROCK, TRUSTEE, ET AL., 393 U. S. 1118; and

No. 987. ALAMEDA CONSERVATION ASSN. *v.* CITY OF ALAMEDA ET AL., *ante*, p. 906. Petitions for rehearing denied.

No. 317. DI PIETTO ET AL. *v.* UNITED STATES, *ante*, p. 310. Petition for rehearing on behalf of Di Pietto, Infelice, and Santucci denied.

No. 562. BENSON *v.* CARTER, PROBATION OFFICER, ET AL., 393 U. S. 1080; and

No. 595. HINGER *v.* CITY OF PIQUA, 393 U. S. 1001. Motions for leave to file petitions for rehearing denied.

No. 752. MILTON FRANK ALLEN PUBLICATIONS, INC. *v.* GEORGIA ASSOCIATION OF PETROLEUM RETAILERS, INC., 393 U. S. 1025, 1112. Motion for leave to file second petition for rehearing denied.

No. 792. BIRNBAUM *v.* UNITED STATES, *ante*, p. 922. Petition for rehearing denied. MR. JUSTICE MARSHALL took no part in the consideration or decision of this petition.

No. 1011. O'BRYAN *v.* CHANDLER, CHIEF JUDGE, U. S. DISTRICT COURT, *ante*, p. 906. Motion to dispense with printing petition granted. Petition for rehearing denied. MR. JUSTICE MARSHALL took no part in the consideration or decision of this motion and petition.

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No. 656, Misc. REECE *v.* UNITED STATES ET AL., *ante*, p. 912;

No. 901, Misc. WATSON *v.* SCHNECKLOTH, CONSERVATION CENTER SUPERINTENDENT, 393 U. S. 1114;

No. 1276, Misc. JENNISON *v.* UNITED STATES, *ante*, p. 912;

No. 1332, Misc. MCGURRIN *v.* SHOVLIN, STATE HOSPITAL SUPERINTENDENT, 393 U. S. 1075;

No. 1362, Misc. SMITH *v.* LAIRD, SECRETARY OF DEFENSE, *ante*, p. 934; and

No. 1469, Misc. FURTAK *v.* MANCUSI, WARDEN, *ante*, p. 939. Petitions for rehearing denied.

No. 971, Misc. LYNCH *v.* LANDY, DEPUTY COMMISSIONER, BUREAU OF EMPLOYEES' COMPENSATION, UNITED STATES DEPARTMENT OF LABOR, ET AL., 393 U. S. 1070. Petition for rehearing and other relief denied.

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Miscellaneous Orders.

No. —. UNITED TELEPHONE COMPANY OF FLORIDA *v.* MAYO ET AL. Sup. Ct. Fla. Motion of appellant to dismiss appeal under Rule 14 (1) granted. *Charles Pickett* on the motion.

No. —. MENDEZ *v.* CRAVEN, WARDEN, ET AL. Motion for leave to file petition for writ of habeas corpus presented to MR. JUSTICE DOUGLAS, and by him referred to the Court, denied.

No. 2000, Misc. IN RE DISBARMENT OF SULLIVAN. It is ordered that Thomas W. Sullivan of Montgomery, Alabama, be suspended from the practice of law in this Court and that a rule issue, returnable within 40 days, requiring him to show cause why he should not be disbarred from the practice of law in this Court.

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No. 777. FIRST NATIONAL BANK IN PLANT CITY *v.* DICKINSON, COMPTROLLER OF FLORIDA, ET AL.; and

No. 932. CAMP, COMPTROLLER OF THE CURRENCY *v.* DICKINSON, COMPTROLLER OF FLORIDA, ET AL. C. A. 5th Cir. [Certiorari granted, 393 U. S. 1079.] Motion to enlarge time for oral argument granted and a total of one hour and 40 minutes allotted for oral argument. MR. JUSTICE FORTAS took no part in the consideration or decision of this motion. *Solicitor General Griswold* for Camp and *Robert S. Edwards* for First National Bank in Plant City on the motion.

No. 1718, Misc. RILEY *v.* RHAY, PENITENTIARY SUPERINTENDENT, ET AL.;

No. 1720, Misc. SPANIEL *v.* NELSON, WARDEN, ET AL.;

No. 1725, Misc. JONES *v.* RUSSELL, WARDEN;

No. 1746, Misc. AKERS *v.* CASSIN, JUDGE; and

No. 1771, Misc. WHITE *v.* FIELD, MEN'S COLONY SUPERINTENDENT. Motions for leave to file petitions for writs of habeas corpus denied.

Probable Jurisdiction Noted.

No. 1146. GOLDSTEIN, AKA PIETRARU, ET AL. *v.* COX ET AL. Appeal from D. C. S. D. N. Y. Motion of Wolf Popper Ross Wolf & Jones for leave to file a brief as *amicus curiae* granted. Probable jurisdiction noted. *John R. Vintilla*, *Emanuel Eschwege*, and *Novak N. Marku* for appellants. *Louis J. Lefkowitz*, Attorney General of New York, *Samuel A. Hirshowitz*, First Assistant Attorney General, and *Daniel M. Cohen*, Assistant Attorney General, for appellees. *Martin Popper* on the motion. Reported below: 299 F. Supp. 1389.

Certiorari Granted.

No. 1124. UNITED STATES *v.* W. M. WEBB, INC., ET AL. C. A. 5th Cir. Certiorari granted. *Solicitor General*

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Griswold, Assistant Attorney General Walters, Harris Weinstein, Louis M. Kauder, and Robert I. Waxman for the United States. Joseph J. Lyman for respondents. Reported below: 402 F. 2d 956.

No. 1144. *BREEN v. SELECTIVE SERVICE LOCAL BOARD No. 16, BRIDGEPORT, CONNECTICUT, ET AL.* C. A. 2d Cir. Certiorari granted. *Emanuel Margolis, Lawrence P. Weisman, and Melvin L. Wulf* for petitioner. *Solicitor General Griswold, Assistant Attorney General Ruckelshaus, Morton Hollander, and Ralph A. Fine* for respondents. Reported below: 406 F. 2d 636.

No. 1176. *GUTKNECHT v. UNITED STATES.* C. A. 8th Cir. Certiorari granted and case set for oral argument immediately following No. 1144, *supra.* *Melvin L. Wulf* for petitioner. *Solicitor General Griswold, Assistant Attorney General Wilson, and Beatrice Rosenberg* for the United States. Reported below: 406 F. 2d 494.

Certiorari Denied. (See also No. 1168, *ante*, p. 813.)

No. 1127. *TECHNITROL, INC. v. MCMANUS, U. S. DISTRICT JUDGE.* C. A. 8th Cir. Certiorari denied. *Lawrence B. Dodds* for petitioner. *Morris Relson* for Collins Radio Co., defendant below, in opposition. Reported below: 405 F. 2d 84.

No. 1134. *WILLIAMS ET UX. v. COMMISSIONER OF INTERNAL REVENUE.* C. A. 6th Cir. Certiorari denied. *Phillip L. Charles* for petitioners. *Solicitor General Griswold and Assistant Attorney General Walters* for respondent.

