

ORDERS FROM APRIL 15 THROUGH  
JUNE 1, 1971

---

APRIL 15, 1971

*Dismissal Under Rule 60*

No. 710. ASSOCIATED PRESS *v.* ADAMS ET AL. Motion for leave to file petition for writ of certiorari dismissed pursuant to Rule 60 of the Rules of this Court.

APRIL 19, 1971

*Affirmed on Appeal*

No. 1352. CONSOLIDATED CARRIERS CORP. *v.* UNITED STATES ET AL. Affirmed on appeal from D. C. S. D. N. Y. Reported below: 321 F. Supp. 1098.

*Appeals Dismissed*

No. 1347. FAIRVIEW DEVELOPMENT, INC. *v.* CITY OF FAIRBANKS. Appeal from Sup. Ct. Alaska dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied. Reported below: 475 P. 2d 35.

No. 1368. FOREMAN *v.* CITY OF BELLEFONTAINE ET AL. Appeal from Ct. App. Ohio, Logan County, dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied.

No. 1426. DELAHAY *v.* ALASKA ET AL. Appeal from Sup. Ct. Alaska dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied. Reported below: 476 P. 2d 908.

April 19, 1971

402 U.S.

No. 6381. PRICE *v.* ILLINOIS. Appeal from Sup. Ct. Ill. dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that probable jurisdiction should be noted. Reported below: 46 Ill. 2d 209, 263 N. E. 2d 484.

No. 1367. CLAIROL, INC. *v.* DIRECTOR OF DIVISION OF TAXATION. Appeal from Sup. Ct. N. J. Motion of Automobile Manufacturers Assn., Inc., for leave to file a brief as *amicus curiae* granted. Appeal dismissed for want of substantial federal question. MR. JUSTICE HARLAN is of the opinion that probable jurisdiction should be noted and case set for oral argument. MR. JUSTICE BRENNAN took no part in the consideration or decision of this case. Reported below: 57 N. J. 199, 270 A. 2d 702.

No. 1390. PRUETT *v.* TEXAS. Appeal from Ct. Crim. App. Tex. dismissed for want of substantial federal question. Reported below: 463 S. W. 2d 191.

No. 1391. H. L. FEDERMAN & Co., INC. *v.* ZERBEL, DBA JOHN A. ZERBEL & Co. Appeal from Sup. Ct. Wis. dismissed for want of substantial federal question. Reported below: 48 Wis. 2d 54, 179 N. W. 2d 872.

No. 1428. FRIED ET AL. *v.* DANAHER, CLERK OF CIRCUIT COURT, ET AL. Appeal from Sup. Ct. Ill. dismissed for want of substantial federal question. Reported below: 46 Ill. 2d 469, 263 N. E. 2d 820.

No. 962. KOSTAMO *v.* NORTHERN CITY NATIONAL BANK, ADMINISTRATOR, ET AL. Appeal from Sup. Ct. Minn. dismissed for want of substantial federal question. MR. JUSTICE DOUGLAS and MR. JUSTICE BRENNAN dissent from dismissal of appeal. Reported below: 287 Minn. 556, 178 N. W. 2d 896.

402 U. S.

April 19, 1971

No. 5925. *HIETALA v. HEIR OF PAKARINEN*. Appeal from Sup. Ct. Minn. dismissed for want of substantial federal question. MR. JUSTICE DOUGLAS and MR. JUSTICE BRENNAN dissent from dismissal of appeal. MR. JUSTICE BLACKMUN took no part in the consideration or decision of this case. Reported below: 287 Minn. 330, 178 N. W. 2d 714.

*Vacated and Remanded on Appeal*

No. 1353. *MCCANN, DISTRICT ATTORNEY OF MILWAUKEE COUNTY v. BABBITZ*. Appeal from D. C. E. D. Wis. Judgment vacated and case remanded for reconsideration in light of *Younger v. Harris*, 401 U. S. 37; and *Samuels v. Mackell* and *Fernandez v. Mackell*, 401 U. S. 66. MR. JUSTICE DOUGLAS dissents from the remand. Reported below: 320 F. Supp. 219.

*Certiorari Dismissed\**

No. 5029. *ROMONTIO v. UNITED STATES*. C. A. 10th Cir. [Certiorari granted, 400 U. S. 901.] Writ of certiorari dismissed as improvidently granted. Reported below: 400 F. 2d 618.

*Miscellaneous Orders*

No. 538. *SWARB ET AL. v. LENNOX ET AL.* Appeal from D. C. E. D. Pa. [Probable jurisdiction noted, 401 U. S. 991.] Motion to proceed on original record and motion to dispense with printing appellants' brief on merits granted.

No. 1042. *DIFFENDERFER ET AL. v. CENTRAL BAPTIST CHURCH OF MIAMI, FLORIDA, INC., ET AL.* Appeal from D. C. S. D. Fla. [Probable jurisdiction noted, 401 U. S. 934.] Joint motion to dispense with printing appendix record granted.

---

\*[REPORTER'S NOTE: This is a new category for summary dispositions. Cf. REPORTER'S NOTE, 398 U. S. 901.]

April 19, 1971

402 U. S.

No. 798. UNITED STATES ET AL. *v.* MITCHELL ET AL. C. A. 5th Cir. [Certiorari granted, 400 U. S. 1008.] Motion of respondent Angello for additional time for oral argument granted and an additional 15 minutes allotted for that purpose. The Solicitor General also granted an additional 15 minutes to argue on behalf of the United States.

No. 835. DEWEY *v.* REYNOLDS METALS CO. C. A. 6th Cir. [Certiorari granted, 400 U. S. 1008.] Motions of National Jewish Commission on Law & Public Affairs et al., Chamber of Commerce of the United States, and American Jewish Congress for leave to file briefs as *amici curiae* granted. MR. JUSTICE HARLAN took no part in the consideration or decision of these motions.

No. 1463. DEKAR INDUSTRIES, INC., ET AL. *v.* BISSETT-BERMAN CORP. C. A. 9th Cir. Motion of respondent to restrict distribution of petition or in the alternative to delete portions thereof denied. Reported below: 434 F. 2d 1304.

No. 6303. TRULL *v.* SMITH, WARDEN. Motion for leave to file petition for writ of certiorari denied.

No. 6319. NEY *v.* FIELD, MEN'S COLONY SUPERINTENDENT;

No. 6474. BROWN *v.* BUCHKOE, WARDEN;

No. 6579. WARD *v.* PAGE, WARDEN; and

No. 6663. REESE ET AL. *v.* SMITH, WARDEN. Motions for leave to file petitions for writs of habeas corpus denied.

No. 6601. HARRIS *v.* LAFAYE; and

No. 6665. LAUGHLIN *v.* UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT. Motions for leave to file petitions for writs of mandamus denied.

402 U. S.

April 19, 1971

*Probable Jurisdiction Noted*

No. 1346. UNITED STATES *v.* TOPCO ASSOCIATES, INC. Appeal from D. C. N. D. Ill. Probable jurisdiction noted. Reported below: 319 F. Supp. 1031.

*Certiorari Granted*

No. 1331. AFFILIATED UTE CITIZENS OF UTAH ET AL. *v.* UNITED STATES ET AL. C. A. 10th Cir. Certiorari granted. Reported below: 431 F. 2d 1337 and 1349.

*Certiorari Denied.* (See also Nos. 1347, 1368, 1426, and 6381, *supra.*)

No. 1023. HEALY ET AL. *v.* ILLINOIS. App. Ct. Ill., 1st Dist. Certiorari denied. Reported below: 126 Ill. App. 2d 189, 261 N. E. 2d 468.

No. 1189. DELEGGE *v.* UNITED STATES;

No. 1277. DADDANO *v.* UNITED STATES; and

No. 6532. CAIN *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied. Reported below: 432 F. 2d 1119.

No. 1228. ROBERTS *v.* STATE REAL ESTATE COMMISSION. Sup. Ct. Pa. Certiorari denied. Reported below: 441 Pa. 159, 271 A. 2d 246.

No. 1265. CONSTRUCTION & GENERAL LABORERS' LOCAL UNION No. 246, LABORERS' INTERNATIONAL UNION OF NORTH AMERICA, AFL-CIO *v.* JORDAN Co. Sup. Ct. Ga. Certiorari denied. Reported below: 226 Ga. 682, 177 S. E. 2d 54.

No. 1294. MCAFEE ET AL. *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. Reported below: 431 F. 2d 1360.

No. 1337. MORELLI ET AL. *v.* NEW YORK; and

No. 1399. COLON *v.* NEW YORK. Ct. App. N. Y. Certiorari denied. Reported below: 28 N. Y. 2d 1, 267 N. E. 2d 577.

April 19, 1971

402 U.S.

No. 1296. *EL RANCO, INC., ET AL. v. FIRST NATIONAL BANK OF NEVADA, ADMINISTRATOR*. C. A. 9th Cir. Certiorari denied.

No. 1308. *UNITED MINE WORKERS OF AMERICA v. DISTRICT 50, UNITED MINE WORKERS OF AMERICA, AKA INTERNATIONAL UNION OF DISTRICT 50, UNITED MINE WORKERS OF AMERICA*. C. A. D. C. Cir. Certiorari denied. Reported below: 140 U. S. App. D. C. 349, 435 F. 2d 421.

No. 1338. *BETO, CORRECTIONS DIRECTOR v. MARION*. C. A. 5th Cir. Certiorari denied. Reported below: 434 F. 2d 29.

No. 1339. *HALDANE v. RUPPE ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 435 F. 2d 647.

No. 1342. *McMANN, WARDEN v. OWEN*. C. A. 2d Cir. Certiorari denied. Reported below: 435 F. 2d 813.

No. 1345. *NOLL MOTORS, INC. v. NATIONAL LABOR RELATIONS BOARD*. C. A. 8th Cir. Certiorari denied. Reported below: 433 F. 2d 853.

No. 1357. *LOCAL 134, INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS, AFL-CIO, ET AL. v. NATIONAL LABOR RELATIONS BOARD*. C. A. 7th Cir. Certiorari denied. Reported below: 433 F. 2d 302.

No. 1358. *COAKLEY v. REISING ET AL.* Ct. Civ. App. Tex., 13th Sup. Jud. Dist. Certiorari denied. Reported below: 457 S. W. 2d 431.

No. 1361. *SINATRA v. GOODYEAR TIRE & RUBBER Co. ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 435 F. 2d 711.

No. 1369. *MOORE v. UNITED STATES*. C. A. D. C. Cir. Certiorari denied. Reported below: 140 U. S. App. D. C. 309, 435 F. 2d 113.

402 U.S.

April 19, 1971

No. 1366. BAUM *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied. Reported below: 435 F. 2d 1197.

No. 1372. BROWN *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied. Reported below: 436 F. 2d 517.

No. 1374. GRANGER ET AL. *v.* CITY OF MENTOR. Ct. Common Pleas, Lake County, Ohio. Certiorari denied.

No. 1377. ROSE ET UX. *v.* COMMISSIONER OF INTERNAL REVENUE. C. A. 5th Cir. Certiorari denied. Reported below: 435 F. 2d 149.

No. 1379. INTERNATIONAL METAL SPECIALTIES, INC. *v.* NATIONAL LABOR RELATIONS BOARD. C. A. 2d Cir. Certiorari denied. Reported below: 433 F. 2d 870.

No. 1380. MATHER CONSTRUCTION CO. ET AL. *v.* CONTINENTAL CASUALTY CO. ET AL. C. A. D. C. Cir. Certiorari denied. Reported below: 143 U. S. App. D. C. 234, 443 F. 2d 649.

No. 1382. MACLEOD *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied. Reported below: 436 F. 2d 947.

No. 1384. RAYMOND *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied. Reported below: 436 F. 2d 951.

No. 1385. KIRKLAND, TRUSTEE IN BANKRUPTCY *v.* PROTECTIVE COMMITTEE FOR INDEPENDENT STOCKHOLDERS OF TMT TRAILER FERRY, INC., ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 434 F. 2d 804.

No. 1388. MESSICK, DBA GEORGIAN HALL MOTOR LODGE, ET AL. *v.* GORDON. C. A. 4th Cir. Certiorari denied.

No. 1400. DROBNICK ET AL. (FIRST NATIONAL BANK OF WAUKEGAN, TRUSTEE) *v.* FOSS PARK DISTRICT. App. Ct. Ill., 2d Dist. Certiorari denied. Reported below: 125 Ill. App. 2d 276, 260 N. E. 2d 474.

April 19, 1971

402 U. S.

No. 1396. *LOMBARDOZZI v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 436 F. 2d 878.

No. 1401. *BAGEL BAKERS COUNCIL OF GREATER NEW YORK ET AL. v. NATIONAL LABOR RELATIONS BOARD*. C. A. 2d Cir. Certiorari denied. Reported below: 434 F. 2d 884.

No. 1403. *STANLEY AIR TOOLS, A DIVISION OF STANLEY WORKS v. NATIONAL LABOR RELATIONS BOARD*. C. A. 6th Cir. Certiorari denied. Reported below: 432 F. 2d 358.

No. 1404. *NORIEGA v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 437 F. 2d 435.

No. 1405. *LESLIE SALT Co. v. ALAMEDA CONSERVATION ASSN. ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 437 F. 2d 1087.

No. 1407. *DOYLE v. KOELBL ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 434 F. 2d 1014.

No. 1408. *BOARD OF EDUCATION OF THE CITY OF CHICAGO v. KING ET AL.* C. A. 7th Cir. Certiorari denied. Reported below: 435 F. 2d 295.

No. 1410. *CERTAIN SPACE IN PROPERTY KNOWN AS CHIMES BUILDING ET AL. v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 435 F. 2d 872.

No. 1411. *NATIONAL BANK OF ALBANY PARK IN CHICAGO, TRUSTEE, ET AL. v. CITY OF CHICAGO IN TRUST FOR USE OF SCHOOLS*. Sup. Ct. Ill. Certiorari denied. Reported below: See 127 Ill. App. 2d 51, 261 N. E. 2d 711.

No. 1416. *CANEL LODGE No. 700, INTERNATIONAL ASSOCIATION OF MACHINISTS & AEROSPACE WORKERS, AFL-CIO v. UNITED AIRCRAFT CORP.* C. A. 2d Cir. Certiorari denied. Reported below: 436 F. 2d 1.

402 U. S.

April 19, 1971

No. 1417. *SHERWOOD ET UX. v. UNITED STATES*. C. A. 10th Cir. Certiorari denied. Reported below: 435 F. 2d 867.

No. 1418. *SANDOVAL ET AL. v. CALIFORNIA ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 434 F. 2d 635.

No. 1422. *SHAW ET UX. v. UNITED STATES*. C. A. 2d Cir. Certiorari denied.

No. 1427. *AETNA LIFE INSURANCE CO. v. LESTER*. C. A. 5th Cir. Certiorari denied. Reported below: 433 F. 2d 884.

No. 1437. *ARMSTRONG EQUIPMENT CO. v. CLARK EQUIPMENT CO. ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 434 F. 2d 1039.

No. 1458. *COSTEN ET VIR v. HIRSCHBACH MOTOR LINE ET AL.* Sup. Ct. La. Certiorari denied. Reported below: 256 La. 1158, 241 So. 2d 256.

No. 1462. *SPARKS v. ALABAMA*. Ct. Crim. App. Ala. Certiorari denied. Reported below: 46 Ala. App. 357, 242 So. 2d 403.

No. 1466. *DEMOCRATIC ORGANIZATION OF COOK COUNTY ET AL. v. SHAKMAN ET AL.* C. A. 7th Cir. Certiorari denied.

No. 1486. *ATLAS ENGINE WORKS, INC. v. NATIONAL LABOR RELATIONS BOARD*. C. A. 6th Cir. Certiorari denied. Reported below: 435 F. 2d 558.

No. 6071. *BOOTH v. WARDEN, MARYLAND HOUSE OF CORRECTION*. C. A. 4th Cir. Certiorari denied.

No. 6127. *SCOTT v. MANCUSI, WARDEN*. C. A. 2d Cir. Certiorari denied. Reported below: 429 F. 2d 104.

April 19, 1971

402 U. S.

No. 6163. *REYNOLDS v. ARIZONA*. C. A. 9th Cir. Certiorari denied.

No. 6182. *BUSTOS v. CALIFORNIA*. Ct. App. Cal., 2d App. Dist. Certiorari denied.

No. 6231. *MALONE v. PENNSYLVANIA*. Sup. Ct. Pa. Certiorari denied.

No. 6261. *DUDLEY v. ILLINOIS*. Sup. Ct. Ill. Certiorari denied. Reported below: 46 Ill. 2d 305, 263 N. E. 2d 1.

No. 6273. *LAY v. FLORIDA*. Dist. Ct. App. Fla., 4th Dist. Certiorari denied.

No. 6299. *HILL v. CIRCUIT COURT OF HILLSBOROUGH*. Sup. Ct. Fla. Certiorari denied.

No. 6318. *BLANTON v. SMITH, WARDEN*. C. A. 5th Cir. Certiorari denied.

No. 6326. *FITZSIMMONS v. PERINI, CORRECTIONAL SUPERINTENDENT*. C. A. 6th Cir. Certiorari denied.

No. 6332. *MURPHY v. CONTE*. Sup. Ct. Wash. Certiorari denied.

No. 6337. *LOCKRIDGE ET AL. v. SUPERIOR COURT OF LOS ANGELES COUNTY*. Sup. Ct. Cal. Certiorari denied. Reported below: 3 Cal. 3d 166, 474 P. 2d 683.

No. 6339. *NICHOLS v. CALIFORNIA*. Sup. Ct. Cal. Certiorari denied. Reported below: 3 Cal. 3d 150, 474 P. 2d 673.

No. 6347. *WALTERS, AKA ROBINSON v. UNITED STATES*. C. A. 7th Cir. Certiorari denied.

No. 6358. *MAYFIELD v. OHIO*. Sup. Ct. Ohio. Certiorari denied. Reported below: 24 Ohio St. 2d 36, 263 N. E. 2d 311.

402 U. S.

April 19, 1971

No. 6369. *RUSH v. ILLINOIS*. App. Ct. Ill., 4th Dist. Certiorari denied.

No. 6387. *GILYARD v. ILLINOIS*. App. Ct. Ill., 1st Dist. Certiorari denied. Reported below: 124 Ill. App. 2d 95, 260 N. E. 2d 364.

No. 6398. *LANDGHAM v. ILLINOIS*. App. Ct. Ill., 1st Dist. Certiorari denied. Reported below: 122 Ill. App. 2d 9, 257 N. E. 2d 484.

No. 6408. *PASZEK v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 432 F. 2d 780.

No. 6428. *LIGUE v. ILLINOIS*. Sup. Ct. Ill. Certiorari denied. Reported below: See 123 Ill. App. 2d 171, 260 N. E. 2d 20.

No. 6437. *SCOTT v. CARDWELL, WARDEN*. C. A. 6th Cir. Certiorari denied.

No. 6438. *FOGGINI, AKA SWARTZ v. ILLINOIS*. Sup. Ct. Ill. Certiorari denied. Reported below: 47 Ill. 2d 150, 265 N. E. 2d 133.

No. 6469. *MUHAMMAD v. MANCUSI, WARDEN*. C. A. 2d Cir. Certiorari denied. Reported below: 432 F. 2d 1046.

No. 6497. *HARPER v. CICCONE, MEDICAL CENTER DIRECTOR*. C. A. 8th Cir. Certiorari denied. Reported below: 434 F. 2d 247.

No. 6506. *SOSTRE v. MITCHELL, ATTORNEY GENERAL*. C. A. D. C. Cir. Certiorari denied.

No. 6520. *VERMEULEN v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 436 F. 2d 72.

No. 6526. *HEPLER v. UNITED STATES*. C. A. 4th Cir. Certiorari denied.

April 19, 1971

402 U. S.

No. 6530. *HASLAM v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 436 F. 2d 419.

No. 6542. *NORDESTE v. UNITED STATES*. C. A. 9th Cir. Certiorari denied.

No. 6546. *REEB v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 433 F. 2d 381.

No. 6549. *SULLIVAN v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 435 F. 2d 650.

No. 6556. *CHAPMAN v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 435 F. 2d 1245.

No. 6561. *WILLIAMS v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 436 F. 2d 1166.

No. 6577. *TANNER v. UNITED STATES*. C. A. 10th Cir. Certiorari denied. Reported below: 434 F. 2d 260.

No. 6581. *ZENCHAK v. UNITED STATES*. C. A. 6th Cir. Certiorari denied.

No. 6582. *HARGROVE v. RUNDLE, CORRECTIONAL SUPERINTENDENT*. C. A. 3d Cir. Certiorari denied.

No. 6585. *SEYFRIED v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 435 F. 2d 696.

No. 6591. *WILSON v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 436 F. 2d 122.

No. 6595. *MARTIN v. WASHINGTON*. Sup. Ct. Wash. Certiorari denied. Reported below: See 2 Wash. App. 904, 472 P. 2d 607.

No. 6596. *CARTER v. UNITED STATES*. C. A. D. C. Cir. Certiorari denied. Reported below: 141 U. S. App. D. C. 259, 437 F. 2d 692.

402 U. S.

April 19, 1971

No. 6597. *BORMAN ET AL. v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 437 F. 2d 44.

No. 6599. *PLATT v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 435 F. 2d 220.

No. 6603. *MOS v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 435 F. 2d 1259.

No. 6605. *TANNER v. PATE, WARDEN, ET AL.* C. A. 7th Cir. Certiorari denied.

No. 6606. *HOLMAN v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 436 F. 2d 863.

No. 6607. *BOURNETT v. TWOMEY, WARDEN*. C. A. 7th Cir. Certiorari denied.

No. 6608. *HICKS v. NORTH CAROLINA*. Sup. Ct. N. C. Certiorari denied. Reported below: 277 N. C. 349, 177 S. E. 2d 283.

No. 6609. *JORDAN v. CALIFORNIA*. Ct. App. Cal., 1st App. Dist. Certiorari denied.

No. 6616. *LEWIS v. SMITH, WARDEN*. Sup. Ct. Ga. Certiorari denied. Reported below: 227 Ga. 220, 179 S. E. 2d 745.

No. 6618. *ROSE v. NEW YORK*. Ct. App. N. Y. Certiorari denied.

No. 6620. *LOPEZ v. OHIO*. Sup. Ct. Ohio. Certiorari denied.

No. 6631. *MASON v. CALIFORNIA*. Sup. Ct. Cal. Certiorari denied.

No. 6641. *ENTY v. PENNSYLVANIA*. Sup. Ct. Pa. Certiorari denied. Reported below: 442 Pa. 39, 271 A. 2d 926.

April 19, 1971

402 U. S.

No. 6634. HACKER *v.* GAFFNEY, WARDEN. C. A. 10th Cir. Certiorari denied.

No. 6644. WILLIAMS *v.* McMANN, WARDEN. C. A. 2d Cir. Certiorari denied. Reported below: 436 F. 2d 103.

No. 6650. MORRISON *v.* NORTH CAROLINA. C. A. 4th Cir. Certiorari denied.

No. 6655. HUGHES *v.* DISTRICT ATTORNEY FOR ATLANTA, GEORGIA, ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 436 F. 2d 568.

