

ORDERS FROM END OF OCTOBER TERM, 1970,  
THROUGH JANUARY 27, 1972

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CASES DISMISSED IN VACATION

No. 70-5139. *GREEN v. CALIFORNIA*. Sup. Ct. Cal. Petition for writ of certiorari dismissed July 14, 1971, pursuant to Rule 60 of the Rules of this Court. Reported below: 3 Cal. 3d 981, 479 P. 2d 998.

No. 70-5104. *McGHEE v. PENNSYLVANIA*. Super. Ct. Pa. Petition for writ of certiorari dismissed July 27, 1971, pursuant to Rule 60 of the Rules of this Court.

No. 70-100. *COL-AN ENTERTAINMENT CORP. ET AL. v. HARPER ET AL.* Appeal from D. C. N. D. Fla. dismissed August 20, 1971, pursuant to Rule 60 of the Rules of this Court. Reported below: 325 F. Supp. 447. [Probable jurisdiction noted, 402 U. S. 941.]

No. 70-177. *UNITED STATES v. INTERNATIONAL TELEPHONE & TELEGRAPH CORP.* Appeal from D. C. Conn. dismissed August 23, 1971, pursuant to Rule 60 of the Rules of this Court. Reported below: 306 F. Supp. 766.

No. 70-5374. *AMEERAR ET UX. v. IMMIGRATION AND NATURALIZATION SERVICE*. C. A. 3d Cir. Petition for writ of certiorari dismissed September 2, 1971, pursuant to Rule 60 of the Rules of this Court. Reported below: 438 F. 2d 1028.

No. 71-5199. *KOPOLSKY v. UNITED STATES*. C. A. 2d Cir. Petition for writ of certiorari dismissed September 3, 1971, pursuant to Rule 60 of the Rules of this Court. Reported below: 443 F. 2d 1178.

No. 70-62. *AMALGAMATED CLOTHING WORKERS OF AMERICA, AFL-CIO v. PREPMORE APPAREL, INC., ET AL.*

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C. A. 5th Cir. Writ of certiorari dismissed September 15, 1971, pursuant to Rule 60 of the Rules of this Court. Reported below: 431 F. 2d 1004. [Certiorari granted, 401 U. S. 993.]

No. 71-5079. JOHNSON *v.* UNITED STATES. C. A. 4th Cir. Petition for writ of certiorari dismissed September 29, 1971, pursuant to Rule 60 of the Rules of this Court.

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*Dismissal Under Rule 60*

No. 70-5147. MASSEY *v.* GEORGIA. Sup. Ct. Ga. Petition for writ of certiorari dismissed under Rule 60 of the Rules of this Court. Reported below: 227 Ga. 257, 181 S. E. 2d 71.

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*Dismissal Under Rule 60*

No. 70-8. UNITED STATES *v.* JOHNSON. C. A. 9th Cir. Writ of certiorari dismissed pursuant to Rule 60 of the Rules of this Court. Reported below: 425 F. 2d 630. [Certiorari granted, 400 U. S. 990.]

*Affirmed on Appeal*

No. 70-157. ADMIRAL-MERCHANTS MOTOR FREIGHT, INC., ET AL. *v.* UNITED STATES ET AL. Affirmed on appeal from D. C. Colo. Reported below: 321 F. Supp. 353.

No. 70-329. SYUFY ENTERPRISES *v.* UNITED STATES ET AL. Affirmed on appeal from D. C. S. D. N. Y. Reported below: 333 F. Supp. 1100.

No. 70-328. UNITED FEDERATION OF POSTAL CLERKS *v.* BLOUNT, POSTMASTER GENERAL. Affirmed on appeal from D. C. D. C. MR. JUSTICE DOUGLAS is of the opinion that probable jurisdiction should be noted and case set for oral argument. Reported below: 325 F. Supp. 879.

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No. 71-63. *JURAS v. MEYERS ET AL.* Appeal from D. C. Ore. Motion of appellees for leave to proceed *in forma pauperis* granted. Motion of Harold O. Swank et al. for leave to intervene and to adopt jurisdictional statement denied. Judgment affirmed. Reported below: 327 F. Supp. 759.

*Appeals Dismissed*

No. 70-111. *WALL ET AL. v. CALIFORNIA.* Appeal from App. Dept., Super. Ct. Cal., County of Los Angeles, dismissed for want of a properly presented federal question.

No. 70-201. *LEVIN ET AL. v. TOWNSHIP COMMITTEE OF THE TOWNSHIP OF BRIDGEWATER ET AL.* Appeal from Sup. Ct. N. J. dismissed for want of substantial federal question. Reported below: 57 N. J. 506, 274 A. 2d 1.

No. 70-226. *MARYLAND COMMUNITY DEVELOPERS, INC. v. STATE ROADS COMMISSION OF MARYLAND.* Appeal from Ct. App. Md. dismissed for want of substantial federal question. Reported below: 261 Md. 205, 274 A. 2d 641.

No. 70-296. *SPELLERBERG v. ADAMS, SECRETARY OF STATE OF FLORIDA, ET AL.* Appeal from Sup. Ct. Fla. dismissed for want of substantial federal question.

No. 70-331. *SECOND UNITED PRESBYTERIAN CHURCH OF JOHNSTOWN v. PRESBYTERY OF ALBANY.* Appeal from Ct. App. N. Y. dismissed for want of substantial federal question. Reported below: 28 N. Y. 2d 772, 269 N. E. 2d 918.

No. 71-31. *KINNEY CAR CORP. ET AL. v. CITY OF NEW YORK ET AL.* Appeal from Ct. App. N. Y. dismissed for want of substantial federal question. Reported below: 28 N. Y. 2d 741, 269 N. E. 2d 829.

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No. 70-5140. *COLE v. NIGRO, JUDGE*. Appeal from Sup. Ct. Mo. dismissed for want of substantial federal question. Reported below: 471 S. W. 2d 933.

No. 71-59. *HERSHBERGER ET UX. v. CITY OF TROY ET AL.* Appeal from Ct. App. Mich. dismissed for want of substantial federal question. Reported below: 27 Mich. App. 123, 183 N. W. 2d 430.

No. 71-193. *CHICAGO, MILWAUKEE, ST. PAUL & PACIFIC RAILROAD Co. v. WASHINGTON*. Appeal from Sup. Ct. Wash. dismissed for want of substantial federal question. Reported below: 79 Wash. 2d 288, 484 P. 2d 1146.

No. 70-133. *STRASBOURG v. CALIFORNIA*. Appeal from App. Dept., Super. Ct. Cal., County of Los Angeles, dismissed for want of substantial federal question. MR. JUSTICE DOUGLAS is of the opinion that probable jurisdiction should be noted and case set for oral argument.

No. 70-214. *PINSON, ADMINISTRATOR v. CALIFORNIA*. Appeal from Ct. App. Cal., 1st App. Dist., dismissed for want of substantial federal question. MR. JUSTICE DOUGLAS is of the opinion that probable jurisdiction should be noted and case set for oral argument.

No. 71-18. *PACHECO v. PACHECO*. Appeal from Sup. Ct. Fla. dismissed for want of substantial federal question. MR. JUSTICE DOUGLAS is of the opinion that probable jurisdiction should be noted and case set for oral argument. Reported below: 246 So. 2d 778.

No. 71-5023. *HAYNES ET AL. v. NEW YORK*. Appeal from Ct. App. N. Y. dismissed for want of substantial federal question. MR. JUSTICE BRENNAN is of the opinion that probable jurisdiction should be noted and case set for oral argument. Reported below: 28 N. Y. 2d 764, 269 N. E. 2d 915.

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No. 71-197. *ROGOFF v. ANDERSON ET AL.* Appeal from Ct. App. N. Y. dismissed for want of substantial federal question. MR. JUSTICE STEWART and MR. JUSTICE MARSHALL are of the opinion that probable jurisdiction should be noted and case set for oral argument.

No. 70-178. *DEMARTINO ET UX. v. SCARPETTA ET AL.* Appeal from Ct. App. N. Y. dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied. Reported below: 28 N. Y. 2d 185, 269 N. E. 2d 787.

No. 70-5172. *QUARLES v. TEXAS ET AL.* Appeal from C. A. 5th Cir. dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied.

No. 70-5190. *CLARK v. CRAVEN, WARDEN.* Appeal from C. A. 9th Cir. dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied. Reported below: 437 F. 2d 1202.

No. 71-131. *RAMOS, AKA RAYMOND v. LOUISIANA.* 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. Reported below: 258 La. 1, 245 So. 2d 335.

No. 71-181. *WATKINS ET AL. v. GROVER, TRUSTEE IN BANKRUPTCY.* Appeal from C. A. 9th Cir. dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied.

No. 71-5071. *TAYLOR ET AL. v. DONALDSON.* Appeal from Sup. Ct. 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: 227 Ga. 496, 181 S. E. 2d 340.

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No. 70-237. BEAUFORT TRANSFER CO. ET AL. *v.* UNITED STATES ET AL. Appeal from D. C. E. D. Mo. dismissed for failure to docket case within time prescribed by Rule 13 of the Rules of this Court. *Shapiro v. Doe*, 396 U. S. 488. Reported below: 324 F. Supp. 649.

*Vacated and Remanded on Appeal*

No. 70-146. SOUTHERN GOVERNORS' CONFERENCE ET AL. *v.* UNITED STATES ET AL.; and

No. 70-147. ABERDEEN & ROCKFISH RAILROAD CO. ET AL. *v.* UNITED STATES ET AL. Appeals from D. C. E. D. La. Judgment vacated and cases remanded with directions to dismiss proceedings as moot insofar as they involve formulation of terms of remand to the Interstate Commerce Commission.

No. 70-184. POPE ET AL. *v.* HAIMOWITZ ET AL. Appeal from D. C. M. D. Fla. Judgment vacated and case remanded with directions to dismiss proceedings as moot. Reported below: 325 F. Supp. 550.

*Certiorari Granted—Vacated and Remanded, or Reversed*

No. 70-114. HICKS, DISTRICT ATTORNEY OF ORANGE COUNTY, CALIFORNIA *v.* GROVE PRESS, INC. C. A. 9th Cir. Certiorari granted, judgment vacated, and case remanded for reconsideration in light of *Perez v. Ledesma*, 401 U. S. 82. MR. JUSTICE DOUGLAS took no part in the consideration or decision of this case.

No. 70-122. BURGIN *v.* SOUTH CAROLINA. Sup. Ct. S. C. Certiorari granted and judgment reversed. *Redrup v. New York*, 386 U. S. 767. THE CHIEF JUSTICE and MR. JUSTICE BLACKMUN dissent. Reported below: 255 S. C. 237, 178 S. E. 2d 325.

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No. 70-164. POLICE JURY OF THE PARISH OF VERMILION *v.* HEBERT. Sup. Ct. La. Certiorari granted and judgment reversed. *Cipriano v. City of Houma*, 395 U. S. 701; *City of Phoenix v. Kolodziejski*, 399 U. S. 204; and *Stewart v. Parish School Board of the Parish of St. Charles*, 400 U. S. 884. Reported below: 258 La. 41, 245 So. 2d 349.

No. 70-5078. LATHAM *v.* TYNAN, COMMISSIONER OF MOTOR VEHICLES OF CONNECTICUT. C. A. 2d Cir. Certiorari granted, judgment vacated, and case remanded for further consideration in light of *Bell v. Burson*, 402 U. S. 535. Reported below: 435 F. 2d 1248.

#### *Miscellaneous Orders*

No. A-285 (71-377). ELIAS, CORRECTIONAL SUPERINTENDENT *v.* CATENA. C. A. 3d Cir. Reported below: 449 F. 2d 40; and

No. A-342. UNITED STATES EX REL. ANNALORO *v.* ELIAS, CORRECTIONAL SUPERINTENDENT. Pending appeal to C. A. 3d Cir. Motion for stay in Application No. A-285 granted, and counter application for bail denied. Application for bail in Application No. A-342 presented to MR. JUSTICE WHITE, and by him referred to the Court, denied. MR. JUSTICE BRENNAN took no part in the consideration or decision of the motion or applications.

MR. JUSTICE DOUGLAS, dissenting.

These are applications for bail in cases from the Court of Appeals for the Third Circuit, in *Catena* pending certiorari to this Court and in *Annaloro* pending appeal to the Court of Appeals. Each applicant was convicted by a state court for refusing to testify before a grand jury. Each sought habeas corpus in the federal court; and in the *Catena* case, 449 F. 2d 40, the Court of Appeals held that the applicant was unconstitutionally detained.

Concededly, the *Annaloro* case is on all fours with *Catena*, although the Court of Appeals has not yet heard the merits.

The underlying question in these cases is whether the immunity to which a witness is entitled who refuses to testify because of the Self-Incrimination Clause of the Fifth Amendment is "transactional" immunity or "use" immunity. The question is one that was stirred last Term in *Piccirillo v. New York*, 400 U. S. 548. As MR. JUSTICE BRENNAN, MR. JUSTICE MARSHALL, and I concluded in that case, the constitutional requirement calls for "transactional" immunity. *Id.*, at 550-551, 562, *et seq.* That plainly is the law as it now stands, *ibid.*; and the Court of Appeals so held. Since applicants were granted only "use" immunity and refused to testify on that ground, they have wrongfully been imprisoned. They are therefore being held unconstitutionally and should be discharged pending review of the cases.

We have noted jurisdiction in No. 69-4, *Zicarelli v. New Jersey State Commission of Investigation*, 401 U. S. 933, which raises the same question. But since *Malloy v. Hogan*, 378 U. S. 1, held that the Fourteenth Amendment applied the Self-Incrimination Clause to the States as fully as to the Federal Government, it will require a reversal in direction by this Court and a dilution of *Malloy* to say that these applicants are lawfully detained.

I would follow settled law until it is changed and meanwhile discharge these prisoners on suitable bail.\*

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\*"A justice or judge of the United States before whom a habeas corpus proceeding is pending, may, before final judgment or after final judgment of discharge, or pending appeal, stay any proceeding against the person detained in any State court or by or under the authority of any State for any matter involved in the habeas corpus proceeding." 28 U. S. C. § 2251.

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No. A-311 (70-51). WHITCOMB, GOVERNOR OF INDIANA, ET AL. *v.* AFFELDT ET UX. Appeal from D. C. N. D. Ind. Application for stay presented to MR. JUSTICE MARSHALL, and by him referred to the Court, denied.

No. A-385. INMATES OF ATTICA CORRECTIONAL FACILITY *v.* ROCKEFELLER, GOVERNOR OF NEW YORK, ET AL. C. A. 2d Cir. Application for temporary restraining order or injunction presented to MR. JUSTICE MARSHALL, and by him referred to the Court, denied.

MR. JUSTICE DOUGLAS, dissenting.

Applicants, state prisoners currently incarcerated at Attica State Prison,<sup>1</sup> brought a class action in the District Court, under 42 U. S. C. § 1983 and 28 U. S. C. § 1343 (3), alleging systematic violations of their constitutional rights by prison officials and state authorities in the aftermath of the Attica uprising of September 9-13, 1971. They requested, *inter alia*, that state officials be enjoined from questioning any prisoners concerning the uprising unless *Miranda* warnings<sup>2</sup> were given and counsel present. The District Court denied this request, while reserving rulings on other requested relief arising from

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<sup>1</sup> Subsequent to the retaking of the prison on September 13, all inmates who had not been freed from their cells were transferred to other institutions. The current prison population at Attica consists only of prisoners who had previously been assigned to Cell Block D, which was the block involved in the uprising.