No. 1153. *CIAFFONI ET AL. v. BRUNSWICK CORP. ET AL.* Sup. Ct. Pa. Certiorari denied. *Milton D. Rosenberg* for petitioners. *John G. Buchanan, Jr.*, for respondents. Reported below: 432 Pa. 442, 248 A. 2d 39.

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No. 1103. *GAINNEY ET AL. v. BROTHERHOOD OF RAILWAY & STEAMSHIP CLERKS, FREIGHT HANDLERS, EXPRESS & STATION EMPLOYEES ET AL.* C. A. 3d Cir. Certiorari denied. *Lawrence J. Richette* for petitioners. *Allen S. Olmsted 2d* for respondent Brotherhood of Railway & Steamship Clerks, Freight Handlers, Express & Station Employees. Reported below: 406 F. 2d 744.

No. 1118. *ROBERTS v. RESOR, SECRETARY OF THE ARMY, ET AL.* C. A. D. C. Cir. Certiorari denied. *Thomas B. Sweeney* for petitioner. *Solicitor General Griswold, Assistant Attorney General Ruckelshaus, Alan S. Rosenthal, and J. F. Bishop* for respondents.

No. 1138. *BOSSERT MACHINE CO. ET AL. v. CITY OF CINCINNATI.* Sup. Ct. Ohio. Certiorari denied. *Philip J. Schneider* for petitioners. *William A. McClain and Thomas H. Crush* for respondent. Reported below: 16 Ohio St. 2d 76, 243 N. E. 2d 105.

No. 1145. *GORDON v. BROOKLYN BAR ASSN.* App. Div., Sup. Ct. N. Y., 2d Jud. Dept. Certiorari denied. *Morton Liftin* for petitioner. *Herbert H. Hefler* for respondent. Reported below: 30 App. Div. 2d 807, 292 N. Y. S. 2d 817.

No. 1150. *DURHAM ET AL. v. MASON & DIXON LINES, INC.* C. A. 6th Cir. Certiorari denied. *H. Solomon Horen and Mozart G. Ratner* for petitioners. *Edgar A. Zingman* for respondent. Reported below: 404 F. 2d 864.

No. 1154. *LONGFELLOW v. UNITED STATES.* C. A. 4th Cir. Certiorari denied. *George A. Daugherty* for petitioner. *Solicitor General Griswold, Assistant Attorney General Wilson, Beatrice Rosenberg, and Roger A. Pauley* for the United States. Reported below: 406 F. 2d 415.

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No. 1142. ABEX CORP. ET AL. *v.* TRUSTEES OF THE PROPERTY OF NEW YORK, NEW HAVEN & HARTFORD RAILROAD CO. ET AL. C. A. 2d Cir. Certiorari denied. *John W. Barnett* for petitioners Abex Corp. et al., and *John F. Hunt, Jr.*, for petitioners Bethlehem Steel Corp. et al. *James Wm. Moore, Joseph W. Bishop, Jr., Joseph Auerbach,* and *Morris Raker* for respondent Smith, Trustee; *Albert X. Bader, Jr.*, for respondent Manufacturers Hanover Trust Co., Trustee, *Joseph Schreiber* and *Wilkie Bushby* for respondent Chase Manhattan Bank, N. A., Trustee, *Lester C. Migdal* and *Lawrence W. Pollack* for respondent New Haven Railroad 4% Bondholders Committee, and *Myron S. Isaacs* for respondent Oscar Gruss & Son. Reported below: 405 F. 2d 50.

No. 1156. CHECKER MOTORS CORP. *v.* CHRYSLER CORP. ET AL. C. A. 2d Cir. Certiorari denied. *Jesse Climenko* and *Herbert B. Lazarus* for petitioner. *Robert Ehrenbard* for respondents. Reported below: 405 F. 2d 319.

No. 839. PATE, WARDEN *v.* PUGH. C. A. 7th Cir. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. MR. JUSTICE STEWART is of the opinion that certiorari should be granted. *William G. Clark*, Attorney General of Illinois, and *John J. O'Toole* and *Donald J. Veverka*, Assistant Attorneys General, for petitioner. *Stanley A. Bass* and *Sam Adam* for respondent. Reported below: 401 F. 2d 6.

No. 1078. CELANESE CORP. *v.* BRENNER, COMMISSIONER OF PATENTS. C. A. D. C. Cir. Certiorari denied. THE CHIEF JUSTICE is of the opinion that certiorari should be granted. *Stephen Rackow Kaye* for petitioner. *Solicitor General Griswold*, *Assistant Attorney General Ruckelshaus*, and *Morton Hollander* for respondent. Reported below: — U. S. App. D. C. —, 409 F. 2d 430.

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No. 1167. SMITH *v.* JAMES IRVINE FOUNDATION ET AL. C. A. 9th Cir. Certiorari denied. *Lyndol L. Young* for petitioner. *Burnham Enersen* for respondent James Irvine Foundation, and *Reid R. Briggs* for respondents Irvine et al. Reported below: 402 F. 2d 772.

No. 1203. BORG-WARNER CORP. *v.* REPUBLIC GEAR CO. C. A. 7th Cir. Certiorari denied. *James E. S. Baker*, *Robert W. Murphy*, and *George L. Saunders* for petitioner. *Aaron Lewittes* and *Edward I. Rothschild* for respondent. Reported below: 406 F. 2d 57.

No. 1126. FARINELLA ET AL. *v.* UNITED STATES. C. A. 5th Cir. Motion to defer consideration of petition for certiorari denied. Certiorari denied. *Milton E. Grusmark* and *Natalie Baskin* for petitioners. *Solicitor General Griswold*, *Assistant Attorney General Wilson*, *Jerome M. Feit*, and *Roger A. Pauley* for the United States. Reported below: 406 F. 2d 148.

No. 1155. TARTAGLIO ET AL. *v.* DEPARTMENT OF INSTITUTIONS AND AGENCIES, DIVISION OF PUBLIC WELFARE. Sup. Ct. N. J. Motion to defer consideration of petition for writ of certiorari denied. Certiorari denied. *George F. Bason, Jr.*, for petitioners. *Arthur J. Sills*, Attorney General of New Jersey, and *Eugene T. Urbaniak*, Deputy Attorney General, for respondent.

No. 1174. UNITED STEELWORKERS OF AMERICA, AFL-CIO *v.* HAMILTON STEEL PRODUCTS, INC., ET AL. C. A. 7th Cir. Certiorari denied. THE CHIEF JUSTICE and MR. JUSTICE FORTAS are of the opinion that certiorari should be granted. *Bernard Kleiman*, *Gilbert Feldman*, *Elliot Bredhoff*, *Michael H. Gottesman*, and *George H. Cohen* for petitioner. *J. Robert Geiman* for respondent Union Central Life Insurance Co. Reported below: 404 F. 2d 878.

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No. 1147. *POLUR v. BOTEIN ET AL.* Ct. App. N. Y. Motion to dispense with printing petition denied. Certiorari denied. *Sam Polur*, petitioner, *pro se.* *Whitney North Seymour* for respondents.

No. 1149. *MOONEYHAN v. COMMISSIONER OF INTERNAL REVENUE.* C. A. 6th Cir. Certiorari denied. MR. JUSTICE MARSHALL took no part in the consideration or decision of this petition. *Lowe Watkins* for petitioner. *Solicitor General Griswold*, *Assistant Attorney General Walters*, *Louis M. Kauder*, and *John S. Stephan* for respondent. Reported below: 404 F. 2d 522.