No. 6669. ALEXANDER *v.* PERINI, CORRECTIONAL SUPERINTENDENT. C. A. 6th Cir. Certiorari denied.

No. 6670. MCKINNEY *v.* PATUXENT INSTITUTION DIRECTOR. Ct. Sp. App. Md. Certiorari denied.

No. 6675. DUFFEN *v.* CONNECTICUT. Sup. Ct. Conn. Certiorari denied. Reported below: 160 Conn. 77, 273 A. 2d 863.

No. 6678. HATHORNE *v.* TEXAS. Ct. Crim. App. Tex. Certiorari denied. Reported below: 459 S. W. 2d 826.

No. 1248. LAVALLEE, CORRECTIONAL SUPERINTENDENT *v.* MILLER ET AL. C. A. 2d Cir. Motion of respondent Miller for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 436 F. 2d 875.

No. 1279. TIMMONS *v.* UNITED STATES; and

No. 1315. NOLTE *v.* UNITED STATES. C. A. 9th Cir. Motions to dispense with printing petitions granted. Certiorari denied. Reported below: 432 F. 2d 1011.

No. 1281. HEINE *v.* RAUS. C. A. 4th Cir. Certiorari denied. MR. JUSTICE DOUGLAS and MR. JUSTICE STEWART are of the opinion that certiorari should be granted. Reported below: 432 F. 2d 1007.

402 U. S.

April 19, 1971

No. 1348. *LITTLEPAGE v. UNITED STATES*. C. A. 5th Cir. Motion to dispense with printing petition granted. Certiorari denied. Reported below: 435 F. 2d 498.

No. 1364. *TAYLOR v. UNITED STATES*. C. A. 6th Cir. Motion to dispense with printing petition granted. Certiorari denied. Reported below: 442 F. 2d 1341.

No. 1310. *EDWARDS v. BRYAN ET AL.* C. A. 8th Cir. Certiorari denied. MR. JUSTICE BLACKMUN took no part in the consideration or decision of this petition. Reported below: 435 F. 2d 28.

No. 6635. *SMITH v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. MR. JUSTICE BLACKMUN took no part in the consideration or decision of this petition. Reported below: 431 F. 2d 1.

No. 1340. *PROFESSIONAL AIR TRAFFIC CONTROLLERS ORGANIZATION ET AL. v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. THE CHIEF JUSTICE, MR. JUSTICE STEWART, and MR. JUSTICE WHITE are of the opinion that certiorari should be granted. Reported below: 438 F. 2d 79.

No. 1350. *UNITED TRANSPORTATION UNION v. ILLINOIS CENTRAL RAILROAD Co.* C. A. 7th Cir. Certiorari denied. MR. JUSTICE BRENNAN and MR. JUSTICE WHITE are of the opinion that certiorari should be granted. Reported below: 433 F. 2d 566.

No. 1351. *INTERBORO CONTRACTORS, INC. v. NATIONAL LABOR RELATIONS BOARD*. C. A. 2d Cir. Certiorari denied. MR. JUSTICE WHITE is of the opinion that certiorari should be granted. Reported below: 432 F. 2d 854.

No. 1356. *FRANCO v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. MR. JUSTICE MARSHALL took no part in the consideration or decision of this petition. Reported below: 434 F. 2d 956.

April 19, 1971

402 U. S.

No. 1316. 2,606.84 ACRES OF LAND IN TARRANT COUNTY, TEXAS, ET AL. *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 432 F. 2d 1286.

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

In 1945 Congress authorized the Benbrook Dam and Reservoir Project on the Clear Fork of the Trinity River near the southwest outskirts of Fort Worth, Texas. The authorization stated in part:

“The improvement of the Trinity River and tributaries, Texas, for navigation, flood control, and allied purposes is hereby approved and authorized in accordance with the reports contained in House Document Numbered 403, Seventy-seventh Congress.” § 2, 59 Stat. 18.

The project described in House Document 403 called for a gated spillway dam to be located on the Clear Fork at river mile 11.3. The storage capacity of the reservoir in acre feet of water was to be dead storage, 603; conservation storage, 30,603; and controlled (combined conservation and flood control) storage, 208,850. The elevation of the spillway crest was 672 feet and the top of the dam was 702 feet. Approximately 6,200 acres of land would have been required. Projected cost of the land was \$483,600 and the entire project was estimated to cost about \$5,205,502.

The project that was subsequently built bears little resemblance to the one described in House Document 403. It is located 3.7 miles farther upstream at river mile 15. It is an uncontrolled spillway type. The notch crest of the spillway is 710 feet, and the main spillway crest is 724 feet. The top of the dam is 747 feet. The storage capacity in acre feet of water as stated by the Definite Project Report is dead storage, 17,750; conservation storage, 88,250; and controlled storage, 410,013. Over 13,000

acres of land were acquired at a cost of about \$2,500,000; total project cost was well over \$14,000,000.

This case arose when the United States filed a petition for condemnation of petitioners' land in federal district court. Some 1,207 acres were finally sought. Of this land some lies below the elevation of 697.1 feet (conservation pool elevation, the maximum water level of the pool below flood stage). That land below elevation 697.1 is not involved in the case here. But some 647 acres lie above that elevation. The Army Corps of Engineers took that land for recreation purposes. Petitioners claim that taking is not authorized by law. Petitioners have consistently contended that the land was taken for recreation purposes and that was not authorized under statutes authorizing the Benbrook Project and that the project, as built, was so radically and materially changed that it had to be resubmitted to Congress for a new authorization.

Shortly after the Government filed its condemnation suit, petitioners' predecessor, Richardson, instituted discovery proceedings. The Secretary of the Army refused to submit and the District Court abated the cause with bare legal title left in the Government and possession restored to Richardson pending the Government's obedience to the court's discovery orders. The Court of Appeals for the Fifth Circuit affirmed this action. *United States v. Richardson*, 204 F. 2d 552 (1953). The Government later submitted to discovery and discovery showed, as General Sturgis, former Chief of the Corps, admitted to a congressional subcommittee, that "it could have been very embarrassing to have justified his [the Secretary's] certification of the public need of all of this particular taking."<sup>1</sup>

---

<sup>1</sup> Hearings on Army-Interior Reservoir Land Acquisition Policy before a Subcommittee of the House Committee on Government Operations, 85th Cong., 1st Sess., 422 (1957).

As a result of a congressional investigation and discovery in this case certain facts about this case emerged. Petitioners allege that prior to 1953 the Corps had a "field practice" of taking more property than was authorized in order to create land for purely recreational purposes. According to the District Court, 309 F. Supp. 887, almost simultaneously with the 1945 authorization the Corps in the present case began its plans for twice as much land as had been authorized with much of the excess for purely recreational purposes. Maps were prepared showing the locations of the recreational facilities. The final recreational plans for the project were in the form of Appendix VIII E to the Definite Project Report. In preliminary drafts certain proposed expenses were designated as "for recreation," but in final drafts they were credited to "preparation of master plan." Similarly, the maps initially showed "recreational areas," but in final stages the label was changed to "reservoir management." In addition, Appendix VIII E was stamped "Not for Public Release." According to the District Court, no other appendix was so classified. *Id.*, at 896.

Justification for the excess land was necessary. The District Court found that to accomplish this, the Corps created the Great Storm and used its Great Storm as a basis for its spillway design on the dam as built. It is said that the storm will indeed be great, if it ever comes, dumping some 28.2 inches of rain in the area within a 60-hour period. The likelihood of this happening is said not to be high. Average annual rainfall in the area is 31.3 inches. The greatest storm ever recorded there dropped 12.57 inches in a 57-hour period. The District Court says the Great Storm was invented from a storm near Thrall, Texas, in 1922. Thrall is 130 miles from the Gulf of Mexico and over 150 miles from the Benbrook Project. The Thrall storm dropped an uncertain amount of rain and reports of the amount increased as

the years passed. The District Court found that in all probability about 18–19 inches were dropped in a three-day period in Thrall.

But even with the Great Storm, recordbreaking though it would be, the District Court found that the Corps could not justify the height of the spillway necessary to obtain the land it wanted for recreational purposes. But one Great Storm deserves another and that, it is said, is what the Corps postulated. The Great Storm was assumed to come right after another big storm had dropped large amounts of rain in the area, thus preventing any opening of the dam gates. Furthermore, none of the spillway design criteria made any allowance for the well-established reservoir management practice of lowering the level of water during potential flood months. And large floods have occurred only during three months of the year in the Fort Worth area.

The District Court found that the taking of the land for recreational purpose was lawless. The Court of Appeals for the Fifth Circuit reversed, concluding that recreational development was an "allied purpose" within the meaning of the project authorization and also concluding the modifications were proper and needed no further authorization. 432 F. 2d, at 1291.

From the Solicitor Général's brief in opposition there is much we do not know about the Government position. There have been congressional inquiries into the Corps' actions in taking more land than necessary for projects which it is building. Hearings on Army-Interior Reservoir Land Acquisition Policy before a Subcommittee of the House Committee on Government Operations, 85th Cong., 1st Sess. (1957); Report of the Subcommittee on Deficiencies and Army Civil Functions of the House Committee on Appropriations, Investigation of Corps of Engineers Civil Works Program, 82d Cong., 1st Sess.

Appendix to opinion of DOUGLAS, J., dissenting 402 U.S.

(Comm. Print 1951). The Solicitor General does not discuss the effect of these reports on this litigation.

Further, there is some relevant statutory material which the Solicitor General does not discuss or cite. Section 701b-8 of 33 U. S. C. states that "[n]o . . . modification not authorized, of a project . . . shall be authorized . . . unless a report for such . . . modification has been previously submitted by the Chief of Engineers . . . in conformity with existing law." Section 701m authorizes the Corps to make a dam smaller than originally planned, but does not authorize making a dam larger, as happened here. Section 701 requires reports for projects or modifications covering, *inter alia*, "the extent and character of the area to be affected by the proposed improvement" and "such other uses as may be properly related to or coordinated with the project."

Finally we do not know to what use the land has been put. If there is no development yet, what are the current plans? The National Environmental Policy Act of 1969, 42 U. S. C. § 4331 *et seq.* (1964 ed., Supp. V), requires environmental impact statements for proposed projects.<sup>2</sup> So far as we are advised, no such statement has been filed.

The questions raised are of such great public importance that I dissent from a denial of certiorari.

#### APPENDIX TO OPINION OF DOUGLAS, J., DISSENTING

The National Environmental Policy Act of 1969, 83 Stat. 852, provides in § 102 the following:

SEC. 102. The Congress authorizes and directs that, to the fullest extent possible: (1) the policies, regulations, and public laws of the United States shall be interpreted

---

<sup>2</sup> The relevant portions of this Act are set forth in an Appendix to this dissent.

916 Appendix to opinion of DOUGLAS, J., dissenting

and administered in accordance with the policies set forth in this Act, and (2) all agencies of the Federal Government shall—

(A) utilize a systematic, interdisciplinary approach which will insure the integrated use of the natural and social sciences and the environmental design arts in planning and in decisionmaking which may have an impact on man's environment;

(B) identify and develop methods and procedures, in consultation with the Council on Environmental Quality established by title II of this Act, which will insure that presently unquantified environmental amenities and values may be given appropriate consideration in decisionmaking along with economic and technical considerations;

(C) include in every recommendation or report on proposals for legislation and other major Federal actions significantly affecting the quality of the human environment, a detailed statement by the responsible official on—

- (i) the environmental impact of the proposed action,
- (ii) any adverse environmental effects which cannot be avoided should the proposal be implemented,
- (iii) alternatives to the proposed action,
- (iv) the relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity, and
- (v) any irreversible and irretrievable commitments of resources which would be involved in the proposed action should it be implemented.

Prior to making any detailed statement, the responsible Federal official shall consult with and obtain the comments of any Federal agency which has jurisdiction by law or special expertise with respect to any environmental impact involved. Copies of such statement and the comments and views of the appropriate Federal, State, and local agencies, which are authorized to develop

April 19, 1971

402 U. S.

and enforce environmental standards, shall be made available to the President, the Council on Environmental Quality and to the public as provided by section 552 of title 5, United States Code, and shall accompany the proposal through the existing agency review processes;

(D) study, develop, and describe appropriate alternatives to recommended courses of action in any proposal which involves unresolved conflicts concerning alternative uses of available resources;

(E) recognize the worldwide and long-range character of environmental problems and, where consistent with the foreign policy of the United States, lend appropriate support to initiatives, resolutions, and programs designed to maximize international cooperation in anticipating and preventing a decline in the quality of mankind's world environment;

(F) make available to States, counties, municipalities, institutions, and individuals, advice and information useful in restoring, maintaining, and enhancing the quality of the environment;

(G) initiate and utilize ecological information in the planning and development of resource-oriented projects; and

(H) assist the Council on Environmental Quality established by title II of this Act.

No. 1359. *WHEELER v. LYKES BROS. STEAMSHIP Co., INC., ET AL.* C. A. 5th Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. Reported below: 431 F. 2d 570.

No. 1386. *CHICAGO HOUSING AUTHORITY ET AL. v. GAUTREAUX ET AL.* C. A. 7th Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. Reported below: 436 F. 2d 306.

402 U. S.

April 19, 1971

No. 1432. *LYND ET AL. v. CITY OF CHICAGO*. Sup. Ct. Ill. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. Reported below: 47 Ill. 2d 205, 265 N. E. 2d 116.

No. 6087. *McKENZIE v. DIRECTOR, PATUXENT INSTITUTION*. C. A. 4th Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted.

No. 6567. *KEMBER v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. Reported below: 437 F. 2d 534.

No. 1376. *SAMUEL GOLDWYN PRODUCTIONS ET AL. v. MULVEY*. C. A. 9th Cir. Certiorari denied. MR. JUSTICE DOUGLAS took no part in the consideration or decision of this petition. Reported below: 433 F. 2d 1073.

No. 6082. *HARRINGTON ET UX. v. CALIFORNIA*. Sup. Ct. Cal. Certiorari denied. MR. JUSTICE HARLAN would grant certiorari, vacate judgment below, and remand case in light of *Chimel v. California*, 395 U. S. 752 (1969), and his separate opinion in *Mackey v. United States* (and companion cases), 401 U. S. 667, 675. Reported below: 2 Cal. 3d 991, 471 P. 2d 961.

No. 6484. *AGUIRRE v. CALIFORNIA*. Ct. App. Cal., 2d App. Dist. Certiorari denied. MR. JUSTICE HARLAN would grant certiorari, vacate judgment below, and remand case in light of *Chimel v. California*, 395 U. S. 752 (1969), and his separate opinion in *Mackey v. United States* (and companion cases), 401 U. S. 667, 675. Reported below: 10 Cal. App. 3d 884, 89 Cal. Rptr. 384.

No. 6105. *CANTRELL v. GAFFNEY, WARDEN*. C. A. 10th Cir. Certiorari denied. MR. JUSTICE BLACKMUN took no part in the consideration or decision of this petition.

April 19, 1971

402 U. S.

No. 6512. *CANTRELL v. KANSAS*. Sup. Ct. Kan. Certiorari denied. MR. JUSTICE BLACKMUN took no part in the consideration or decision of this petition. Reported below: 206 Kan. 323, 478 P. 2d 192.

No. 6325. *NEMKE v. ILLINOIS*. Sup. Ct. Ill. Certiorari denied. MR. JUSTICE HARLAN and MR. JUSTICE MARSHALL would grant certiorari, vacate judgment below, and remand case in light of *Escobedo v. Illinois*, 378 U. S. 478 (1964), *Miranda v. Arizona*, 384 U. S. 436 (1966), and MR. JUSTICE HARLAN's separate opinion in *Mackey v. United States* (and companion cases), 401 U. S. 667, 675, and MR. JUSTICE MARSHALL's separate opinion in *Williams v. United States* (and companion case), 401 U. S. 646, 665. Reported below: 46 Ill. 2d 49, 263 N. E. 2d 97.

No. 6698. *GANCI v. NEW YORK*. Ct. App. N. Y. Certiorari denied. MR. JUSTICE BRENNAN and MR. JUSTICE STEWART are of the opinion that certiorari should be granted. Reported below: 27 N. Y. 2d 418, 267 N. E. 2d 263.

#### *Rehearing Denied*

No. 152. *PATTERSON v. HUMBLE OIL & REFINING CO. ET AL.*, 401 U. S. 922. Petition for rehearing denied. MR. JUSTICE HARLAN took no part in the consideration or decision of this petition.

No. 1034. *JACOBS v. UNITED STATES*, 401 U. S. 924. Petition for rehearing denied. MR. JUSTICE MARSHALL took no part in the consideration or decision of this petition.

No. 6276. *SINGAL v. BLACKWELL, WARDEN, ET AL.*, 401 U. S. 922. Motion for leave to file petition for rehearing denied.

402 U. S.

April 19, 1971

No. 370. *MAGNESIUM CASTING CO. v. NATIONAL LABOR RELATIONS BOARD*, 401 U. S. 137;

No. 964. *VAN SICKLE v. NEVADA*, 401 U. S. 910;

No. 966. *FLORIDA STATE BOARD OF DENTISTRY v. MACK*, 401 U. S. 960;

No. 1037. *PEACOCK v. RETAIL CREDIT CO.*, 401 U. S. 938;

No. 1130. *NOLYNN ASSOCIATION OF SEPARATE BAPTIST IN CHRIST OF KENTUCKY ET AL. v. OAK GROVE SEPARATE BAPTIST CHURCH ET AL.*, 401 U. S. 955;

No. 1132. *CITY OF MILLARD ET AL. v. CITY OF OMAHA ET AL.*, 401 U. S. 951;

No. 5740. *GARCIA ET UX. v. UNITED STATES*, 400 U. S. 945;

No. 5942. *SHIRLEY v. LOUISIANA*, 401 U. S. 926;

No. 6175. *SPIGNER v. UNITED STATES*, 401 U. S. 918;

and

No. 6355. *MARAS v. GEHRING*, 401 U. S. 946. Petitions for rehearing denied.

No. 1211. *LEVY v. UNITED STATES*, 401 U. S. 962. Petition for rehearing denied. MR. JUSTICE DOUGLAS and 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 Appeals for the Second Circuit beginning June 1, 1971, and ending June 4, 1971, 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.

April 21, 26, 1971

402 U. S.

APRIL 21, 1971

*Miscellaneous Order*

No. ——. MORTON, SECRETARY OF THE INTERIOR *v.* QUAKER ACTION GROUP ET AL. Upon consideration of the application of the Solicitor General of the United States for a stay herein and the opposition to such stay on behalf of the respondents presented to THE CHIEF JUSTICE as Circuit Justice for the District of Columbia Circuit at 6 p. m. on April 20, 1971, THE CHIEF JUSTICE entered an order, dated April 20, 1971, vacating the order of the United States Court of Appeals, dated April 19, 1971, which modified the preliminary injunction issued on April 16, 1971, by the United States District Court for the District of Columbia and reinstated the said order of the District Court, dated April 16, 1971, pending further order of the Court; and said matter being referred by THE CHIEF JUSTICE to the Court and the Court having considered the matter,

## IT IS ORDERED

(1) that the Order of the United States Court of Appeals for the District of Columbia Circuit, dated April 19, 1971, modifying the preliminary injunction issued by the United States District Court for the District of Columbia on April 16, 1971, is vacated;

(2) that the preliminary injunction issued by the United States District Court herein on April 16, 1971, is reinstated with full force and effect.

MR. JUSTICE DOUGLAS took no part in the consideration of this matter.

APRIL 26, 1971

*Miscellaneous Orders*

No. 48, Orig. MISSISSIPPI *v.* ARKANSAS. [Motion to file complaint granted, 400 U. S. 1019.]

IT IS ORDERED that the Honorable Clifford O'Sullivan, Senior Circuit Judge of the United States Court of Ap-

402 U. S.

April 26, 1971

peals for the Sixth Circuit, be, and he is hereby, appointed Special Master in this case. The Special Master shall have authority to fix the time and conditions for filing of additional pleadings and to direct subsequent proceedings, and authority to summon witnesses, issue subpoenas, and take such evidence as may be introduced and such as he may deem it necessary to call for. The Master is directed to submit such reports as he may deem appropriate.

The Master shall be allowed his actual expenses. The allowances to him, the compensation paid to his technical, stenographic, and clerical assistants, the cost of printing his report, and all other proper expenses shall be charged against and be borne by the parties in such proportion as the Court hereafter may approve.

IT IS FURTHER ORDERED that if the position of Special Master in this case becomes vacant during a recess of Court, THE CHIEF JUSTICE shall have authority to make a new designation which shall have the same effect as if originally made by the Court herein.

No. 1285. UNITED STATES *v.* BASS. C. A. 2d Cir. [Certiorari granted, 401 U. S. 993.] Motion of respondent for appointment of counsel granted. It is ordered that William E. Hellerstein, Esquire, of New York, New York, a member of the Bar of this Court, be, and he is hereby, appointed to serve as counsel for respondent in this case.

No. 5515. HUMPHREY *v.* CADY, WARDEN. C. A. 7th Cir. [Certiorari granted, 401 U. S. 973.] Motion of petitioner for appointment of counsel granted. It is ordered that Irvin B. Charne, Esquire, of Milwaukee, Wisconsin, a member of the Bar of this Court, be, and he is hereby, appointed to serve as counsel for petitioner in this case.

April 26, 1971

402 U. S.

No. 1395. *DESAPIO v. UNITED STATES*. C. A. 2d Cir. Motion of petitioner for leave to copy briefs for respondent in No. 825, October Term, 1970, granted. MR. JUSTICE WHITE took no part in the consideration or decision of this motion.

No. 5798. *ARGERSINGER v. HAMLIN, SHERIFF*. Sup. Ct. Fla. [Certiorari granted, 401 U. S. 908.] Motion of National Legal Aid & Defender Assn. to dispense with printing brief as *amicus curiae* granted.

No. 6046. *LEGO v. TWOMEY, WARDEN*. C. A. 7th Cir. [Certiorari granted, 401 U. S. 992.] Motion of petitioner for appointment of counsel granted. It is ordered that Nathan Lewin, Esquire, of Washington, D. C., a member of the Bar of this Court, be, and he is hereby, appointed to serve as counsel for petitioner in this case.

No. 6464. *EISENHARDT v. UNITED STATES*; and

No. 6765. *DAVIS v. CALIFORNIA ADULT AUTHORITY ET AL.* Motions for leave to file petitions for writs of habeas corpus denied.

No. 6697. *DIXON v. GORDON, U. S. DISTRICT JUDGE, ET AL.* Motion for leave to file petition for writ of mandamus denied.

*Probable Jurisdiction Noted*

No. 1412. *SCHILB ET AL. v. KUEBEL*. Appeal from Sup. Ct. Ill. Probable jurisdiction noted. Reported below: 46 Ill. 2d 538, 264 N. E. 2d 377.

*Certiorari Granted*

No. 1420. *NATIONAL LABOR RELATIONS BOARD v. NASH-FINCH Co., DBA JACK & JILL STORES*. C. A. 8th Cir. Certiorari granted. Reported below: 434 F. 2d 971.