<sup>2</sup> *Miranda v. Arizona*, 384 U. S. 436, held that the subject of custodial interrogation must be clearly advised that he has a right to remain silent, and that anything he says may be used against him in court. He must be clearly informed that he has a right to consult with an attorney, to have an attorney present during interrogation, and, if he is indigent, to have an attorney appointed to represent him. Statements elicited without these warnings having been given are inadmissible against the subject at trial.

charges of beatings, threats, interference with access to counsel, and destruction of legal materials.<sup>3</sup> The question, however, was certified for appeal to the Court of Appeals, and is at present awaiting a decision there.

This is a case in which the public interest runs high and which raises grave questions concerning procedures for law enforcement that comport with the Constitution. The need for an immediate, authoritative determination of the prisoners' claims is paramount. It would serve no interest of the public, or of judicial order, for that determination to await the exhaustion of remedies in the lower courts.

*Miranda* is part of a prisoner's bill of rights. In a recent case *Miranda* was applied where a federal agent questioned a prisoner who was at the time serving a state sentence on a different crime. The Solicitor General argued that *Miranda* was not applicable to that situation. We disagreed and, speaking through Mr. Justice Black, said:

"The Government also seeks to narrow the scope of the *Miranda* holding by making it applicable only to questioning one who is 'in custody' in connection with the very case under investigation. There is no substance to such a distinction, and in effect it goes against the whole purpose of the *Miranda* decision which was designed to give meaningful protection to Fifth Amendment rights. We find nothing in the *Miranda* opinion which calls for a curtailment of the warnings to be given persons under interrogation by officers based on the reason why the

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<sup>3</sup> The District Court, on October 6, 1971, dismissed the remainder of the prisoners' claims. Were an appeal of these claims presently docketed in the Court of Appeals, I would consolidate them so that the entire case could be disposed of at one time.

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person is in custody." *Mathis v. United States*, 391 U. S. 1, 4-5.

I would treat the application before us as a petition for certiorari, and bring to this Court for summary disposition the entire matter pending in the Court of Appeals. See, *e. g.*, *Wilson v. Girard*, 354 U. S. 524, 928; *Ex parte Quirin*, 317 U. S. 1.

No. A-389. ALLGOOD ET AL. *v.* BREWER ET AL. Application for stay of order of District Court for the Eastern District of Virginia presented to THE CHIEF JUSTICE, and by him referred to the Court, denied.

No. ——. JACKSON ET AL. *v.* ELLINGTON ET AL. D. C. W. D. Tenn. Motion of appellee Canale to dismiss cause pursuant to Rule 14 (3) of the Rules of this Court granted.

No. 45, Orig. WASHINGTON ET AL. *v.* GENERAL MOTORS CORP. ET AL. Motion of Heart Disease Research Foundation et al. for leave to intervene and to participate in oral argument denied. Motion of Attorney General of California for leave to participate in oral argument as *amicus curiae* denied. [For earlier orders herein, see, *e. g.*, 403 U. S. 949.]

No. 154, October Term, 1970. JAMES ET AL. *v.* VALTIERRA ET AL.; and

No. 226, October Term, 1970. SHAFFER *v.* VALTIERRA ET AL., 402 U. S. 137. Motions of appellees to be relieved of costs denied.

No. 281, October Term, 1970. SWANN ET AL. *v.* CHARLOTTE-MECKLENBURG BOARD OF EDUCATION ET AL., 402 U. S. 1. Pursuant to motion of petitioners to tax costs herein, it is ordered that one-half of the taxable costs herein shall be allowed to petitioners, to be paid by respondents.

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No. 68-5009. *SCHNEBLE v. FLORIDA*. Sup. Ct. Fla. [Certiorari granted, 403 U. S. 952.] Motion to use record in No. 1070, Misc., October Term, 1967 [*Schneble v. Florida*, 392 U. S. 298], granted.

No. 68-5027. *AIKENS v. CALIFORNIA*. Sup. Ct. Cal.;

No. 69-5003. *FURMAN v. GEORGIA*. Sup. Ct. Ga.;

No. 69-5030. *JACKSON v. GEORGIA*. Sup. Ct. Ga.;

and

No. 69-5031. *BRANCH v. TEXAS*. Ct. Crim. App. Tex. Motions of James V. Bennett et al., National Association for the Advancement of Colored People et al., Synagogue Council of America and its Constituents et al., and American Civil Liberties Union for leave to file briefs as *amici curiae* granted. Motion of respondent in No. 68-5027 for leave to proceed on original record granted. [Certiorari granted, 403 U. S. 952.]

No. 69-4. *ZICARELLI v. NEW JERSEY STATE COMMISSION OF INVESTIGATION*. Appeal from Sup. Ct. N. J. [Probable jurisdiction noted, 401 U. S. 933.] Motion of National District Attorneys Assn. et al. for leave to participate in oral argument as *amici curiae* denied. MR. JUSTICE BRENNAN took no part in the consideration or decision of this motion.

No. 69-5. *D. H. OVERMYER Co., INC., OF OHIO ET AL. v. FRICK Co.* Ct. App. Ohio, Lucas County. [Certiorari granted, 401 U. S. 992.] Motions of Ohio State Legal Services Assn. et al. for leave to file a brief as *amici curiae* and to dispense with printing granted.

No. 69-5001. *MOORE v. ILLINOIS*. Sup. Ct. Ill. [Certiorari granted, 403 U. S. 953.] Motion of petitioner to proceed on original record granted. Motion of NAACP Legal Defense & Educational Fund, Inc., et al. for leave to file a brief as *amici curiae* granted.

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No. 69-5035. JOHNSON *v.* LOUISIANA. Appeal from Sup. Ct. La. [Probable jurisdiction noted, 400 U. S. 900.] Motion of appellant for additional time for oral argument denied.

No. 70-2. UNITED STATES *v.* 12 200-FT. REELS OF SUPER 8MM. FILM ET AL. (PALADINI, CLAIMANT). Appeal from D. C. C. D. Cal. [Probable jurisdiction noted, 403 U. S. 930.] Thomas H. Kuchel, Esquire, of Beverly Hills, California, a member of the Bar of this Court, is invited to brief and argue this case as *amicus curiae* in support of the judgment below.

No. 70-4. REED *v.* REED, ADMINISTRATOR. Appeal from Sup. Ct. Idaho. [Probable jurisdiction noted, 401 U. S. 934]; and

No. 70-5026. ALEXANDER *v.* LOUISIANA. Sup. Ct. La. [Certiorari granted, 401 U. S. 936.] Motion of National Federation of Business & Professional Women's Clubs, Inc., for leave to file a brief as *amicus curiae* granted.

No. 70-18. ROE ET AL. *v.* WADE, DISTRICT ATTORNEY OF DALLAS COUNTY. Appeal from D. C. N. D. Tex.; and

No. 70-40. DOE ET AL. *v.* BOLTON, ATTORNEY GENERAL OF GEORGIA, ET AL. Appeal from D. C. N. D. Ga. Motions of National Legal Program on Health Problems of the Poor et al., American Ethical Union et al., Planned Parenthood Federation of America, Inc., et al., American Association of University Women et al., New Women Lawyers et al., Robert L. Sassone, and State Communities Aid Assn. for leave to file briefs as *amici curiae* granted. Motion of appellants for additional time for oral argument in No. 70-18 denied. Motion of American College of Obstetricians and Gynecologists et al. for leave to file a brief as *amici curiae* in No. 70-40 granted. [Probable jurisdiction postponed, 402 U. S. 941.]

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No. 70-6. SWARB ET AL. v. LENNOX ET AL. Appeal from D. C. E. D. Pa. [Probable jurisdiction noted, 401 U. S. 991.] Motion of Pennsylvania Credit Union League for leave to participate in oral argument as *amicus curiae* denied. Motion of Pennsylvania Bankers Assn. for leave to file a brief as *amicus curiae* granted.

No. 70-9. YOUNGER, ATTORNEY GENERAL OF CALIFORNIA, ET AL. v. GILMORE ET AL. Appeal from D. C. N. D. Cal. [Probable jurisdiction postponed, 401 U. S. 906.] Motion of appellees for appointment of counsel granted. It is ordered that John E. Wahl, Esquire, of San Francisco, California, be, and he is hereby, appointed to serve as counsel for appellees in this case.

No. 70-19. UNITED STATES v. MARION ET AL. Appeal from D. C. D. C. [Probable jurisdiction postponed, 401 U. S. 934.] Motion of appellee Cratch for leave to proceed *in forma pauperis* granted. Motion of National Association of Criminal Defense Lawyers for leave to participate in oral argument as *amicus curiae* denied.

No. 70-34. SIERRA CLUB v. MORTON, SECRETARY OF THE INTERIOR, ET AL. C. A. 9th Cir. [Certiorari granted, 401 U. S. 907.] Motion of American National Cattlemen's Assn. et al. for leave to file a brief as *amici curiae* granted. Motion of petitioner for additional time for oral argument denied.

No. 70-47. 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 appellant Diffenderfer for additional time for oral argument denied.

No. 70-54. VICTORY CARRIERS, INC., ET AL. v. LAW. C. A. 5th Cir. [Certiorari granted, 401 U. S. 936.] Motion of National Maritime Compensation Committee for leave to file an untimely brief as *amicus curiae* denied.

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No. 70-57. UNITED STATES *v.* CALDWELL. C. A. 9th Cir. [Certiorari granted, 402 U. S. 942.] Motion of respondent for additional time for oral argument denied. Motions of Washington Post Co. et al., and New York Times et al. for leave to participate in oral argument as *amici curiae* denied.

No. 70-85. BRANZBURG *v.* HAYES ET AL., JUDGES. Ct. App. Ky.; and

No. 70-94. IN RE PAPPAS. Sup. Jud. Ct. Mass. Motion of the Solicitor General to participate in oral argument as *amicus curiae* in support of respondents in each case granted. The Solicitor General allotted 15 minutes for his argument and counsel for petitioner allotted 15 additional minutes to argue in each case. Motions of American Newspaper Guild, AFL-CIO, CLC, and American Newspaper Publishers Assn. for leave to file briefs in No. 70-85 as *amici curiae* granted. [Certiorari granted, 402 U. S. 942.]

No. 70-60. SUPERINTENDENT OF INSURANCE OF NEW YORK *v.* BANKERS LIFE & CASUALTY CO. ET AL. C. A. 2d Cir. [Certiorari granted, 401 U. S. 973.] Motion to substitute Ruth M. Garvin as Executrix of Estate of George K. Garvin in place of George K. Garvin, deceased, granted.

No. 70-73. MILLER *v.* CALIFORNIA. Appeal from App. Dept., Super. Ct., County of Orange. [Probable jurisdiction noted, 401 U. S. 992.] Motion of American Civil Liberties Union et al. for leave to file a brief as *amici curiae* granted.

No. 70-77. NORTH CAROLINA *v.* RICE. C. A. 4th Cir. [Certiorari granted, 401 U. S. 1008.] Motion of Prison Research Council for leave to file a brief as *amicus curiae* granted.

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No. 70-75. MOOSE LODGE NO. 107 *v.* IRVIS ET AL. Appeal from D. C. M. D. Pa. [Probable jurisdiction postponed, 401 U. S. 992.] Motions of Washington State Federation of Fraternal, Patriotic, City & Country Clubs, Lawyers' Committee for Civil Rights Under Law, Benevolent & Protective Order of Elks of the United States, and American Jewish Committee et al. for leave to file briefs as *amici curiae* granted.

No. 70-78. AFFILIATED UTE CITIZENS OF UTAH ET AL. *v.* UNITED STATES ET AL. C. A. 10th Cir. [Certiorari granted, 402 U. S. 905.] Motions of Ute Indian Tribe of Uintah and Ouray Reservations et al., and Native American Rights Fund for leave to file briefs as *amici curiae* granted. Upon consideration of motion of the Solicitor General for additional time for oral argument, petitioners allotted 40 minutes for oral argument; the Solicitor General allotted 20 minutes and other respondents allotted 20 minutes for oral argument.

No. 70-88. S&E CONTRACTORS, INC. *v.* UNITED STATES. Ct. Cl. [Certiorari granted, 402 U. S. 971.] Motion of American Bar Assn. for leave to participate in oral argument as *amicus curiae* denied.

No. 70-90. SCHILB ET AL. *v.* KUEBEL ET AL. Appeal from Sup. Ct. Ill. [Probable jurisdiction noted, 402 U. S. 928.] Motion of Frederick Douglas Andrews for leave to file a brief as *amicus curiae*, to dispense with printing, and for leave to participate in oral argument as *amicus curiae* denied.

No. 70-113. FORD MOTOR CO. *v.* UNITED STATES ET AL. Appeal from D. C. E. D. Mich. [Probable jurisdiction noted, 403 U. S. 903.] Joint motion for additional time for oral argument granted, and both appellant and appellees granted 15 additional minutes for oral argument.

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No. 70-97. NORFOLK & WESTERN RAILWAY Co. *v.* NEMITZ ET AL. C. A. 6th Cir. [Certiorari granted, 402 U. S. 994.] Motion of United Transportation Union for leave to file a brief as *amicus curiae* denied.

No. 70-250. CARLESON, DIRECTOR OF DEPARTMENT OF SOCIAL WELFARE, ET AL. *v.* REMILLARD ET AL. Appeal from D. C. N. D. Cal. The Solicitor General is invited to file a brief in this case expressing the views of the United States. Motion for reinstatement of stay of injunctive order denied. Reported below: 325 F. Supp. 1272.

No. 70-5305. DIGESUALDO ET AL. *v.* SHEA, DIRECTOR OF DEPARTMENT OF SOCIAL SERVICES, ET AL. Appeal from D. C. Colo. The Solicitor General is invited to file a brief in this case expressing the views of the United States.

No. 71-183. AGUA CALIENTE BAND OF MISSION INDIANS ET AL. *v.* COUNTY OF RIVERSIDE, CALIFORNIA. C. A. 9th Cir. The Solicitor General is invited to file a brief in this case expressing the views of the United States. Reported below: 442 F. 2d 1184.

No. 70-5033. LOVE *v.* PULLMAN Co. C. A. 10th Cir. [Certiorari granted, 401 U. S. 907.] Motion of National Association for Advancement of Colored People for leave to file a brief as *amicus curiae* granted.

No. 70-5039. FUENTES ET AL. *v.* SHEVIN, ATTORNEY GENERAL OF FLORIDA, ET AL. Appeal from D. C. S. D. Fla. [Probable jurisdiction noted, 401 U. S. 906, *sub nom.* *Fuentes v. Faircloth.*] Motions of National Consumer Law Center and Urban Law Institute for leave to file a brief as *amici curiae* and to dispense with printing granted.

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No. 70-5045. LINDSEY ET AL. *v.* NORMET ET AL. D. C. Ore. [Probable jurisdiction noted, 402 U. S. 941.] Motions of Legal Services of Greater Miami, Inc., New Hampshire Legal Assistance, Memphis & Shelby County Legal Services Assn., Inc., June Brooks, Vermont Legal Aid, Inc., Western Center on Law & Poverty, Legal Aid Society of Louisville, Legal Aid Bureau, Inc., Community Action for Legal Services, Inc., et al., and Allen County Legal Aid Society et al. for leave to file briefs as *amici curiae*, granted. THE CHIEF JUSTICE and MR. JUSTICE MARSHALL would deny these motions.