No. 7, Misc. *GARDNER v. CALIFORNIA.* Super. Ct. Cal., County of San Luis Obispo. Certiorari denied. *Thomas C. Lynch*, Attorney General of California, *William E. James*, Assistant Attorney General, and *Jack K. Weber*, Deputy Attorney General, for respondent.

No. 10, Misc. *GARDNER v. CALIFORNIA.* Sup. Ct. Cal. Certiorari denied. *Thomas C. Lynch*, Attorney General of California, *William E. James*, Assistant Attorney General, and *Jack K. Weber*, Deputy Attorney General, for respondent.

No. 724, Misc. *CLARK v. MARYLAND.* Ct. Sp. App. Md. Certiorari denied. *Robert Gordon King* and *Louis Peregoff* for petitioner. *Francis B. Burch*, Attorney General of Maryland, and *William E. Brannan*, Assistant Attorney General, for respondent. Reported below: 2 Md. App. 756, 237 A. 2d 768.

No. 1250, Misc. *FOGGY v. EYMAN, WARDEN, ET AL.* Sup. Ct. Ariz. Certiorari denied. *Gary K. Nelson*, Attorney General of Arizona, and *Thomas M. Tuggle*, Assistant Attorney General, for respondents.

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No. 545, Misc. *CHILDS v. OHIO*. Sup. Ct. Ohio. Certiorari denied. *Gerald A. Messerman* for petitioner. Reported below: 14 Ohio St. 2d 56, 236 N. E. 2d 545.

No. 875, Misc. *HAMILTON v. PATTERSON*, VOCATIONAL INSTITUTION SUPERINTENDENT. C. A. 9th Cir. Certiorari denied. *Thomas C. Lynch*, Attorney General of California, *Doris H. Maier*, Assistant Attorney General, and *Nelson P. Kempsey*, Deputy Attorney General, for respondent.

No. 1207, Misc. *MILLER v. BAKER*, WARDEN. Sup. Ct. N. M. Certiorari denied. *James A. Maloney*, Attorney General of New Mexico, and *James V. Noble*, Assistant Attorney General, for respondent. Reported below: 79 N. M. 392, 444 P. 2d 577.

No. 1233, Misc. *JUELICH v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. *Solicitor General Griswold*, *Assistant Attorney General Wilson*, *Beatrice Rosenberg*, and *Mervyn Hamburg* for the United States. Reported below: 403 F. 2d 523.

No. 1290, Misc. *RALPH v. MARYLAND*. Ct. App. Md. Certiorari denied. *Edward L. Genn* for petitioner. *Francis B. Burch*, Attorney General of Maryland, *Alfred J. O'Ferrall III*, Assistant Attorney General, for respondent.

No. 1408, Misc. *BURTON v. UNITED STATES*. Ct. Cl. Certiorari denied. *Solicitor General Griswold* for the United States. Reported below: 186 Ct. Cl. 172, 404 F. 2d 365.

No. 1445, Misc. *WADE v. CALIFORNIA*. Ct. App. Cal., 2d App. Dist. Certiorari denied.

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No. 1301, Misc. *PAGANO v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. *Solicitor General Griswold, Assistant Attorney General Wilson, Jerome M. Feit, and Kirby W. Patterson* for the United States. Reported below: 403 F. 2d 491.

No. 1459, Misc. *BONTON v. CALIFORNIA*. App. Dept., Super. Ct. Cal., County of Sacramento. Certiorari denied. *S. Carter McMorris* for petitioner.

No. 1467, Misc. *DEVINE v. UNITED STATES*. C. A. 10th Cir. Certiorari denied. *Solicitor General Griswold* for the United States. Reported below: 403 F. 2d 93.

No. 1509, Misc. *WILSON v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. *William E. Hellerstein* and *Phylis Skloot Bamberger* for petitioner. *Solicitor General Griswold, Assistant Attorney General Wilson, and Beatrice Rosenberg* for the United States. Reported below: 404 F. 2d 531.

No. 1522, Misc. *WINKLE v. KROPP, WARDEN*. C. A. 6th Cir. Certiorari denied. *Frank J. Kelley*, Attorney General of Michigan, *Robert A. Derengoski*, Solicitor General, and *Stewart H. Freeman*, Assistant Attorney General, for respondent. Reported below: 403 F. 2d 661.

No. 1536, Misc. *JOHNSON v. INSURANCE DEPARTMENT OF PENNSYLVANIA ET AL.* Sup. Ct. Pa. Certiorari denied. *Edward O. Spotts* for petitioner. *William C. Sennett*, Attorney General of Pennsylvania, *Charles D. Cowley*, Assistant Attorney General, and *Frederic G. Antoun*, Deputy Attorney General, for respondents. *John P. Walsh* for Insurance Rating Board, intervenor below, in opposition. Reported below: 432 Pa. 543, 248 A. 2d 308.

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No. 1521, Misc. GRAYS *v.* CALIFORNIA. Ct. App. Cal., 1st App. Dist. Certiorari denied. Reported below: 265 Cal. App. 2d 14, 71 Cal. Rptr. 32.

No. 1546, Misc. CURL *v.* WISCONSIN. Sup. Ct. Wis. Certiorari denied. Reported below: 40 Wis. 2d 474, 162 N. W. 2d 77.

No. 1557, Misc. HAMILTON *v.* FAULKNER. Sup. Ct. Ill. Certiorari denied. *John Unger* for petitioner. *John E. Sebat* for respondent.

No. 1565, Misc. McCONNELL *v.* WASHINGTON ET AL. Sup. Ct. Wash. Certiorari denied.

No. 1568, Misc. PARKER *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. *Solicitor General Griswold*, *Assistant Attorney General Wilson*, and *Philip R. Monahan* for the United States. Reported below: 404 F. 2d 1193.

No. 1577, Misc. FRAZIER *v.* MARYLAND. Ct. Sp. App. Md. Certiorari denied. Reported below: 3 Md. App. 470, 240 A. 2d 306.

No. 1582, Misc. BALL *v.* MARYLAND. C. A. 4th Cir. Certiorari denied.

No. 1584, Misc. FORD *v.* COMSTOCK, CONSERVATION CENTER SUPERINTENDENT. Sup. Ct. Cal. Certiorari denied.

No. 1589, Misc. CALDWELL *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. *Solicitor General Griswold*, *Assistant Attorney General Wilson*, *Beatrice Rosenberg*, and *Roger A. Pauley* for the United States. Reported below: 405 F. 2d 613.

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No. 1588, Misc. *DAUBIN v. CALIFORNIA*. Sup. Ct. Cal. Certiorari denied. *Meredith M. Daubin* for petitioner.

No. 1591, Misc. *HUDSON v. ILLINOIS*. App. Ct. Ill., 1st Dist. Certiorari denied.

No. 1594, Misc. *RIORDAN v. DIVISION OF MOTOR VEHICLES, DEPARTMENT OF LAW AND PUBLIC SAFETY*. Sup. Ct. N. J. Certiorari denied. *Mark F. Hughes, Jr.*, for petitioner. *Arthur J. Sills*, Attorney General of New Jersey, *Elias Abelson*, Assistant Attorney General, and *Thaddeus C. Raczkowski*, Deputy Attorney General, for respondent.