402 U. S.

April 26, 1971

*Certiorari Denied*

No. 1307. *BELLAMY ET AL. v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 436 F. 2d 542.

No. 1343. *GLUCKSMAN v. UNITED STATES*. C. A. 2d Cir. Certiorari denied.

No. 1409. *BARNETT v. ILLINOIS*. App. Ct. Ill., 2d Dist. Certiorari denied. Reported below: 125 Ill. App. 2d 70, 260 N. E. 2d 303.

No. 1423. *ELBEL v. UNITED STATES*. C. A. 10th Cir. Certiorari denied.

No. 1430. *BENEDICT ET AL. v. COUNTY OF PEORIA*. Sup. Ct. Ill. Certiorari denied. Reported below: 47 Ill. 2d 166, 265 N. E. 2d 141.

No. 1431. *HINGLE v. PEREZ ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 434 F. 2d 1037.

No. 1439. *ETHICON, INC. v. HANDGARDS, INC., ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 432 F. 2d 438.

No. 1440. *WILSON v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 438 F. 2d 479.

No. 1444. *YOUNG v. NEW JERSEY*. Sup. Ct. N. J. Certiorari denied. Reported below: 57 N. J. 240, 271 A. 2d 569.

No. 1445. *DORR v. ILLINOIS*. Sup. Ct. Ill. Certiorari denied. Reported below: 47 Ill. 2d 458, 265 N. E. 2d 601.

No. 1446. *MCKOWN ET AL. v. PIERCE ET AL.* Sup. Ct. Tenn. Certiorari denied. Reported below: — Tenn. —, 461 S. W. 2d 950.

April 26, 1971

402 U. S.

No. 1450. *POLSON v. IDAHO*. Sup. Ct. Idaho. Certiorari denied. Reported below: 93 Idaho 912, 478 P. 2d 292.

No. 1451. *MAXWELL v. INDIANA*. Sup. Ct. Ind. Certiorari denied. Reported below: — Ind. —, 260 N. E. 2d 787.

No. 1464. *UNITED MINE WORKERS OF AMERICA v. BLUE DIAMOND COAL CO.* C. A. 6th Cir. Certiorari denied. Reported below: 436 F. 2d 551.

No. 1490. *HOWARD MANUFACTURING CO., INC. v. NATIONAL LABOR RELATIONS BOARD*. C. A. 8th Cir. Certiorari denied. Reported below: 436 F. 2d 581.

No. 1498. *HUBBARD v. KIEFEL*. C. A. 7th Cir. Certiorari denied.

No. 6217. *GOULD v. ZELKER, WARDEN*. App. Div., Sup. Ct. N. Y., 2d Jud. Dept. Certiorari denied.

No. 6244. *STARK v. MINNESOTA*. Sup. Ct. Minn. Certiorari denied. Reported below: 288 Minn. 286, 179 N. W. 2d 597.

No. 6600. *VIRGA v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 426 F. 2d 1320.

No. 6624. *TATE v. UNITED STATES*. C. A. 6th Cir. Certiorari denied.

No. 6625. *POTTER v. UNITED STATES*. C. A. 9th Cir. Certiorari denied.

No. 6627. *WILSON v. UNITED STATES*. C. A. 10th Cir. Certiorari denied. Reported below: 436 F. 2d 850.

No. 6628. *PARKER v. UNITED STATES*. C. A. D. C. Cir. Certiorari denied. Reported below: 142 U. S. App. D. C. 15, 439 F. 2d 525.

402 U. S.

April 26, 1971

No. 6632. *WILLIAMS v. UNITED STATES*. C. A. 6th Cir. Certiorari denied.

No. 6637. *CHAPMAN v. COLLINS, SHERIFF, ET AL.* C. A. 8th Cir. Certiorari denied. Reported below: 435 F. 2d 155.

No. 6642. *CARRIZOZA-ISLAS v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 436 F. 2d 422.

No. 6643. *WILLIAMS v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 435 F. 2d 1001.

No. 6647. *EATON v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 437 F. 2d 362.

No. 6653. *EDMONDSON v. UNITED STATES*. C. A. 10th Cir. Certiorari denied. Reported below: 435 F. 2d 1366.

No. 6654. *PHILLIPS v. UNITED STATES*. C. A. 7th Cir. Certiorari denied.

No. 6671. *MORALES v. CADY, WARDEN*. C. A. 7th Cir. Certiorari denied.

No. 6677. *WESTFALL v. OHIO*. Sup. Ct. Ohio. Certiorari denied.

No. 6679. *PALMER v. ILLINOIS*. Sup. Ct. Ill. Certiorari denied. Reported below: 47 Ill. 2d 289, 265 N. E. 2d 627.

No. 6683. *BRAXTON v. PERINI, CORRECTIONAL SUPERINTENDENT*. C. A. 6th Cir. Certiorari denied.

No. 6691. *KITCHENS v. McCULLOCH*. C. A. 5th Cir. Certiorari denied.

No. 6693. *COLBY v. KROPP, WARDEN*. C. A. 6th Cir. Certiorari denied.

April 26, 1971

402 U.S.

No. 6699. *LEIGHTY v. GOODWIN*, U. S. DISTRICT JUDGE, ET AL. C. A. 9th Cir. Certiorari denied.

No. 6700. *BRYANT v. UNITED STATES*. C. A. D. C. Cir. Certiorari denied. Reported below: 143 U. S. App. D. C. 53, 442 F. 2d 775.

No. 6701. *GRIFFITH v. FLORIDA*. Dist. Ct. App. Fla., 4th Dist. Certiorari denied. Reported below: 239 So. 2d 523.

No. 6706. *HOWELL v. CALIFORNIA*. Ct. App. Cal., 1st App. Dist. Certiorari denied.

No. 6708. *HALPERN v. ZELKER, CORRECTIONAL SUPERINTENDENT*. C. A. 2d Cir. Certiorari denied.

No. 6709. *DAVIS v. CALIFORNIA*. Ct. App. Cal., 3d App. Dist. Certiorari denied.

No. 1074. *PETKUS v. NEW HAMPSHIRE*. Sup. Ct. N. H. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. Reported below: 110 N. H. 394, 269 A. 2d 123.

No. 1421. *WEBER v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. Reported below: 437 F. 2d 327.

No. 1438. *SCHMUTZ MANUFACTURING Co., INC. v. ATKINS*. C. A. 4th Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. Reported below: 435 F. 2d 527.

No. 6389. *CIMINO v. ILLINOIS*. Sup. Ct. Ill. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. Reported below: 45 Ill. 2d 556, 257 N. E. 2d 97.

402 U.S.

April 26, 1971

No. 6421. *BURWELL v. CARDWELL, WARDEN*. C. A. 6th Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted.

No. 6590. *JACK v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. Reported below: 435 F. 2d 317.

No. 6636. *SHELTON v. UNITED STATES*. Petition for certiorari before judgment to C. A. 9th Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted.

No. 1127. *BURKE, WARDEN v. HAHN*. C. A. 7th Cir. Motion to dispense with printing brief for respondent granted. Certiorari denied. Reported below: 430 F. 2d 100.

No. 1406. *BROOM v. TEXAS*. Ct. Crim. App. Tex. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted and judgment reversed in light of this Court's decision in *Whiteley v. Warden*, 401 U. S. 560. Reported below: 463 S. W. 2d 220.

No. 1424. *GORNTO v. GEORGIA*. Sup. Ct. Ga. Certiorari denied. MR. JUSTICE BLACK and MR. JUSTICE DOUGLAS are of the opinion that certiorari should be granted and judgment reversed. Reported below: 227 Ga. 46, 178 S. E. 2d 894.

No. 1467. *ITT LAMP DIVISION OF INTERNATIONAL TELEPHONE & TELEGRAPH CORP. v. MINTER, COMMISSIONER OF DEPARTMENT OF PUBLIC WELFARE OF MASSACHUSETTS*. C. A. 1st Cir. Motion of Chamber of Commerce of the United States for leave to file a brief as *amicus curiae* granted. Certiorari denied. Reported below: 435 F. 2d 989.

April 26, 1971

402 U. S.

No. 1436. HUMBLE OIL & REFINING Co. v. PRICE ET AL. C. A. 5th Cir. Certiorari denied. MR. JUSTICE HARLAN took no part in the consideration or decision of this petition. Reported below: 432 F. 2d 165 and 435 F. 2d 772.

No. 6195. MARTINEZ v. PATTERSON, WARDEN, ET AL. C. A. 10th Cir. Certiorari denied. MR. JUSTICE DOUGLAS and MR. JUSTICE WHITE are of the opinion that certiorari should be granted. Reported below: 429 F. 2d 844.

No. 6447. MURRAY v. PAGE, WARDEN. C. A. 10th Cir. Certiorari denied. MR. JUSTICE DOUGLAS and MR. JUSTICE WHITE are of the opinion that certiorari should be granted. Reported below: 429 F. 2d 1359.

No. 6310. KELM v. PATTERSON, WARDEN. C. A. 10th Cir. Certiorari denied. MR. JUSTICE DOUGLAS, MR. JUSTICE WHITE, and MR. JUSTICE MARSHALL are of the opinion that certiorari should be granted.

*Rehearing Denied*

No. 325. NEGRE v. LARSEN ET AL., 401 U. S. 437;

No. 991. KOSERKOFF v. CHESAPEAKE & OHIO RAILWAY Co., 401 U. S. 947;

No. 1149. DAVENPORT v. CITY RENT AND REHABILITATION ADMINISTRATION OF THE CITY OF NEW YORK ET AL., 401 U. S. 956;

No. 1221. CATALDO v. UNITED STATES, 401 U. S. 977;

No. 6419. STEAD v. UNITED STATES, 401 U. S. 978; and

No. 6441. TILLI v. COUNTY OF NORTHAMPTON ET AL., 401 U. S. 978. Petitions for rehearing denied.

No. 272. CALARCO v. UNITED STATES, 400 U. S. 824. Motion of petitioner for leave to proceed further herein *in forma pauperis* granted. Motion for leave to file petition for rehearing denied.

402 U. S.

April 29, May 3, 1971

APRIL 29, 1971

*Dismissal Under Rule 60*

No. 1317. NOR-AM AGRICULTURAL PRODUCTS, INC., ET AL. *v.* HARDIN, SECRETARY OF AGRICULTURE, ET AL. C. A. 7th Cir. Petition for writ of certiorari dismissed pursuant to Rule 60 of the Rules of this Court. Reported below: 435 F. 2d 1133 and 1151.

MAY 3, 1971

*Affirmed on Appeal*

No. 1136. CLARK *v.* ELLENBOGEN ET AL. Affirmed on appeal from D. C. W. D. Pa. *Younger v. Harris*, 401 U. S. 37; *Samuels v. Mackell*, and *Fernandez v. Mackell*, 401 U. S. 66. MR. JUSTICE DOUGLAS is of the opinion that probable jurisdiction should be noted and case set for oral argument. Reported below: 319 F. Supp. 623.

No. 1354. NYQUIST, COMMISSIONER OF EDUCATION OF NEW YORK, ET AL. *v.* LEE ET AL.; and

No. 1365. CHROPOWICKI ET AL. *v.* LEE ET AL. Affirmed on appeals from D. C. W. D. N. Y. THE CHIEF JUSTICE, MR. JUSTICE BLACK, and MR. JUSTICE HARLAN are of the opinion that probable jurisdiction should be noted and cases set for oral argument. Reported below: 318 F. Supp. 710.

*Appeals Dismissed*

No. 1193. LANE *v.* TEXAS. Appeal from County Ct. at Law No. 1, Travis County, dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that probable jurisdiction should be noted.

May 3, 1971

402 U. S.

No. 973. BOLTON, ATTORNEY GENERAL OF GEORGIA, ET AL. *v.* DOE; and

No. 6172. UNBORN CHILD OF DOE *v.* DOE ET AL. Appeals from D. C. N. D. Ga. Motion of appellee in No. 973 for leave to proceed *in forma pauperis* granted. Appeals dismissed for want of jurisdiction. *Gunn v. University Committee*, 399 U. S. 383 (1970). Reported below: 319 F. Supp. 1048.

No. 1457. McMILLAN *v.* FEDERAL NATIONAL MORTGAGE ASSN. Appeal from App. Dept., Super. Ct. Cal., County of Los Angeles, dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that probable jurisdiction should be noted.

No. 1230. ABODEELY *v.* IOWA. Appeal from Sup. Ct. Iowa dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied. Reported below: 179 N. W. 2d 347.

No. 5208.\* BEVERLY *v.* SCOTLAND URBAN ENTERPRISES, INC. Appeal from Sup. Ct. La. dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied.

No. 6367. CAMPBELL *v.* FLORIDA. Appeal from Sup. Ct. Fla. dismissed for want of substantial federal question. Reported below: 240 So. 2d 298.

---

\*For separate opinions of BLACK, J., and DOUGLAS, J., see No. 5048, *Meltzer v. LeCraw & Co.*, *infra*.

402 U. S.

May 3, 1971

*Vacated and Remanded on Appeal*

No. 5050.\* FREDERICK ET AL. *v.* SCHWARTZ ET AL. Appeal from D. C. Conn. Judgment vacated and case remanded for reconsideration in light of this Court's decision in *Boddie v. Connecticut*, 401 U. S. 371. MR. JUSTICE DOUGLAS is of the opinion that judgment should be reversed. *Boddie v. Connecticut*, *supra*. Reported below: 296 F. Supp. 1321.

*Certiorari Granted—Vacated and Remanded, or Reversed*

No. 3. COBB ET AL. *v.* UNITED STATES. C. A. 2d Cir. Certiorari granted, judgment vacated, and case remanded for reconsideration in light of this Court's decisions in *Leary v. United States*, 395 U. S. 6 (1969), and *United States v. United States Coin & Currency*, 401 U. S. 715. Reported below: 396 F. 2d 158.

No. 8. DEAN ET AL. *v.* UNITED STATES. C. A. 6th Cir. Certiorari granted, judgment vacated, and case remanded for reconsideration in light of this Court's decision in *United States v. United States Coin & Currency*, 401 U. S. 715. Reported below: 392 F. 2d 672.

No. 455. SCOTT ET AL. *v.* UNITED STATES. C. A. 6th Cir. Certiorari granted, judgment vacated, and case remanded for reconsideration in light of this Court's decision in *United States v. United States Coin & Currency*, 401 U. S. 715. Reported below: 425 F. 2d 817.

No. 285. DECKER *v.* UNITED STATES. C. A. 6th Cir. Certiorari granted, judgment vacated, and case remanded for reconsideration in light of this Court's decisions in *Haynes v. United States*, 390 U. S. 85 (1968), and *United States v. United States Coin & Currency*, 401 U. S. 715. Reported below: 423 F. 2d 726.

---

\*For separate opinion of BLACK, J., see No. 5048, *Meltzer v. LeCraw & Co.*, *infra*.

May 3, 1971

402 U. S.

No. 1073. UNITED STATES *v.* ZIZZO. C. A. 7th Cir. Certiorari granted, judgment vacated, and case remanded for reconsideration in light of this Court's decision in *Mackey v. United States*, 401 U. S. 667. MR. JUSTICE DOUGLAS dissents from this action of the Court. Reported below: 431 F. 2d 913.

No. 1150. BLOSS *v.* MICHIGAN. Sup. Ct. Mich. Certiorari granted and judgment reversed. *Redrup v. New York*, 386 U. S. 767 (1967). THE CHIEF JUSTICE, MR. JUSTICE HARLAN, and MR. JUSTICE BLACKMUN would grant petition and set case for oral argument on issue whether seizure of the film without a warrant violated applicable constitutional standards. Reported below: See 18 Mich. App. 410, 171 N. W. 2d 455.

No. 5016. LAUCHLI *v.* UNITED STATES. C. A. 7th Cir. Motion for leave to proceed *in forma pauperis* granted. Certiorari granted, judgment vacated, and case remanded for reconsideration in light of this Court's decisions in *Haynes v. United States*, 390 U. S. 85 (1968), and *United States v. United States Coin & Currency*, 401 U. S. 715.

No. 5052. GILLESPIE *v.* UNITED STATES. C. A. 7th Cir. Motion for leave to proceed *in forma pauperis* granted. Certiorari granted, judgment vacated, and case remanded for reconsideration in light of this Court's decisions in *Haynes v. United States*, 390 U. S. 85 (1968), and *United States v. United States Coin & Currency*, 401 U. S. 715. Reported below: 409 F. 2d 511.

No. 5040. GRAHAM *v.* UNITED STATES. C. A. 6th Cir. Motion for leave to proceed *in forma pauperis* granted. Certiorari granted, judgment vacated, and case remanded for reconsideration in light of this Court's decision in *United States v. United States Coin & Currency*, 401 U. S. 715. Reported below: 407 F. 2d 1313.

402 U. S.

May 3, 1971

No. 5067.\* SLOATMAN *v.* GIBBONS ET AL. Sup. Ct. Ariz. Motion for leave to proceed *in forma pauperis* granted. Certiorari granted, judgment vacated, and case remanded for reconsideration in light of this Court's decision in *Boddie v. Connecticut*, 401 U. S. 371. MR. JUSTICE DOUGLAS is of the opinion that judgment should be reversed. *Boddie v. Connecticut*, *supra*. Reported below: 104 Ariz. 429, 454 P. 2d 574.

No. 5111. DROTAR *v.* UNITED STATES. C. A. 5th Cir. Reported below: 416 F. 2d 914;

No. 5927. WEBER *v.* UNITED STATES. C. A. 9th Cir. Reported below: 429 F. 2d 148;

No. 6306. COCHRAN *v.* UNITED STATES. C. A. 9th Cir. Reported below: 432 F. 2d 1356; and

No. 6645. MILLER *v.* UNITED STATES. C. A. 6th Cir. Reported below: 437 F. 2d 1199. Motions for leave to proceed *in forma pauperis* granted. Certiorari granted, judgments vacated, and cases remanded for reconsideration in light of this Court's decisions in *Leary v. United States*, 395 U. S. 6 (1969), and *United States v. United States Coin & Currency*, 401 U. S. 715.

#### *Miscellaneous Orders*

No. —. PRUETT *v.* TEXAS. Ct. Crim. App. Tex. Application for stay denied. MR. JUSTICE STEWART is of the opinion that the application should be granted.

No. 48, Orig. MISSISSIPPI *v.* ARKANSAS. [Motion for leave to file bill of complaint granted, 400 U. S. 1019.] Application for stay of proceedings in Chancery Court of Chicot County, Arkansas, in *Arkansas Land & Cattle Co. v. Anderson-Tully Co.*, Civil Action No. 10,177, referred to Special Master for report and recommendation.

---

\*For separate opinion of BLACK, J., see No. 5048, *Meltzer v. LeCraw & Co.*, *infra*.

May 3, 1971

402 U. S.

No. 45, Orig. *WASHINGTON ET AL. v. GENERAL MOTORS CORP. ET AL.* Motion for leave to file bill of complaint set for oral argument. One hour allowed for oral argument. MR. JUSTICE BLACKMUN took no part in the consideration or decision of this matter.

No. 49, Orig. *ILLINOIS v. CITY OF MILWAUKEE, WISCONSIN, ET AL.* Motion for leave to file bill of complaint set for oral argument. One hour allowed for oral argument.

No. 50, Orig. *VERMONT v. NEW YORK ET AL.* Motion for leave to file bill of complaint set for oral argument. One hour allowed for oral argument.

No. 87. *UNITED STATES v. DISTRICT COURT IN AND FOR THE COUNTY OF EAGLE ET AL.*, 401 U. S. 520. Motion of Fort Mojave Tribe of Indians for leave to file suggestion of interest denied.

No. 812. *UNITED STATES v. DISTRICT COURT IN AND FOR WATER DIVISION No. 5 ET AL.*, 401 U. S. 527. Motion of Fort Mojave Tribe of Indians for leave to file suggestion of interest denied.

No. 846. *FIRST NATIONAL CITY BANK v. BANCO NACIONAL DE CUBA*, 400 U. S. 1019. Motion of respondent for waiver of Clerk's costs denied. MR. JUSTICE HARLAN, MR. JUSTICE BRENNAN, MR. JUSTICE STEWART, and MR. JUSTICE BLACKMUN are of the opinion that the motion should be granted.

No. 6458. *HARRIS v. TEXAS*. Ct. Crim. App. Tex. Counsel for petitioner directed to file a brief in support of petition on or before May 20, 1971. The Attorney General of Texas is invited to file a responsive brief within 10 days from date of receipt of petitioner's brief.

402 U.S.

May 3, 1971

No. 6459. CHACON *v.* NELSON, WARDEN;

No. 6495. KOHL *v.* PERINI, CORRECTIONAL SUPERINTENDENT, ET AL.; and

No. 6775. SZIJARTO *v.* NELSON, WARDEN. Motions for leave to file petitions for writs of habeas corpus denied.

No. 6913. FALLON *v.* WAGGONNER, SHERIFF, ET AL. Motion for leave to file petition for writ of habeas corpus and other relief denied.

*Probable Jurisdiction Noted or Postponed*

No. 808. ROE ET AL. *v.* WADE, DISTRICT ATTORNEY OF DALLAS COUNTY. Appeal from D. C. N. D. Tex. Probable jurisdiction postponed to hearing of case on the merits. Reported below: 314 F. Supp. 1217.

No. 971. DOE ET AL. *v.* BOLTON, ATTORNEY GENERAL OF GEORGIA, ET AL. Appeal from D. C. N. D. Ga. Probable jurisdiction postponed to hearing of case on the merits. Reported below: 319 F. Supp. 1048.

No. 876. MITCHUM, DBA BOOK MART *v.* FOSTER ET AL. Appeal from D. C. N. D. Fla. Probable jurisdiction noted. Reported below: 315 F. Supp. 1387.

No. 1495. COL-AN ENTERTAINMENT CORP. ET AL. *v.* HARPER ET AL. Appeal from D. C. N. D. Fla. Probable jurisdiction noted. Reported below: 325 F. Supp. 447.

No. 6158.\* LINDSEY ET AL. *v.* NORMET ET AL. Appeal from D. C. Ore. Motion for leave to proceed *in forma pauperis* granted. Probable jurisdiction noted.

---

\*For separate opinion of BLACK, J., see No. 5048, *Meltzer v. LeCraw & Co.*, *infra*.

May 3, 1971

402 U. S.

*Certiorari Granted*

No. 661. CHEVRON OIL Co. v. HUSON. C. A. 5th Cir. Certiorari granted. Reported below: 430 F. 2d 27.

No. 1114. UNITED STATES v. CALDWELL. C. A. 9th Cir. Certiorari granted. Reported below: 434 F. 2d 1081.

No. 1381. BRANZBURG v. HAYES ET AL., JUDGES. Ct. App. Ky. Certiorari granted. Reported below: 461 S. W. 2d 345.

No. 1286. UNITED STATES v. CHAS. PFIZER & Co., INC., ET AL. C. A. 2d Cir. Certiorari granted. MR. JUSTICE STEWART, MR. JUSTICE WHITE, and MR. JUSTICE MARSHALL took no part in the consideration or decision of this petition. Reported below: 426 F. 2d 32.