No. 70-239. KAZUBOWSKI ET AL. *v.* DOLAR, AKA KAZUBOWSKI, ET AL.; and

No. 70-321. KAZUBOWSKI *v.* RAY, SHERIFF, ET AL. Motions for leave to file petitions for writs of certiorari and other relief denied.

No. 70-5257. JACKSON *v.* PERINI, CORRECTIONAL SUPERINTENDENT; and

No. 70-5338. DAUGHERTY *v.* CRAVEN, WARDEN. Motions for leave to file petitions for writs of habeas corpus denied.

No. 70-5115. CARTER *v.* UNITED STATES COURT OF CLAIMS;

No. 70-5196. WATSON *v.* GOODWIN, U. S. DISTRICT JUDGE; and

No. 71-90. KAZUBOWSKI ET AL. *v.* ALLOY, CHIEF JUSTICE, APPELLATE COURT OF ILLINOIS. Motions for leave to file petitions for writs of mandamus denied.

No. 70-5366. TATUM *v.* STECKLER, CHIEF JUDGE, U. S. DISTRICT COURT; and

No. 71-5003. THERIAULT *v.* MISSISSIPPI. Motions for leave to file petitions for writs of mandamus denied. MR. JUSTICE BLACKMUN took no part in the consideration or decision of these motions.

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No. 70-5164. GUNSTON *v.* SUPERIOR COURT, COUNTY OF ALAMEDA, CALIFORNIA. Motion for leave to file petition for writ of habeas corpus and other relief denied.

No. 70-304. LEWIS ET AL. *v.* BROWN, CHIEF JUDGE, U. S. COURT OF APPEALS, ET AL.; and

No. 70-343. KELLY ET AL. *v.* UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA, ET AL. (UNION OIL COMPANY OF CALIFORNIA, REAL PARTY IN INTEREST). Motions for leave to file petitions for writs of mandamus and/or certiorari denied.

No. 71-139. ORMENTO *v.* MACMAHON, U. S. DISTRICT JUDGE. Motion for leave to file petition for writ of mandamus and/or prohibition denied.

No. 70-118. SMITH ET AL. *v.* DISTRICT COURT OF OKLAHOMA COUNTY ET AL. Motion for leave to file petition for writ of prohibition denied.

*Probable Jurisdiction Noted*

No. 70-69. UNITED STATES *v.* ORITO. Appeal from D. C. E. D. Wis. Probable jurisdiction noted. Reported below: 338 F. Supp. 308.

No. 70-212. NORTHEAST AIRLINES, INC., ET AL. *v.* NEW HAMPSHIRE AERONAUTICS COMM'N ET AL. Appeal from Sup. Ct. N. H. Probable jurisdiction noted. Reported below: 111 N. H. 5, 273 A. 2d 676.

No. 70-161. RICHARDSON, SECRETARY OF HEALTH, EDUCATION, AND WELFARE *v.* WRIGHT ET AL.; and

No. 70-5211. WRIGHT ET AL. *v.* RICHARDSON, SECRETARY OF HEALTH, EDUCATION, AND WELFARE. Appeals from D. C. D. C. Motion of appellants in No. 70-5211 for leave to proceed *in forma pauperis* granted. Probable jurisdiction noted. Cases consolidated and a total of one hour allotted for oral argument. Reported below: 321 F. Supp. 383.

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No. 70-5064. JEFFERSON ET AL. *v.* HACKNEY, COMMISSIONER OF PUBLIC WELFARE, ET AL. Appeal from D. C. N. D. Tex. Motion of appellants for leave to proceed *in forma pauperis* granted. Probable jurisdiction noted.

No. 70-5106. GRAYNED *v.* CITY OF ROCKFORD. Appeal from Sup. Ct. Ill. Motion of appellant for leave to proceed *in forma pauperis* granted. Probable jurisdiction noted. Case consolidated with No. 70-87 [*Police Department of the City of Chicago v. Mosley*, certiorari granted, *infra*] and a total of one hour allotted for oral argument. Reported below: 46 Ill. 2d 492, 263 N. E. 2d 866.

#### *Certiorari Granted*

No. 70-99. EVANSVILLE-VANDEBURGH AIRPORT AUTHORITY DISTRICT ET AL. *v.* DELTA AIRLINES, INC., ET AL. Sup. Ct. Ind. Certiorari granted. Reported below: — Ind. —, 265 N. E. 2d 27.

No. 70-188. WRIGHT ET AL. *v.* COUNCIL OF THE CITY OF EMPORIA ET AL. C. A. 4th Cir. Certiorari granted. Reported below: 442 F. 2d 570.

No. 70-251. JOSEPH *v.* UNITED STATES. C. A. 3d Cir. Certiorari granted. Reported below: 438 F. 2d 1233.

No. 70-286. IOWA BEEF PACKERS, INC. *v.* THOMPSON ET AL. Sup. Ct. Iowa. Certiorari granted. Reported below: 185 N. W. 2d 738.

No. 70-295. FIRST NATIONAL CITY BANK *v.* BANCO NACIONAL DE CUBA. C. A. 2d Cir. Certiorari granted. Reported below: 442 F. 2d 530.

No. 70-305. COMMISSIONER OF INTERNAL REVENUE *v.* FIRST SECURITY BANK OF UTAH, N. A., ET AL. C. A. 10th Cir. Certiorari granted. Reported below: 436 F. 2d 1192.

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No. 70-87. POLICE DEPARTMENT OF THE CITY OF CHICAGO ET AL. *v.* MOSLEY. C. A. 7th Cir. Certiorari granted. Case consolidated with No. 70-5106 [*Grayned v. City of Rockford*, probable jurisdiction noted, *supra*] and a total of one hour allotted for oral argument. Reported below: 432 F. 2d 1256.

No. 70-267. NATIONAL LABOR RELATIONS BOARD *v.* SCRIVENER, DBA AA ELECTRIC CO. C. A. 8th Cir. Motion to dispense with printing respondent's brief and certiorari granted. Reported below: 435 F. 2d 1296.

No. 70-130. UNITED STATES *v.* SCOTLAND NECK CITY BOARD OF EDUCATION ET AL.; and

No. 70-187. COTTON ET AL. *v.* SCOTLAND NECK CITY BOARD OF EDUCATION ET AL. C. A. 4th Cir. Certiorari granted. Cases consolidated and a total of one and one-half hours allotted for oral argument. Reported below: 442 F. 2d 575.

No. 70-5112. WEBER *v.* AETNA CASUALTY & SURETY Co. ET AL. Sup. Ct. La. Motion for leave to proceed *in forma pauperis* granted. Certiorari granted. Reported below: 257 La. 424, 242 So. 2d 567.

No. 70-5122. DUNCAN *v.* TENNESSEE. Sup. Ct. Tenn. Motion for leave to proceed *in forma pauperis* granted. Certiorari granted. Reported below: 224 Tenn. 712, 462 S. W. 2d 491.

No. 70-5388. LOPER *v.* BETO, CORRECTIONS DIRECTOR. C. A. 5th Cir. Motion for leave to proceed *in forma pauperis* granted. Certiorari granted limited to Question 1 presented by the petition which reads as follows:

"1. Does the use of prior, void convictions for impeachment purposes deprive a criminal defendant of due process of law where their use might well have influenced the outcome of the case?"

Reported below: 440 F. 2d 934.

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No. 71-123. NATIONAL LABOR RELATIONS BOARD *v.* BURNS INTERNATIONAL SECURITY SERVICES, INC. (FORMERLY KNOWN AS WILLIAM J. BURNS INTERNATIONAL DETECTIVE AGENCY, INC.), ET AL.; and

No. 71-198. BURNS INTERNATIONAL SECURITY SERVICES, INC. *v.* NATIONAL LABOR RELATIONS BOARD ET AL. C. A. 2d Cir. Certiorari granted in No. 71-123. Certiorari granted in No. 71-198 limited to Question 2 presented by the petition which reads as follows:

"2. In such a proceeding, may a sub-contractor who is awarded a contract to provide services at a facility be held to be a successor of the previous sub-contractor and required to bargain with the union representing the previous sub-contractor's employees, where: (a) there is a total absence of dealings between the two sub-contractors; (b) the previous sub-contractor's performance at the facility constitutes a small portion of its total business, the balance of which was not affected by the change of sub-contractors; (c) the performance of the contract is integrated into the new sub-contractor's previously existing business; (d) there is a change in supervision at the facility by the new sub-contractor; and (e) within six months after the awarding of the contract the previous sub-contractor's employees constitute less than a majority of employees employed at the facility?"

Cases consolidated and a total of one hour allotted for oral argument. Reported below: 441 F. 2d 911.

*Certiorari Denied.* (See also Nos. 70-178, 70-5172, 70-5190, 71-131, 71-181, and 71-5071, *supra.*)

No. 70-101. O'DELL *v.* GARRETT, EXECUTRIX, ET AL. Ct. App. N. M. Certiorari denied. Reported below: 82 N. M. 240, 478 P. 2d 568.

No. 70-115. McVEAN *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 436 F. 2d 1120.

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No. 70-107. *WEBSTER v. OFFSHORE FOOD SERVICE, INC., ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 434 F. 2d 1191.

No. 70-116. *DOWELL v. BEECH ACCEPTANCE CORP., INC., ET AL.* Sup. Ct. Cal. Certiorari denied. Reported below: 3 Cal. 3d 544, 476 P. 2d 401.

No. 70-119. *BLEVINS v. UNITED STATES.* C. A. 9th Cir. Certiorari denied. Reported below: 436 F. 2d 1385.

No. 70-121. *LEE v. COUNTY COURT OF ERIE COUNTY ET AL.* Ct. App. N. Y. Certiorari denied. Reported below: 27 N. Y. 2d 432, 267 N. E. 2d 452.

No. 70-126. *RHOADES v. CALIFORNIA.* Ct. App. Cal., 3d App. Dist. Certiorari denied. Reported below: 12 Cal. App. 3d 720, 90 Cal. Rptr. 794.

No. 70-129. *CLARK v. MICHIGAN.* Ct. App. Mich. Certiorari denied. Reported below: 26 Mich. App. 475, 182 N. W. 2d 632.

No. 70-132. *RIGGS v. UNITED STATES;*

No. 70-134. *AMICK v. UNITED STATES;*

No. 70-135. *NASH v. UNITED STATES;*

No. 70-5136. *MAYNE v. UNITED STATES;*

No. 70-5228. *WYMER ET AL. v. UNITED STATES;* and

No. 70-5321. *BRODERICK v. UNITED STATES.* C. A. 7th Cir. Certiorari denied. Reported below: 439 F. 2d 351.

No. 70-136. *F. D. RICH Co., INC., ET AL. v. ACME GRANITE & TILE Co., A DIVISION OF PIPER & GREENHALGH, INC., ET AL.;* and

No. 70-137. *ACME GRANITE & TILE Co., A DIVISION OF PIPER & GREENHALGH, INC. v. F. D. RICH Co., INC., ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 437 F. 2d 549.

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No. 70-124. *BEAUDINE v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 437 F. 2d 1320.

No. 70-138. *KIRKER ET AL. v. MOORE, GOVERNOR OF WEST VIRGINIA, ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 436 F. 2d 423.

No. 70-139. *ALOISIO ET AL. v. UNITED STATES*; and  
No. 70-259. *BARTOLI v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 440 F. 2d 705.

No. 70-150. *LIPSEY ET AL. v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 438 F. 2d 974.

No. 70-151. *KRAEMER ET AL. v. PUBLIC EMPLOYMENT RELATIONS BOARD ET AL.* App. Div., Sup. Ct. N. Y., 3d Jud. Dept. Certiorari denied. Reported below: 35 App. Div. 2d 297, 316 N. Y. S. 2d 88.

No. 70-155. *DEVERS ET AL. v. MARYLAND*. Ct. App. Md. Certiorari denied. Reported below: 260 Md. 360, 272 A. 2d 794.

No. 70-156. *ESCUTE v. DELGADO, WARDEN*. C. A. 1st Cir. Certiorari denied.

No. 70-158. *INJECT-O-METER MANUFACTURING CO., INC. v. NORTH PLAINS FERTILIZER & CHEMICAL, INC.* C. A. 5th Cir. Certiorari denied. Reported below: 439 F. 2d 1138.

No. 70-160. *LUROS ET AL. v. CALIFORNIA*; and

No. 71-82. *STURMAN ET AL. v. CALIFORNIA*. Sup. Ct. Cal. Certiorari denied. Reported below: 4 Cal. 3d 84, 480 P. 2d 633.

No. 70-162. *ROGERS v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 439 F. 2d 1133.

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No. 70-163. *VARNER v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 437 F. 2d 1195 and 441 F. 2d 386.

No. 70-166. *GOLDMAN v. UNITED STATES*; and  
No. 70-194. *CATALANO v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 439 F. 2d 1100.

No. 70-168. *KLEIN v. SUPREME COURT OF NEW YORK, COUNTY OF NEW YORK*. C. A. 2d Cir. Certiorari denied.

No. 70-169. *UNITED TRANSPORTATION UNION ET AL. v. ATLANTA & WEST POINT RAIL ROAD CO. ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 439 F. 2d 73.

No. 70-170. *RHINEHART v. RHAY, PENITENTIARY SUPERINTENDENT*. C. A. 9th Cir. Certiorari denied. Reported below: 440 F. 2d 718.

No. 70-171. *ANDREWS ET AL. v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 439 F. 2d 155.

No. 70-175. *HEALD v. TENNESSEE*. Ct. Crim. App. Tenn. Certiorari denied.

No. 70-182. *LUCKENBACH OVERSEAS CORP. v. OZGA*. C. A. 2d Cir. Certiorari denied.

No. 70-181. *BERKE v. LEHIGH MARINE DISPOSAL CORP.* C. A. 2d Cir. Certiorari denied. Reported below: 435 F. 2d 1073.

No. 70-183. *REYNOLDS METALS Co. v. UNITED STATES*. Ct. Cl. Certiorari denied. Reported below: 194 Ct. Cl. 309, 438 F. 2d 983.

No. 70-186. *TOP SHIPPERS ASSN., INC., ET AL. v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 437 F. 2d 501.

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No. 70-189. *CALLAHAN ET AL. v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 439 F. 2d 852.

No. 70-190. *POPPENHEIMER ET AL. v. CITY OF MEMPHIS ET AL.* Sup. Ct. Tenn. Certiorari denied.

No. 70-191. *SANDELL v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 440 F. 2d 488.

No. 70-192. *SACRAMENTO COCA-COLA BOTTLING Co., INC. v. CHAUFFEURS, TEAMSTERS & HELPERS, LOCAL 150, INTERNATIONAL BROTHERHOOD OF TEAMSTERS, CHAUFFEURS, WAREHOUSEMEN & HELPERS OF AMERICA, ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 440 F. 2d 1096.

No. 70-195. *XYDAS v. UNITED STATES*. C. A. D. C. Cir. Certiorari denied. Reported below: 144 U. S. App. D. C. 184, 445 F. 2d 660.

No. 70-196. *UMPQUA RIVER NAVIGATION Co. v. OREGON ET AL.* Sup. Ct. Ore. Certiorari denied. Reported below: — Ore. —, 478 P. 2d 631.

No. 70-198. *DOWELL ET AL. v. ACHESON ET AL.* Ct. App. N. Y. Certiorari denied. Reported below: 28 N. Y. 2d 155, 269 N. E. 2d 571.