No. 1595, Misc. *MONTEZ v. EYMAN, WARDEN*. C. A. 9th Cir. Certiorari denied. *Gary K. Nelson*, Attorney General of Arizona, for respondent. Reported below: 404 F. 2d 330.

No. 1599, Misc. *NAM SING SHAK v. HAWAII*. Sup. Ct. Hawaii. Certiorari denied.

No. 1603, Misc. *PARNES v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. *Solicitor General Griswold*, *Assistant Attorney General Wilson*, and *Beatrice Rosenberg* for the United States. Reported below: 403 F. 2d 31.

No. 1611, Misc. *WRIGHT v. MICHIGAN*. Ct. App. Mich. Certiorari denied. *Sam Adam* for petitioner. *Frank J. Kelley*, Attorney General of Michigan, and *Robert A. Derengoski*, Solicitor General, for respondent. Reported below: 12 Mich. App. 369, 163 N. W. 2d 22.

No. 1615, Misc. *ODELL v. SCHMIDT ET AL.* C. A. 7th Cir. Certiorari denied.

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No. 1616, Misc. CHRISTIAN *v.* JACKSON COUNTY. Ct. Crim. App. Okla. Certiorari denied. Reported below: 447 P. 2d 446.

No. 1618, Misc. DENHAM *v.* ILLINOIS. Sup. Ct. Ill. Certiorari denied. *Gerald W. Getty, Marshall J. Hartman, and James J. Doherty* for petitioner. Reported below: 41 Ill. 2d 1, 241 N. E. 2d 415.

No. 1619, Misc. CRAIG *v.* CALIFORNIA. Ct. App. Cal., 3d App. Dist. Certiorari denied.

No. 1622, Misc. MOORE *v.* NEW YORK. Ct. App. N. Y. Certiorari denied. Reported below: 23 N. Y. 2d 565, 245 N. E. 2d 710.

No. 1624, Misc. TAPLIN *v.* RHAY, PENITENTIARY SUPERINTENDENT. C. A. 9th Cir. Certiorari denied.

No. 1626, Misc. HENDERSON *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. *Solicitor General Griswold, Assistant Attorney General Wilson, and Jerome M. Feit* for the United States. Reported below: 404 F. 2d 832.

No. 1638, Misc. GRIFFIN *v.* MARTIN, CORRECTION COMMISSIONER. App. Div., Sup. Ct. N. Y., 4th Jud. Dept. Certiorari denied. *Paul Taylor* for petitioner.

No. 1647, Misc. MCCRAY *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. *Solicitor General Griswold, Assistant Attorney General Wilson, Beatrice Rosenberg, and Jerome M. Feit* for the United States.

No. 1648, Misc. HOPSON *v.* PEYTON, PENITENTIARY SUPERINTENDENT. C. A. 4th Cir. Certiorari denied.

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No. 1627, Misc. SWEET *v.* RHAY, PENITENTIARY SUPERINTENDENT. C. A. 9th Cir. Certiorari denied.

No. 1651, Misc. YOUNG *v.* UNITED STATES. C. A. D. C. Cir. Certiorari denied. *Solicitor General Griswold, Assistant Attorney General Wilson, Jerome M. Feit, and Sidney M. Glazer* for the United States. Reported below: — U. S. App. D. C. —, 407 F. 2d 720.

No. 1652, Misc. KELLY *v.* CALIFORNIA. Ct. App. Cal., 3d App. Dist. Certiorari denied.

No. 1653, Misc. FRIZER *v.* NEW YORK. App. Div., Sup. Ct. N. Y., 2d Jud. Dept. Certiorari denied.

No. 1654, Misc. BERRY *v.* INDIANA. Sup. Ct. Ind. Certiorari denied. Reported below: — Ind. —, 242 N. E. 2d 355.

No. 1659, Misc. MANGINI *v.* CALIFORNIA. Ct. App. Cal., 2d App. Dist. Certiorari denied.

No. 1660, Misc. BAXLEY *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. *Solicitor General Griswold* for the United States. Reported below: 406 F. 2d 397.

No. 1663, Misc. GORUM *v.* CRAVEN, WARDEN. Sup. Ct. Cal. Certiorari denied.

No. 1671, Misc. POLLARD *v.* UNITED STATES ET AL. C. A. D. C. Cir. Certiorari denied. *Solicitor General Griswold* for the United States.

No. 1682, Misc. RITTER *v.* McMANN, WARDEN. C. A. 2d Cir. Certiorari denied. *William E. Hellerstein, Phylis Skloot Bamberger, and Harry C. Batchelder, Jr.*, for petitioner.

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No. 1672, Misc. *CAPPETTA v. FLORIDA*. Sup. Ct. Fla. Certiorari denied. *Earl Faircloth*, Attorney General of Florida, and *Charles W. Musgrove*, Assistant Attorney General, for respondent. Reported below: 216 So. 2d 749.

No. 1673, Misc. *McCARGO v. MARYLAND*. Ct. Sp. App. Md. Certiorari denied.

No. 1677, Misc. *TABOR, AKA REICHNER v. VIRGINIA*. Sup. Ct. App. Va. Certiorari denied.

No. 1679, Misc. *RILEY v. PARKER ET AL.* C. A. 9th Cir. Certiorari denied.

No. 1687, Misc. *DEARINGER v. RHAY, PENITENTIARY SUPERINTENDENT*. Sup. Ct. Wash. Certiorari denied.

No. 1694, Misc. *TINSLEY v. McMANN, WARDEN*. App. Div., Sup. Ct. N. Y., 4th Jud. Dept. Certiorari denied.

No. 1699, Misc. *FARNSWORTH v. SECOND DISTRICT COURT*. Sup. Ct. Utah. Certiorari denied.

No. 1548, Misc. *AADAL v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. MR. JUSTICE MARSHALL took no part in the consideration or decision of this petition. *Solicitor General Griswold*, *Assistant Attorney General Wilson*, *Jerome M. Feit*, and *Sidney M. Glazer* for the United States.

No. 1105, Misc. *HANCOCK v. TENNESSEE*. Sup. Ct. Tenn. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. *George F. McCanless*, Attorney General of Tennessee, and *Robert H. Roberts*, Assistant Attorney General, for respondent.

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No. 1701, Misc. CASEY *v.* LAMBROS, U. S. DISTRICT JUDGE. C. A. 6th Cir. Certiorari denied. *Solicitor General Griswold* for respondent.

No. 1703, Misc. WILSON *v.* UNITED STATES. C. A. D. C. Cir. Certiorari denied. *Solicitor General Griswold* for the United States.

No. 1707, Misc. EVANS *v.* PEYTON, PENITENTIARY SUPERINTENDENT. C. A. 4th Cir. Certiorari denied.

No. 1724, Misc. WILLIS *v.* CALIFORNIA. Ct. App. Cal., 2d App. Dist. Certiorari denied.

Rehearing Denied.

No. 699. DALY *v.* CALIFORNIA, *ante*, p. 929; and

No. 1506, Misc. HILLERY *v.* CALIFORNIA, *ante*, p. 951. Petitions for rehearing denied.