No. 1389. UNITED STATES v. TUCKER. C. A. 9th Cir. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari granted. Reported below: 431 F. 2d 1292.

No. 1454. PICARD v. CONNOR. C. A. 1st Cir. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari granted. Reported below: 434 F. 2d 673.

No. 1413. PARISI v. DAVIDSON ET AL. C. A. 9th Cir. Motion to dispense with printing petition and certiorari granted. Motion to advance oral argument denied. Reported below: 435 F. 2d 299.

No. 1434. IN RE PAPPAS. Sup. Jud. Ct. Mass. Motion of National Broadcasting Co., Inc., for leave to file a brief as *amicus curiae* granted. Certiorari granted. Reported below: — Mass. —, 266 N. E. 2d 297.

402 U.S.

May 3, 1971

*Certiorari Denied.* (See also Nos. 1193, 1230, 1457, and 5208, *supra.*)

No. 16. *HOSKINS v. UNITED STATES.* C. A. 7th Cir. *Certiorari denied.* Reported below: 406 F. 2d 72.

No. 23. *FRANKE ET AL. v. UNITED STATES.* C. A. 7th Cir. *Certiorari denied.* Reported below: 409 F. 2d 958.

No. 37. *WALLACE ET AL. v. UNITED STATES.* C. A. D. C. Cir. *Certiorari denied.* Reported below: 134 U. S. App. D. C. 50, 412 F. 2d 1097.

No. 100. *IOZZI v. UNITED STATES.* C. A. 4th Cir. *Certiorari denied.* Reported below: 420 F. 2d 512.

No. 186. *UNITED STATES v. LUCIA.* C. A. 5th Cir. *Certiorari denied.* Reported below: 416 F. 2d 920 and 423 F. 2d 697.

No. 424. *ALEXANDER ET AL. v. PASADENA CITY BOARD OF EDUCATION ET AL.* C. A. 9th Cir. *Certiorari denied.* Reported below: 427 F. 2d 1352.

No. 632. *BOARD OF PUBLIC INSTRUCTION OF PINELLAS COUNTY, FLORIDA, ET AL. v. BRADLEY ET AL.* C. A. 5th Cir. *Certiorari denied.* Reported below: 431 F. 2d 1377.

No. 745. *BOARD OF PUBLIC INSTRUCTION OF MANATEE COUNTY, FLORIDA, ET AL. v. HARVEST ET AL.* C. A. 5th Cir. *Certiorari denied.* Reported below: 429 F. 2d 414.

No. 775. *SCHOOL DISTRICT 151 OF COOK COUNTY, ILLINOIS, ET AL. v. UNITED STATES.* C. A. 7th Cir. *Certiorari denied.* Reported below: 432 F. 2d 1147.

No. 784. *BOARD OF PUBLIC INSTRUCTION OF BAY COUNTY, FLORIDA, ET AL. v. YOUNGBLOOD ET AL.* C. A. 5th Cir. *Certiorari denied.* Reported below: 430 F. 2d 625.

No. 823. *RILEY v. UNITED STATES.* C. A. 9th Cir. *Certiorari denied.* Reported below: 429 F. 2d 983.

May 3, 1971

402 U. S.

No. 839. JACKSON MUNICIPAL SEPARATE SCHOOL DISTRICT ET AL. *v.* SINGLETON ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 426 F. 2d 1364, 430 F. 2d 368, and 432 F. 2d 927.

No. 850. PORCELLI ET AL. *v.* TITUS, SUPERINTENDENT OF SCHOOLS OF THE CITY OF NEWARK, ET AL. C. A. 3d Cir. Certiorari denied. Reported below: 431 F. 2d 1254.

No. 902. KLEIN ET AL. *v.* UNITED STATES. C. A. D. C. Cir. Certiorari denied. Reported below: 139 U. S. App. D. C. 368, 433 F. 2d 526.

No. 1191. ADLER *v.* UNITED STATES;

No. 1314. KROLL *v.* UNITED STATES; and

No. 1435. CAHN *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 433 F. 2d 1282.

No. 1333. MISSOURI PACIFIC RAILROAD CO. *v.* UNITED STATES. Ct. Cl. Certiorari denied. Reported below: 192 Ct. Cl. 318, 427 F. 2d 727.

No. 1378. GROUP LIFE & HEALTH INSURANCE CO. *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 434 F. 2d 115.

No. 1392. LOS ANGELES POLICE DEPARTMENT ET AL. *v.* ROBINSON ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 435 F. 2d 1310.

No. 1433. FLINTKOTE CO. *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. Reported below: 435 F. 2d 556.

No. 1443. CHAMBERS ET AL. *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 434 F. 2d 1312.

No. 1461. CHICAGO, ROCK ISLAND & PACIFIC RAILROAD CO. *v.* NATIONAL MEDIATION BOARD ET AL. C. A. 7th Cir. Certiorari denied. Reported below: 435 F. 2d 339.

402 U. S.

May 3, 1971

No. 1456. *PACE v. HAYMARKET CO-OPERATIVE BANK*.  
C. A. 1st Cir. Certiorari denied.

No. 1463. *DEKAR INDUSTRIES, INC., ET AL. v. BISSETT-BERMAN CORP.* C. A. 9th Cir. Certiorari denied. Reported below: 434 F. 2d 1304.

No. 1471. *SAMMONS v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 433 F. 2d 728.

No. 1478. *CHEMICAL CLEANING, INC., ET AL. v. DOW CHEMICAL CO.* C. A. 5th Cir. Certiorari denied. Reported below: 434 F. 2d 1212.

No. 1482. *BOLETTIERI v. UNITED STATES*. C. A. 2d Cir. Certiorari denied.

No. 1487. *HARTZELL PROPELLER FAN Co. v. NATIONAL LABOR RELATIONS BOARD*. C. A. 6th Cir. Certiorari denied. Reported below: 435 F. 2d 562.

No. 1500. *AMERICAN EXPORT INDUSTRIES, INC. v. FLUOR CORP., LTD.* C. A. 2d Cir. Certiorari denied. Reported below: 436 F. 2d 383.

No. 5003. *SMITH v. ILLINOIS*. App. Ct. Ill., 1st Dist. Certiorari denied. Reported below: 90 Ill. App. 2d 310, 234 N. E. 2d 31.

No. 5005. *MURPHY v. TENNESSEE*. Sup. Ct. Tenn. Certiorari denied. Reported below: 221 Tenn. 351, 426 S. W. 2d 509.

No. 5008. *SANCHEZ v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 400 F. 2d 92.

No. 5021. *DAUT v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 405 F. 2d 312.

No. 5562. *BLASSINGAME v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 427 F. 2d 329.

May 3, 1971

402 U. S.

No. 5853. *BRITT v. TENNESSEE*. Ct. Crim. App. Tenn. Certiorari denied. Reported below: — Tenn. App. —, 455 S. W. 2d 625.

No. 6185. *GAITO v. PENNSYLVANIA*. Sup. Ct. Pa. Certiorari denied. Reported below: See 217 Pa. Super. 125, 268 A. 2d 461.

No. 6280. *DE LA ROSA v. CALIFORNIA*. Ct. App. Cal., 2d App. Dist. Certiorari denied.

No. 6427. *MCBRIDE v. PENNSYLVANIA*. Sup. Ct. Pa. Certiorari denied. Reported below: 440 Pa. 81, 269 A. 2d 737.

No. 6445. *STEVENSON v. NEW YORK*. App. Div., Sup. Ct. N. Y., 2d Jud. Dept. Certiorari denied.

No. 6521. *HOYEL v. CITY OF JACKSON*. Ct. App. Tenn. Certiorari denied. Reported below: — Tenn. App. —, 465 S. W. 2d 736.

No. 6535. *MITCHELL v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 434 F. 2d 230.

No. 6613. *OLIVER v. CONNECTICUT*. Sup. Ct. Conn. Certiorari denied. Reported below: 160 Conn. 85, 273 A. 2d 867.

No. 6640. *WAUFORD v. TENNESSEE*. Sup. Ct. Tenn. Certiorari denied.

No. 6646. *HAGGETT v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 438 F. 2d 396.

No. 6659. *SARKIS v. UNITED STATES*. C. A. 6th Cir. Certiorari denied.

No. 6711. *MAGGARD v. WAINWRIGHT, CORRECTIONS DIRECTOR*. C. A. 5th Cir. Certiorari denied. Reported below: 432 F. 2d 941.

402 U.S.

May 3, 1971

No. 6668. *RIVERA v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 437 F. 2d 879.

No. 6682. *ARDLE v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 435 F. 2d 861.

No. 6695. *RODGERS v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 436 F. 2d 1380.

No. 6713. *JACKSON v. DUTTON, WARDEN*. C. A. 5th Cir. Certiorari denied. Reported below: 435 F. 2d 1284.

No. 6714. *LI v. IMMIGRATION AND NATURALIZATION SERVICE ET AL.* C. A. 9th Cir. Certiorari denied.

No. 6718. *DAVIS v. GAFFNEY, WARDEN*. C. A. 10th Cir. Certiorari denied.

No. 6719. *BLACK v. RUSSELL, CORRECTIONAL SUPERINTENDENT*. C. A. 3d Cir. Certiorari denied. Reported below: 435 F. 2d 546.

No. 6721. *FARR v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 436 F. 2d 975.

No. 6722. *CRISP v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 435 F. 2d 354.

No. 6723. *McTYRE v. PEARSON*. C. A. 8th Cir. Certiorari denied. Reported below: 435 F. 2d 333.

No. 6724. *BOWEN v. KROPP, WARDEN*. C. A. 6th Cir. Certiorari denied.

No. 6726. *JEWETT v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 438 F. 2d 495.

No. 6728. *CORRADO ET UX. v. PROVIDENCE REDEVELOPMENT AGENCY*. Sup. Ct. R. I. Certiorari denied. Reported below: — R. I. —, 269 A. 2d 551.

No. 6737. *WILLIAMS v. NEW YORK*. App. Div., Sup. Ct. N. Y., 1st Jud. Dept. Certiorari denied.

May 3, 1971

402 U. S.

No. 6729. *BROWN v. PETERSON, HOSPITAL SUPERINTENDENT*. C. A. 8th Cir. Certiorari denied. Reported below: 429 F. 2d 585.

No. 6730. *LIND v. RICHARDSON, SECRETARY OF HEALTH, EDUCATION, AND WELFARE*. C. A. 9th Cir. Certiorari denied. Reported below: 434 F. 2d 1313.

No. 6739. *PETERSON v. CALIFORNIA*. Ct. App. Cal., 2d App. Dist. Certiorari denied.

No. 6. *COX, PENITENTIARY SUPERINTENDENT v. MAY*. C. A. 4th Cir. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 398 F. 2d 476.

No. 94. *UNITED STATES v. MEADOWS*. C. A. 9th Cir. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 420 F. 2d 795.

No. 993. *UNITED STATES v. LIGUORI*. C. A. 2d Cir. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 430 F. 2d 842.

No. 17. *COX, PENITENTIARY SUPERINTENDENT v. PENNINGTON*. C. A. 4th Cir. Motion for leave to dispense with printing respondent's brief granted. Certiorari denied. Reported below: 405 F. 2d 623.

No. 21. *KORAN v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. Reported below: 408 F. 2d 1321.

No. 22. *KORAN v. FLORIDA*. Dist. Ct. App. Fla., 3d Dist. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. Reported below: 213 So. 2d 735.

402 U. S.

May 3, 1971

No. 32. *SULLIVAN v. UNITED STATES*; and

No. 33. *TELLER v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. Reported below: 412 F. 2d 374.

No. 34. *MARCHESE v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. Reported below: 411 F. 2d 410.

No. 38. *DONOHUE v. UNITED STATES*. C. A. D. C. Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. Reported below: 134 U. S. App. D. C. 50, 412 F. 2d 1097.

No. 50. *KORAN v. FLORIDA*. Dist. Ct. App. Fla., 4th Dist. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. Reported below: 219 So. 2d 449.

No. 64. *PROVENZANO ET AL. v. FOLLETTE, WARDEN, ET AL.* C. A. 2d Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted.

No. 67. *DIPIAZZA v. UNITED STATES*; and

No. 68. *DEMING v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. Reported below: 415 F. 2d 99 and 111.

No. 70. *WEISER v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. Reported below: 428 F. 2d 932.

No. 943. *WRIGHT ET AL. v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted.

May 3, 1971

402 U.S.

No. 103. *ROVIARO v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. Reported below: 420 F. 2d 304.

No. 126. *DEVORE v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. Reported below: 423 F. 2d 1069.

No. 369. *TIKTIN ET AL. v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. Reported below: 427 F. 2d 1027.

No. 496. *DILORENZO v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. Reported below: 429 F. 2d 216.

No. 630. *BIRNS v. PERINI, CORRECTIONAL SUPERINTENDENT*. C. A. 6th Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. Reported below: 426 F. 2d 1288.

No. 917. *JACOBS v. UNITED STATES*; and

No. 6199. *SPIELER v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. Reported below: 431 F. 2d 754.

No. 920. *JONES v. UNITED STATES*. C. A. D. C. Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. Reported below: 140 U. S. App. D. C. 70, 433 F. 2d 1176.

No. 1175. *KERR v. STATE PUBLIC WELFARE COMMISSION*. Ct. App. Ore. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. Reported below: 3 Ore. App. 27, 470 P. 2d 167.

402 U. S.

May 3, 1971

No. 1195. *GREENE v. MAXWELL, JUDGE*; and

No. 6414. *SOSA v. MAXWELL, JUDGE*. Dist. Ct. App. Fla., 2d Dist. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. Reported below: 234 So. 2d 690.

No. 5045. *GIBSON ET AL. v. NEW YORK*. Ct. App. N. Y. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. Reported below: 23 N. Y. 2d 618, 246 N. E. 2d 349.

No. 5070. *MALLORY v. OHIO*. Sup. Ct. Ohio. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted.

No. 5071. *DANIELS v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. Reported below: 412 F. 2d 317.

No. 5088. *KUHN v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. Reported below: 415 F. 2d 111.

No. 5102. *CHATFIELD v. CALIFORNIA*. Ct. App. Cal., 2d App. Dist. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. Reported below: 272 Cal. App. 2d 141, 77 Cal. Rptr. 118.

No. 5555. *MARTINEZ v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. Reported below: 428 F. 2d 86.

No. 6075. *ESCOBEDO v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. Reported below: 430 F. 2d 14 and 603.

May 3, 1971

402 U. S.

No. 5217. *GROZE v. CALIFORNIA*. Ct. App. Cal., 1st App. Dist. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted.

No. 5820. *SINGLETON v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted.

No. 6648. *EDWARDS v. SELECTIVE SERVICE LOCAL BOARD NO. 111 ET AL.* C. A. 5th Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. Reported below: 432 F. 2d 287.

No. 358. *HANON ET AL. v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. MR. JUSTICE BLACKMUN took no part in the consideration or decision of this petition. Reported below: 428 F. 2d 101.

No. 409. *BOARD OF EDUCATION OF LITTLE ROCK SCHOOL DISTRICT ET AL. v. CLARK ET AL.* C. A. 8th Cir. Certiorari denied. MR. JUSTICE BLACKMUN took no part in the consideration or decision of this petition. Reported below: 426 F. 2d 1035. [For earlier order herein, see 401 U. S. 971.]

No. 1496. *DILL v. GREYHOUND CORP. ET AL.* C. A. 6th Cir. Certiorari denied. MR. JUSTICE BLACKMUN took no part in the consideration or decision of this petition. Reported below: 435 F. 2d 231.

No. 749. *BOARD OF PUBLIC INSTRUCTION OF BROWARD COUNTY, FLORIDA, ET AL. v. ALLEN ET AL.*; and

No. 891. *BLANCHE ELY PARENT TEACHERS ASSN. ET AL. v. BOARD OF PUBLIC INSTRUCTION OF BROWARD COUNTY, FLORIDA, ET AL.* C. A. 5th Cir. Certiorari denied. MR. JUSTICE BLACK took no part in the consideration or decision of these petitions. Reported below: 432 F. 2d 362.

402 U.S.

May 3, 1971

No. 6621. *THERIAULT v. BLACKWELL, WARDEN, ET AL.* C. A. 5th Cir. Certiorari denied. MR. JUSTICE BLACKMUN took no part in the consideration or decision of this petition. Reported below: 437 F. 2d 76.

No. 936. *DADE COUNTY SCHOOL BOARD ET AL. v. PATE ET AL.*; and

No. 6139. *CORBETT ET AL. v. DADE COUNTY SCHOOL BOARD.* C. A. 5th Cir. Certiorari denied. MR. JUSTICE BLACK took no part in the consideration or decision of these petitions. Reported below: 430 F. 2d 1175.

No. 982. *ECKELS ET AL. v. ROSS ET AL.* C. A. 5th Cir. Certiorari denied. MR. JUSTICE STEWART is of the opinion that certiorari should be granted, judgment vacated, and case remanded for reconsideration in light of *Swann v. Charlotte-Mecklenburg Board of Education, ante*, p. 1, and its companion cases. Reported below: 434 F. 2d 1140.

No. 1272. *CALDWELL ET AL. v. CRAIGHEAD ET AL.* C. A. 6th Cir. Certiorari denied. MR. JUSTICE DOUGLAS, MR. JUSTICE BRENNAN, and MR. JUSTICE MARSHALL are of the opinion that certiorari should be granted. Reported below: 432 F. 2d 213.

No. 1334. *SILVERMAN v. UNITED STATES.* C. A. 2d Cir. Certiorari denied. MR. JUSTICE DOUGLAS took no part in the consideration or decision of this petition. Reported below: 430 F. 2d 106.

No. 1449. *IPPOLITO v. UNITED STATES.* C. A. 5th Cir. Motion to dispense with printing petition granted. Certiorari denied. Reported below: 438 F. 2d 417.

No. 1455. *BALISTRIERI v. UNITED STATES.* C. A. 7th Cir. Certiorari denied. MR. JUSTICE MARSHALL took no part in the consideration or decision of this petition. Reported below: 436 F. 2d 1212.

May 3, 1971

402 U. S.

No. 5048. MELTZER ET AL. v. C. BUCK LECRAW & CO. Sup. Ct. Ga. Certiorari denied. Reported below: 225 Ga. 91, 166 S. E. 2d 88.

MR. JUSTICE BLACK.\*

On March 2, 1971, this Court decided *Boddie v. Connecticut*, 401 U. S. 371, holding that Connecticut could not consistently with the Due Process and Equal Protection Clauses deny access to its divorce courts to indigents unable to pay relatively small filing and service of process fees.<sup>1</sup> We now have eight other cases pending on appeal or on petition for writ of certiorari in which indigents were denied access to civil courts because of their poverty.

One case, *Sloatman v. Gibbons*, No. 5067, is distinguishable from *Boddie* only by the fact that Arizona permits an extension of time for an indigent to pay the statutory fee when filing for a divorce. *In re Garland*, No. 5971, involves the right of a bankrupt to file a petition for discharge in bankruptcy without payment of the \$50 statutory fee. *Meltzer v. LeCraw & Co.*, No. 5048, involves a slightly more subtle form of handicap to the indigent seeking judicial resolution of a dispute. In that case a tenant who fights his eviction by resort to

---

\*This opinion also applies to No. 5050, *Frederick et al. v. Schwartz et al.*, *supra*; No. 5208, *Beverly v. Scotland Urban Enterprises, Inc.*, *supra*; No. 6158, *Lindsey et al. v. Normet et al.*, *supra*; No. 5971, *In re Garland et al.*, *infra*; No. 5054, *Bourbeau v. Lancaster*, *infra*; No. 5067, *Sloatman v. Gibbons et al.*, *supra*; and No. 6375, *Kaufman v. Carter*, *infra*.

<sup>1</sup> I dissented in *Boddie v. Connecticut*, 401 U. S. 371, 389 (1971), but now believe that if the decision in that case is to continue to be the law, it cannot and should not be restricted to persons seeking a divorce. It is bound to be expanded to all civil cases. Persons seeking a divorce are no different from other members of society who must resort to the judicial process for resolution of their disputes. Consistent with the Equal Protection Clause of the Constitution, special favors cannot and should not be accorded to divorce litigants.

the judicial process risks the penalty of a judgment for double the rent due during the litigation if he loses. Two other cases, *Frederick v. Schwartz*, No. 5050, and *Bourbeau v. Lancaster*, No. 5054, involve indigents who have lost civil cases—a welfare claim and child guardianship claim—and who cannot afford to pay the fees for docketing an appeal. *Beverly v. Scotland Urban Enterprises, Inc.*, No. 5208, and *Lindsey v. Normet*, No. 6158, involve indigents who cannot post the penalty bonds required to appeal from adverse judgments in housing-eviction cases. And finally, *Kaufman v. Carter*, No. 6375, is perhaps the most surprising of all eight cases because in that case an indigent mother was denied court-appointed counsel to defend herself against a state civil suit to declare her an unfit mother and take five of her seven children away from her.

The Court has decided to note probable jurisdiction in No. 6158, *Lindsey v. Normet*. Review will be denied in five of the other cases—Nos. 5048, 5208, 5054, 5971, and 6375—while the judgments in the two remaining cases are to be vacated and the cases remanded for reconsideration in light of the decision in *Boddie*. I agree with my Brethren that *Lindsey v. Normet* should be set for argument, but I cannot understand why that case is singled out for special treatment and why distinctions are made between the other cases. For the reasons set out below, I would grant the petitions or note probable jurisdiction in each of the other cases and set them for argument or reverse them outright on the basis of the decision in *Boddie*.

In my view, the decision in *Boddie v. Connecticut* can safely rest on only one crucial foundation—that the civil courts of the United States and each of the States belong to the people of this country and that no person can be denied access to those courts, either for a trial or an appeal, because he cannot pay a fee, finance a

bond, risk a penalty, or afford to hire an attorney. Some may sincerely believe that the decision in *Boddie* was far more limited in scope—that is, applies only to divorce cases. Other people might recognize that this constitutional decision will eventually extend to all civil cases but believe that it can only be enforced slowly step by step, so that the country will have time to absorb its full import. But in my judgment *Boddie* cannot and should not be limited to either its facts or its language, and I believe there can be no doubt that this country can afford to provide court costs and lawyers to Americans who are now barred by their poverty from resort to the law for resolution of their disputes.

The opinion in *Boddie* attempts to draw two distinctions between divorce and other disputes. The Court there stated that access to the judicial process in divorce matters is the “exclusive precondition to the adjustment of a fundamental human relationship.” *Supra*, at 383. The two elements, then, that require open access to the courts are that the judicial mechanism be the “exclusive” means of resolving the dispute and that the dispute involve “fundamental” subject matter. The first element—the “exclusiveness” of the judicial process as a remedy—is no limitation at all. The States and the Federal Government hold the ultimate power of enforcement in almost every dispute. Every law student learns in the first semester of law school that property, for instance, is “valuable” only because the State will enforce the collection of rights that attach to its ownership. Thus, the State holds the ultimate remedy in almost every property dispute. Similarly, the wrong that gives rise to a right of damages in tort exists only because society’s lawmakers have created a standard of care and a duty to abide by that standard. The alternatives to resort to the judicial process in tort cases are negotiation and settlement, abandonment of recovery, private self-

help, and perhaps insurance. With the exception of insurance, the alternatives are exactly the same as in a divorce case—negotiate a separation agreement, decide to continue the marriage relationship, or violate the law. Likewise, contracts are valuable only because society will enforce them. Indeed, marriage itself when analyzed in purely legal terms is a contract that cannot be revoked without governmental approval.<sup>2</sup> Thus, the judicial process is the exclusive means through which almost any dispute can ultimately be resolved short of brute force.