No. 70-200. *UNION CARBIDE CORP. v. NATIONAL LABOR RELATIONS BOARD*; and

No. 71-76. *NATIONAL LABOR RELATIONS BOARD v. UNION CARBIDE CORP.* C. A. 4th Cir. Certiorari denied. Reported below: 440 F. 2d 54.

No. 70-203. *WESTERN FIDELITY CORP. ET AL. v. INSURANCE COMPANY OF NORTH AMERICA*. C. A. 10th Cir. Certiorari denied. Reported below: 437 F. 2d 752.

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No. 70-204. ZOLLMAN ET AL. *v.* SYMINGTON WAYNE CORP. ET AL. C. A. 7th Cir. Certiorari denied. Reported below: 438 F. 2d 28.

No. 70-205. CAINE ET AL. *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. Reported below: 441 F. 2d 454.

No. 70-206. PETERSON *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 435 F. 2d 1313.

No. 70-207. LEVY *v.* MICHIGAN. Ct. App. Mich. and/or Sup. Ct. Mich. Certiorari denied. Reported below: 28 Mich. App. 339, 184 N. W. 2d 325.

No. 70-208. MILLER *v.* SPEIGHT. C. A. 7th Cir. Certiorari denied. Reported below: 437 F. 2d 781.

No. 70-213. GROENDYKE TRANSPORT, INC. *v.* NATIONAL LABOR RELATIONS BOARD. C. A. 5th Cir. Certiorari denied. Reported below: 438 F. 2d 981.

No. 70-216. INTERNATIONAL PAPER Co. *v.* FEDERAL POWER COMMISSION. C. A. 2d Cir. Certiorari denied. Reported below: 438 F. 2d 1349.

No. 70-217. ANSTED *v.* FROEHLKE, SECRETARY OF THE ARMY, ET AL. C. A. 7th Cir. Certiorari denied. Reported below: 437 F. 2d 1020.

No. 70-219. MUNCASTER *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied.

No. 70-224. HOLCOMB *v.* CESSNA AIRCRAFT Co. ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 439 F. 2d 1150.

No. 70-225. FALK ET AL., DBA DRUCKER & FALK *v.* HODGSON, SECRETARY OF LABOR. C. A. 4th Cir. Certiorari denied. Reported below: 439 F. 2d 340.

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No. 70-229. *INTERNATIONAL PRINTING PRESSMEN & ASSISTANTS' UNION OF NORTH AMERICA v. HODGSON, SECRETARY OF LABOR*. C. A. 6th Cir. Certiorari denied. Reported below: 440 F. 2d 1113.

No. 70-230. *CRANDALL v. UNITED STATES*;

No. 70-5277. *GORDON v. UNITED STATES*;

No. 70-5284. *DIXON v. UNITED STATES*;

No. 70-5300. *FANNING v. UNITED STATES*;

No. 70-5301. *MARMORSTEIN ET AL. v. UNITED STATES*;  
and

No. 70-5313. *SCHIKEVITZ v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 438 F. 2d 858.

No. 70-231. *TOWN OF HARRISON v. MYERS, ADMINISTRATRIX*. C. A. 2d Cir. Certiorari denied. Reported below: 438 F. 2d 293.

No. 70-232. *INDEPENDENT BROKER-DEALERS' TRADE ASSN. ET AL. v. SECURITIES AND EXCHANGE COMMISSION ET AL.* C. A. D. C. Cir. Certiorari denied. Reported below: 142 U. S. App. D. C. 384, 442 F. 2d 132.

No. 70-234. *FIRST NATIONAL BANK OF COMMERCE, FORMERLY NATIONAL BANK OF COMMERCE IN NEW ORLEANS v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 438 F. 2d 809.

No. 70-235. *BUBLE v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 440 F. 2d 405.

No. 70-236. *HENDERSON, EXECUTOR v. COMMISSIONER OF INTERNAL REVENUE*. C. A. 3d Cir. Certiorari denied. Reported below: 436 F. 2d 1281.

No. 70-245. *PICCHIONE ET UX. v. COMMISSIONER OF INTERNAL REVENUE*. C. A. 1st Cir. Certiorari denied. Reported below: 440 F. 2d 170.

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No. 70-238. *DUNORD CAFE, INC., ET AL. v. UNITED STATES*. C. A. 1st Cir. Certiorari denied.

No. 70-241. *TEXACO INC. v. GIZZI ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 437 F. 2d 308.

No. 70-247. *LYMAN PRINTING & FINISHING Co., A DIVISION OF M. LOWENSTEIN & SONS v. NATIONAL LABOR RELATIONS BOARD*. C. A. 4th Cir. Certiorari denied. Reported below: 437 F. 2d 1356.

No. 70-248. *HARRISON ET AL. v. PRATHER*. C. A. 5th Cir. Certiorari denied. Reported below: 435 F. 2d 1168.

No. 70-252. *INTERNATIONAL UNION OF OPERATING ENGINEERS v. METROPOLITAN PAVING Co., INC., ET AL.* C. A. 10th Cir. Certiorari denied. Reported below: 439 F. 2d 300.

No. 70-253. *DEERE & Co. v. HESSTON CORP. ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 440 F. 2d 904.

No. 70-254. *SMITH TUG & BARGE Co. ET AL. v. COLUMBIA-PACIFIC TOWING CORP. ET AL.* Sup. Ct. Wash. Certiorari denied. Reported below: 78 Wash. 2d 975, 482 P. 2d 769.

No. 70-255. *WARNER ET AL. v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 441 F. 2d 821.

No. 70-256. *AGUIRRE ET AL. v. CITIZENS CASUALTY COMPANY OF NEW YORK*. C. A. 5th Cir. Certiorari denied. Reported below: 441 F. 2d 141.

No. 70-257. *COX v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 439 F. 2d 86.

No. 70-260. *KING v. UNITED STATES*. C. A. 5th Cir. Certiorari denied.

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No. 70-258. *DIEHL ET AL. v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 438 F. 2d 705.

No. 70-264. *J. P. STEVENS & Co., INC. v. NATIONAL LABOR RELATIONS BOARD ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 441 F. 2d 514.

No. 70-268. *PATAT ET AL. v. DAY COMPANIES, INC.* C. A. 5th Cir. Certiorari denied. Reported below: 440 F. 2d 1343.

No. 70-269. *JOHNSTON ET AL. v. GEORGIA*. Sup. Ct. Ga. Certiorari denied. Reported below: 227 Ga. 387, 181 S. E. 2d 42.

No. 70-270. *PORTER ET AL. v. UNITED STATES*; and  
No. 70-298. *FULLER v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 441 F. 2d 755.

No. 70-271. *ITALIA SOCIETA DI NAVIGAZIONE (ITALIAN LINE) v. MAROCEANO COMPANIA NAVIERA S. A.* C. A. 2d Cir. Certiorari denied. Reported below: 438 F. 2d 854.

No. 70-273. *KAPPEL ET AL. v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 437 F. 2d 1222.

No. 70-275. *LAFER v. NEW JERSEY*. Super. Ct. N. J. Certiorari denied. Reported below: See 58 N. J. Super. 94, 275 A. 2d 150.

No. 70-276. *D. J. MCQUESTION & SONS v. UNITED STATES*. Ct. Cl. Certiorari denied. Reported below: 194 Ct. Cl. 522, 439 F. 2d 181.

No. 70-277. *INTERNATIONAL ASSOCIATION OF BRIDGE, STRUCTURAL & ORNAMENTAL IRON WORKERS, LOCAL NO. 1 v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 438 F. 2d 679.

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No. 70-278. *GLOUNER ET AL. v. CALIFORNIA EX REL. DEPARTMENT OF PUBLIC WORKS*. Ct. App. Cal., 2d App. Dist. Certiorari denied.

No. 70-281. *WALLACE ET UX. v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 439 F. 2d 757.

No. 70-282. *HOMEMAKERS, INC. v. CHICAGO HOME FOR THE FRIENDLESS*. C. A. 7th Cir. Certiorari denied.

No. 70-288. *A. ZERKOWITZ & Co., INC. v. UNITED STATES*. C. C. P. A. Certiorari denied. Reported below: 58 C. C. P. A. (Cust.) 72, 438 F. 2d 1240.

No. 70-289. *ROSE v. ROSE ET AL.* Ct. App. Mich. Certiorari denied.

No. 70-292. *HYMAN-MICHAELS CO. ET AL. v. NATIONAL CARGO BUREAU, INC.* C. A. 6th Cir. Certiorari denied. Reported below: 438 F. 2d 803.

No. 70-293. *ALESSANDRINI, AKA ALESS v. AMERICAN FEDERATION OF MUSICIANS OF THE UNITED STATES AND CANADA ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 439 F. 2d 699.

No. 70-294. *CITY OF LOS ANGELES v. SHELL OIL CO.* Sup. Ct. Cal. Certiorari denied. Reported below: 4 Cal. 3d 108, 480 P. 2d 953.

No. 70-302. *FIORINO v. NEW ENGLAND SCHOOL OF LAW ET AL.* C. A. 1st Cir. Certiorari denied.

No. 70-306. *TOBAR ET AL. v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 443 F. 2d 835.

No. 70-307. *BECHTEL CORP. v. NEW JERSEY*; and

No. 70-309. *COLONIAL PIPELINE Co. v. NEW JERSEY*. Super. Ct. N. J. Certiorari denied.

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No. 70-310. *PHILLIPS, ADMINISTRATRIX v. FIRST NATIONAL CITY BANK OF NEW YORK*. C. A. 2d Cir. Certiorari denied. Reported below: 440 F. 2d 1342.

No. 70-312. *GOODMAN v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 439 F. 2d 810.

No. 70-318. *HARRIS ET AL. v. SAMUELS ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 440 F. 2d 748.

No. 70-323. *KENDALL HOUSE APARTMENTS, INC. v. DEPARTMENT OF REVENUE ET AL.* Sup. Ct. Fla. Certiorari denied. Reported below: 245 So. 2d 221.

No. 70-324. *MATHIS v. ARKANSAS*. Sup. Ct. Ark. Certiorari denied. Reported below: 249 Ark. 1081, 464 S. W. 2d 48.

No. 70-325. *TRAVELERS INSURANCE Co. v. SMITH, EXECUTRIX*. C. A. 6th Cir. Certiorari denied. Reported below: 438 F. 2d 373.

No. 70-327. *RUST v. COURT OF APPEAL OF CALIFORNIA, THIRD APPELLATE DISTRICT*. Ct. App. Cal., 3d App. Dist. Certiorari denied. Reported below: 14 Cal. App. 3d 530, 92 Cal. Rptr. 329.

No. 70-332. *UHRIG v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 443 F. 2d 239.

No. 70-333. *UNITED ASSOCIATION OF JOURNEYMEN & APPRENTICES OF THE PLUMBING & PIPEFITTING INDUSTRY OF THE UNITED STATES & CANADA, LOCAL UNION No. 189 v. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 438 F. 2d 408.

No. 70-334. *DU PAGE UTILITY Co. v. ILLINOIS COMMERCE COMMISSION*. Sup. Ct. Ill. Certiorari denied. Reported below: 47 Ill. 2d 550, 267 N. E. 2d 662.

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No. 70-335. *ELECTRONIC COMPONENTS FOR INDUSTRY CO. ET AL. v. ELECTRONIC COMMUNICATIONS, INC.* C. A. 8th Cir. Certiorari denied. Reported below: 443 F. 2d 487.

No. 70-337. *HY-LAN FURNITURE, INC. v. NATIONAL LABOR RELATIONS BOARD.* C. A. 4th Cir. Certiorari denied. Reported below: 437 F. 2d 1356.

No. 70-340. *HANCOCK v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. Reported below: 441 F. 2d 1285.

No. 70-341. *TAGGART v. UNITED STATES.* C. A. 9th Cir. Certiorari denied. Reported below: 441 F. 2d 727.

No. 70-345. *SKILLMAN v. UNITED STATES.* C. A. 8th Cir. Certiorari denied. Reported below: 442 F. 2d 542.

No. 70-346. *GEO. A. CLARK & SON, INC. v. NOLD ET UX.* Sup. Ct. S. D. Certiorari denied. Reported below: 85 S. D. 468, 185 N. W. 2d 677.

No. 70-348. *RATH v. UNITED STATES.* Ct. Cl. Certiorari denied.

No. 70-349. *SPEESE v. UNITED STATES.* C. A. 3d Cir. Certiorari denied. Reported below: 440 F. 2d 1164.

No. 70-350. *EASTER v. UNITED STATES.* C. A. 8th Cir. Certiorari denied. Reported below: 441 F. 2d 425.

No. 70-355. *LOWE v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. Reported below: 440 F. 2d 452.

No. 70-356. *GORDON v. ADCOCK.* C. A. 9th Cir. Certiorari denied. Reported below: 441 F. 2d 261.

No. 70-5081. *SUGGS, AKA FERGUSON v. COMSTOCK, CONSERVATION CENTER SUPERINTENDENT.* Ct. App. Cal., 3d App. Dist. Certiorari denied. Reported below: 11 Cal. App. 3d 982, 90 Cal. Rptr. 300.

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No. 70-5071. *ROGERS v. ADAMS, WARDEN*. C. A. 2d Cir. Certiorari denied. Reported below: 435 F. 2d 1372.

No. 70-5086. *ALLEN v. RHAY, PENITENTIARY SUPERINTENDENT*. C. A. 9th Cir. Certiorari denied. Reported below: 431 F. 2d 1160.

No. 70-5088. *KIRBY v. COX, PENITENTIARY SUPERINTENDENT*. C. A. 4th Cir. Certiorari denied. Reported below: 435 F. 2d 684.

No. 70-5089. *SACCO v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 436 F. 2d 780.

No. 70-5090. *ANGLIN v. UNITED STATES*. C. A. D. C. Cir. Certiorari denied.

No. 70-5094. *DWYER v. PERINI, CORRECTIONAL SUPERINTENDENT*. C. A. 6th Cir. Certiorari denied. Reported below: 437 F. 2d 1355.

No. 70-5096. *SHER v. LAVALLEE, CORRECTIONAL SUPERINTENDENT*. C. A. 2d Cir. Certiorari denied.

No. 70-5098. *SWEENEY v. NEW YORK*. App. Div., Sup. Ct. N. Y., 3d Jud. Dept. Certiorari denied. Reported below: 35 App. Div. 2d 748, 314 N. Y. S. 2d 891.

No. 70-5099. *LONGORIA v. COMSTOCK, CONSERVATION CENTER SUPERINTENDENT*. C. A. 9th Cir. Certiorari denied.

No. 70-5100. *GIBSON ET AL. v. RHAY, PENITENTIARY SUPERINTENDENT*. C. A. 9th Cir. Certiorari denied.

No. 70-5103. *MILLER v. TWOMEY, WARDEN*. Sup. Ct. Ill. Certiorari denied.

No. 70-5105. *MARQUEZ v. CONNECTICUT*. App. Div., Cir. Ct. Conn. Certiorari denied. Reported below: 6 Conn. Cir. 390, 273 A. 2d 730.

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No. 70-5107. *VISCONTI v. LAVALLEE*, CORRECTIONAL SUPERINTENDENT. C. A. 2d Cir. Certiorari denied.

No. 70-5108. *HAWKINS v. BREWER*, WARDEN. C. A. 8th Cir. Certiorari denied.

No. 70-5110. *BOJASKI v. HAYNES*, WARDEN. Sup. Ct. App. W. Va. Certiorari denied.

No. 70-5111. *EDGEWORTH v. ILLINOIS*. App. Ct. Ill., 1st Dist. Certiorari denied.