No. 927. GRANELLO, AKA BURNS *v.* UNITED STATES, 393 U. S. 1095. Petition for rehearing denied. MR. JUSTICE BRENNAN and MR. JUSTICE MARSHALL took no part in the consideration or decision of this petition.

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Miscellaneous Orders.

No. 776. UTAH PUBLIC SERVICE COMMISSION *v.* EL PASO NATURAL GAS Co. ET AL. Appeal from D. C. Utah. Motion of Colonial Group for leave to file a brief as *amicus curiae* granted. MR. JUSTICE WHITE, MR. JUSTICE FORTAS, and MR. JUSTICE MARSHALL took no part in the consideration or decision of this motion. *David K. Watkiss* and *James D. McKinney, Jr.*, on the motion. [For earlier order herein, see *ante*, p. 970.]

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No. 705. CIPRIANO *v.* CITY OF HOUMA ET AL. Appeal from D. C. E. D. La. [Probable jurisdiction noted, 393 U. S. 1061.] Motion of Louisiana Municipal Assn. for leave to join in the *amicus curiae* brief of the State of Louisiana granted. *John V. Parker* on the motion.

No. 1700, Misc. IN RE DISBARMENT OF SILL. It having been reported to the Court that Norman E. Sill of Washington, District of Columbia, has been disbarred from the practice of law by the United States Court of Appeals for the District of Columbia Circuit, duly entered on the 18th day of February, 1968, and this Court by order of March 10, 1969 [*ante*, p. 902], having suspended the said Norman E. Sill from the practice of law in this Court and directed that a rule issue requiring him to show cause why he should not be disbarred;

And it appearing that the said rule was duly issued and served upon the respondent, and that the time within which to file a return to the rule has expired;

IT IS ORDERED that the said Norman E. Sill be, and he is hereby, disbarred from the practice of law in this Court and that his name be stricken from the roll of attorneys admitted to practice before the Bar of this Court.

No. 1242, Misc. BIVENS *v.* UNITED STATES. C. A. 2d Cir. Application for bail presented to MR. JUSTICE DOUGLAS, and by him referred to the Court, denied. *Solicitor General Griswold* in opposition.

No. 1064. NORTH CAROLINA *v.* ALFORD. Appeal from C. A. 4th Cir. [Probable jurisdiction noted, *ante*, p. 956.] Motion of appellee for appointment of counsel granted. It is ordered that *Doris R. Bray*, of Greensboro, North Carolina, be, and she is hereby, appointed to serve as counsel for appellee in this case.

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No. 622. MAXWELL *v.* BISHOP, PENITENTIARY SUPERINTENDENT. C. A. 8th Cir. [Certiorari granted, 393 U. S. 997.] Motion of Robert Page Anderson et al. for leave to file a brief as *amici curiae* after argument granted. *Anthony G. Amsterdam, Jack Greenberg, Michael Meltsner, Melvyn Zarr, and Charles S. Ralston* on the motion.

No. 1192. COLEMAN ET AL. *v.* ALABAMA. Ct. App. Ala. [Certiorari granted, *ante*, p. 916.] Motions of petitioners for appointment of counsel granted. It is ordered that *Charles Tarter, Esquire*, of Birmingham, Alabama, be, and he is hereby, appointed to serve as counsel for petitioners in this case.

No. 1785, Misc. KINDERMAN *v.* YOUNG, WARDEN; and No. 1820, Misc. DUCKWORTH *v.* CRAVEN, WARDEN. Motions for leave to file petitions for writs of habeas corpus denied.

Probable Jurisdiction Noted.

No. 950. HALL ET UX. *v.* BEALS, CLERK AND RECORDER OF EL PASO COUNTY, ET AL. Appeal from D. C. Colo. Probable jurisdiction noted. *John P. Moore*, Deputy Attorney General of Colorado, and *Carroll E. Multz* for appellees. Reported below: 292 F. Supp. 610.

Certiorari Granted. (See also No. 642, Misc., *ante*, p. 831; and No. 877, Misc., *ante*, p. 846.)

No. 1223. ADICKES *v.* S. H. KRESS & Co. C. A. 2d Cir. Motion to dispense with printing petition granted. Certiorari granted. *Eleanor Jackson Piel* for petitioner. *Sanford M. Litvack, James R. Withrow, Jr., and Alfred H. Hoddinott, Jr.*, for respondent. Reported below: 409 F. 2d 121.

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No. 1106. *EVANS ET AL. v. ABNEY ET AL.* Sup. Ct. Ga. Certiorari granted. MR. JUSTICE MARSHALL took no part in the consideration or decision of this petition. *Jack Greenberg, James M. Nabrit III, Charles L. Black, Jr., and Anthony G. Amsterdam* for petitioners. *Frank C. Jones* for respondents. Reported below: 224 Ga. 826, 165 S. E. 2d 160.

Certiorari Denied.

No. 946. *BEECH-NUT LIFE SAVERS, INC. v. NATIONAL LABOR RELATIONS BOARD.* C. A. 2d Cir. Certiorari denied. *Leonard Joseph* for petitioner. *Solicitor General Griswold, Arnold Ordman, Dominick L. Manoli, and Norton J. Come* for respondent. Reported below: 406 F. 2d 253.

No. 982. *TELEDYNE, INC. v. NATIONAL LABOR RELATIONS BOARD.* C. A. 9th Cir. Certiorari denied. *Charles G. Bakaly, Jr.*, for petitioner. *Solicitor General Griswold, Arnold Ordman, Dominick L. Manoli, and Norton J. Come* for respondent. Reported below: 405 F. 2d 1182.

No. 1071. *GROENDYKE TRANSPORT, INC. v. DAVIS, REGIONAL DIRECTOR, NATIONAL LABOR RELATIONS BOARD, ET AL.* C. A. 5th Cir. Certiorari denied. *Payne Ratner and Joe H. Tonahill* for petitioner. *Solicitor General Griswold, Arnold Ordman, Dominick L. Manoli, Norton J. Come, and Linda Sher* for respondents. Reported below: 406 F. 2d 1158.

No. 1111. *HADLEY v. INDIANA.* Sup. Ct. Ind. Certiorari denied. *William C. Erbecker and James Manahan* for petitioner. *Theodore L. Sendak*, Attorney General of Indiana, and *Lloyd C. Hutchinson and William F. Thompson*, Deputy Attorneys General, for respondent. Reported below: — Ind. —, 238 N. E. 2d 888.

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No. 1157. MISSOURI PACIFIC RAILROAD Co. v. SOUTHERN PACIFIC Co. Ct. Civ. App. Tex., 14th Sup. Jud. Dist. Certiorari denied. *Ben G. Sewell* for petitioner. *Tom M. Davis* for respondent. Reported below: 430 S. W. 2d 900.

No. 1159. LEWIS ET AL. v. UNITED STATES. C. A. 7th Cir. Certiorari denied. *Charles A. Bellows* for petitioners. *Solicitor General Griswold*, *Assistant Attorney General Wilson*, and *Jerome M. Feit* for the United States. Reported below: 406 F. 2d 486.

No. 1161. CARLINO v. UNITED STATES. C. A. 2d Cir. Certiorari denied. *James E. Birdsall* for petitioner. *Solicitor General Griswold*, *Assistant Attorney General Walters*, and *Joseph M. Howard* for the United States. Reported below: 400 F. 2d 56.