The other distinction between divorce and different kinds of controversies suggested in the *Boddie* opinion is the degree to which the disputes are regarded as “fundamental.” The extent to which this requirement limits the holding of *Boddie* is found in the very facts of that decision—the right to seek a divorce is simply not very “fundamental” in the hierarchy of disputes. Marriage is one of the cornerstones of our civilized society. Society generally places a high value on marriage and a low value on the right to divorce. And since *Boddie* held that the right to a divorce was “fundamental,” I can only conclude that almost every other kind of legally

---

<sup>2</sup> By “exclusive precondition” the Court in *Boddie* might have been suggesting that divorce is constitutionally different from all other kinds of disputes because even when the two parties to the marriage agree to end their relationship they still must seek judicial approval. But *Boddie* by its terms is not limited to divorces in which the parties have agreed to terminate their marriage. And the plaintiff in a contested tort case finds resort to the judicial process every bit as necessary as the litigant seeking a contested divorce.

Even if “exclusive precondition” meant that the formality of judicial approval was mandatory, the *Boddie* rationale would go far beyond divorce. Citizens generally must resort to courts for adoptions, to probate a will, to obtain a discharge in bankruptcy, for child custody determinations, to clear title to land *in rem*, to obtain an adjudication of incompetency, to change a name, and for other matters. It would be extremely arbitrary to limit *Boddie* to these particular kinds of disputes.

enforceable right is also fundamental to our society. Society generally *encourages* people to seek recompense when they suffer damages through the fault of others. And I cannot believe that my Brethren would find the rights of a man with both legs cut off by a negligent railroad less "fundamental" than a person's right to seek a divorce. Even the need to be on the welfare rolls or to file for a discharge in bankruptcy seems to me to be more "fundamental" than a person's right to seek a divorce. Society provides welfare to ensure the survival of the unfortunate. And bankruptcy is designed to permit a man to make a new start unhampered by overwhelming debts in hopes of achieving a useful life. For this Court to have first provided for governmental assumption of civil court costs in a divorce case seems to me a most unfortunate point of departure. But since that step has now been taken, I would either overrule *Boddie* at once or extend the benefits of government-paid costs to other civil litigants whose interests are at least as important to an orderly society.

In my judgment, the crucial foundation on which *Boddie* rests also forbids denial of an indigent's right of appeal in civil cases merely because he is too poor to pay appeal costs. Once the right to unhampered access to the judicial process has been established, that right is diluted unless the indigent litigant has an opportunity to assert and obtain review of the errors committed at trial. Since *Boddie* rejected distinctions between the civil and the criminal process in determining the permissibility of restrictions upon access to the courts, we need only apply to civil cases our long line of holdings that indigent criminals cannot because of their indigency be denied an appeal or the right to a state-furnished record on appeal. See *Griffin v. Illinois*, 351 U. S. 12 (1956); *Draper v. Washington*, 372 U. S. 487 (1963); *Long v. District Court of Iowa*, 385 U. S. 192 (1966); *Roberts v. LaVallee*, 389

U. S. 40 (1967); *Williams v. Oklahoma City*, 395 U. S. 458 (1969). See also *Douglas v. California*, 372 U. S. 353 (1963).

Finally, there cannot be meaningful access to the judicial process until every serious litigant is represented by competent counsel. Cf. *Gideon v. Wainwright*, 372 U. S. 335 (1963); *Douglas v. California*, *supra*. Of course, not every litigant would be entitled to appointed counsel no matter how frivolous his claims might be. See *Ellis v. United States*, 356 U. S. 674 (1958). But the fundamental importance of legal representation in our system of adversary justice is beyond dispute. Since *Boddie* held that there must be meaningful access to civil courts in divorce cases, I can only conclude that *Boddie* necessitates the appointment of counsel for indigents in such cases. In fact, this Court has held that attorneys' fees are part of the costs of litigation and may be taxed as costs. *Sprague v. Ticonic National Bank*, 307 U. S. 161 (1939). And as with fees and transcripts, I will never agree to limit the advantages of free counsel to divorce cases. See n. 1, *supra*. The necessity of state-appointed counsel is particularly acute in cases like one of those before us, *Kaufman v. Carter*, where the State initiates a civil proceeding against an individual to deprive her of the custody of her children. Here the State is employing the judicial mechanism it has created to enforce society's will upon an individual and take away her children. The case by its very nature resembles a criminal prosecution. The defendant is charged with conduct—failure to care properly for her children—which may be criminal and which in any event is viewed as reprehensible and morally wrong by a majority of society. And the cost of being unsuccessful is dearly high—loss of the companionship of one's children. Indeed, *Boddie* held that an indigent was entitled to state-paid court costs in a divorce contest, and such cases almost always

involve the custody of children. Certainly, if the State must provide funds for an indigent mother's court costs for a divorce, the State should also provide her with counsel to protect her rights to something far more important to most mothers and to society—her right to custody of her children.

For the reasons expressed above and given in the decision in *Boddie* I would set each of these cases for argument or reverse them outright and hold that citizens cannot be barred from their courts because they are too poor to afford the required fees and bonds or because they cannot hire the professional legal help essential to turn the wheels of justice. There is simply no fairness or justice in a legal system which pays indigents' costs to get divorces and does not aid them in other civil cases which are frequently of far greater importance to society.

MR. JUSTICE DOUGLAS.\*

The facts of these cases are set out by MR. JUSTICE BLACK. All of them except No. 6375, *Kaufman v. Carter*, involve people who are denied access to the judicial process solely because of their indigency. *Kaufman* presents a distinctly different problem. There the State commenced a civil suit in 1963, declared petitioner an unfit mother and took five of her seven children away from her. The status of the children is reviewed annually as required by state law. She did not initially seek counsel; but in the 1968 review proceedings she did. The State is enforcing its view of proper public policy. That procedure has consequences for the citizen so great that it is hardly an extension to say the rationale of *Douglas v. California*, 372 U. S. 353, demands that she be provided counsel. I would grant certiorari and reverse in this case.

---

\*This opinion also applies to No. 5208, *Beverly v. Scotland Urban Enterprises, Inc.*, *supra*; No. 5971, *In re Garland et al.*, *infra*; No. 5054, *Bourbeau v. Lancaster*, *infra*; and No. 6375, *Kaufman v. Carter*, *infra*.

402 U. S.

May 3, 1971

I believe a proper application of the Equal Protection Clause also requires that the access cases be reversed. Courts ought not be a private preserve for the affluent. All of these cases contain an invidious discrimination based on poverty, a suspect legislative classification. See *Griffin v. Illinois*, 351 U. S. 12; *Boddie v. Connecticut*, 401 U. S. 371, 383 (DOUGLAS, J., concurring).

Today's decisions underscore the difficulties with the *Boddie* approach. In *Boddie* the majority found marriage and its dissolution to be so fundamental as to require allowing indigents access to divorce courts without costs. When indigency is involved I do not think there is a hierarchy of interests. Marriage and its dissolution are of course fundamental. But the parent-child relationship is also of sufficient importance to require appointment of counsel when the State initiates and maintains proceedings to destroy it. Similarly, obtaining a fresh start in life through bankruptcy proceedings or securing adequate housing and the other procedures in these cases seemingly come within the Equal Protection Clause, as suggested by my separate opinion in *Boddie*.

No. 1520. PINTO, PRISON FARM SUPERINTENDENT *v.* MITCHELL. C. A. 3d Cir. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. Reported below: 438 F. 2d 814.

No. 5004. VERDUGO *v.* UNITED STATES. C. A. 9th Cir. Motion for leave to supplement petition granted. Certiorari denied. Reported below: 402 F. 2d 599.

No. 5053.\* LOPEZ *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 409 F. 2d 1351.

---

\*For dissenting opinion of DOUGLAS, J., see No. 5795, *Hudson v. United States*, *infra*.

May 3, 1971

402 U. S.

No. 5210. DEAL ET AL. v. CINCINNATI BOARD OF EDUCATION ET AL. C. A. 6th Cir. Certiorari denied. Reported below: 419 F. 2d 1387.

MR. JUSTICE DOUGLAS, dissenting.

The court below held in this school segregation case that the "District Court correctly excluded evidence of alleged racial discrimination in the public and private housing markets." 419 F. 2d 1387, 1392.

I would remand this case so that that evidence can be made part of the record and the lower courts can rule on the issues of *de jure* and *de facto* segregation of the races that are presented.

It is true that this petition arrived one working day after a time extension granted by MR. JUSTICE WHITE expired. Unlike some types of cases where the time for filing is prescribed by our rules,<sup>1</sup> Congress has stated that "any writ of certiorari intended to bring any judgment or decree in a civil action, suit or proceeding before the Supreme Court for review *shall be taken or applied for within ninety days* after the entry of such judgment or decree. A justice of the Supreme Court, for good cause shown, may extend the time for applying for a writ of certiorari for a period not exceeding sixty days." 28 U. S. C. § 2101 (c). (Italics added.)

The question here is whether a petition arriving at the Clerk's Office one day after the statutory period expires is jurisdictionally barred from a determination on the merits. MR. JUSTICE BLACK has pointed out that early cases under the predecessor sections to § 2101 (c) "made clear that this Court had power to waive the time requirement of these provisions under appropriate circumstances." *Teague v. Regional Commissioner of Customs*, 394 U. S. 977, 982 (dissenting opinion). And in *Ray v.*

---

<sup>1</sup> See our Rule 22. We can and do waive time requirements under the Rules. See *Durham v. United States*, 401 U. S. 481.

*Pierson* (No. 94, October Term, 1966), 386 U. S. 547, we decided on the merits a cross-petition for certiorari that was substantially out of time under § 2101 (c).<sup>2</sup> We offered no explanation.<sup>3</sup> Even under the companion sections to § 2101 (c) our practice has not been consistent. We have dismissed for failure to file appeals in the time set by Congress, e. g., *Ward v. Winstead*, 400 U. S. 1019, while not always dismissing for untimely docketing under our rules even though the time limitations were also set by Congress, e. g., *United Public Workers v. Mitchell*, 330 U. S. 75, 84-86.

Naturally, past inconsistencies are no justification for overturning a congressional bar if one exists. But one does not exist in this case. The statute states a petition "for review shall be taken or applied for" within certain specified times. That phrase is not free from ambiguity. What constitutes applying for review? A majority of the Court apparently feel it is receipt of the petition for certiorari by the Clerk's Office. *Teague, supra*. Yet I can see no reason why mailing or other transmission to this Court should not be construed as an application for relief

---

<sup>2</sup> The judgment below in that case was entered on October 25, 1965, but a time extension was granted petitioner *Pierson* until February 24, 1966. Ray's response in opposition and cross-petition for certiorari was filed on March 25. It was timely as a response, but not as a cross-petition, for a cross-petition must satisfy the requirements of a petition except that the cross-petitioner need not file a certified copy of the record which is already on file. Thus the time requirements are the same for both a petition for certiorari and a cross-petition for certiorari.

<sup>3</sup> It has been suggested that the "most tenable theory for entertaining such an out-of-time cross-petition is that the Court may regard its jurisdiction over the whole case as attaching upon the timely filing of a petition by any party, giving the Court discretion to allow any other party at any time thereafter to file an additional petition involving the same judgment." R. Stern & E. Gressman, *Supreme Court Practice* 312 (4th ed. 1969).

May 3, 1971

402 U. S.

within the meaning of the time provisions of § 2101 (c). When two potential interpretations of a statute are possible, we should not adopt a technical rule, much like common-law pleading, solely to defeat claims.

Petitioners here did not use the mails, but I believe the situation is analogous. The following appears from a motion to proceed *in forma pauperis* and from an affidavit of counsel for petitioners: Up until two days before the time extension was to expire he was led to believe by a third party that the petition would be printed and filed on time. Then without any advance warning the third party who was in New York and had all of petitioners' papers called and told counsel that the papers would not be printed or filed. Counsel immediately began to prepare a new petition and sufficient copies from his notes. Then on the day the petition was due he forwarded it prepaid on Piedmont Airlines to Washington and arranged to have someone deliver it to the Court. But the airline lost all the papers. Counsel then made a new set of papers and filed them with the Clerk on the next working day. How can we possibly say that it does injustice to § 2101 (c) to conclude that these efforts for review were not "taken or applied for within ninety days" as extended within the meaning of § 2101 (c)? I would grant the petition and remand the case for perfection of the record in the manner indicated.

No. 5054.\* *BOURBEAU v. LANCASTER*. Super. Ct. Conn., Fairfield County. Certiorari denied.

No. 6375.\* *KAUFMAN v. CARTER*. Ct. App. Cal., 2d App. Dist. Certiorari denied. Reported below: 8 Cal. App. 3d 783, 87 Cal. Rptr. 678.

---

\*For separate opinions of BLACK, J., and DOUGLAS, J., see No. 5048, *Meltzer v. LeCraw & Co.*, *supra*.

402 U.S.

May 3, 1971

No. 5795. HUDSON v. UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 429 F. 2d 1311.

MR. JUSTICE DOUGLAS, dissenting.\*

The facts of these three cases are virtually identical. With minor variations in each case an informer placed a telephone call to the petitioner. The informer also consented to a Government agent's either listening to or recording the conversation without the knowledge of the petitioner. In no case did the Government attempt to obtain a search warrant. Then at the trials the recording of the conversation was either played or the agent testified to the substance of the conversation he overheard.

Perhaps the Court denies certiorari because any claim under the Federal Communications Act was eliminated in *Rathbun v. United States*, 355 U. S. 107. But it is time we re-examined that decision under the Fourth Amendment, because of the increasing surveillance under which we all live.

In *Katz v. United States*, 389 U. S. 347, 359, we said: "Wherever a man may be, he is entitled to know that he will remain free from unreasonable searches and seizures." Yet in these cases all the episodes were pre-arranged and, in spite of ample time to obtain warrants, none was sought.

I dissent from the doctrine that an individual begins to lose his constitutional rights the minute he answers the telephone.

Though I dissented in *United States v. White*, 401 U. S. 745, 756, the Court emphasized that where there was connivance of one party to the conversation who wears the recording device, the search could not be considered unreasonable. But here a third person, not a party to the

---

\*This opinion also applies to No. 5053, *Lopez v. United States*, *supra*, and No. 5986, *Hickman v. United States*, *infra*.

May 3, 1971

402 U. S.

conversation, is the interceptor. Thus does the law grow imperceptibly but surely toward creating in this Nation the totalitarian type of surveillance we profess to abhor.

I would grant certiorari and reverse these judgments.

No. 5971.\* *IN RE GARLAND ET AL.* C. A. 1st Cir. Certiorari denied. MR. JUSTICE BRENNAN is of the opinion that certiorari should be granted. Reported below: 428 F. 2d 1185.

No. 5986.† *HICKMAN v. UNITED STATES.* C. A. 7th Cir. Certiorari denied. Reported below: 426 F. 2d 515.

No. 6514. *HORTENCIO v. WHITEHEAD.* Sup. Ct. Utah. Certiorari denied. MR. JUSTICE BLACK and MR. JUSTICE DOUGLAS dissent from denial of petition. Reported below: 25 Utah 2d 73, 475 P. 2d 1011.

#### *Rehearing Denied*

No. 5999. *HOWARD v. CRAVEN, WARDEN, ET AL.,* 401 U. S. 983;

No. 6052. *FANALE v. ANDERSON ET AL.,* 401 U. S. 915;

No. 6489. *LIPSCOMB v. UNITED STATES,* 401 U. S. 980;

No. 6516. *YOUNG v. UNITED STATES,* 401 U. S. 995;

No. 6522. *TRACY ET UX. v. UNITED STATES ET AL.,* 401 U. S. 980; and

No. 6598. *YODER v. UNITED STATES,* 401 U. S. 1002. Petitions for rehearing denied.

No. 6044. *POLESE v. UNITED STATES ET AL.,* 400 U. S. 1011. Motion for leave to file petition for rehearing denied.

---

\*For separate opinions of BLACK, J., and DOUGLAS, J., see No. 5048, *Meltzer v. LeCraw & Co., supra.*

† For dissenting opinion of DOUGLAS, J., see No. 5795, *Hudson v. United States, supra.*

402 U.S.

May 3, 17, 1971

No. 123. INTERNATIONAL BROTHERHOOD OF BOILERMAKERS, IRON SHIPBUILDERS, BLACKSMITHS, FORGERS & HELPERS, AFL-CIO *v.* HARDEMAN, 401 U. S. 233.

Motion to dispense with printing petition granted. Petition for rehearing denied.

MAY 17, 1971

*Affirmed on Appeal*

No. 728. HODGSON ET AL. *v.* RANDALL ET AL. Affirmed on appeal from D. C. Minn. MR. JUSTICE DOUGLAS is of the opinion that probable jurisdiction should be noted and case set for oral argument. Reported below: 314 F. Supp. 32.

No. 1501. KOLLAR ET AL. *v.* CITY OF TUCSON ET AL. Affirmed on appeal from D. C. Ariz. MR. JUSTICE DOUGLAS and MR. JUSTICE WHITE are of the opinion that probable jurisdiction should be noted and case set for oral argument. Reported below: 319 F. Supp. 482.

No. 1514. LEITCHFIELD MANUFACTURING CO., INC., ET AL. *v.* UNITED STATES ET AL. Affirmed on appeal from D. C. W. D. Ky. Reported below: 318 F. Supp. 1214.

*Appeals Dismissed*

No. 1510. AIRWICK INDUSTRIES, INC., ET AL. *v.* CARLSTADT SEWERAGE AUTHORITY ET AL. Appeal from Sup. Ct. N. J. dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied. Reported below: 57 N. J. 107, 270 A. 2d 18.

No. 6750. GRAY *v.* PENNSYLVANIA. Appeal from Sup. Ct. Pa. dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied. Reported below: 441 Pa. 91, 271 A. 2d 486.

May 17, 1971

402 U. S.

No. 729. *HODGSON v. MINNESOTA*. Appeal from Sup. Ct. Minn. dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied.

No. 1273. *STAFFORD v. MICHIGAN*. Appeal from Ct. App. Mich. dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied. MR. JUSTICE BLACK dissents from this action of the Court.

No. 1473. *G & M EMPLOYMENT SERVICE, INC., ET AL. v. DEPARTMENT OF LABOR AND INDUSTRIES ET AL.* Appeal from Sup. Jud. Ct. Mass. dismissed for want of substantial federal question. Reported below: — Mass. —, 265 N. E. 2d 476.

No. 1538. *PASSEL ET AL. v. FORT WORTH INDEPENDENT SCHOOL DISTRICT ET AL.* Appeal from Ct. Civ. App. Tex., 2d Sup. Jud. Dist., dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that probable jurisdiction should be noted and case set for oral argument. Reported below: 453 S. W. 2d 888.

No. 6054. *VASQUEZ v. NEW YORK*. Appeal from App. Term, Sup. Ct. N. Y., 1st Jud. Dept., dismissed. *Molinaro v. New Jersey*, 396 U. S. 365 (1970). MR. JUSTICE BRENNAN is of the opinion that probable jurisdiction should be noted and case set for oral argument.

*Vacated and Remanded on Appeal*

No. 6778. *TORRES ET AL. v. NEW YORK STATE DEPARTMENT OF LABOR ET AL.* Appeal from D. C. S. D. N. Y. Judgment vacated and case remanded for reconsideration in light of this Court's decision in *California Department of Human Resources v. Java*, ante, p. 121. Reported below: 321 F. Supp. 432.

402 U. S.

May 17, 1971

No. 707. UNITED STATES *v.* 119 CARTONS CONTAINING 30,000 OBSCENE MAGAZINES (SCAN IMPORTS, CLAIMANT). Appeal from D. C. C. D. Cal. Judgment vacated and case remanded for reconsideration in light of this Court's decision in *United States v. Thirty-Seven (37) Photographs (Luros, Claimant)*, ante, p. 363. MR. JUSTICE DOUGLAS dissents from this action of the Court.

*Certiorari Granted—Vacated and Remanded*

No. 111. UNITED STATES *v.* HOLMES. C. A. 2d Cir. Certiorari granted, judgment vacated, and case remanded for reconsideration in light of this Court's decision in *Ehlert v. United States*, ante, p. 99. MR. JUSTICE DOUGLAS dissents from this action of the Court. Reported below: 426 F. 2d 915.

No. 611. LAIRD, SECRETARY OF DEFENSE, ET AL. *v.* CAPOBIANCO. C. A. 2d Cir. Certiorari granted, judgment vacated, and case remanded for reconsideration in light of this Court's decision in *Ehlert v. United States*, ante, p. 99. MR. JUSTICE DOUGLAS dissents from this action of the Court. Reported below: 424 F. 2d 1304.

No. 928. EVCO, DBA EVCO INSTRUCTIONAL DESIGNS *v.* JONES, COMMISSIONER OF BUREAU OF REVENUE OF NEW MEXICO, ET AL. Ct. App. N. M. In view of concessions made in brief in opposition filed by the Attorney General of New Mexico, and on examination of the record, certiorari granted, judgment vacated, and case remanded for reconsideration in light of position asserted by the Attorney General in the brief in opposition. THE CHIEF JUSTICE, MR. JUSTICE BLACK, MR. JUSTICE HARLAN, and MR. JUSTICE STEWART are of the opinion that certiorari should be denied. Reported below: 81 N. M. 724, 472 P. 2d 987.

May 17, 1971

402 U. S.

No. 6584. *GRIFFIN v. UNITED STATES*. C. A. 6th Cir. Motion for leave to proceed *in forma pauperis* granted. Pursuant to suggestion of the Solicitor General, certiorari granted, judgment vacated, and case remanded for reconsideration in light of the position asserted by the Solicitor General in the Memorandum for the United States. Reported below: 434 F. 2d 740.

*Miscellaneous Orders*

No. —. *TURPIN ET AL. v. RESOR, SECRETARY OF THE ARMY, ET AL.* D. C. N. D. Cal. Application for stay presented to MR. JUSTICE DOUGLAS, and by him referred to the Court, denied. MR. JUSTICE DOUGLAS is of the opinion that the stay should be granted.

No. —. *KERR v. OHIO*. Sup. Ct. Ohio. Application for stay presented to MR. JUSTICE STEWART, and by him referred to the Court, denied.

No. 109. *TIME, INC. v. PAPE*, 401 U. S. 279. Motion of respondent to be relieved from payment of costs assessed on reversal of judgment denied.

No. 1009. *UNITED STATES v. UNICORN ENTERPRISES, INC., ET AL.* C. A. 2d Cir. [Certiorari granted, 401 U. S. 907.] Application for suspension of stay of mandate of the United States Court of Appeals for the Second Circuit pending judgment of this Court, presented to MR. JUSTICE HARLAN, and by him referred to the Court, granted. MR. JUSTICE BRENNAN took no part in the consideration or decision of this application.