No. 70-5113. *WYCHE v. MARYLAND*. Ct. Sp. App. Md. Certiorari denied.

No. 70-5114. *SCHOOLCRAFT v. HAYNES*, WARDEN. Sup. Ct. App. W. Va. Certiorari denied.

No. 70-5116. *BROWN v. CALIFORNIA*. Ct. App. Cal., 1st App. Dist. Certiorari denied. Reported below: 13 Cal. App. 3d 876, 91 Cal. Rptr. 904.

No. 70-5117. *FALLANG v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 439 F. 2d 685.

No. 70-5119. *BAILLEAUX v. OREGON*. Ct. App. Ore. Certiorari denied. Reported below: 4 Ore. App. 462, 479 P. 2d 245.

No. 70-5120. *HELMICK v. CUPP*, WARDEN. C. A. 9th Cir. Certiorari denied. Reported below: 437 F. 2d 321.

No. 70-5121. *BRYANT v. BLACKWELL*, WARDEN, ET AL. C. A. 5th Cir. Certiorari denied.

No. 70-5123. *SMITH v. MUNICIPAL COURT, OAKLAND-PIEDMONT JUDICIAL DISTRICT, ALAMEDA COUNTY*. Sup. Ct. Cal. Certiorari denied.

No. 70-5127. *PIEZE v. FLORIDA*. Dist. Ct. App. Fla., 3d Dist. Certiorari denied. Reported below: 243 So. 2d 442.

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No. 70-5126. *VICKERS v. COINER, WARDEN*. C. A. 4th Cir. Certiorari denied.

No. 70-5128. *PARKER v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 432 F. 2d 1251.

No. 70-5129. *RAINEY v. TEXAS*. Ct. Crim. App. Tex. Certiorari denied.

No. 70-5130. *WILSON v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 439 F. 2d 1081.

No. 70-5131. *SIMUEL v. UNITED STATES*; and

No. 70-5134. *MITCHELL v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 439 F. 2d 687.

No. 70-5132. *BAZZELLE v. ILLINOIS*. App. Ct. Ill., 1st Dist. Certiorari denied. Reported below: 130 Ill. App. 2d 131, 264 N. E. 2d 457.

No. 70-5133. *FINCH v. ILLINOIS*. Sup. Ct. Ill. Certiorari denied. Reported below: 47 Ill. 2d 425, 266 N. E. 2d 97.

No. 70-5137. *CASIANO v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 440 F. 2d 1203.

No. 70-5141. *KONIGSBERG v. NEW YORK*. Ct. App. N. Y. Certiorari denied.

No. 70-5143. *CHAPMAN v. MOSELEY, WARDEN*. C. A. 10th Cir. Certiorari denied.

No. 70-5144. *BLUE v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 440 F. 2d 300.

No. 70-5145. *LUND v. MAINE*. Sup. Jud. Ct. Me. Certiorari denied. Reported below: 266 A. 2d 869.

No. 70-5149. *REEVES v. KENTUCKY*. Ct. App. Ky. Certiorari denied. Reported below: 462 S. W. 2d 926.

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No. 70-5150. *MANLEY v. UNITED STATES*. C. A. 10th Cir. Certiorari denied. Reported below: 437 F. 2d 1250.

No. 70-5151. *MCCABE, AKA CASE v. RODGERS*. C. A. D. C. Cir. Certiorari denied.

No. 70-5152. *WHITTY v. WISCONSIN ET AL.* C. A. 7th Cir. Certiorari denied. Reported below: 436 F. 2d 401.

No. 70-5155. *FORTE v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 440 F. 2d 1235.

No. 70-5156. *SIMPSON v. CADY, WARDEN*. C. A. 7th Cir. Certiorari denied.

No. 70-5159. *JOHNSON v. CALIFORNIA ET AL.* Sup. Ct. Cal. Certiorari denied.

No. 70-5160. *MANNING v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 440 F. 2d 1105.

No. 70-5163. *MULLINS v. MOYNAHAN, CHIEF JUDGE, U. S. DISTRICT COURT*. C. A. 6th Cir. Certiorari denied.

No. 70-5167. *DICKINSON v. BRIDGES, SHERIFF*. C. A. 5th Cir. Certiorari denied.

No. 70-5168. *SMITH v. CALIFORNIA*. App. Dept., Super. Ct. Cal., County of Alameda. Certiorari denied.

No. 70-5169. *BROWN v. KENTUCKY*. Ct. App. Ky. Certiorari denied. Reported below: 461 S. W. 2d 920.

No. 70-5171. *SHEA v. UNITED STATES*. C. A. 4th Cir. Certiorari denied.

No. 70-5174. *MILLS v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 440 F. 2d 647.

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No. 70-5175. *HUTTER v. DOOR COUNTY CHAMBER OF COMMERCE*. C. A. 7th Cir. Certiorari denied.

No. 70-5176. *TERRELL v. POWELL, CORRECTIONAL SUPERINTENDENT*. Sup. Ct. Pa. Certiorari denied.

No. 70-5177. *GLUCKSMAN v. NEW YORK*. App. Div., Sup. Ct. N. Y., 1st Jud. Dept. Certiorari denied. Reported below: 35 App. Div. 2d 1082, 316 N. Y. S. 2d 193.

No. 70-5179. *PIPITO v. WISCONSIN*. Sup. Ct. Wis. Certiorari denied. Reported below: 49 Wis. 2d 565, 182 N. W. 2d 466.

No. 70-5181. *HOLMES v. NEW YORK*. App. Div., Sup. Ct. N. Y., 1st Jud. Dept. Certiorari denied. Reported below: 34 App. Div. 2d 735, 309 N. Y. S. 2d 1009.

No. 70-5182. *CHASE v. UNITED STATES*. C. A. 4th Cir. Certiorari denied.

No. 70-5183. *KLINE v. RUSSELL, JUDGE*. C. A. 4th Cir. Certiorari denied.

No. 70-5184. *MAKAL v. ARIZONA*. Sup. Ct. Ariz. Certiorari denied. Reported below: 104 Ariz. 476, 455 P. 2d 450.

No. 70-5186. *SERIO, AKA BEARD v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 440 F. 2d 827.

No. 70-5412. *ROSE, AKA CARR v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 440 F. 2d 832.

No. 70-5189. *GAY v. CALDWELL, WARDEN*. C. A. 5th Cir. Certiorari denied.

No. 70-5192. *SPENCER v. EYMAN, WARDEN*. C. A. 9th Cir. Certiorari denied. Reported below: 439 F. 2d 1136.

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No. 70-5191. *LANE v. UNITED STATES*. C. A. 5th Cir. Certiorari denied.

No. 70-5193. *WHITE v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 440 F. 2d 978.

No. 70-5194. *GREEN v. GOVERNOR OF CALIFORNIA ET AL.* C. A. 9th Cir. Certiorari denied.

No. 70-5195. *WALLACE v. LAVALLEE, CORRECTIONAL SUPERINTENDENT*. C. A. 2d Cir. Certiorari denied.

No. 70-5197. *SWEENEY v. SHERIDAN, CHIEF JUDGE, U. S. DISTRICT COURT, ET AL.* C. A. 3d Cir. Certiorari denied.

No. 70-5199. *MARTS ET AL. v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 437 F. 2d 1358.

No. 70-5205. *METHVIN v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 441 F. 2d 584.

No. 70-5206. *TYSON v. BUCHKOE, WARDEN*. C. A. 6th Cir. Certiorari denied.

No. 70-5209. *FLANAGAN v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 438 F. 2d 1223.

No. 70-5212. *BROOKS v. UNITED STATES*. C. A. 6th Cir. Certiorari denied.

No. 70-5216. *ZICK v. UNITED STATES*. C. A. 5th Cir. Certiorari denied.

No. 70-5218. *HOWARD v. ZELKER, CORRECTIONAL SUPERINTENDENT*. C. A. 2d Cir. Certiorari denied.

No. 70-5219. *FOUNTAIN v. REDEVELOPMENT LAND AGENCY*. Ct. Cl. Certiorari denied. Reported below: 192 Ct. Cl. 495, 427 F. 2d 759.

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No. 70-5222. *LATHROP ET AL. v. OKLAHOMA CITY HOUSING AUTHORITY ET AL.* C. A. 10th Cir. Certiorari denied. Reported below: 438 F. 2d 914.

No. 70-5223. *LIPSCOMB v. UNITED STATES.* C. A. 8th Cir. Certiorari denied.

No. 70-5224. *BULLOCK v. BLACKLEDGE, WARDEN.* C. A. 4th Cir. Certiorari denied.

No. 70-5225. *HALL v. CARDWELL, WARDEN.* C. A. 6th Cir. Certiorari denied.

No. 70-5226. *SMALL v. UNITED STATES.* C. A. 10th Cir. Certiorari denied.

No. 70-5227. *MAGEE v. SUPERIOR COURT OF MARIN COUNTY.* C. A. 9th Cir. Certiorari denied.

No. 70-5230. *LOPEZ v. NEW YORK.* Ct. App. N. Y. Certiorari denied. Reported below: 28 N. Y. 2d 23, 268 N. E. 2d 628.

No. 70-5232. *REAMS v. NORTH CAROLINA.* Sup. Ct. N. C. Certiorari denied. Reported below: 277 N. C. 391, 178 S. E. 2d 65.

No. 70-5234. *MCDONALD v. UNITED STATES.* C. A. 9th Cir. Certiorari denied. Reported below: 441 F. 2d 259.

No. 70-5235. *DORROUGH v. TEXAS.* C. A. 5th Cir. Certiorari denied. Reported below: 440 F. 2d 1063.

No. 70-5237. *MARTIN v. MICHIGAN*; and  
No. 70-5242. *MARTIN v. MICHIGAN.* Sup. Ct. Mich. Certiorari denied.

No. 70-5238. *WINTON v. CALIFORNIA.* Ct. App. Cal., 3d App. Dist. Certiorari denied.

No. 70-5239. *BENNETT v. CARDWELL, WARDEN.* C. A. 6th Cir. Certiorari denied.

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No. 70-5240. *MORALES v. DEEGAN, CORRECTIONAL SUPERINTENDENT*. C. A. 2d Cir. Certiorari denied.

No. 70-5241. *KENNEDY v. OHIO*. Sup. Ct. Ohio. Certiorari denied.

No. 70-5243. *GREEN v. CALIFORNIA*. Ct. App. Cal., 1st App. Dist. Certiorari denied.

No. 70-5244. *ARMSBURY v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 443 F. 2d 74.

No. 70-5245. *CASAS v. TEXAS*. Ct. Crim. App. Tex. Certiorari denied. Reported below: 462 S. W. 2d 581.

No. 70-5247. *PIPER v. UNITED STATES*. C. A. D. C. Cir. Certiorari denied.

No. 70-5251. *VIGIL v. HANRATTY ET AL*. Sup. Ct. N. M. Certiorari denied. Reported below: 82 N. M. 275, 480 P. 2d 165.

No. 70-5253. *CRACKENBERGER v. UNITED STATES*. Ct. Cl. Certiorari denied.

No. 70-5254. *THURMAN v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 440 F. 2d 1323.

No. 70-5255. *STUCKEY v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 441 F. 2d 1104.

No. 70-5256. *CHANDLER v. UNITED STATES*. C. A. 1st Cir. Certiorari denied.

No. 70-5258. *WILLIAMS v. HAYNES, WARDEN*. Sup. Ct. App. W. Va. Certiorari denied.

No. 70-5259. *REAM v. OHIO*. Ct. App. Ohio, Hardin County. Certiorari denied.

No. 70-5260. *HARPER v. CICCONE, MEDICAL CENTER DIRECTOR*. C. A. 8th Cir. Certiorari denied.

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No. 70-5261. *CANNON v. UNITED STATES*. C. A. D. C. Cir. Certiorari denied.

No. 70-5262. *JORDAN v. NEW JERSEY*. C. A. 3d Cir. Certiorari denied.

No. 70-5263. *LOMAS v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 440 F. 2d 335.

No. 70-5264. *BURLAND v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 441 F. 2d 1199.

No. 70-5265. *PITTMAN ET UX. v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 439 F. 2d 906.

No. 70-5268. *TAYLOR v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 440 F. 2d 1291.

No. 70-5270. *BRANDYBERRY v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 438 F. 2d 226.

No. 70-5271. *GIBSON v. RHAY, PENITENTIARY SUPERINTENDENT*. C. A. 9th Cir. Certiorari denied.

No. 70-5272. *CLAUSSER v. FIRST NATIONAL BANK OF ARIZONA, ADMINISTRATOR, ET AL.* Sup. Ct. Ariz. Certiorari denied. Reported below: 106 Ariz. 554, 479 P. 2d 697.

No. 70-5273. *BOYDEN v. COMMISSIONER OF PATENTS*. C. A. D. C. Cir. Certiorari denied. Reported below: 142 U. S. App. D. C. 351, 441 F. 2d 1041.

No. 70-5275. *BROWN v. VAN DER VOORT, JUDGE, ET AL.* C. A. 3d Cir. Certiorari denied.

No. 70-5279. *HERRINGTON v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 440 F. 2d 1041.

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No. 70-5278. *SHORTS v. ROCKEFELLER, GOVERNOR OF NEW YORK, ET AL.* C. A. 2d Cir. Certiorari denied.

No. 70-5280. *PAGE v. UNITED STATES* C. A. 9th Cir. Certiorari denied. Reported below: 437 F. 2d 440.

No. 70-5283. *DAVIS, AKA BROWN v. EIDE ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 439 F. 2d 1077.

No. 70-5285. *HOLLAND v. UNITED STATES.* C. A. D. C. Cir. Certiorari denied. Reported below: 144 U. S. App. D. C. 106, 444 F. 2d 981.

No. 70-5286. *ROSSON v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. Reported below: 441 F. 2d 242.

No. 70-5287. *ARCHAMBAULT v. UNITED STATES.* C. A. 10th Cir. Certiorari denied. Reported below: 441 F. 2d 281.

No. 70-5289. *JAMES v. MICHIGAN.* Sup. Ct. Mich. Certiorari denied.

No. 70-5290. *KARCHER v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. Reported below: 439 F. 2d 697.

No. 70-5292. *MCDONALD v. METROPOLITAN TRAFFIC AND PARKING COMMISSION ET AL.* C. A. 6th Cir. Certiorari and other relief denied.

No. 70-5293. *WINEGAR v. MICHIGAN.* Sup. Ct. Mich. Certiorari denied.

No. 70-5294. *WRIGHT v. NEW JERSEY.* Sup. Ct. N. J. Certiorari denied.

No. 70-5298. *BOYER v. NEW YORK.* Ct. App. N. Y. Certiorari denied. Reported below: 28 N. Y. 2d 511, 267 N. E. 2d 880.

No. 70-5299. *OAKCRUM v. UNITED STATES.* C. A. 4th Cir. Certiorari denied. Reported below: 441 F. 2d 1157.

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No. 70-5303. *KOHL* v. UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 441 F.2d 1076.

No. 70-5306. *CAFFEY* v. SWENSON, WARDEN. C. A. 8th Cir. Certiorari denied. Reported below: 438 F.2d 1238.

No. 70-5309. *BAYLESS* v. NEBRASKA. Sup. Ct. Neb. Certiorari denied. Reported below: 186 Neb. 530, 184 N. W. 2d 634.

No. 70-5311. *HATZMAN* v. NEW YORK. App. Div., Sup. Ct. N. Y., 4th Jud. Dept. Certiorari denied. Reported below: 35 App. Div. 2d 1082, 317 N. Y. S. 2d 294.