No. 1164. KANAREK v. UNITED STATES. Ct. Cl. Certiorari denied. *Irving A. Kanarek*, petitioner, *pro se*. *Solicitor General Griswold*, *Assistant Attorney General Ruckelshaus*, and *Robert V. Zener* for the United States. Reported below: 184 Ct. Cl. 125, 394 F. 2d 525.

No. 1166. GERHARD v. UNITED STATES. C. A. 2d Cir. Certiorari denied. *Henry Mark Holzer* for petitioner. *Solicitor General Griswold*, *Assistant Attorney General Wilson*, *Beatrice Rosenberg*, and *Mervyn Hamburg* for the United States.

No. 1171. BLOOMFIELD v. IMMIGRATION AND NATURALIZATION SERVICE. C. A. 9th Cir. Certiorari denied. *Milton T. Simmons* and *Donald L. Ungar* for petitioner. *Solicitor General Griswold*, *Assistant Attorney General Wilson*, *Beatrice Rosenberg*, and *Roger A. Pauley* for respondent. Reported below: 404 F. 2d 656.

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No. 1172. DENVER UNION STOCKYARD CO. ET AL. *v.* DENVER LIVE STOCK COMMISSION CO. C. A. 10th Cir. Certiorari denied. *Winston S. Howard* for petitioners. *Maurice Reuler* for respondent. Reported below: 404 F. 2d 1055.

No. 1177. FLUOR CORP., LTD., ET AL. *v.* UNITED STATES EX REL. MOSHER STEEL CO.;

No. 1178. WARD INDUSTRIES CORP. *v.* UNITED STATES EX REL. MOSHER STEEL CO.; and

No. 1179. UNION TANK CAR CO. *v.* UNITED STATES EX REL. MOSHER STEEL CO. ET AL. C. A. 9th Cir. Certiorari denied. *Harold C. Warnock* for petitioners in No. 1177, *R. Graeme Smith* for petitioner in No. 1178, and *Francis J. McConnell* and *Robert A. May* for petitioner in No. 1179. *Maurice E. Purnell, Sr.*, for Mosher Steel Co. in all three cases. Reported below: 405 F. 2d 823.

No. 1180. CARLTON *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied. *Arnold D. Levine* for petitioner. *Solicitor General Griswold* for the United States. Reported below: 391 F. 2d 684.

No. 1183. ELECTRONIC SYSTEMS INVESTMENT CORP. *v.* SMALL BUSINESS ADMINISTRATION. C. A. 4th Cir. Certiorari denied. *John Lewis Kelly* for petitioner. *Solicitor General Griswold* for respondent. Reported below: 405 F. 2d 188.

No. 1184. FIRST NATIONAL INDUSTRIES, INC. *v.* COMMISSIONER OF INTERNAL REVENUE. C. A. 6th Cir. Certiorari denied. *William Waller* for petitioner. *Solicitor General Griswold*, *Assistant Attorney General Walters*, and *Jonathan S. Cohen* for respondent. Reported below: 404 F. 2d 1182.

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No. 1188. *DIRIC v. IMMIGRATION AND NATURALIZATION SERVICE*. C. A. 9th Cir. Certiorari denied. *Myron L. Borawick* for petitioner. *Solicitor General Griswold, Assistant Attorney General Wilson, Beatrice Rosenberg, and Kirby W. Patterson* for respondent. Reported below: 400 F. 2d 658.

No. 1193. *THOMAS v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. *James R. Willis* for petitioner. *Solicitor General Griswold, Assistant Attorney General Wilson, Beatrice Rosenberg, and Kirby W. Patterson* for the United States.

No. 1196. *ECHARD v. OHIO*. Sup. Ct. Ohio. Certiorari denied. *Allan Sherry* for petitioner.

No. 1202. *SPEYER, INC., ET AL. v. HUMBLE OIL & REFINING CO. ET AL.* C. A. 3d Cir. Certiorari denied. *William W. Knox and John G. Gent* for petitioners. *John M. Wolford, Cloyd R. Mellott, and Barton Z. Cowan* for Humble Oil & Refining Co., and *Raymond G. Hasley* for A. O. Smith Corp., respondents. Reported below: 403 F. 2d 766.

No. 983. *HANNA v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. *Guy Johnson* for petitioner. *Solicitor General Griswold, Assistant Attorney General Wilson, Beatrice Rosenberg, and Sidney M. Glazer* for the United States. Reported below: 404 F. 2d 405.

MR. JUSTICE FORTAS, with whom MR. JUSTICE DOUGLAS joins, dissenting.

Petitioner asks that we review the decision of the Court of Appeals for the Fifth Circuit affirming his convictions for defrauding the telephone company in violation of 18 U. S. C. § 1343 and for use of interstate commerce facilities for illegal gambling in violation of 18 U. S. C.

§§ 1084 and 1952. The only evidence against petitioner was obtained by the telephone company's action in tapping his telephone line or was the product of information gained from that tap. The company became suspicious that petitioner was using a "blue box" to avoid payment for long-distance telephone calls. A "blue box" is an electronic signaling device which can be used to bypass the equipment which automatically records tolls on direct-dialed long-distance calls. An electronic device—which did not record the content of any conversations—confirmed the presence on the line of the 2,600-cycle tone characteristic of the operation of a "blue box." Company security officers then connected to petitioner's line a tape recorder which began recording the conversations on the line whenever the 2,600-cycle tone appeared and which automatically cut off after 35 to 45 seconds.

The recording instrument was used for about three weeks. The FBI was then informed of the recordings, and the recordings were turned over to a grand jury in response to a subpoena. Using the recorded information, the FBI obtained a warrant and conducted a search of petitioner's home.

Section 605 of the Federal Communications Act of 1934, 48 Stat. 1103, 47 U. S. C. § 605, prohibits the interception and divulgence of telephone messages.¹ It is argued—and the Fifth Circuit held—that the information was not unlawfully obtained because § 605 excludes from its prohibitions certain divulging of telephone messages by

¹ This tap was installed without a trespass, but if placed by law enforcement officers, it would clearly have violated the protections of the Fourth Amendment, as defined by this Court in *Katz v. United States*, 389 U. S. 347 (1967). The tap was, however, installed before the decision in *Katz* was announced. This Court has determined that it will not consider the constitutionality of non-trespassory invasions which took place prior to *Katz*. *Desist v. United States*, ante, p. 244; *Kaiser v. New York*, ante, p. 280. Accordingly, I consider only statutory questions here.

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"[a] person . . . transmitting, or assisting in transmitting" conversations.

In a similar case, *Bubis v. United States*, 384 F. 2d 643 (C. A. 9th Cir. 1967), the Ninth Circuit held that under § 605 the telephone company was not allowed to continue tapping its subscribers' lines to detect fraud "after ample evidence had been secured of the illegal use . . . of the company's facilities." 384 F. 2d, at 648. The tap in *Bubis* recorded the whole conversation and not merely the first part, but an essential fact—that the interception was more extensive than necessary to detect fraud—is the same in both cases.