No. 1042. *DIFFENDERFER ET AL. v. CENTRAL BAPTIST CHURCH OF MIAMI, FLORIDA, INC., ET AL.* Appeal from D. C. S. D. Fla. [Probable jurisdiction noted, 401 U. S. 934.] Motion of Protestants and Other Americans United for Separation of Church and State for leave to file a brief as *amicus curiae* granted. Reported below: 316 F. Supp. 1116.

402 U. S.

May 17, 1971

No. 1681. *HOLMES v. ARIZONA*. Ct. App. Ariz. Application for stay presented to MR. JUSTICE BRENNAN, and by him referred to the Court, denied. MR. JUSTICE DOUGLAS is of the opinion that the stay should be granted. Reported below: 13 Ariz. App. 357, 476 P. 2d 878.

No. 6623. *McKENZIE v. TEXAS*. Ct. Crim. App. Tex. Counsel for petitioner is directed to file a brief in support of petition on or before June 3, 1971. The Attorney General of Texas is invited to file a responsive brief within 10 days from date of receipt of petitioner's brief. Reported below: 450 S. W. 2d 341.

No. 6885. *SMITH v. WINGO, WARDEN*. Motion for leave to file petition for writ of habeas corpus denied.

No. 1647. *SPILLERS v. SLAUGHTER ET AL.* Motion for leave to dispense with printing motion for leave to file and petition for writ of mandamus granted. Motion for leave to file petition for writ of mandamus denied.

No. 6536. *BROOKS v. BROWN, CHIEF JUDGE, U. S. COURT OF APPEALS*. Motion for leave to file petition for writ of mandamus denied.

*Probable Jurisdiction Noted*

No. 706. *UNITED STATES v. VARIOUS ARTICLES OF "OBSCENE" MERCHANDISE (CHERRY, CLAIMANT)*. Appeal from D. C. S. D. N. Y. Probable jurisdiction noted. Reported below: 315 F. Supp. 191.

*Certiorari Granted*

No. 1398. *S&E CONTRACTORS, INC. v. UNITED STATES*. Ct. Cl. Certiorari granted. Reported below: 193 Ct. Cl. 335, 433 F. 2d 1373.

No. 1562. *KASTIGAR ET AL. v. UNITED STATES*. C. A. 9th Cir. Certiorari granted. Reported below: 440 F. 2d 954.

May 17, 1971

402 U. S.

*Certiorari Denied.* (See also Nos. 729, 1273, 1510, 1538, and 6750, *supra.*)

No. 179. *PIETERS v. UNITED STATES.* C. A. 9th Cir. *Certiorari denied.* Reported below: 423 F. 2d 1200.

No. 261. *ROBLEY v. UNITED STATES.* C. A. 9th Cir. *Certiorari denied.* Reported below: 423 F. 2d 613.

No. 275. *SWIERENGA v. UNITED STATES.* C. A. 6th Cir. *Certiorari denied.* Reported below: 425 F. 2d 696.

No. 715. *DESTAFANO v. UNITED STATES.* C. A. 2d Cir. *Certiorari denied.* Reported below: 429 F. 2d 344.

No. 1022. *BERGENTHAL v. WISCONSIN.* Sup. Ct. Wis. *Certiorari denied.* Reported below: 47 Wis. 2d 668, 178 N. W. 2d 16.

No. 1111. *MANARITE v. UNITED STATES.* C. A. 2d Cir. *Certiorari denied.* Reported below: 434 F. 2d 1069.

No. 1165. *EUBANK v. ILLINOIS.* Sup. Ct. Ill. *Certiorari denied.* Reported below: 46 Ill. 2d 383, 263 N. E. 2d 869.

No. 1209. *HAIRSTON v. ILLINOIS.* Sup. Ct. Ill. *Certiorari denied.* Reported below: 46 Ill. 2d 348, 263 N. E. 2d 840.

No. 1239. *GLORIOSO v. MARYLAND.* Ct. Sp. App. Md. *Certiorari denied.* Reported below: 10 Md. App. 81, 267 A. 2d 812.

No. 1246. *CARTER, WARDEN, ET AL. v. MILLER.* C. A. 9th Cir. *Certiorari denied.* Reported below: 434 F. 2d 824.

No. 1397. *DROWN v. PORTSMOUTH SCHOOL DISTRICT ET AL.* C. A. 1st Cir. *Certiorari denied.* Reported below: 435 F. 2d 1182.

402 U.S.

May 17, 1971

No. 1259. *FIORE v. UNITED STATES*. C. A. 1st Cir. Certiorari denied. Reported below: 434 F. 2d 966.

No. 1448. *KLAGES COAL & ICE CO., DBA ROYAL CROWN BOTTLING Co. v. HODGSON, SECRETARY OF LABOR*. C. A. 6th Cir. Certiorari denied. Reported below: 435 F. 2d 377.

No. 1453. *HARFLINGER v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 436 F. 2d 928.

No. 1459. *STRIBLING v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 437 F. 2d 765.

No. 1460. *STATE NATIONAL BANK OF ALABAMA ET AL. v. ELLIS ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 434 F. 2d 1182.

No. 1465. *FRANCO v. STEIN STEEL & SUPPLY Co.* Sup. Ct. Ga. Certiorari denied. Reported below: 227 Ga. 92, 179 S. E. 2d 88.

No. 1472. *FIDUCIARY COUNSEL, INC. v. HODGSON, SECRETARY OF LABOR*. C. A. D. C. Cir. Certiorari denied.

No. 1477. *CHICAGO JOINT BOARD, AMALGAMATED CLOTHING WORKERS OF AMERICA, AFL-CIO v. CHICAGO TRIBUNE Co. ET AL.* C. A. 7th Cir. Certiorari denied. Reported below: 435 F. 2d 470.

No. 1481. *IANNONE ET AL. v. MARYLAND*. Ct. Sp. App. Md. Certiorari denied. Reported below: 10 Md. App. 81, 267 A. 2d 812.

No. 1485. *TEX TAN WELHAUSEN Co. v. NATIONAL LABOR RELATIONS BOARD ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 434 F. 2d 405.

No. 1489. *DAVENPORT ET UX. v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 436 F. 2d 395.

May 17, 1971

402 U. S.

No. 1492. *BERING ET UX. v. COMMISSIONER OF INTERNAL REVENUE*. C. A. 9th Cir. Certiorari denied. Reported below: 437 F. 2d 46.

No. 1499. *TATE, MAYOR OF PHILADELPHIA, ET AL. v. PENNSYLVANIA EX REL. JAMIESON, JUDGE*. Sup. Ct. Pa. Certiorari denied. Reported below: 442 Pa. 45, 274 A. 2d 193.

No. 1502. *FRANK ET UX. v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 437 F. 2d 452.

No. 1505. *MID-SOUTH TOWING Co. v. NATIONAL LABOR RELATIONS BOARD*. C. A. 8th Cir. Certiorari denied. Reported below: 436 F. 2d 393.

No. 1513. *AERO ENGINEERING CORP. v. NATIONAL LABOR RELATIONS BOARD*. C. A. 5th Cir. Certiorari denied. Reported below: 433 F. 2d 1311.

No. 1515. *AMITY FABRICS, INC. v. UNITED STATES*. C. C. P. A. Certiorari denied. Reported below: — C. C. P. A. (Cust.) —, 435 F. 2d 569.

No. 1517. *MEHCIZ v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 437 F. 2d 145.

No. 1519. *WHITEHEAD ET AL. v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 438 F. 2d 123.

No. 1524. *MORRIS ET AL. v. LEONARD, TRUSTEE, ET AL.* Ct. Civ. App. Tex., 2d Sup. Jud. Dist. Certiorari denied. Reported below: 457 S. W. 2d 653.

No. 1529. *ALMENDAREZ v. TEXAS*. Ct. Crim. App. Tex. Certiorari denied. Reported below: 460 S. W. 2d 921.

402 U. S.

May 17, 1971

No. 1539. ATLANTIC COAST LINE RAILROAD CO. ET AL. *v.* UNITED STATES ET AL. C. A. 2d Cir. Certiorari denied. Reported below: 434 F. 2d 180.

No. 1555. AMERICAN ELECTRIC, INC. *v.* OLDENKOTT. Ct. App. Cal., 4th App. Dist. Certiorari denied. Reported below: 14 Cal. App. 3d 198, 92 Cal. Rptr. 127.

No. 5187. ARRIAGA *v.* CALIFORNIA. Ct. App. Cal., 2d App. Dist. Certiorari denied.

No. 5269. SMITH *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 423 F. 2d 559.

No. 5484. SMITH *v.* BRANTLEY, WARDEN. C. A. 7th Cir. Certiorari denied.

No. 5559. CAMPBELL *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 427 F. 2d 892.

No. 5962. BLACK *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 431 F. 2d 524.

No. 6108. KONTOS *v.* CREAMER, ATTORNEY GENERAL OF PENNSYLVANIA, ET AL. C. A. 3d Cir. Certiorari denied.

No. 6317. STREULE *v.* GULF FINANCE CORP. C. A. D. C. Cir. Certiorari denied.

No. 6342. KLEIN *v.* NEW YORK. App. Div., Sup. Ct. N. Y., 2d Jud. Dept. Certiorari denied. Reported below: See 27 N. Y. 2d 543, 261 N. E. 2d 261.

No. 6451. WINEGAR *v.* BUCHKOE, WARDEN. Sup. Ct. Mich. Certiorari denied.

No. 6470. COTHRAN ET AL. *v.* SAN JOSE WATER WORKS ET AL. C. A. 9th Cir. Certiorari denied.

No. 6518. ALLEN *v.* TENNESSEE. Ct. Crim. App. Tenn. Certiorari denied.

May 17, 1971

402 U.S.

No. 6467. *BROWN v. HENDRICK, PRISONS SUPERINTENDENT*. C. A. 3d Cir. Certiorari denied. Reported below: 431 F. 2d 436.

No. 6533. *RAGUSE ET AL. v. CALIFORNIA*. Ct. App. Cal., 2d App. Dist. Certiorari denied.

No. 6554. *JOHNSON v. ILLINOIS*. Sup. Ct. Ill. Certiorari denied. Reported below: 47 Ill. 2d 172, 265 N. E. 2d 144.

No. 6565. *GAYLORD v. WOLKE, SHERIFF*. C. A. 7th Cir. Certiorari denied.

No. 6664. *HERNANDEZ v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 438 F. 2d 676.

No. 6685. *HALE v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 435 F. 2d 737.

No. 6686. *IACHINO v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 437 F. 2d 92.

No. 6687. *KNIGHT v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 437 F. 2d 248.

No. 6688. *GINSBURG v. RICHARDSON, SECRETARY OF HEALTH, EDUCATION, AND WELFARE*. C. A. 3d Cir. Certiorari denied. Reported below: 436 F. 2d 1146.

No. 6689. *SMITH v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 436 F. 2d 787.

No. 6705. *HASLAM v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 431 F. 2d 362.

No. 6715. *KING v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 433 F. 2d 937.

No. 6745. *CORCINO v. GOVERNMENT OF THE VIRGIN ISLANDS*. C. A. 3d Cir. Certiorari denied. Reported below: 438 F. 2d 329.

402 U.S.

May 17, 1971

No. 6716. *CASTRO v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 438 F. 2d 468.

No. 6717. *PAIGE v. UNITED STATES*. C. A. 9th Cir. Certiorari denied.

No. 6725. *STONE v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 435 F. 2d 1402.

No. 6738. *REDD v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 438 F. 2d 335.

No. 6740. *SANDERS v. PERINI, CORRECTIONAL SUPERINTENDENT*. C. A. 6th Cir. Certiorari denied.

No. 6741. *FUKUMOTO v. UNITED STATES*. C. A. 9th Cir. Certiorari denied.

No. 6742. *DREW ET AL. v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 436 F. 2d 529.

No. 6747. *MARXUACH v. PUERTO RICO SECRETARY OF JUSTICE ET AL.* Sup. Ct. P. R. Certiorari denied. Reported below: — P. R. R. —.

No. 6748. *LUCAS v. NEW YORK ET AL.* C. A. 2d Cir. Certiorari denied.

No. 6749. *ADCOX v. CALIFORNIA*. Ct. App. Cal., 2d App. Dist. Certiorari denied.

No. 6753. *SMITH v. BUCCI DETECTIVE AGENCY ET AL.* C. A. 3d Cir. Certiorari denied.

No. 6756. *RAMOS v. CALIFORNIA*. Ct. App. Cal., 2d App. Dist. Certiorari denied.

No. 6761. *MANZANARES v. WARDEN, NEVADA STATE PRISON*. Sup. Ct. Nev. Certiorari denied.

No. 6763. *PRIONAS v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 438 F. 2d 1049.

May 17, 1971

402 U. S.

No. 11. WASHINGTON ET UX. v. UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 402 F. 2d 3.

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

Petitioner Othello Washington was convicted of engaging in the wagering business without payment of the special occupational tax. This took place prior to our decision in *Grosso v. United States*, 390 U. S. 62, holding unconstitutional against a claim of self-incrimination a conviction under the same statute. In the course of that prosecution a search warrant was obtained and evidence was obtained on the basis of which the present civil suit for excise taxes, fraud penalties, and interest was brought.

The central question is whether the evidence obtained by a warrant in the criminal case, which retrospectively contained the constitutional infirmity noted in *Grosso*, may be used in this civil case.

Since, as we held in *United States v. Coin & Currency*, 401 U. S. 715, our decisions in *Grosso* and its companion, *Marchetti v. United States*, 390 U. S. 39, are retroactive, I do not see how evidence obtained by use of a search warrant, issued under the old regime which *Grosso* and *Marchetti* put into the discard, can do service for process in this new and wholly different civil proceeding.

There are means of discovery provided by the Rules of Civil Procedure\* and by a special procedure, 26 U. S. C. § 7602, applicable to civil suits to collect federal taxes. The United States would never dare ask for a search warrant to ferret out the facts necessary for its civil suit. The fact that it obtained evidence by a warrant issued in a procedure incident to an unconstitutional prosecution should not now be turned into a windfall. The Government should turn square corners, not taxpayers alone.

---

\*Fed. Rules Civ. Proc. 26-38.

978

BRENNAN, J., dissenting

In retrospect the warrant should not have issued, though under then-existing law it may have been wholly proper. We should hold the Government to the maxim expressed by Mr. Justice Holmes in *Silverthorne Lumber Co. v. United States*, 251 U. S. 385, 392:

“The essence of a provision forbidding the acquisition of evidence in a certain way is that not merely evidence so acquired shall not be used before the Court but that it shall not be used at all.”

I would grant this petition for certiorari.

MR. JUSTICE BRENNAN, dissenting.

The courts below have ordered a sale of petitioner Othello Washington's farm to satisfy a tax lien. The extent of his liability was determined on the basis of evidence seized by Internal Revenue agents under a search warrant grounded upon the determination that there was probable cause to believe that he was engaged in the wagering business without having registered and paid the required occupational tax. We subsequently held that the Fifth Amendment prohibits the Government from requiring such registration of a gambler who justifiably fears that he will thereby incriminate himself, and who does not waive his privilege against self-incrimination. *Marchetti v. United States*, 390 U. S. 39 (1968). And we have just this Term held that prohibition applicable whether the failure to register took place before or after *Marchetti* was decided. *United States v. United States Coin & Currency*, 401 U. S. 715 (1971).

Under these cases, therefore, there is substantial doubt whether the Government could constitutionally punish petitioner for his failure to register.<sup>1</sup> By the same token,

<sup>1</sup> The Government does not dispute that petitioner's gambling activities were illegal under state law, and points to nothing in the record that would indicate petitioner would intelligently and knowingly waive his right against self-incrimination.

May 17, 1971

402 U. S.

I think there is a substantial question whether the affidavits supporting the search warrant were sufficient to establish probable cause to believe that petitioner had committed an offense that the Government could constitutionally prohibit. For the affidavits on their face gave reason to believe that petitioner's gambling activities were in violation of local law,<sup>2</sup> and gave no reason to believe that petitioner would waive his right not to incriminate himself of such violations. I may assume that the Government, in showing probable cause to support a search warrant, need not negative any conceivable defense that might be raised by the suspect. Cf. *United States v. Ventresca*, 380 U. S. 102, 107-109 (1965). But where, as here, the affidavits in support of the warrant indicate the likely existence of an absolute defense to the crime charged that will be unavailing only if explicitly waived by the accused, it is surely not evident that the Fourth Amendment's requirement of probable cause to believe that an offense has been committed is satisfied. I would grant certiorari and set the case for argument.

No. 6768. *MOLINA v. CRAVEN, WARDEN*. C. A. 9th Cir. Certiorari denied. Reported below: 435 F. 2d 554.

No. 6769. *McGREGOR v. WATTS, JUDGE*. Sup. Ct. Wis. Certiorari denied.

No. 6773. *ALEXANDER v. MICHIGAN PAROLE BOARD*. C. A. 6th Cir. Certiorari denied.

No. 6798. *MAKAREWICZ v. SCAFATI, CORRECTIONAL SUPERINTENDENT*. C. A. 1st Cir. Certiorari denied. Reported below: 438 F. 2d 474.

---

<sup>2</sup> Indeed, the affidavits and the District Court relied upon petitioner's past arrests on gambling charges to support the finding of probable cause.

402 U. S.

May 17, 1971

No. 6776. *ESCALANTE v. ZIRPOLI*, U. S. DISTRICT JUDGE. C. A. 9th Cir. Certiorari denied.

No. 6780. *BECKER v. NEBRASKA*. C. A. 8th Cir. Certiorari denied. Reported below: 435 F. 2d 157.

No. 6788. *REYNOLDS v. FOLLETTE*, CORRECTIONAL SUPERINTENDENT. C. A. 2d Cir. Certiorari denied.

No. 6791. *EDGERTON v. BATTEN*. C. A. 4th Cir. Certiorari denied.

No. 86. *TERAN ET AL. v. CALIFORNIA*. Ct. App. Cal., 1st App. Dist. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. Reported below: 275 Cal. App. 2d 119, 80 Cal. Rptr. 214.

No. 110. *PORTER v. ASHMORE ET AL.* C. A. 4th Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. Reported below: 421 F. 2d 1186.

No. 130. *WENZEL v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. Reported below: 422 F. 2d 1325.

No. 132. *MILLANG v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. Reported below: 423 F. 2d 713.

No. 141. *BROSSARD v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. Reported below: 423 F. 2d 711.

No. 142. *HARRIS v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted.

May 17, 1971

402 U. S.

No. 145. *FLESCH v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted.

No. 149. *DILLON v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. Reported below: 423 F. 2d 1121.

No. 151. *POSNER v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. Reported below: 424 F. 2d 181.

No. 173. *KEE MING HSU v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. Reported below: 424 F. 2d 1286.

No. 228. *TURNER v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. Reported below: 426 F. 2d 480.

No. 284. *BENDER v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. Reported below: 424 F. 2d 546.

No. 411. *TUCK v. OREGON*. Ct. App. Ore. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. Reported below: 1 Ore. App. 516, 462 P. 2d 175.

No. 542. *McKINNEY v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. Reported below: 427 F. 2d 449.

402 U.S.

May 17, 1971

No. 1041. *DAVID v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. Reported below: 432 F. 2d 1293.

No. 1234. *DELUTRO v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. Reported below: 435 F. 2d 255.

No. 1242. *LAWRENCE v. WOODS, SHERIFF, ET AL.* C. A. 7th Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. Reported below: 432 F. 2d 1072.

No. 1371. *VIVIANO v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. Reported below: 437 F. 2d 295.

No. 1479. *CONSOLIDATION COAL CO. v. SOUTH-EAST COAL CO.*; and

No. 1483. *UNITED MINE WORKERS OF AMERICA v. SOUTH-EAST COAL CO.* C. A. 6th Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. Reported below: 434 F. 2d 767.

No. 1516. *SILVERMAN ET UX. v. ROGERS, SECRETARY OF STATE, ET AL.* C. A. 1st Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. Reported below: 437 F. 2d 102.

No. 5081. *DONOVAN v. CALIFORNIA*. Ct. App. Cal., 2d App. Dist. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. Reported below: 272 Cal. App. 2d 413 and 426; 77 Cal. Rptr. 285 and 293.

May 17, 1971

402 U. S.

No. 5062. *ZITZER v. CALIFORNIA*. Ct. App. Cal., 2d App. Dist. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted.

No. 5082. *BANKS v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. Reported below: 413 F. 2d 435.

No. 5096. *THOMAS v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. Reported below: 409 F. 2d 888 and 415 F. 2d 1113.

No. 5113. *CASTILLO v. CALIFORNIA*. Ct. App. Cal., 2d App. Dist. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. Reported below: 274 Cal. App. 2d 508, 80 Cal. Rptr. 211.

No. 5116. *LOCKLEAR v. CALIFORNIA*. Ct. App. Cal., 4th App. Dist. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted.

No. 5125. *PARKER v. MARYLAND*. Ct. Sp. App. Md. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. Reported below: 7 Md. App. 167, 254 A. 2d 381.

No. 5130. *RANDAZZO v. FOLLETTE, CORRECTIONAL SUPERINTENDENT*. C. A. 2d Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. Reported below: 418 F. 2d 1319.

No. 5145. *EASON v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. Reported below: 420 F. 2d 1384.

No. 5199. *SOYKA v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted.

402 U.S.

May 17, 1971

No. 5155. *KEITH v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. Reported below: 421 F. 2d 1295.

No. 5159. *JONES v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. Reported below: 423 F. 2d 636.

No. 5186. *BLASSICK v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. Reported below: 422 F. 2d 652.

No. 5341. *GUITIAN v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted.

No. 5358. *WALKER v. UNITED STATES*. C. A. 1st Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. Reported below: 424 F. 2d 1069.

No. 5651. *HAMILTON v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted.

No. 5664. *ROBBINS v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. Reported below: 424 F. 2d 57.

No. 5669. *WILLIAMS v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. Reported below: 428 F. 2d 365.

No. 5717. *VERDUGO v. CALIFORNIA*. Ct. App. Cal., 2d App. Dist. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted.

May 17, 1971

402 U. S.

No. 5897. *BIGSBY v. UNITED STATES*. C. A. D. C. Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. Reported below: 140 U. S. App. D. C. 188, 434 F. 2d 462.

No. 5918. *LEACH ET AL. v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. Reported below: 429 F. 2d 956.

No. 6037. *HARRIS v. UNITED STATES*. C. A. D. C. Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. Reported below: 140 U. S. App. D. C. 270, 435 F. 2d 74.

No. 6090. *OLIVA v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. Reported below: 432 F. 2d 130.

No. 6228. *DAVIS v. CALIFORNIA*. Ct. App. Cal., 2d App. Dist. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted.

No. 6400. *WEBSTER ET AL. v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. Reported below: 426 F. 2d 289.

No. 6777. *RAGAN v. RICHARDSON, SECRETARY OF HEALTH, EDUCATION, AND WELFARE*. C. A. 6th Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. Reported below: 435 F. 2d 239.