No. 70-5315. *MORGAN* v. WEST VIRGINIA. C. A. 4th Cir. Certiorari denied.

No. 70-5316. *PENNINGTON* v. UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 439 F.2d 145.

No. 70-5320. *BUICK* v. UNITED STATES. C. A. 9th Cir. Certiorari denied.

No. 70-5322. *BROWN* v. UNITED STATES. C. A. 8th Cir. Certiorari denied. Reported below: 441 F.2d 1158.

No. 70-5324. *NEWTON* v. UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 442 F.2d 622.

No. 70-5325. *WILLIAMSON* v. ALABAMA. C. A. 5th Cir. Certiorari denied. Reported below: 441 F.2d 549.

No. 70-5327. *ARNDT ET AL.* v. UNITED STATES DISTRICT COURT FOR DISTRICT OF NEBRASKA ET AL. C. A. 8th Cir. Certiorari denied. Reported below: 437 F.2d 1206.

No. 70-5328. *SERRANO* v. UNITED STATES. C. A. 2d Cir. Certiorari denied. Reported below: 442 F.2d 923.

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No. 70-5332. *HILL v. DUTTON, WARDEN*. C. A. 5th Cir. Certiorari denied. Reported below: 440 F. 2d 34.

No. 70-5335. *REYNOLDS v. UNITED STATES*. C. A. 7th Cir. Certiorari denied.

No. 70-5337. *DODD v. BETO, CORRECTIONS DIRECTOR*. C. A. 5th Cir. Certiorari denied. Reported below: 435 F. 2d 868.

No. 70-5340. *BRYANT v. UNITED STATES*. C. A. D. C. Cir. Certiorari denied.

No. 70-5341. *JASSO v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 442 F. 2d 1054.

No. 70-5342. *OVALLE ET AL. v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 442 F. 2d 698.

No. 70-5345. *BUONOMO v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 441 F. 2d 922.

No. 70-5349. *JAMES v. ZELKER, CORRECTIONAL SUPERINTENDENT*. C. A. 2d Cir. Certiorari denied.

No. 70-5350. *STARNES ET AL. v. ERICKSON, WARDEN*. Sup. Ct. S. D. Certiorari denied. Reported below: 85 S. D. 489, 186 N. W. 2d 502.

No. 70-5352. *GOODSEAL v. NEBRASKA*. Sup. Ct. Neb. Certiorari denied. Reported below: 186 Neb. 359, 183 N. W. 2d 258.

No. 70-5353. *SCHOEN v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 434 F. 2d 931.

No. 70-5354. *NANCE v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 440 F. 2d 617.

No. 70-5357. *FALLANG v. UNITED STATES*. C. A. 9th Cir. Certiorari denied.

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No. 70-5355. *MENDOZA-ACOSTA, AKA AQUILAR v. UNITED STATES*. C. A. D. C. Cir. Certiorari denied. Reported below: 139 U. S. App. D. C. 143, 430 F. 2d 516.

No. 70-5358. *LEIFERMANN v. SECRETARY OF THE ARMY ET AL.* C. A. 4th Cir. Certiorari denied.

No. 70-5359. *SANDERS v. UNITED STATES*. C. A. 10th Cir. Certiorari denied. Reported below: 441 F. 2d 412.

No. 70-5360. *ROBINSON v. UNITED STATES*; and

No. 70-5365. *MOWBRAY v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 442 F. 2d 517.

No. 70-5362. *WEINSTEIN v. PENNSYLVANIA*. Sup. Ct. Pa. Certiorari denied. Reported below: 442 Pa. 70, 274 A. 2d 182.

No. 70-5363. *DAVIS v. CALIFORNIA*. Ct. App. Cal., 2d App. Dist. Certiorari denied.

No. 70-5364. *MANUEL v. AMERICAN NATIONAL TRUST ET AL.* C. A. 7th Cir. Certiorari denied.

No. 70-5368. *DELANCEY v. CITY OF NEW YORK ET AL.* C. A. 2d Cir. Certiorari denied.

No. 70-5369. *HAGGERTY v. WAINWRIGHT, CORRECTIONS DIRECTOR*. C. A. 5th Cir. Certiorari denied.

No. 70-5370. *REICH v. NEBRASKA*. Sup. Ct. Neb. Certiorari denied. Reported below: 186 Neb. 289, 183 N. W. 2d 223.

No. 70-5371. *GEBHART v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 436 F. 2d 1252.

No. 70-5372. *CEPELIS v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 443 F. 2d 63.

No. 70-5373. *DEBOW v. UNITED STATES*. Ct. Cl. Certiorari denied. Reported below: 193 Ct. Cl. 499, 434 F. 2d 1333.

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No. 70-5380. *TRUITT v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 440 F. 2d 1070.

No. 70-5382. *BROWN v. NEW YORK*. App. Div., Sup. Ct. N. Y., 1st Jud. Dept. Certiorari denied.

No. 70-5383. *WRIGHT v. NEW YORK*. App. Div., Sup. Ct. N. Y., 4th Jud. Dept. Certiorari denied.

No. 70-5386. *BUTLER v. THOMAS, CORRECTIONAL SUPERINTENDENT*. C. A. 2d Cir. Certiorari denied. Reported below: 440 F. 2d 992.

No. 70-5387. *HERNANDEZ v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 441 F. 2d 157.

No. 70-5390. *SHAW v. LAVALLEE, CORRECTIONAL SUPERINTENDENT*. C. A. 2d Cir. Certiorari denied.

No. 70-5391. *WRIGHT v. SLAUGHTER ET AL., DBA DOCTORS BUSINESS BUREAU OF CALIFORNIA*. Ct. App. Cal., 2d App. Dist. Certiorari denied.

No. 70-5392. *TILLERY v. ARIZONA*. Sup. Ct. Ariz. Certiorari denied. Reported below: 107 Ariz. 34, 481 P. 2d 271.

No. 70-5393. *BEREZANSKI v. NEW JERSEY*. Sup. Ct. N. J. Certiorari denied.

No. 70-5396. *CROW v. MISSOURI*. Sup. Ct. Mo. Certiorari denied. Reported below: 465 S. W. 2d 478.

No. 70-5402. *WADE v. TWOMEY, WARDEN*. C. A. 7th Cir. Certiorari denied.

No. 70-5403. *CALO v. ZELKER, CORRECTIONAL SUPERINTENDENT*. C. A. 2d Cir. Certiorari denied.

No. 70-5404. *CAPELLO v. COX, PENITENTIARY SUPERINTENDENT*. C. A. 4th Cir. Certiorari denied.

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No. 70-5408. *WATSON v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 442 F.2d 1273.

No. 70-5410. *WORKMAN v. OHIO*. Ct. App. Ohio, 8th Jud. Dist. Certiorari denied.

No. 70-5411. *PARKER v. WALSH*, U. S. DISTRICT JUDGE. C. A. D. C. Cir. Certiorari denied.

No. 70-5413. *STATEN v. NEW YORK*. Ct. App. N. Y. Certiorari denied.

No. 70-5414. *RHODES v. WOLFF, WARDEN*. Sup. Ct. Neb. Certiorari denied.

No. 70-5415. *JEFFERSON v. CALIFORNIA*. Ct. App. Cal., 2d App. Dist. Certiorari denied.

No. 70-5416. *WILSON v. BETO, CORRECTIONS DIRECTOR*. C. A. 5th Cir. Certiorari denied.

No. 70-5419. *WILSON v. UNITED STATES*. C. A. 7th Cir. Certiorari denied.

No. 70-5420. *STEELE v. UNITED STATES*. C. A. 6th Cir. Certiorari denied.

No. 70-5421. *SOKAL v. NEW YORK*. App. Div., Sup. Ct. N. Y., 2d Jud. Dept. Certiorari denied. Reported below: 35 App. Div. 2d 912, 317 N. Y. S. 2d 264.

No. 70-5422. *JOHNSON v. NEW YORK*. App. Div., Sup. Ct. N. Y., 1st Jud. Dept. Certiorari denied.

No. 70-5423. *STEWART v. NEW JERSEY*. Sup. Ct. N. J. Certiorari denied. Reported below: 58 N. J. 334, 277 A. 2d 391.

No. 70-5424. *CANADA v. ARIZONA*. Sup. Ct. Ariz. Certiorari denied. Reported below: 107 Ariz. 66, 481 P. 2d 859.

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No. 70-5425. *WARD v. ILLINOIS*. Sup. Ct. Ill. Certiorari denied. Reported below: 48 Ill. 2d 117, 268 N. E. 2d 692.

No. 70-5426. *ELLIOTT v. DOLLAR GENERAL CORP. ET AL.* Sup. Ct. Tenn. Certiorari denied.

No. 70-5427. *MADDOX v. CALIFORNIA*. C. A. 9th Cir. Certiorari denied.

No. 70-5429. *BROWN v. CRAVEN, WARDEN*. C. A. 9th Cir. Certiorari denied.

No. 70-5430. *BRISBANE v. NEW YORK*. Ct. App. N. Y. Certiorari denied. Reported below: 28 N. Y. 2d 784, 270 N. E. 2d 329.

No. 70-5432. *COLE v. NELSON, WARDEN*. C. A. 9th Cir. Certiorari denied.

No. 70-5433. *GILES v. BETO, CORRECTIONS DIRECTOR*. Ct. Crim. App. Tex. Certiorari denied.

No. 70-5434. *HUGHES ET AL. v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 441 F. 2d 12.

No. 70-5435. *PUGACH v. MANCUSI, CORRECTIONAL SUPERINTENDENT*. C. A. 2d Cir. Certiorari denied. Reported below: 441 F. 2d 1073.

No. 70-5436. *ALBERS v. IOWA*. Sup. Ct. Iowa. Certiorari denied.

No. 71-2. *HORVATH ET AL. v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 440 F. 2d 1221.

No. 71-5. *SCHOOL COMMITTEE OF LEYDEN v. MASSACHUSETTS COMMISSIONER OF EDUCATION*. Sup. Jud. Ct. Mass. Certiorari denied. Reported below: — Mass. —, 267 N. E. 2d 226.

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No. 71-6. *SADRZADEH v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 440 F. 2d 389.

No. 71-7. *WATSON v. CALIFORNIA*. Ct. App. Cal., 2d App. Dist. Certiorari denied. Reported below: 15 Cal. App. 3d 28, 92 Cal. Rptr. 860.

No. 71-8. *GOWER v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 447 F. 2d 187.

No. 71-13. *BOYLE ET AL. v. LAVELLA*. C. A. D. C. Cir. Certiorari denied. Reported below: 144 U. S. App. D. C. 35, 444 F. 2d 910.

No. 71-14. *EDWARDS v. EDWARDS*. Ct. App. Colo. Certiorari denied. Reported below: 481 P. 2d 432.

No. 71-19. *INTERCONTINENTAL PROMOTIONS, INC. v. MIAMI BEACH FIRST NATIONAL BANK ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 441 F. 2d 1356.

No. 71-20. *ALO v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 439 F. 2d 751.

No. 71-21. *HEARD v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 443 F. 2d 856.

No. 71-22. *D'AVANZO v. UNITED STATES*; and

No. 71-44. *FALCONE v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 443 F. 2d 1224.

No. 71-23. *WOMACK ET AL. v. UNITED STATES*. C. A. 7th Cir. Certiorari denied.

No. 71-24. *UPPER ALLEGHENY SAND & GRAVEL Co., INC. v. UNITED STATES ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 441 F. 2d 356.

No. 71-26. *QUINN ET AL. v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 445 F. 2d 940.

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No. 71-25. *STAMAS v. UNITED STATES*. C. A. 1st Cir. Certiorari denied. Reported below: 443 F. 2d 860.

No. 71-27. *LECCI v. LOONEY ET AL.* App. Div., Sup. Ct. N. Y., 2d Jud. Dept. Certiorari denied.

No. 71-28. *D. H. OVERMYER Co., INC., ET AL. v. LOFLIN, DBA LOFLIN SAND & GRAVEL Co.* C. A. 5th Cir. Certiorari denied. Reported below: 440 F. 2d 1213.

No. 71-29. *WILKERSON ET UX. v. MURRAY ET AL.* Sup. Ct. Mo. Certiorari denied.

No. 71-33. *ZANNINO ET AL. v. UNITED STATES*; and  
No. 71-34. *STRAUSS ET AL. v. UNITED STATES*. C. A. 1st Cir. Certiorari denied. Reported below: 443 F. 2d 986.

No. 71-35. *HARPER v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 443 F. 2d 911.

No. 71-37. *GEIGER v. COMMISSIONER OF INTERNAL REVENUE*. C. A. 9th Cir. Certiorari denied. Reported below: 440 F. 2d 688.

No. 71-39. *WABNIK v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 444 F. 2d 203.

No. 71-42. *BORNSTEIN v. UNITED STATES*; and  
No. 71-43. *GROSSGOLD v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 447 F. 2d 742.

No. 71-46. *KELCHNER v. SUMMERLIN ET AL.* C. A. D. C. Cir. Certiorari denied. Reported below: 144 U. S. App. D. C. 131, 445 F. 2d 201.

No. 71-48. *WESTERN-PACIFIC DREDGING CORP. v. WILLIAMSON*. C. A. 9th Cir. Certiorari denied. Reported below: 441 F. 2d 65.

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No. 71-47. *WORTH v. UNITED STATES*. C. A. 6th Cir. Certiorari denied.

No. 71-49. *LOCAL UNION NO. 18, INTERNATIONAL UNION OF OPERATING ENGINEERS v. HODGSON, SECRETARY OF LABOR*. C. A. 6th Cir. Certiorari denied. Reported below: 440 F. 2d 485.

No. 71-50. *STANLEY, CHIEF JUDGE, U. S. DISTRICT COURT v. TIGHTS, INC.* C. A. 4th Cir. Certiorari denied. Reported below: 441 F. 2d 336.

No. 71-51. *LAGERQUIST ET AL. v. SOUTH CAROLINA*. Sup. Ct. S. C. Certiorari denied. Reported below: 256 S. C. 69, 180 S. E. 2d 882.

No. 71-52. *TAITANO ET AL. v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 442 F. 2d 467.

No. 71-55. *KOSKA v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 443 F. 2d 1167.

No. 71-56. *MERRYMAN ET AL. v. PRICE ET AL., TRUSTEES*. App. Ct. Ind. Certiorari denied. Reported below: — Ind. App. —, 259 N. E. 2d 883.

No. 71-58. *ORTON v. MISSOURI EX INF. DANFORTH, ATTORNEY GENERAL*. Sup. Ct. Mo. Certiorari denied. Reported below: 465 S. W. 2d 618.

No. 71-60. *HOWELL v. MISSISSIPPI*. Sup. Ct. Miss. Certiorari denied. Reported below: 246 So. 2d 95.

No. 71-64. *STUKENBORG ET AL. v. TELEDYNE, INC.* C. A. 9th Cir. Certiorari denied. Reported below: 441 F. 2d 1069.

No. 71-67. *CHARLEROI-MONESSEN HOSPITAL v. PETTY, GUARDIAN*. C. A. 3d Cir. Certiorari denied. Reported below: 437 F. 2d 955.

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No. 71-65. *PUCHI v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 441 F. 2d 697.

No. 71-69. *WEBSTER ET AL. v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 442 F. 2d 1340.

No. 71-70. *WESTINGHOUSE ELECTRIC CORP. v. NATIONAL LABOR RELATIONS BOARD ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 440 F. 2d 7.