I would grant certiorari in this case to resolve the area of conflict between circuits and to determine whether § 605 permits the telephone company to intercept and divulge personal communications which are used in the expectation of freedom from "the uninvited ear." *Katz v. United States*, 389 U. S. 347, 352 (1967).²

² The Government argues that the applicability of § 605 to events such as this is now of only academic interest because of the recent enactment of § 802 of the Omnibus Crime Control and Safe Streets Act of 1968, 82 Stat. 212, 18 U. S. C. § 2510 *et seq.* (1964 ed., Supp. IV). That argument is untenable. Section 2511 (2)(a) of 18 U. S. C. declares:

"It shall not be unlawful under this chapter for an operator of a switchboard, or an officer, employee, or agent of any communication common carrier, whose facilities are used in the transmission of a wire communication, to intercept, disclose, or use that communication in the normal course of his employment while engaged in any activity which is a necessary incident to the rendition of his service or to the protection of the rights or property of the carrier of such communication: *Provided*, That said communication common carriers shall not utilize service observing or random monitoring except for mechanical or service quality control checks."

It is by no means clear that the new statute would authorize this kind of conduct if a similar case occurred today. Unless it did, § 605 would still apply and the same problems that exist in this case would arise again.

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No. 1251. UNITED FOREST PRODUCTS Co., INC. v. BAXTER ET AL. C. A. 8th Cir. Certiorari denied. *E. Eugene Davis, F. J. O'Hara, Jr., and Hugh Lynch, Jr.*, for petitioner. *Donald A. Wine* for respondents. Reported below: 406 F. 2d 1120.

No. 1109. WEED v. BILBREY ET AL. Sup. Ct. Fla. Certiorari denied. MR. JUSTICE BLACK, MR. JUSTICE DOUGLAS, and MR. JUSTICE BRENNAN are of the opinion that certiorari should be granted. *Frederick William Wagner* and *Peter G. Kalogridis* for petitioner. *William A. Gillen* for respondents. Reported below: 215 So. 2d 479.

No. 1131. BANKERS COMMERCIAL LIFE INSURANCE CO. ET AL. v. AMERICAN HOSPITAL ASSN. ET AL. C. A. 5th Cir. Certiorari denied. MR. JUSTICE FORTAS took no part in the consideration or decision of this petition. *G. H. Kelsoe, Jr.*, for petitioners. *Otis B. Gary* for respondents. Reported below: 403 F. 2d 718.

No. 1197. BENTLEY v. NEW HAMPSHIRE. C. A. 1st Cir. Motion to dispense with printing petition granted. Certiorari denied. *George S. Pappagianis*, Attorney General of New Hampshire, and *David H. Souter*, Assistant Attorney General, for respondent. Reported below: 406 F. 2d 1064.

No. 921, Misc. KENNEDY v. UNITED STATES. C. A. 6th Cir. Certiorari denied. *Arthur I. Vorys* for petitioner. *Solicitor General Griswold* for the United States. Reported below: 397 F. 2d 16.

No. 1108, Misc. BULLARD v. UNITED STATES. C. A. D. C. Cir. Certiorari denied. *Solicitor General Griswold*, *Assistant Attorney General Vinson*, *Beatrice Rosenberg*, and *Robert G. Maysack* for the United States.

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No. 1420, Misc. SPIVEY *v.* VIRGINIA. Sup. Ct. App. Va. Certiorari denied. *Samuel A. Garrison III* for respondent.

No. 1003, Misc. SULLIVAN *v.* CALIFORNIA. Ct. App. Cal., 1st App. Dist. Certiorari denied. *Thomas C. Lynch*, Attorney General of California, and *Robert R. Granucci* and *Louise H. Renne*, Deputy Attorneys General, for respondent.

No. 1031, Misc. DORROUGH *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. *W. B. West III* for petitioner. *Solicitor General Griswold*, *Assistant Attorney General Vinson*, *Beatrice Rosenberg*, and *Mervyn Hamburg* for the United States. Reported below: 385 F. 2d 887, 397 F. 2d 811.

No. 1576, Misc. EATON *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied. *Solicitor General Griswold*, *Assistant Attorney General Wilson*, *Beatrice Rosenberg*, and *Robert G. Maysack* for the United States.

No. 1621, Misc. DANCIS *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. *Alan H. Levine*, *Melvin L. Wulf*, and *Marvin M. Karparkin* for petitioner. *Solicitor General Griswold*, *Assistant Attorney General Wilson*, *Jerome M. Feit*, and *Roger A. Pauley* for the United States. Reported below: 406 F. 2d 729.

No. 1665, Misc. ANDERSON *v.* WILSON, WARDEN, ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 397 F. 2d 255.

No. 1675, Misc. SAAVEDRA *v.* CONNECTICUT. Sup. Ct. Conn. Certiorari denied. *William D. Graham* for petitioner.

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No. 1644, Misc. *SHOCK v. TESTER ET AL.* C. A. 8th Cir. Certiorari denied. Reported below: 405 F. 2d 852.

No. 1664, Misc. *ALLEN v. CALIFORNIA.* Ct. App. Cal., 2d App. Dist. Certiorari denied.

No. 1680, Misc. *CHESTER v. UNITED STATES.* C. A. 3d Cir. Certiorari denied. *Thomas B. Rutter* for petitioner. *Solicitor General Griswold, Assistant Attorney General Wilson, Jerome M. Feit, and Robert G. Maysack* for the United States. Reported below: 407 F. 2d 53.

No. 1685, Misc. *HORTON v. WISCONSIN.* Sup. Ct. Wis. Certiorari denied.

No. 1689, Misc. *HARRIS v. MICHIGAN ET AL.* C. A. 6th Cir. Certiorari denied.

No. 1710, Misc. *BRADFORD v. GEORGIA.* Ct. App. Ga. Certiorari denied. *Guy B. Scott, Jr.*, for petitioner. Reported below: 118 Ga. App. 457, 164 S. E. 2d 264.

No. 1702, Misc. *DENMAN ET AL. v. COUNTY OF BARNSTABLE ET AL.* C. A. 1st Cir. Certiorari denied. Reported below: 404 F. 2d 64.

No. 1704, Misc. *GILCHRIST v. UNITED STATES.* C. A. 2d Cir. Certiorari denied. *H. Elliot Wales* for petitioner. *Solicitor General Griswold, Assistant Attorney General Wilson, and Philip R. Monahan* for the United States.

No. 1708, Misc. *HUNT v. EYMAN, WARDEN.* C. A. 9th Cir. Certiorari denied. Reported below: 405 F. 2d 384.

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No. 1688, Misc. HOUGHTALING *v.* VIRGINIA. Sup. Ct. App. Va. Certiorari denied. *Humes J. Franklin* for petitioner. Reported below: 209 Va. 309, 163 S. E. 2d 560.

No. 1713, Misc. JESSY *v.* SUPERIOR COURT OF CALIFORNIA ET AL. C. A. 9th Cir. Certiorari denied.

No. 1722, Misc. THERIAULT *v.* PEEK ET AL. C. A. 5th Cir. Certiorari denied. *Solicitor General Griswold* for respondents. Reported below: 406 F. 2d 117.

No. 1728, Misc. RUSH *v.* PENNSYLVANIA. C. A. 3d Cir. Certiorari denied.