No. 104. *WILD ET AL. v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. MR. JUSTICE BLACK and MR. JUSTICE DOUGLAS are of the opinion that certiorari should be granted. Reported below: 422 F. 2d 34.

402 U.S.

May 17, 1971

No. 6502. *WILLIAMS v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted.

No. 313. *ORITO v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. MR. JUSTICE BLACK and MR. JUSTICE DOUGLAS are of the opinion that certiorari should be granted. Reported below: 424 F. 2d 276.

No. 356. *EVANS v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. MR. JUSTICE BLACK and MR. JUSTICE DOUGLAS are of the opinion that certiorari should be granted. Reported below: 425 F. 2d 302.

No. 1018. *NORMAN v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. MR. JUSTICE BLACK and MR. JUSTICE DOUGLAS are of the opinion that certiorari should be granted.

No. 1537. *EISENBERG ET AL. v. WISCONSIN*. Sup. Ct. Wis. Certiorari denied. MR. JUSTICE BLACK and MR. JUSTICE DOUGLAS are of the opinion that certiorari should be granted. Reported below: 48 Wis. 2d 364, 180 N. W. 2d 529.

No. 1370. *LAMP, ADMINISTRATRIX v. UNITED STATES STEEL CORP. ET AL.*;

No. 1475. *FUHRMAN, ADMINISTRATRIX, ET AL. v. UNITED STATES STEEL CORP. ET AL.*; and

No. 1497. *COOK, ADMINISTRATRIX v. UNITED STATES STEEL CORP. ET AL.* C. A. 6th Cir. Certiorari denied. MR. JUSTICE BLACK, MR. JUSTICE DOUGLAS, and MR. JUSTICE BRENNAN are of the opinion that certiorari should be granted. Reported below: 436 F. 2d 1256.

No. 1493. *VERNITRON CORP. ET AL. v. BENJAMIN*. C. A. 2d Cir. Certiorari denied. MR. JUSTICE DOUGLAS took no part in the consideration or decision of this petition. Reported below: 440 F. 2d 105.

May 17, 1971

402 U.S.

No. 6051. SUTTON *v.* UNITED STATES. C. A. D. C. Cir. Certiorari denied. MR. JUSTICE BLACK and MR. JUSTICE DOUGLAS are of the opinion that certiorari should be granted. Reported below: 140 U. S. App. D. C. 188, 434 F. 2d 462.

No. 1442. CLEMENT A. EVANS & Co., INC. *v.* A. M. KIDDER & Co., INC., ET AL. C. A. 5th Cir. Certiorari denied. MR. JUSTICE DOUGLAS and MR. JUSTICE WHITE are of the opinion that certiorari should be granted. Reported below: 434 F. 2d 100.

No. 1469. HOMART DEVELOPMENT Co. *v.* DIAMOND ET AL. Sup. Ct. Cal. Certiorari denied. THE CHIEF JUSTICE and MR. JUSTICE BLACKMUN are of the opinion that certiorari should be granted. Reported below: 3 Cal. 3d 653, 91 Cal. Rptr. 501.

No. 1484. SCHOOP ET AL. *v.* MITCHELL, ATTORNEY GENERAL, ET AL. C. A. D. C. Cir. Certiorari denied. MR. JUSTICE WHITE took no part in the consideration or decision of this petition. Reported below: — U. S. App. D. C. —, 444 F. 2d 863.

No. 1491. HOFFA ET AL. *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. MR. JUSTICE STEWART, MR. JUSTICE WHITE, and MR. JUSTICE MARSHALL took no part in the consideration or decision of this petition. Reported below: 437 F. 2d 11.

No. 1494. HOBSON ET AL. *v.* BOARD OF ELECTIONS FOR THE DISTRICT OF COLUMBIA ET AL. C. A. D. C. Cir. Certiorari denied. MR. JUSTICE BLACK, with whom MR. JUSTICE DOUGLAS joins, is of the opinion that certiorari should be granted on the basis of MR. JUSTICE BLACK's dissent in *United Public Workers v. Mitchell*, 330 U. S. 75, 105 (1947). Reported below: — U. S. App. D. C. —, 444 F. 2d 874.

402 U. S.

May 17, 1971

No. 1506. BOSTON & PROVIDENCE RAILROAD DEVELOPMENT GROUP *v.* BARTLETT, TRUSTEE, ET AL. C. A. 1st Cir. Motion to defer consideration of this petition denied. Certiorari denied. MR. JUSTICE MARSHALL took no part in the consideration or decision of this motion and petition. Reported below: 435 F. 2d 825.

No. 1561. CONTINENTAL/MOSS-GORDIN ET AL. *v.* B-M-G INVESTMENT CO. ET AL. C. A. 5th Cir. Motion of respondents for damages for delay denied. Certiorari denied. Reported below: 437 F. 2d 892.

No. 5849. PINO *v.* UNITED STATES. C. A. 2d Cir. Motion for leave to file supplemental petition granted. Certiorari denied. Reported below: 431 F. 2d 1043.

No. 6519. BRADY *v.* OHIO. Sup. Ct. Ohio. Motion for leave to amend petition granted. Certiorari denied.

No. 6529. MARET *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied. MR. JUSTICE BLACKMUN took no part in the consideration or decision of this petition. Reported below: 433 F. 2d 1064.

No. 6784. BARNEY *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied. MR. JUSTICE MARSHALL took no part in the consideration or decision of this petition.

No. 6799. GRIMES ET AL. *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. MR. JUSTICE STEWART is of the opinion that certiorari should be granted. Reported below: 438 F. 2d 391.

*Rehearing Denied*

No. 169. RADICH *v.* NEW YORK, 401 U. S. 531. Petition for rehearing denied. MR. JUSTICE DOUGLAS took no part in the consideration or decision of this petition.

May 17, 1971

402 U. S.

- No. 13. UNITED STATES *v.* WHITE, 401 U. S. 745;  
No. 43. SHEVIN ET AL. *v.* LAZARUS, 401 U. S. 987;  
No. 975. COLSON ET AL. *v.* MORTON, SECRETARY OF THE  
INTERIOR, 401 U. S. 911;  
No. 1170. FARKAS *v.* TEXAS INSTRUMENTS, INC., 401  
U. S. 974;  
No. 1251. SOUTHLAND INCORPORATED *v.* COX ENTER-  
PRISES, INC., ET AL., 401 U. S. 993;  
No. 1284. BALC *v.* PARSONS ET AL., 401 U. S. 986;  
No. 5257. LABINE, TUTRIX *v.* VINCENT, ADMINIS-  
TRATOR, 401 U. S. 532;  
No. 5481. SCHLANGER *v.* SEAMANS, SECRETARY OF THE  
AIR FORCE, ET AL., 401 U. S. 487;  
No. 5980. BROWN *v.* LAVALLEE, WARDEN, 401 U. S.  
942;  
No. 6297. WRIGHT *v.* DISTRICT COURT OF MONT-  
GOMERY COUNTY, 401 U. S. 1011; and  
No. 6517. BENOIT *v.* UNITED STATES, 401 U. S. 1011.  
Petitions for rehearing denied.

No. 993, October Term, 1968. UNIVERSITY OF ILLINOIS  
FOUNDATION *v.* WINEGARD Co., 394 U. S. 917. Motion  
for leave to file petition for rehearing denied. THE  
CHIEF JUSTICE and MR. JUSTICE BLACKMUN took no part  
in the consideration or decision of this motion.

No. 237. BEREND *v.* J. F. PRITCHARD & Co., 400 U. S.  
823. Motion for leave to file petition for rehearing  
denied.

No. 1382. MACLEOD *v.* UNITED STATES, *ante*, p. 907.  
Motion to dispense with printing petition for rehearing  
granted. Petition for rehearing denied.

No. 6200. EMMONS *v.* TAYLOR ET AL., 401 U. S. 1010.  
Petition for rehearing and other relief denied.

402 U. S.

May 20, 24, 1971

MAY 20, 1971

*Miscellaneous Order*

No. 6945. SPENCER *v.* GEORGIA. C. A. 5th Cir. Application for stay and/or injunction, referred to the Court by MR. JUSTICE BRENNAN, denied. Reported below: 441 F. 2d 397.

MAY 24, 1971

*Affirmed on Appeal*

No. 1262. WYMAN, COMMISSIONER OF NEW YORK DEPARTMENT OF SOCIAL SERVICES, ET AL. *v.* BODDIE ET AL. Appeal from C. A. 2d Cir. Motion of appellees for leave to proceed *in forma pauperis* granted. Judgment affirmed. [For earlier order herein, see 401 U. S. 990.]

No. 1373. WYMAN, COMMISSIONER OF NEW YORK DEPARTMENT OF SOCIAL SERVICES, ET AL. *v.* ROSADO ET AL. Appeal from C. A. 2d Cir. Motion of appellees for leave to proceed *in forma pauperis* granted. Judgment affirmed. Reported below: 437 F. 2d 619.

*Appeals Dismissed*

No. 1328. LASHLEY ET AL. *v.* MARYLAND. Appeal from Ct. Sp. App. Md. dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that probable jurisdiction should be noted and case set for oral argument. Reported below: 10 Md. App. 136, 268 A. 2d 502.

No. 6555. BURTON *v.* NEW YORK. Appeal from Ct. App. N. Y. It appears that sentences imposed under judgment sought to be reviewed were concurrent and appeal therefore dismissed. Reported below: 27 N. Y. 2d 198, 265 N. E. 2d 66.

May 24, 1971

402 U.S.

No. 1504. *GIANNATTI ET AL. v. COUNTY OF LOS ANGELES*. Appeal from Ct. App. Cal., 2d App. Dist., dismissed for want of substantial federal question.

MR. JUSTICE DOUGLAS, with whom MR. JUSTICE BRENNAN and MR. JUSTICE BLACKMUN concur, dissenting:

I would note probable jurisdiction of this appeal and set the case for argument.

Under California law a county is liable for damages for intentional assault and battery of a civilian by a member of the police force. Cal. Govt. Code § 815.2 (a) (1966), *Scruggs v. Haynes*, 252 Cal. App. 2d 256, 60 Cal. Rptr. 355. But the statute exempts any injury to "any prisoner." Cal. Govt. Code § 844.6 (a)(2) (Supp. 1971).

The California courts have sustained the constitutionality of the exemption of prisoners against the claim that it violates the Due Process and Equal Protection Clauses of the Fourteenth Amendment. *Sanders v. County of Yuba*, 247 Cal. App. 2d 748, 55 Cal. Rptr. 852. The *Sanders* case was followed in the present one. While a prisoner loses some civil rights, nevertheless as stated by Judge, now MR. JUSTICE, BLACKMUN in *Jackson v. Bishop*, 404 F. 2d 571, 576, "he continues to be protected by the due process and equal protection clauses which follow him through the prison doors."

The equal protection question is a substantial one which we should decide only after oral argument.

No. 6588. *PARDO v. ILLINOIS*. Appeal from Sup. Ct. Ill. dismissed for want of substantial federal question. Reported below: 47 Ill. 2d 420, 265 N. E. 2d 656.

#### *Miscellaneous Orders*

No. 6911. *JACKSON v. WARDEN, MARYLAND PENITENTIARY*. Motion for leave to file petition for writ of habeas corpus denied.

402 U. S.

May 24, 1971

No. 598, Misc., October Term, 1964. WILLIAMSON ET AL. *v.* GILMER ET AL., 379 U. S. 955. Motion to recall and amend order of this Court of January 18, 1965, denied. THE CHIEF JUSTICE, MR. JUSTICE MARSHALL, and MR. JUSTICE BLACKMUN took no part in the consideration or decision of this motion.

No. 1. ANDERSON *v.* KENTUCKY. Ct. App. Ky. Motion for restraining order presented to MR. JUSTICE BRENNAN, and by him referred to the Court, denied. Reported below: 353 S. W. 2d 381. [For earlier orders herein, see, *e. g.*, 371 U. S. 886 and 937.]

No. 910. ALLIED CHEMICAL & ALKALI WORKERS OF AMERICA, LOCAL UNION NO. 1 *v.* PITTSBURGH PLATE GLASS Co., CHEMICAL DIVISION, ET AL.; and

No. 961. NATIONAL LABOR RELATIONS BOARD *v.* PITTSBURGH PLATE GLASS Co., CHEMICAL DIVISION, ET AL. C. A. 6th Cir. [Certiorari granted, 401 U. S. 907.] Motion of the Solicitor General for additional time for oral argument granted and 15 additional minutes allotted for that purpose. Respondents likewise allotted 15 additional minutes for oral argument.

No. 1159. SUPERINTENDENT OF INSURANCE OF NEW YORK *v.* BANKERS LIFE & CASUALTY Co. ET AL. C. A. 2d Cir. [Certiorari granted, 401 U. S. 973.] Motion of the Solicitor General for leave to permit the Securities and Exchange Commission to participate in oral argument as *amicus curiae* in support of petitioner granted, and 15 minutes allowed for this purpose. Respondents allotted 15 additional minutes for oral argument.

No. 1454. PICARD *v.* CONNOR. C. A. 1st Cir. [Certiorari granted, *ante*, p. 942.] Motion for appointment of counsel granted. It is ordered that James J. Twohig, Esquire, of South Boston, Massachusetts, a member of the Bar of this Court, be, and he is hereby, appointed to serve as counsel for respondent in this case.

May 24, 1971

402 U. S.

No. 6568. *McKINNEY v. UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT ET AL.* Motion for leave to file petition for writ of mandamus denied.

*Probable Jurisdiction Noted*

No. 6744. *CARTER ET AL. v. STANTON, DIRECTOR, MARION COUNTY DEPARTMENT OF PUBLIC WELFARE, ET AL.* Appeal from D. C. S. D. Ind. Motion of appellants for leave to proceed *in forma pauperis* granted. Probable jurisdiction noted.

No. 6966. *EPPS ET AL. v. CORTESE ET AL.* Appeal from D. C. E. D. Pa. Motion of appellants for leave to proceed *in forma pauperis* granted. Probable jurisdiction noted and case set for oral argument immediately following No. 6060. [*Sub nom. Fuentes et al. v. Shevin, Attorney General of Florida, et al.*, probable jurisdiction noted, 401 U. S. 906.] Reported below: 326 F. Supp. 127.

*Certiorari Granted*

No. 1470. *NORFOLK & WESTERN RAILWAY Co. v. NEMITZ ET AL.* C. A. 6th Cir. Certiorari granted. Reported below: 436 F. 2d 841.

No. 1480. *SANTOBELLO v. NEW YORK.* App. Div., Sup. Ct. N. Y., 1st Jud. Dept. Certiorari granted. Reported below: 35 App. Div. 2d 1084, 316 N. Y. S. 2d 194.

No. 1536. *WISCONSIN v. YODER ET AL.* Sup. Ct. Wis. Certiorari granted. Reported below: 49 Wis. 2d 430, 182 N. W. 2d 539.

No. 1289. *PIPEFITTERS LOCAL UNION No. 562 ET AL. v. UNITED STATES.* C. A. 8th Cir. Certiorari granted. MR. JUSTICE BLACKMUN took no part in the consideration or decision of this petition. Reported below: 434 F. 2d 1116 and 1127.

402 U. S.

May 24, 1971

No. 6401. *KIRBY v. ILLINOIS*. App. Ct. Ill., 1st Dist. Motion of petitioner for leave to proceed *in forma pauperis* granted. Certiorari granted limited to Question 2 presented in the petition which reads as follows:

"(2) Whether due process requires that an accused be advised of his right to counsel prior to a pre-indictment showup at a police station several hours after his arrest and forty-eight hours after the alleged crime occurred." Reported below: 121 Ill. App. 2d 323, 257 N. E. 2d 589.

*Certiorari Denied.* (See also No. 1328, *supra*.)

No. 1414. *GOOCH ET AL. v. MITCHELL, ATTORNEY GENERAL, ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 433 F. 2d 74.

No. 1429. *FINCKE ET AL. v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 437 F. 2d 856.

No. 1447. *ANDREWS v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 434 F. 2d 978.

No. 1518. *KEENE v. JACKSON COUNTY ET AL.* Ct. App. Ore. Certiorari denied. Reported below: 3 Ore. App. 551, 474 P. 2d 777.

No. 1527. *ELDON INDUSTRIES, INC., ET AL. v. SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES (CLOWES, REAL PARTY IN INTEREST)*. Ct. App. Cal., 2d App. Dist. Certiorari denied.

No. 1530. *ELVIN v. UNITED STATES*. C. A. 2d Cir. Certiorari denied.

No. 1535. *FRANZESE v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 438 F. 2d 536.

No. 1544. *SWANNEY-McDONALD, INC. v. GRAY ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 436 F. 2d 652.

May 24, 1971

402 U.S.

No. 1566. *CHICAGO, ROCK ISLAND & PACIFIC RAILROAD Co. ET AL. v. CHICAGO, BURLINGTON & QUINCY RAILROAD Co.* C. A. 7th Cir. Certiorari denied. Reported below: 437 F. 2d 6.

No. 1600. *COMPANIA DE NAVEGACIONE ALMIRANTE S. A., PANAMA v. BEVERLY HILLS NATIONAL BANK.* C. A. 9th Cir. Certiorari denied. Reported below: 437 F. 2d 301.

No. 6440. *THOMAS v. ILLINOIS.* App. Ct. Ill., 5th Dist. Certiorari denied. Reported below: 120 Ill. App. 2d 219, 256 N. E. 2d 870.

No. 6604. *GREENE v. CITY OF CHICAGO.* Sup. Ct. Ill. Certiorari denied. Reported below: 47 Ill. 2d 30, 264 N. E. 2d 163.

No. 6615. *PAPA v. FLORIDA.* Dist. Ct. App. Fla., 1st Dist. Certiorari denied. Reported below: 236 So. 2d 459.

No. 6657. *DRIVER v. CADY, WARDEN.* C. A. 7th Cir. Certiorari denied.

No. 6666. *DUNN v. NEW YORK.* App. Div., Sup. Ct. N. Y., 1st Jud. Dept. Certiorari denied.

No. 6751. *SHOPA v. UNITED STATES.* C. A. 3d Cir. Certiorari denied. Reported below: 438 F. 2d 1062.

No. 6755. *KIMBALL v. UNITED STATES.* C. A. 8th Cir. Certiorari denied. Reported below: 437 F. 2d 921.

No. 6762. *BOOKER v. TENNESSEE.* Sup. Ct. Tenn. Certiorari denied.

No. 6771. *TAFT v. UNITED STATES.* C. A. 4th Cir. Certiorari denied. Reported below: 438 F. 2d 48.

No. 6772. *SPARKS v. METZGER, SHERIFF.* C. A. 6th Cir. Certiorari denied.

402 U. S.

May 24, 1971

No. 6781. *McPHERSON v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 436 F. 2d 1066.

No. 6801. *ECTOR v. SMITH, WARDEN*. C. A. 5th Cir. Certiorari denied. Reported below: 438 F. 2d 975.

No. 6804. *WILSON v. FOLLETTE, CORRECTIONAL SUPERINTENDENT*. C. A. 2d Cir. Certiorari denied. Reported below: 438 F. 2d 1197.

No. 6808. *CLERMONT v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 432 F. 2d 1215.

No. 6811. *STALLINGS v. INDIANA*. Sup. Ct. Ind. Certiorari denied. Reported below: — Ind. —, 264 N. E. 2d 618.

No. 6812. *LO CICERO v. NEW YORK*. Ct. App. N. Y. Certiorari denied. Reported below: 28 N. Y. 2d 525, 267 N. E. 2d 885.

No. 6814. *WADE v. HAYNES, WARDEN*. Sup. Ct. App. W. Va. Certiorari denied.

No. 6816. *BROWN v. BRIERLEY, CORRECTIONAL SUPERINTENDENT*. C. A. 3d Cir. Certiorari denied. Reported below: 438 F. 2d 954.

No. 6818. *TRACY ET UX. v. CHANDLER ET AL., U. S. CIRCUIT JUDGES*. C. A. 10th Cir. Certiorari denied.

No. 6819. *SKINNER v. UNITED STATES*. C. A. 1st Cir. Certiorari denied.

No. 6820. *STOVALL v. ILLINOIS*. Sup. Ct. Ill. Certiorari denied. Reported below: 47 Ill. 2d 42, 264 N. E. 2d 174.

No. 6822. *NELSON v. WARDEN, KANSAS STATE PENITENTIARY*. C. A. 10th Cir. Certiorari denied. Reported below: 436 F. 2d 961.

May 24, 1971

402 U.S.

No. 6824. *KING v. NORTH CAROLINA*. C. A. 4th Cir. Certiorari denied.

No. 6826. *TIPPETT v. HAYNES, WARDEN*. Sup. Ct. App. W. Va. Certiorari denied.

No. 6830. *WILLOUGHBY v. LASH, WARDEN*. C. A. 7th Cir. Certiorari denied.

No. 6833. *NEGRON v. WALLACE ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 436 F. 2d 1139.

No. 6834. *BOAG v. CRAVEN, WARDEN*. C. A. 9th Cir. Certiorari denied.

No. 6839. *SCHLETTE v. CRAVEN, WARDEN*. C. A. 9th Cir. Certiorari denied.

No. 6841. *MURRAY v. NEW JERSEY*. Sup. Ct. N. J. Certiorari denied.

No. 6846. *JONES v. DIRECTOR, PATUXENT INSTITUTION*. Ct. Sp. App. Md. Certiorari denied.

No. 6850. *GOODALE v. FLORIDA*. Dist. Ct. App. Fla., 4th Dist. Certiorari denied. Reported below: See 245 So. 2d 256.

No. 6851. *WILLIAMS v. NEIL, WARDEN*. C. A. 6th Cir. Certiorari denied.

No. 6854. *PELICIE v. NEW YORK*. App. Div., Sup. Ct. N. Y., 1st Jud. Dept. Certiorari denied. Reported below: 35 App. Div. 2d 780, 784, 315 N. Y. S. 2d 291.

No. 1199. *COOK COUNTY COLLEGE TEACHERS UNION, LOCAL 1600, ET AL. v. BOARD OF JUNIOR COLLEGE DISTRICT No. 508, COUNTY OF COOK, ET AL.* App. Ct. Ill., 1st Dist. Motion for leave to supplement petition granted. Certiorari denied. Reported below: 126 Ill. App. 2d 418, 262 N. E. 2d 125.

402 U. S.

May 24, 1971

No. 1322. PENNSYLVANIA *v.* DAVIS. Sup. Ct. Pa. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 440 Pa. 123, 270 A. 2d 199.

No. 1355. MIDDLEWEST MOTOR FREIGHT BUREAU ET AL. *v.* UNITED STATES ET AL. C. A. 8th Cir. Certiorari denied. MR. JUSTICE STEWART is of the opinion that certiorari should be granted. MR. JUSTICE BLACKMUN took no part in the consideration or decision of this petition. Reported below: 433 F. 2d 212.

No. 1395. DESAPIO *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. MR. JUSTICE DOUGLAS and MR. JUSTICE STEWART are of the opinion that certiorari should be granted. MR. JUSTICE WHITE took no part in the consideration or decision of this petition. Reported below: 435 F. 2d 272.