No. 71-71. *MATALON v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 445 F. 2d 1215.

No. 71-72. *JERNEK v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 445 F. 2d 869.

No. 71-73. *GREENBERG v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 444 F. 2d 369.

No. 71-74. *CONNELL v. UNITED STATES*; and  
No. 71-75. *SMALLWOOD ET AL. v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 443 F. 2d 535.

No. 71-77. *FARRELL ET AL. v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 441 F. 2d 1165 and 443 F. 2d 355.

No. 71-79. *NEW YORK v. MINICONE ET AL.* Ct. App. N. Y. Certiorari denied. Reported below: 28 N. Y. 2d 279, 270 N. E. 2d 300.

No. 71-85. *RUMFELT v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 445 F. 2d 134.

No. 71-87. *HERRING v. UNITED STATES*. C. A. D. C. Cir. Certiorari denied.

No. 71-88. *THE CYGNUS ET AL. v. MERRILL-STEVENS DRY DOCK Co.* C. A. 5th Cir. Certiorari denied. Reported below: 441 F. 2d 269.

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No. 71-91. *UNDERWRITERS AT LLOYDS LONDON ET AL. v. ALCOA STEAMSHIP Co., INC., ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 443 F. 2d 250.

No. 71-94. *PENNINGTON v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. Reported below: 441 F. 2d 249.

No. 71-95. *SHOUP VOTING MACHINE CORP. v. DATA-MEDIA COMPUTER SERVICE, INC.; and*

No. 71-128. *AVM CORP. v. DATAMEDIA COMPUTER SERVICE, INC.* C. A. 5th Cir. Certiorari denied. Reported below: 441 F. 2d 604.

No. 71-96. *MADDEN v. MADDEN ET AL.* Sup. Jud. Ct. Mass. Certiorari denied. Reported below: — Mass. —, 269 N. E. 2d 89.

No. 71-98. *JOHN S. BARNES CORP. v. NATIONAL LABOR RELATIONS BOARD.* C. A. D. C. Cir. Certiorari denied.

No. 71-99. *SPERING v. TEXAS BUTADIENE & CHEMICAL CORP.* C. A. 3d Cir. Certiorari denied. Reported below: 434 F. 2d 677.

No. 71-100. *GLASSER v. UNITED STATES.* C. A. 2d Cir. Certiorari denied. Reported below: 443 F. 2d 994.

No. 71-102. *MCANDREW ET AL. v. SELECTIVE SERVICE BOARD No. 22 ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 438 F. 2d 534.

No. 71-104. *IN RE REILLY.* C. A. 7th Cir. Certiorari denied. Reported below: 442 F. 2d 26.

No. 71-106. *CONTRACTORS ASSOCIATION OF EASTERN PENNSYLVANIA ET AL. v. HODGSON, SECRETARY OF LABOR, ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 442 F. 2d 159.

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No. 71-105. *KUDER ET AL. v. FIRST WISCONSIN TRUST Co.* Sup. Ct. Wis. Certiorari denied. Reported below: 51 Wis. 2d 189, 186 N. W. 2d 311.

No. 71-108. *INGALLS SHIPBUILDING DIVISION OF LITTON SYSTEMS, INC. v. AMERICAN ZINC CO. ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 441 F. 2d 1100.

No. 71-111. *CRAWFORD v. UNITED STATES.* C. A. 10th Cir. Certiorari denied. Reported below: 444 F. 2d 1404.

No. 71-112. *GEBHART ET AL. v. UNITED STATES.* C. A. 6th Cir. Certiorari denied. Reported below: 441 F. 2d 1261.

No. 71-113. *RYBA v. UNITED STATES.* C. A. 3d Cir. Certiorari denied. Reported below: 441 F. 2d 1137.

No. 71-122. *FARLAND ET AL. v. UNITED STATES.* C. A. 2d Cir. Certiorari denied.

No. 71-127. *EARLY ET UX. v. COMMISSIONER OF INTERNAL REVENUE.* C. A. 5th Cir. Certiorari denied. Reported below: 445 F. 2d 166.

No. 71-129. *ILLINOIS STATE TRUST Co., GUARDIAN, ET AL. v. TERMINAL RAILROAD ASSOCIATION OF ST. LOUIS.* C. A. 7th Cir. Certiorari denied. Reported below: 440 F. 2d 497.

No. 71-134. *GIBSON v. MISSOURI PACIFIC RAILROAD Co.* C. A. 5th Cir. Certiorari denied. Reported below: 441 F. 2d 784.

No. 71-135. *JOHN W. McGRATH CORP. v. CABOT CORP. ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 441 F. 2d 476.

No. 71-140. *EDGE v. UNITED STATES.* C. A. 7th Cir. Certiorari denied. Reported below: 444 F. 2d 1372.

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No. 71-136. *INSURANCE COMPANY OF NORTH AMERICA v. PRIETO*. C. A. 6th Cir. Certiorari denied. Reported below: 442 F. 2d 1033.

No. 71-137. *FREMONT v. NEW YORK*. App. Term, Sup. Ct. N. Y., 9th and/or 10th Jud. Dist. Certiorari denied.

No. 71-142. *KIRSNER ET AL. v. FLEISCHMANN ET AL.* Ct. App. Md. Certiorari denied. Reported below: 261 Md. 164, 274 A. 2d 339.

No. 71-144. *CHAMBERS v. CHAMBERS*. Sup. Ct. La. Certiorari denied. Reported below: 259 La. 246, 249 So. 2d 896.

No. 71-146. *CRAVEN, WARDEN v. ALES*. C. A. 9th Cir. Certiorari denied. Reported below: 440 F. 2d 975.

No. 71-149. *ALLEN v. BANKERS TRUST CO. ET AL.* C. A. 2d Cir. Certiorari denied.

No. 71-154. *TOUGHER ET UX. v. COMMISSIONER OF INTERNAL REVENUE*. C. A. 9th Cir. Certiorari denied. Reported below: 441 F. 2d 1148.

No. 71-155. *SNOW v. UNITED STATES*. C. A. 6th Cir. Certiorari denied.

No. 71-156. *CHESTNUT ET AL. v. CRIMINAL COURT OF THE CITY OF NEW YORK ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 442 F. 2d 611.

No. 71-160. *LEVIN SERVICE Co. ET AL. v. DAVIDSON EXCAVATING, INC.* Sup. Ct. Ohio. Certiorari denied.

No. 71-163. *KOMATZ CONSTRUCTION, INC. v. WESTERN UNION TELEGRAPH Co.* Sup. Ct. Minn. Certiorari denied. Reported below: 290 Minn. 129, 186 N. W. 2d 691.

No. 71-164. *VIRGINIA STAGE LINES, INC. v. NATIONAL LABOR RELATIONS BOARD*. C. A. 4th Cir. Certiorari denied. Reported below: 441 F. 2d 499.

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No. 71-166. *CARTER v. CONNECTICUT MUTUAL LIFE INSURANCE CO. ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 446 F. 2d 136.

No. 71-167. *ST. PAUL AT CHASE CORP. v. MANUFACTURERS LIFE INSURANCE COMPANY OF TORONTO.* Ct. App. Md. Certiorari denied. Reported below: 262 Md. 192, 278 A. 2d 12.

No. 71-168. *HENDERSON v. UNITED STATES.* C. A. 2d Cir. Certiorari denied.

No. 71-172. *CHRYSLER CORP. v. VAUGHN, GUARDIAN, ET AL.* C. A. 10th Cir. Certiorari denied. Reported below: 442 F. 2d 619.

No. 71-174. *MAL BROS. CONTRACTING CO. ET AL. v. UNITED STATES.* C. A. 3d Cir. Certiorari denied. Reported below: 444 F. 2d 615.

No. 71-176. *VISERTO v. NEW YORK.* Ct. App. N. Y. Certiorari denied.

No. 71-177. *CHILDERS ET AL. v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. Reported below: 442 F. 2d 1299.

No. 71-179. *COTTONWOOD MALL SHOPPING CENTER, INC. v. UTAH POWER & LIGHT CO.* C. A. 10th Cir. Certiorari denied. Reported below: 440 F. 2d 36.

No. 71-180. *SPATA ET UX. v. IMMIGRATION AND NATURALIZATION SERVICE.* C. A. 2d Cir. Certiorari denied. Reported below: 442 F. 2d 1013.

No. 71-185. *ACFALLE ET AL. v. UNITED STATES.* C. A. 9th Cir. Certiorari denied. Reported below: 438 F. 2d 913.

No. 71-187. *STEVENSON v. UNITED STATES.* C. A. 7th Cir. Certiorari denied. Reported below: 445 F. 2d 25.

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No. 71-186. LOCAL 281, UNITED BROTHERHOOD OF CARPENTERS & JOINERS OF AMERICA ET AL. *v.* BACKO ET AL. C. A. 2d Cir. Certiorari denied. Reported below: 438 F. 2d 176.

No. 71-188. CLAUSEN ET AL. *v.* NORTHERN TRUST CO. C. A. 8th Cir. Certiorari denied.

No. 71-189. INLAND TRUCKING CO. ET AL., DBA OSHKOSH READY MIX CO., ET AL. *v.* NATIONAL LABOR RELATIONS BOARD ET AL. C. A. 7th Cir. Certiorari denied. Reported below: 440 F. 2d 562.

No. 71-191. CLUTTERBUCK *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 445 F. 2d 839.

No. 71-196. LEE ET AL. *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied. Reported below: 448 F. 2d 604.

No. 71-199. KERPELMAN *v.* BOARD OF PUBLIC WORKS OF MARYLAND ET AL. Ct. App. Md. Certiorari denied. Reported below: 261 Md. 436, 276 A. 2d 56.

No. 71-202. HARKEY ET AL. *v.* DEWETTER, MAYOR OF EL PASO, ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 443 F. 2d 828.

No. 71-203. FASSOULIS *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. Reported below: 445 F. 2d 13.

No. 71-204. FLORIDA *v.* ENGLANDER. Sup. Ct. Fla. Certiorari denied. Reported below: 246 So. 2d 746.

No. 71-208. McDANIEL ET AL. *v.* DUDLEY ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 446 F. 2d 303.

No. 71-272. GEORGIA ET AL. *v.* NATIONAL DEMOCRATIC PARTY ET AL. C. A. D. C. Cir. Certiorari denied. Reported below: 145 U. S. App. D. C. 102, 447 F. 2d 1271.

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No. 71-207. BIESKE ET AL. *v.* MAINE. Sup. Jud. Ct. Me. Certiorari denied. Reported below: 272 A. 2d 357.

No. 71-331. YEAGER, PRINCIPAL KEEPER *v.* SMITH. C. A. 3d Cir. Certiorari denied. Reported below: 451 F. 2d 164.

No. 71-5004. RUBY *v.* UNITED STATES. Ct. Cl. Certiorari denied.

No. 71-5007. LUDLOW *v.* NEW JERSEY. C. A. 3d Cir. Certiorari denied.

No. 71-5010. WEAVER *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied. Reported below: 437 F. 2d 431.

No. 71-5011. RUSSELL *v.* NEW YORK. Ct. App. N. Y. Certiorari denied. Reported below: 28 N. Y. 2d 545, 268 N. E. 2d 123.

No. 71-5012. McDUFFIE *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 443 F. 2d 1163.

No. 71-5013. WELTON *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. Reported below: 439 F. 2d 824.

No. 71-5015. GIRARD *v.* JOHNSON, WARDEN. C. A. 6th Cir. Certiorari denied.

No. 71-5017. WATERS *v.* NEW YORK. Ct. App. N. Y. Certiorari denied. Reported below: 28 N. Y. 2d 343, 270 N. E. 2d 700.

No. 71-5018. BROWN *v.* McLEAN, JUDGE. C. A. 3d Cir. Certiorari denied.

No. 71-5020. SHEETS *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied. Reported below: 443 F. 2d 353.

No. 71-5021. BOYDEN *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 443 F. 2d 377.

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No. 71-5022. *GRAMES v. MICHIGAN*. Sup. Ct. Mich. Certiorari denied.

No. 71-5025. *PETERSON v. SOUTH CAROLINA*. Sup. Ct. S. C. Certiorari denied. Reported below: 255 S. C. 579, 180 S. E. 2d 341.

No. 71-5028. *PULLEY v. NORVELL, WARDEN*. C. A. 6th Cir. Certiorari denied.

No. 71-5031. *ADAMS v. WAINWRIGHT, CORRECTIONS DIRECTOR*. C. A. 5th Cir. Certiorari denied. Reported below: 445 F. 2d 832.

No. 71-5037. *O'DELL v. NEW YORK*. App. Div., Sup. Ct. N. Y., 3d Jud. Dept. Certiorari denied. Reported below: 34 App. Div. 2d 702, 309 N. Y. S. 2d 716.

No. 71-5038. *HANNA v. ARIZONA*. Sup. Ct. Ariz. Certiorari denied. Reported below: 107 Ariz. 85, 482 P. 2d 452.

No. 71-5041. *BALOGH v. NEW JERSEY*. Sup. Ct. N. J. Certiorari denied.

No. 71-5042. *STODDARD v. STODDARD*. Dist. Ct. App. Fla., 2d Dist. Certiorari denied.

No. 71-5043. *COON v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 441 F. 2d 279.

No. 71-5045. *CLEVINGER v. CONTE*. Sup. Ct. Wash. Certiorari denied.

No. 71-5047. *HARRIS ET AL. v. CHESAPEAKE & POTOMAC TELEPHONE COMPANY OF VIRGINIA ET AL.* Sup. Ct. App. Va. Certiorari denied.

No. 71-5049. *OWENS v. NEW YORK*. Ct. App. N. Y. Certiorari denied. Reported below: 28 N. Y. 2d 501, 267 N. E. 2d 588.

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No. 71-5048. *GORNICK v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 448 F. 2d 566.

No. 71-5055. *LAWRENCE v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 445 F. 2d 652.

No. 71-5056. *DEVORCE v. DISTRICT COURT FOR THE FIFTH JUDICIAL DISTRICT, COMANCHE COUNTY DIVISION*. Ct. Crim. App. Okla. Certiorari denied.

No. 71-5057. *BENOIT v. UNITED STATES*. C. A. 1st Cir. Certiorari denied.

No. 71-5060. *JOHNSON v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 442 F. 2d 318.

No. 71-5061. *LOIODICI v. MANCUSI, CORRECTIONAL SUPERINTENDENT*. C. A. 2d Cir. Certiorari denied.

No. 71-5065. *STORNINI v. UNITED STATES*. C. A. 1st Cir. Certiorari denied. Reported below: 443 F. 2d 833.

No. 71-5066. *CURAN v. UNITED STATES*. C. A. 8th Cir. Certiorari denied.

No. 71-5067. *PORCHIA v. CALIFORNIA*. Ct. App. Cal., 4th App. Dist. Certiorari denied.

No. 71-5070. *RAINEY v. NEW YORK*. Ct. App. N. Y. Certiorari denied. Reported below: 28 N. Y. 2d 863, 271 N. E. 2d 231.

No. 71-5072. *SULLIVAN v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 443 F. 2d 813.

No. 71-5074. *POPE v. WILLIAMS*. C. A. 3d Cir. Certiorari denied.

No. 71-5076. *WASHINGTON v. MANCUSI, CORRECTIONAL SUPERINTENDENT*. C. A. 2d Cir. Certiorari denied.

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No. 71-5077. *LILLY v. RUNDLE, CORRECTIONAL SUPERINTENDENT*. C. A. 3d Cir. Certiorari denied.