No. 1729, Misc. MEADOWS *v.* WARDEN, BROOKLYN HOUSE OF DETENTION. Ct. App. N. Y. Certiorari denied.

No. 1741, Misc. WHITEHEAD *v.* MICHIGAN. Sup. Ct. Mich. Certiorari denied. *Frank J. Kelley*, Attorney General of Michigan, *Robert A. Derengoski*, Solicitor General, and *Stewart H. Freeman*, Assistant Attorney General, for respondent.

No. 1744, Misc. LOCKHART *v.* HENDRICK, COUNTY PRISONS SUPERINTENDENT, ET AL. C. A. 3d Cir. Certiorari denied.

No. 1055, Misc. REED *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. *George Howard, Jr.*, for petitioner. *Solicitor General Griswold*, *Assistant Attorney General Vinson*, and *Beatrice Rosenberg* for the United States. Reported below: 401 F. 2d 756.

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No. 1481, Misc. BRADFORD *v.* MICHIGAN. Ct. App. Mich. Motion for leave to supplement petition granted. Certiorari denied. *Frank J. Kelley*, Attorney General of Michigan, *Robert A. Derengoski*, Solicitor General, and *Stewart H. Freeman*, Assistant Attorney General, for respondent. Reported below: 10 Mich. App. 696, 160 N. W. 2d 373.

MR. CHIEF JUSTICE WARREN, with whom MR. JUSTICE DOUGLAS and MR. JUSTICE MARSHALL join, dissenting.

During the early morning hours of November 5, 1962, two Benton Harbor, Michigan, policemen stopped an automobile in the course of investigating a robbery. They were shot by the occupants of the vehicle and seriously wounded. Shortly thereafter LeRoy Payne was arrested. He was brutally treated by his captors until he confessed, implicating petitioner. Payne then became the State's chief trial witness. Petitioner was convicted of assault with intent to commit murder and was sentenced to a term of 20 to 40 years.

At petitioner's trial the State conceded that Payne testified truthfully concerning the manner in which the police had obtained his confession. The police campaign to compel Payne to confess began upon Payne's arrest. On the way to the police station Payne was called a "dirty bastard" and a "nigger." The police suggested that they might throw him out of the police car and then shoot him, claiming that he had attempted to escape. Payne was questioned for two days without food, water, or sleep; he was informed that all three necessities of life would be provided once he confessed and informed the police as to the identity of his accomplice. During the course of questioning Payne was beaten about the face until both eyes were blackened, was kicked and was held by one officer while the other twisted his fingers and then squeezed his testicles.

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Finally, the police threatened to prosecute Payne's wife for perjury and to have his children taken away. The State admits that the confession implicating petitioner was the product of these tactics.

Prior to petitioner's trial Payne had entered a guilty plea but had not as yet been sentenced. Although he stated that his testimony was not prompted by fear, Payne later signed an affidavit to the contrary. In this affidavit, presented to the trial court at petitioner's motion for a new trial, Payne insisted:

"At the time of Mr. Bradford [petitioner's] trial I was in fear of my life, safety of my family. As a result of this I gave false testimony at the preliminary hearing and trial of Mr. Bradford. The only part of my testimony [which was true] at that time was that of the treatment I received at the hands of the police."

On June 15, 1967, Payne's guilty plea was set aside on the basis that it was involuntary.

It is now a commonplace that coerced confessions are inadmissible at criminal trials because they are untrustworthy and the methods used to obtain them offend the principle that our system of criminal justice is accusatorial not inquisitorial. *Rogers v. Richmond*, 365 U. S. 534, 540-541 (1961). Nor do I think it relevant that the coercion in this case was exerted against the chief state witness rather than the accused. As was said by Mr. Justice Rutledge, dissenting in part in *Malinski v. New York*, 324 U. S. 401, 430-431 (1945):

"Due process does not permit one to be convicted upon his own coerced confession. It should not allow him to be convicted upon a confession wrung from another by coercion. A conviction supported only by such a confession could be but a variation of trial by ordeal."

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Admission of Payne's trial testimony was, in my view, a violation of due process as it was cut from the same fabric that produced his original statement. Even if the brutality ceased at the time Payne confessed, he remained under the control of those who had elicited the confession. See *Chambers v. Florida*, 309 U. S. 227, 235 (1940). Faced with memories of his ordeal and with the fact that he had not as yet been sentenced, Payne had little choice but to repeat at trial what the police had earlier forced from his lips, as is conclusively demonstrated by the fact that Payne's plea has been found involuntary.

Since I cannot separate Payne's trial testimony from the original coercion, and because I believe that the majesty of the law cannot be enhanced by a conviction based on such medieval cruelty, I would grant certiorari and reverse this conviction.

No. 1753, Misc. *PURNELL v. PEYTON, PENITENTIARY SUPERINTENDENT*. C. A. 4th Cir. Certiorari denied.

No. 1634, Misc. *DERENGOWSKI v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. MR. JUSTICE MARSHALL took no part in the consideration or decision of this petition. *Solicitor General Griswold, Assistant Attorney General Wilson, and Beatrice Rosenberg* for the United States. Reported below: 404 F. 2d 778.

Rehearing Denied.

No. 69. *BROTHERHOOD OF RAILROAD TRAINMEN ET AL. v. JACKSONVILLE TERMINAL CO.*, ante, p. 369. Petition for rehearing denied. MR. JUSTICE FORTAS and MR. JUSTICE MARSHALL took no part in the consideration or decision of this petition.

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- No. 62. KAISER *v.* NEW YORK, *ante*, p. 280;
No. 109. SNYDER *v.* HARRIS ET AL., *ante*, p. 332;
No. 199. HARRIS, U. S. DISTRICT JUDGE (WALKER,
REAL PARTY IN INTEREST) *v.* NELSON, WARDEN, *ante*,
p. 286;
No. 940. KENNEY *v.* AMERICAN CAN Co., 393 U. S.
1119;
No. 1005. HOWE *v.* GENERAL MOTORS CORP., *ante*,
p. 919;
No. 1012. NATIONAL SPONGE CUSHION Co., INC. *v.*
ALLEN INDUSTRIES, INC., ET AL., *ante*, p. 920;
No. 1042. GOULD ET UX. *v.* AMERICAN WATER WORKS
SERVICE Co., INC., ET AL., *ante*, p. 943;
No. 1087. ASHTON *v.* UNITED STATES, *ante*, p. 960;
No. 524, Misc. CASSASA *v.* CALIFORNIA, 393 U. S.
1066;
No. 857, Misc. BUSH *v.* UNITED STATES, 393 U. S.
532; and
No. 1457, Misc. GLASS *v.* UNITED STATES, *ante*, p. 939.
Petitions for rehearing denied.

MAY 12, 1969.

Dismissal Under Rule 60.

No. 5, Misc. SANCHEZ *v.* CALIFORNIA. Sup. Ct. Cal.
Petition for writ of certiorari dismissed pursuant to
Rule 60 of the Rules of this Court. *Charles F. Prael* for
petitioner. *Thomas C. Lynch*, Attorney General of Cali-
fornia, and *Edward P. O'Brien* and *Karl S. Mayer*, Dep-
uty Attorneys General, for respondent. Reported below:
65 Cal. 2d 814, 423 P. 2d 800. [For earlier order herein,
see 389 U. S. 999.]