No. 1531. DAVIS *v.* MEMBERS OF SELECTIVE SERVICE BOARD NO. 30 OF DALLAS, TEXAS, ET AL. C. A. 5th Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. Reported below: 433 F. 2d 736.

No. 1540. BERZANSKIS *v.* DALEY ET AL. Sup. Ct. Ill. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. Reported below: 47 Ill. 2d 395, 269 N. E. 2d 716.

No. 1543. NIX *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. Reported below: 437 F. 2d 746.

No. 5157. CHAMBERS ET AL. *v.* CALIFORNIA. Ct. App. Cal., 2d App. Dist. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. Reported below: 276 Cal. App. 2d 89, 80 Cal. Rptr. 672.

May 24, 1971

402 U. S.

No. 6106. *TARVER v. SMITH*, SECRETARY OF DEPARTMENT OF SOCIAL AND HEALTH SERVICES OF WASHINGTON. Sup. Ct. Wash. Certiorari denied. MR. JUSTICE BRENNAN is of the opinion that certiorari should be granted. Reported below: 78 Wash. 2d 152, 470 P. 2d 172. [For earlier order herein, see 401 U. S. 906.]

MR. JUSTICE DOUGLAS, dissenting.

The ability of the Government and private agencies to gather, retain, and catalogue information on anyone for their unfettered use raises problems concerning the privacy and dignity of individuals.<sup>1</sup> Public and private agencies are storing more and more data. "If your name is not in the records of at least one credit bureau, it doesn't mean that you don't rate. What it does mean is that you are either under twenty-one or dead."<sup>2</sup>

A file may show that an individual was arrested. But will it show the arrest was unconstitutional because it was solely for purposes of investigation? Or that the charges were dropped? Or that a jury acquitted him?

Other "facts" may be in a file. Did he vote for Henry Wallace? Was he cited by HUAC? Is he subversive? Did he ever belong to any subversive organizations?

Private files amass similar irrelevancies and subjective information. Is he well regarded in his neighborhood as to character and habits? Does he have domestic difficulties? Is he "slow" in paying his bills?

---

<sup>1</sup> Law reviews have been devoting increasing attention to the problem. Recently two total issues have been devoted to the legal problems. See 15 U. C. L. A. L. Rev. 1374 and 31 Law & Contemp. Prob. 251. See also Symposium: Computers, Data Banks, and Individual Privacy, 53 Minn. L. Rev. 211; Note, Privacy and Efficient Government: Proposals for a National Data Center, 82 Harv. L. Rev. 400; Freed, A Legal Structure for a National Medical Data Center, 49 B. U. L. Rev. 79; Miller, Personal Privacy in the Computer Age, 67 Mich. L. Rev. 1091.

<sup>2</sup> H. Black, Buy Now, Pay Later 37 (1961).

1000

DOUGLAS, J., dissenting

The problems of a computerized society<sup>3</sup> with large data banks are immense. Who should have access to the files on an individual? For what purposes should access be allowed? Should an individual be informed each time information is passed on to new parties? How long should information be retained? What mechanisms ought there be for correcting factual errors?

This case presents the latter issue. A caseworker has prepared a highly critical report on petitioner setting forth in detail factual allegations and accusing petitioner of child neglect. The report recommends that petitioner be permanently deprived of the custody of her children. Custody was temporarily placed in juvenile court because petitioner was hospitalized. Subsequently a hearing in juvenile court was held and petitioner was exonerated and retained custody of her children. But the critical report—which petitioner alleges is false—remains in the files with the Department of Social and Health Services of the State of Washington.

Not surprisingly, petitioner would like the allegedly false information removed from those files. But her efforts to obtain a hearing to correct the information have failed.

The State says that petitioner's file is "confidential and privileged" and under current state law the file may be disclosed only "for purposes directly connected with the administration of public assistance and specific investigatory purposes by legislative committees and properly authorized bodies." Respondent's Brief 6. Just how many people and agencies this includes is unclear. The only thing perfectly clear from this record is that

---

<sup>3</sup> "[T]he computer can also be an agent of oppression, if, for example, its fantastic memory is used to place indelibly on record all the events in a man's life, all his mistakes and weaknesses, precluding all hope of their effacement, every stimulating possibility of a new chance in life." R. Prebisch, *Change and Development, Latin America's Great Task* 209 (1970).

petitioner has no rights under state law to a hearing to correct the reports even if they are total lies. And it appears petitioner will never be informed prior to transmittal of her file to the various "authorized" groups.

The State contends that petitioner will suffer no harm from having the material in her files. We are told everyone will know the report is only an opinion; the decree of the juvenile court will be included; and the file will be treated confidentially. While, of course, we cannot know if the information is false and cannot tell which and how many uses will be made of the file, it is apparent that petitioner does raise some serious questions concerning its use. Participation "in the new Work-Incentive Programs is initiated by a referral by respondent's department of, among others, persons who are 'appropriate for referral.' R. C. W. 74.22.020; 74.23.040. Those who are referred receive substantial training benefits as well as increased cash benefits. R. C. W. 74.22.050, 060; R. C. W. 74.23.060, 070. Similarly, the availability of sheltered workshop programs depends upon a determination by the respondent's department that the subject, if a 'disadvantaged person,' 'can reasonably be expected to benefit from, or in his best interests reasonably requires' such a program. R. C. W. 28A.10.080 (2)." Petition 7 n. 2. The only answer that respondent gives to this is that any "information transmitted to the Employment Security Department under the Work Incentive Program is for the benefit of the recipient." How petitioner would benefit from the transmission of the allegedly false material we are not told.

The Washington State public assistance programs are designed to receive federal assistance whenever federal funds are available. Various provisions in the appropriate title of the Revised Code of Washington dealing with public assistance refer to conformity with and pri-

1000

DOUGLAS, J., dissenting

macy of federal law. *E. g.*, Wash. Rev. Code § 74.04.055 (Supp. 1970) (if more than one construction possible, favor that "most likely to satisfy federal laws"); Wash. Rev. Code § 74.23.005 (Supp. 1970) ("The legislature hereby expresses its intention to comply with the requirements under the federal social security act, as amended, creating a work incentive program" for mothers receiving Aid to Families with Dependent Children); Wash. Rev. Code § 74.23.900 (Supp. 1970) (if any part of the chapter conflicts with federal law it is to that extent inoperative). The record in this case is not clear as to which types of public assistance petitioner is receiving. Prior to the temporary unsuccessful attempt to remove her children from her custody she was receiving AFDC benefits. From the references in the briefs to eligibility for the AFDC Work Incentive Program it would appear that she is now again receiving AFDC benefits.

When federal funds are used, then standards are to be shaped and tested federally. *Helvering v. Davis*, 301 U. S. 619; *Ivanhoe Irrig. Dist. v. McCracken*, 357 U. S. 275, 295; *Rosado v. Wyman*, 397 U. S. 397, 427 (concurring opinion).

If meanwhile she was denied a fair hearing under state law, an important question of procedural due process is raised under the Fourteenth Amendment. For petitioner's right to continued assistance—an important property interest—cannot be reduced or terminated without notice and an opportunity to be heard. Cf. *Sniadach v. Family Finance Corp.*, 395 U. S. 337.

If petitioner was at the time receiving federal assistance then under HEW Regulations, she was entitled to a fair hearing.

The Department's regulations require that provision be made for granting a fair hearing:

"to any individual requesting a hearing because his claim for financial or medical assistance is de-

nied, or is not acted upon with reasonable promptness, or because he is aggrieved by any other agency action affecting receipt, suspension, reduction, or termination of such assistance or by agency policy as it affects his situation." 45 CFR § 205.10 (a)(3), eff. April 14, 1971 (emphasis added). 36 Fed. Reg. 3034.

As the Solicitor General says in his brief, filed at our request:

"One may say, quite simply, that the report which petitioner challenges threatens receipt of AFDC payments by threatening to deprive petitioner of her children, on which her receipt of AFDC benefits depends. One of the federal requirements for a state plan for AFDC is that it must:

"(16) provide that where the State agency has reason to believe that the home in which a relative and child receiving aid reside is unsuitable for the child because of the neglect, abuse, or exploitation of such child it shall bring such condition to the attention of the appropriate court or law enforcement agencies in the State, providing such data with respect to the situation it may have [42 U. S. C. (Supp. IV) 602 (a)(16)].

"If any question were now to arise as to the suitability of the home for the children, the prior report might well have an effect on referral of the case to the courts and action by the courts, notwithstanding the 1967 decision of the Juvenile Court. Thus, the report retains a constant potential effect on petitioner's custody of her children and thereby on her receipt of assistance."

We cannot be sure of the exact posture of this case;

402 U. S.

May 24, 1971

but whether or not the claim at the time was federally funded, a question of national importance is presented. Accordingly, I would grant the petition for certiorari.

No. 6527. FREEMAN *v.* JOINER ET AL. Sup. Ct. Pa. Certiorari denied. MR. JUSTICE BLACK and MR. JUSTICE DOUGLAS are of the opinion that certiorari should be granted.

No. 6828. MOONEY *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied. MR. JUSTICE BLACKMUN took no part in the consideration or decision of this petition.

*Rehearing Denied*

No. 6223. IN RE DISBARMENT OF CHIPLEY, 401 U. S. 1010;

No. 6284. DONOVAN *v.* UNITED STATES ET AL., 401 U. S. 944;

No. 6319. NEY *v.* FIELD, MEN'S COLONY SUPERINTENDENT, *ante*, p. 904;

No. 6464. EISENHARDT *v.* UNITED STATES, *ante*, p. 928; and

No. 6510. COOKMEYER *v.* LOUISIANA DEPARTMENT OF HIGHWAYS, 401 U. S. 980. Petitions for rehearing denied.

*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 Appeals for the Second Circuit beginning October 12, 1971, and ending October 15, 1971, and for such additional time in advance thereof to prepare for the trial of cases, or thereafter 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.

JUNE 1, 1971

*Affirmed on Appeal*

No. 1394. GRANITE FALLS STATE BANK *v.* SCHNEIDER, DIRECTOR OF DEPARTMENT OF GENERAL ADMINISTRATION, ET AL. Affirmed on appeal from D. C. W. D. Wash. Reported below: 319 F. Supp. 1346.

*Appeals Dismissed*

No. 1574. LOWE *v.* YOUNG. Appeal from Ct. App. Ga. dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied. Reported below: 123 Ga. App. 121, 179 S. E. 2d 546.

No. 6901. SWANEY *v.* NORTH CAROLINA. Appeal from Sup. Ct. N. C. dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied. Reported below: 277 N. C. 602, 178 S. E. 2d 399.

*Certiorari Granted—Vacated and Remanded*

No. 6662. NELSON *v.* UNITED STATES. C. A. 8th Cir. Motion for leave to proceed *in forma pauperis* granted. Pursuant to suggestion of the Solicitor General, certiorari granted, judgment vacated, and case remanded for reconsideration in light of position asserted by the Solicitor General in the Memorandum for the United States. Application for bail also referred to the United States Court of Appeals for the Eighth Circuit. Reported below: 434 F. 2d 748.

No. 6704. GAINES *v.* UNITED STATES. C. A. 2d Cir. Motion for leave to proceed *in forma pauperis* granted. Pursuant to suggestion of the Solicitor General, certiorari granted, judgment vacated, and case remanded for reconsideration in light of position asserted by the Solicitor General in the Memorandum for the United States. Reported below: 436 F. 2d 1069.

402 U. S.

June 1, 1971

*Miscellaneous Orders*

No. 910. ALLIED CHEMICAL & ALKALI WORKERS OF AMERICA, LOCAL UNION No. 1 *v.* PITTSBURGH PLATE GLASS Co., CHEMICAL DIVISION, ET AL.; and

No. 961. NATIONAL LABOR RELATIONS BOARD *v.* PITTSBURGH PLATE GLASS Co., CHEMICAL DIVISION, ET AL. C. A. 6th Cir. [Certiorari granted, 401 U. S. 907.] Motion of National Council of Senior Citizens to file a brief as *amicus curiae* granted.

No. 958. FEDERAL POWER COMMISSION *v.* FLORIDA POWER & LIGHT Co. C. A. 5th Cir. [Certiorari granted, 401 U. S. 907.] Motion of Gainesville Utilities Department et al. for leave to file a brief as *amici curiae* granted. MR. JUSTICE BLACKMUN took no part in the consideration or decision of this motion.

No. 1622. WHDH, INC. *v.* FEDERAL COMMUNICATIONS COMMISSION ET AL.;

No. 1708. CHARLES RIVER CIVIC TELEVISION, INC. *v.* FEDERAL COMMUNICATIONS COMMISSION ET AL.; and

No. 1716. GREATER BOSTON TELEVISION CORP. *v.* FEDERAL COMMUNICATIONS COMMISSION ET AL. C. A. D. C. Cir. Motion for expeditious treatment of petitions for writs of certiorari denied. Motion for conditional revocation of stay also denied. THE CHIEF JUSTICE took no part in the consideration or decision of these motions. Reported below: — U. S. App. D. C. —, 444 F. 2d 841.

No. 1689. PRUETT *v.* TEXAS ET AL. Ct. Crim. App. Tex. Reapplication for stay and other relief denied. Reported below: 465 S. W. 2d 164.

No. 5850. TOWNSEND ET AL. *v.* SWANK, DIRECTOR, DEPARTMENT OF PUBLIC AID OF ILLINOIS, ET AL.; and

No. 6000. ALEXANDER ET AL. *v.* SWANK, DIRECTOR, DEPARTMENT OF PUBLIC AID OF ILLINOIS, ET AL. Appeals from D. C. N. D. Ill. [Probable jurisdiction noted, 401 U. S. 906.] Motion for additional time for argument denied.

June 1, 1971

402 U. S.

No. 6979. DAVIS *v.* POPE, MEDICAL FACILITY SUPERINTENDENT; and

No. 7034. RAY *v.* BRIERLEY, CORRECTIONAL SUPERINTENDENT. Motions for leave to file petitions for writs of habeas corpus denied.

No. 6848. RUDERER *v.* REGAN, U. S. DISTRICT JUDGE. Motion for leave to file petition for writ of mandamus denied. MR. JUSTICE BLACKMUN took no part in the consideration or decision of this motion.

*Certiorari Granted*

No. 1419. CALIFORNIA MOTOR TRANSPORT CO. ET AL. *v.* TRUCKING UNLIMITED ET AL. C. A. 9th Cir. Certiorari granted. Reported below: 432 F. 2d 755.

No. 6810. McCLANAHAN *v.* MORAUER & HARTZELL, INC., ET AL. C. A. D. C. Cir. Motion for leave to proceed *in forma pauperis* and certiorari granted. Reported below: 142 U. S. App. D. C. 40, 439 F. 2d 550.

*Certiorari Denied.* (See also Nos. 1574 and 6901, *supra.*)

No. 1476. FERRONE *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied. Reported below: 438 F. 2d 381.

No. 1542. ALLEN *v.* VANCANTFORT. C. A. 1st Cir. Certiorari denied. Reported below: 436 F. 2d 625.

No. 1545. KARNES *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 437 F. 2d 284.

No. 1547. GENERAL RADIO CO. *v.* KEPCO, INC. C. A. 2d Cir. Certiorari denied. Reported below: 435 F. 2d 135.

No. 1551. WEBER *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied. Reported below: 437 F. 2d 1218.

No. 1553. CARPENTER *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 438 F. 2d 526.

402 U.S.

June 1, 1971

No. 1559. ALONZO *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 439 F. 2d 991.

No. 1567. GALLAGHER *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied. Reported below: 437 F. 2d 1191.

No. 1568. BEAN ET AL. *v.* ILLINOIS. App. Ct. Ill., 1st Dist. Certiorari denied. Reported below: 121 Ill. App. 2d 290, 257 N. E. 2d 558.

No. 1577. GERSTEIN *v.* MARYLAND. Ct. Sp. App. Md. Certiorari denied. Reported below: 10 Md. App. 322, 270 A. 2d 331.

No. 1579. HARTFORD ACCIDENT & INDEMNITY Co. *v.* EASTERN AIRLINES, INC. C. A. 5th Cir. Certiorari denied. Reported below: 437 F. 2d 449.

No. 1580. CASCADE CAR WASH, INC. *v.* LAURENT WATCH Co., INC., DBA CASCADE CAR WASH. C. A. 9th Cir. Certiorari denied. Reported below: 437 F. 2d 122.

No. 1582. STEINER *v.* OFFICER IN COMMAND, ARMED FORCES EXAMINING AND INDUCTION CENTER AT HOUSTON, TEXAS, ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 436 F. 2d 687.

No. 1631. NOE *v.* CHICAGO GREAT WESTERN RAILWAY Co. App. Ct. Ill., 1st Dist. Certiorari denied. Reported below: 263 N. E. 2d 889.

No. 6563. NORMAN *v.* NEW JERSEY. Sup. Ct. N. J. Certiorari denied. Reported below: 57 N. J. 165, 270 A. 2d 409.

No. 6592. SMITH *v.* ILLINOIS. Sup. Ct. Ill. Certiorari denied. Reported below: 46 Ill. 2d 424, 263 N. E. 2d 860.

June 1, 1971

402 U. S.

No. 6593. *REYES v. CALIFORNIA*. Ct. App. Cal., 1st App. Dist. Certiorari denied.

No. 6629. *WOOD v. GAFFNEY, WARDEN*. C. A. 10th Cir. Certiorari denied. Reported below: 436 F. 2d 1077.

No. 6630. *MITCHELL v. ILLINOIS*. App. Ct. Ill., 1st Dist. Certiorari denied. Reported below: 128 Ill. App. 2d 90, 262 N. E. 2d 798.

No. 6651. *GREEN v. MICHIGAN*. Sup. Ct. Mich. Certiorari denied. Reported below: 383 Mich. 812.

No. 6732. *JIMINEZ-LOPEZ ET AL. v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 437 F. 2d 791.

No. 6785. *MAXWELL ET AL. v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 439 F. 2d 135.

No. 6789. *WAHLQUIST v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 438 F. 2d 219.

No. 6797. *EVANS v. UNITED STATES*. C. A. D. C. Cir. Certiorari denied. Reported below: 141 U. S. App. D. C. 321, 438 F. 2d 162.

No. 6813. *GONZALEZ-PARRA v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 438 F. 2d 694.

No. 6815. *BROCATO ET AL. v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 437 F. 2d 1157.

No. 6821. *FRIZER v. McMANN, CORRECTIONAL SUPERINTENDENT*. C. A. 2d Cir. Certiorari denied. Reported below: 437 F. 2d 1309 and 1312.

402 U.S.

June 1, 1971

No. 6823. *GWYNN v. UNITED STATES*. C. A. 2d Cir. Certiorari denied.

No. 6825. *FAULS v. UNITED STATES*; and

No. 6827. *SCOTT v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 437 F. 2d 1318.

No. 6843. *FERGUSON v. MANCUSI, CORRECTIONAL SUPERINTENDENT*. C. A. 2d Cir. Certiorari denied.

No. 6844. *FERREE v. FRYE, WARDEN*. C. A. 7th Cir. Certiorari denied.

No. 6845. *EBBS v. NEW YORK*. Ct. App. N. Y. Certiorari denied.

No. 6849. *PHILLIPS v. PENNSYLVANIA*. Sup. Ct. Pa. Certiorari denied. Reported below: 441 Pa. 343, 271 A. 2d 867.

No. 6858. *GILL v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 437 F. 2d 733.

No. 6859. *POWERS v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 439 F. 2d 373.

No. 6861. *ANDERSON v. CALIFORNIA*. Sup. Ct. Cal. Certiorari denied.

No. 6863. *HOY v. GAFFNEY, WARDEN*. C. A. 10th Cir. Certiorari denied.

No. 6865. *BURKE v. ERICKSON, WARDEN*. C. A. 8th Cir. Certiorari denied. Reported below: 438 F. 2d 326.

No. 6866. *SIMPSON v. WAINWRIGHT, CORRECTIONS DIRECTOR*. C. A. 5th Cir. Certiorari denied. Reported below: 439 F. 2d 948.

No. 6869. *SMITH v. ILLINOIS*. Sup. Ct. Ill. Certiorari denied. Reported below: 47 Ill. 2d 528, 267 N. E. 2d 669.

June 1, 1971

402 U. S.

No. 6897. EDWARDS *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied.

No. 1468. SCOTT ET AL. *v.* TEXAS. Sup. Ct. Tex. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. Reported below: 460 S. W. 2d 103.

No. 1575. MORE *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. Reported below: 436 F. 2d 938.

No. 6794. GRIJALVA *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. Reported below: 436 F. 2d 420.

No. 6809. AUSTIN *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. Reported below: 434 F. 2d 1301.

No. 1474. MARCHESE *v.* UNITED STATES. C. A. 2d Cir. Motion to dispense with printing petition granted. Certiorari denied. Reported below: 438 F. 2d 452.

No. 1546. HOHENSEE ET AL. *v.* SCIENTIFIC LIVING, INC., ET AL. Sup. Ct. Pa. Motion to dispense with printing petition granted. Certiorari denied. Reported below: 440 Pa. 280, 270 A. 2d 216.

No. 1550. SILK *v.* KLEPPE, ADMINISTRATOR OF SMALL BUSINESS ADMINISTRATION, ET AL. C. A. 1st Cir. Motion to dispense with printing petition granted. Certiorari denied. Reported below: 435 F. 2d 1266.

No. 1557. LAVALLEE, CORRECTIONAL SUPERINTENDENT *v.* BURNS. C. A. 2d Cir. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 436 F. 2d 1352.

402 U. S.

June 1, 1971

No. 1526. UNITED STEELWORKERS OF AMERICA, AFL-CIO *v.* AUBURNDALE FREEZER CORP. ET AL. C. A. 5th Cir. Motion of American Federation of Labor & Congress of Industrial Organizations for leave to file a brief as *amicus curiae* granted. Certiorari denied. Reported below: 434 F. 2d 1219.

*Rehearing Denied*

No. 962. KOSTAMO *v.* NORTHERN CITY NATIONAL BANK, ADMINISTRATOR, ET AL., *ante*, p. 902;

No. 1348. LITTLEPAGE *v.* UNITED STATES, *ante*, p. 915;

No. 1352. CONSOLIDATED CARRIERS CORP. *v.* UNITED STATES ET AL., *ante*, p. 901;

No. 1368. FOREMAN *v.* CITY OF BELLEFONTAINE ET AL., *ante*, p. 901;

No. 1400. DROBNICK ET AL. (FIRST NATIONAL BANK OF WAUKEGAN, TRUSTEE) *v.* FOSS PARK DISTRICT, *ante*, p. 907;

No. 6182. BUSTOS *v.* CALIFORNIA, *ante*, p. 910;

No. 6459. CHACON *v.* NELSON, WARDEN, *ante*, p. 941;

No. 6665. LAUGHLIN *v.* UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT, *ante*, p. 904;

No. 6671. MORALES *v.* CADY, WARDEN, *ante*, p. 931;  
and

No. 6700. BRYANT *v.* UNITED STATES, *ante*, p. 932.  
Petitions for rehearing denied.

No. 1021. TOLIVER *v.* UNITED STATES, 401 U. S. 913.  
Motion for leave to file petition for rehearing denied.