No. 71-5080. *HURD v. DiMENTO & SULLIVAN*. C. A. 1st Cir. Certiorari denied. Reported below: 440 F. 2d 1322.

No. 71-5083. *PRENTISS v. UNITED STATES*. C. A. 5th Cir. Certiorari denied.

No. 71-5086. *GUZMAN v. CALIFORNIA*. Ct. App. Cal., 2d App. Dist. Certiorari denied.

No. 71-5093. *NEWSOME v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 444 F. 2d 109.

No. 71-5098. *REYNAUD v. SECURITIES AND EXCHANGE COMMISSION*. C. A. 2d Cir. Certiorari denied.

No. 70-83. *WELLS v. CALIFORNIA*. App. Dept., Super. Ct. Cal., County of Riverside. Motion to dispense with printing petition granted. Certiorari denied.

No. 70-140. *NOLTE v. UNITED STATES*. C. A. 5th Cir. Motion to dispense with printing petition granted. Certiorari denied. Reported below: 440 F. 2d 1124.

No. 70-242. *ADICKES ET AL. v. MURPHY ET AL.* C. A. 2d Cir. Motion to dispense with printing petition granted. Certiorari denied. Reported below: 436 F. 2d 540.

No. 70-326. *JOHNSTON v. UNITED STATES*. C. A. 9th Cir. Motion to dispense with printing petition granted. Certiorari denied. Reported below: 440 F. 2d 389.

No. 71-12. *TATASCIORE v. NEW JERSEY*. Super. Ct. N. J. Motion to dispense with printing petition granted. Certiorari denied. Reported below: See 58 N. J. 334, 277 A. 2d 391.

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No. 70-351. *DILLON v. UNITED STATES*. C. A. 4th Cir. Motion to dispense with printing petition granted. Certiorari denied.

No. 71-66. *GUON v. UNITED STATES*. C. A. 9th Cir. Motion to dispense with printing petition granted. Certiorari denied. Reported below: 442 F. 2d 1021.

No. 71-169. *BERTRAND, ADMINISTRATRIX v. FOREST OIL CORP. ET AL.* C. A. 5th Cir. Motion to dispense with printing petition granted. Certiorari denied. Reported below: 441 F. 2d 809.

No. 71-175. *FERNANDEZ v. PARKER, WARDEN*. C. A. 9th Cir. Motion to dispense with printing petition granted. Certiorari denied. Reported below: 443 F. 2d 594.

No. 70-103. *WILSON, WARDEN, ET AL. v. ALLISON*. C. A. 9th Cir. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 434 F. 2d 646.

No. 70-174. *ROBBINS, WARDEN v. RASTROM*. C. A. 1st Cir. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 440 F. 2d 1251.

No. 70-311. *SWENSON, WARDEN v. HUNTER*. C. A. 8th Cir. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 442 F. 2d 625.

No. 71-200. *NEW ROCHELLE MUNICIPAL HOUSING AUTHORITY ET AL. v. KING ET AL.* C. A. 2d Cir. Motion of respondents for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 442 F. 2d 646.

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No. 70-104. *JAVOR ET AL. 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 836.

No. 70-144. *NEWSWEEK, INC. v. VANDENBURG*. C. A. 5th Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. Reported below: 441 F. 2d 378.

No. 70-172. *WOOSLEY v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. Reported below: 440 F. 2d 1280.

No. 70-176. *ROSPAN v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. Reported below: 438 F. 2d 905.

No. 70-180. *BANK OF AMERICA NATIONAL TRUST & SAVINGS ASSN. v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. Reported below: 438 F. 2d 1213.

No. 70-185. *SANDERS ET AL. v. COMMISSIONER OF INTERNAL REVENUE*. C. A. 9th Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. Reported below: 439 F. 2d 296.

No. 70-227. *YI AU LAU ET AL. v. UNITED STATES IMMIGRATION AND NATURALIZATION SERVICE*; and

No. 70-243. *TIT TIT WONG ET AL. v. UNITED STATES IMMIGRATION AND NATURALIZATION SERVICE*. C. A. D. C. Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. Reported below: 144 U. S. App. D. C. 147, 445 F. 2d 217.

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No. 70-199. *BALL v. BOARD OF TRUSTEES OF THE KERRVILLE INDEPENDENT SCHOOL DISTRICT ET AL.* C. A. 5th Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. Reported below: 442 F. 2d 408.

No. 70-218. *SMITH ET AL. v. BOARD OF EDUCATION OF PINELLAS COUNTY, FLORIDA, ET AL.* C. A. 5th Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. Reported below: 438 F. 2d 1209.

No. 70-240. *ANDERSON v. LAIRD, SECRETARY OF DEFENSE, ET AL.* C. A. 7th Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. Reported below: 437 F. 2d 912.

No. 70-246. *GOULET v. MUNICIPAL COURT OF PASADENA JUDICIAL DISTRICT, COUNTY OF LOS ANGELES.* Ct. App. Cal., 2d App. Dist. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted.

No. 70-261. *SCOTT v. NEW YORK.* Ct. App. N. Y. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted.

No. 70-287. *JACKS v. NEW JERSEY;*

No. 70-308. *FELDMAN v. NEW JERSEY;* and

No. 70-317. *LEUTY v. NEW JERSEY.* Super. Ct. N. J. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted.

No. 70-297. *JEFFERSON COUNTY TEACHERS ASSN. ET AL. v. BOARD OF EDUCATION OF JEFFERSON COUNTY.* Ct. App. Ky. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. Reported below: 463 S. W. 2d 627.

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No. 70-266. *TATAR v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. Reported below: 439 F. 2d 1300.

No. 70-330. *THARPE v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. Reported below: 443 F. 2d 12.

No. 70-347. *ROBERTS v. SMITH ET AL.* C. A. 5th Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. Reported below: 456 F. 2d 819.

No. 70-5085. *STEWART v. CALIFORNIA*. Ct. App. Cal., 2d App. Dist. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. Reported below: 11 Cal. App. 3d 242, 89 Cal. Rptr. 707.

No. 70-5087. *OLDEN v. POPE*. C. A. 9th Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. Reported below: 431 F. 2d 905.

No. 70-5091. *WRIGHT v. NEW YORK*. App. Div., Sup. Ct. N. Y., 2d Jud. Dept. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted.

No. 70-5146. *BEASLEY v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. Reported below: 438 F. 2d 1279.

No. 70-5185. *KELLEY v. ARIZONA*. Sup. Ct. Ariz. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. Reported below: 107 Ariz. 8, 480 P. 2d 658.

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No. 70-5210. *WALKER v. NEW JERSEY*. Super. Ct. N. J. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted.

No. 70-5307. *FRIEDLAND v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. Reported below: 441 F. 2d 855.

No. 70-5333. *TAYLOR v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. Reported below: 442 F. 2d 1327.

No. 71-10. *COLEY ET AL. v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. Reported below: 441 F. 2d 1299.

No. 71-57. *EDWIN L. WIEGAND CORP. v. WESTINGHOUSE ELECTRIC CORP.* C. A. 6th Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted.

No. 71-68. *BAILEY v. COMMISSIONER OF INTERNAL REVENUE*. C. A. 6th Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. Reported below: 439 F. 2d 723.

No. 71-145. *PICKNEY ET AL. v. ORO DAM CONSTRUCTORS ET AL.* C. A. 9th Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. Reported below: 441 F. 2d 806.

No. 71-147. *RHEINGANS v. MITCHELL, ATTORNEY GENERAL, ET AL.* C. A. 9th Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. Reported below: 438 F. 2d 345.

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No. 71-192. *JOHNSON v. OIL TRANSPORT Co., INC., ET AL.* C. A. 5th Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. Reported below: 440 F. 2d 109.

No. 71-5019. *TYMCIO v. OHIO.* Sup. Ct. Ohio. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted.

No. 71-5064. *LAUCHLI v. UNITED STATES.* C. A. 7th Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. Reported below: 444 F. 2d 1037.

No. 70-109. *VUITCH v. MARYLAND.* Ct. Sp. App. Md. Certiorari denied. MR. JUSTICE DOUGLAS and MR. JUSTICE BRENNAN are of the opinion that certiorari should be granted. Reported below: 10 Md. App. 389, 271 A. 2d 371.

No. 70-197. *KELLEY v. UNION PACIFIC RAILROAD Co.* Sup. Ct. Ore. Certiorari denied. MR. JUSTICE DOUGLAS and MR. JUSTICE BRENNAN are of the opinion that certiorari should be granted. Reported below: — Ore. —, 481 P. 2d 56.

No. 70-5231. *BOYDEN v. COMMISSIONER OF PATENTS.* C. A. D. C. Cir. Certiorari denied. MR. JUSTICE DOUGLAS and MR. JUSTICE BRENNAN are of the opinion that certiorari should be granted.

No. 70-5252. *HOLT v. UNITED STATES.* C. A. 10th Cir. Certiorari denied. MR. JUSTICE DOUGLAS and MR. JUSTICE BRENNAN are of the opinion that certiorari should be granted. Reported below: 435 F. 2d 1278.

No. 70-5297. *GIDMARK v. UNITED STATES.* C. A. 9th Cir. Certiorari denied. MR. JUSTICE DOUGLAS and MR. JUSTICE BRENNAN are of the opinion that certiorari should be granted. Reported below: 440 F. 2d 773.

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No. 71-3. *POPPENHEIMER ET AL. v. TENNESSEE ET AL.* C. A. 6th Cir. Certiorari denied. MR. JUSTICE DOUGLAS and MR. JUSTICE BRENNAN are of the opinion that certiorari should be granted.

No. 71-62. *RAMIREZ v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. MR. JUSTICE DOUGLAS and MR. JUSTICE BRENNAN are of the opinion that certiorari should be granted. Reported below: 441 F. 2d 950.

No. 71-97. *ORLANDO ET AL. v. LAIRD, SECRETARY OF DEFENSE, ET AL.* C. A. 2d Cir. Certiorari denied. MR. JUSTICE DOUGLAS and MR. JUSTICE BRENNAN are of the opinion that certiorari should be granted. Reported below: 443 F. 2d 1039.

No. 70-125. *CITY OF CARMEL-BY-THE-SEA v. PARR.* Sup. Ct. Cal. Certiorari denied. MR. JUSTICE BLACKMUN took no part in the consideration or decision of this petition. Reported below: 3 Cal. 3d 861, 479 P. 2d 353.

No. 70-211. *J. C. PENNEY Co., INC. v. UNITED STATES TREASURY DEPARTMENT ET AL.* C. A. 2d Cir. Certiorari denied. MR. JUSTICE BLACKMUN took no part in the consideration or decision of this petition. Reported below: 439 F. 2d 63.

No. 70-5153. *THERIAULT v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. MR. JUSTICE BLACKMUN took no part in the consideration or decision of this petition. Reported below: 434 F. 2d 212.

No. 70-131. *CALIFORNIA v. ELLER TELECASTING COMPANY OF ARIZONA.* Ct. App. Cal., 4th App. Dist. Certiorari denied. MR. JUSTICE WHITE and MR. JUSTICE BLACKMUN are of the opinion that certiorari should be granted. Reported below: 13 Cal. App. 3d 296, 91 Cal. Rptr. 468.

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No. 70-5157. *THERIAULT v. HARRIS, WARDEN*. C. A. 7th Cir. Certiorari denied. MR. JUSTICE BLACKMUN took no part in the consideration or decision of this petition.

No. 70-5215. *LINEHAN v. MINNESOTA*. C. A. 8th Cir. Certiorari denied. MR. JUSTICE BLACKMUN took no part in the consideration or decision of this petition. Reported below: 437 F. 2d 395.

No. 71-158. *GEORGIA-PACIFIC CORP. v. U. S. PLYWOOD-CHAMPION PAPERS, INC.* C. A. 2d Cir. Certiorari denied. MR. JUSTICE WHITE and MR. JUSTICE BLACKMUN are of the opinion that certiorari should be granted. Reported below: 446 F. 2d 295.

No. 70-165. *ESTATE OF LION ET AL. v. COMMISSIONER OF INTERNAL REVENUE*. C. A. 4th Cir. Certiorari denied. MR. JUSTICE STEWART is of the opinion that certiorari should be granted. Reported below: 438 F. 2d 56.

No. 70-320. *JORDAN ET AL. v. MONTGOMERY WARD & Co., INC.* C. A. 8th Cir. Certiorari denied. MR. JUSTICE STEWART is of the opinion that certiorari should be granted. Reported below: 442 F. 2d 78.

No. 70-313. *AMBROSE DISTRIBUTING Co. v. NATIONAL LABOR RELATIONS BOARD*. C. A. 9th Cir. Certiorari denied. MR. JUSTICE MARSHALL took no part in the consideration or decision of this petition. Reported below: 439 F. 2d 720.

No. 70-5102. *BLOETH v. NEW YORK*. App. Div., Sup. Ct. N. Y., 2d Jud. Dept. Certiorari denied. MR. JUSTICE MARSHALL took no part in the consideration or decision of this petition. Reported below: 35 App. Div. 2d 848, 318 N. Y. S. 2d 264.

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No. 70-167. SIGELBAUM *v.* UNITED STATES ET AL. C. A. 5th Cir. Certiorari denied. MR. JUSTICE MARSHALL took no part in the consideration or decision of this petition. Reported below: 435 F. 2d 1313.

No. 70-209. AIUPPA *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. MR. JUSTICE MARSHALL took no part in the consideration or decision of this petition. Reported below: 440 F. 2d 893.

No. 70-202. KROGER Co. *v.* FEDERAL TRADE COMMISSION. C. A. 6th Cir. Certiorari denied. MR. JUSTICE WHITE took no part in the consideration or decision of this petition. Reported below: 438 F. 2d 1372.

No. 70-338. COTLER DRUGS, INC., ET AL. *v.* CHAS. PFIZER & Co., INC., ET AL. C. A. 2d Cir. Certiorari denied. MR. JUSTICE WHITE took no part in the consideration or decision of this petition. Reported below: 440 F. 2d 1079.

No. 70-339. SOUTHERN RAILWAY Co. *v.* TROUTMAN. C. A. 5th Cir. Certiorari denied. MR. JUSTICE WHITE took no part in the consideration or decision of this petition. Reported below: 441 F. 2d 586.

No. 70-222. COMPUTER SEARCHING SERVICE CORP. *v.* RYAN, U. S. DISTRICT JUDGE. C. A. 2d Cir. Certiorari denied. THE CHIEF JUSTICE took no part in the consideration or decision of this petition. Reported below: 439 F. 2d 6.

No. 70-274. AIR LINE PILOTS ASSOCIATION, INTERNATIONAL *v.* NORTHWEST AIRLINES, INC. 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: 442 F. 2d 246.

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No. 70-233. HELFENBEIN ET AL. *v.* INTERNATIONAL INDUSTRIES, INC., ET AL. C. A. 8th Cir. Motion of respondents to strike petitioners' supplemental brief and certiorari denied. Reported below: 438 F. 2d 1068.

No. 70-244. BOSHES ET AL. *v.* GENERAL MOTORS CORP. ET AL. C. A. 7th Cir. Motion of Consumers Union of U. S., Inc., et al. for leave to file a brief as *amici curiae* granted. Certiorari denied.

No. 70-299. UNITED STATES *v.* AFRAN TRANSPORT CO. ET AL. C. A. 2d Cir. Certiorari denied. MR. JUSTICE BLACKMUN is of the opinion that certiorari should be granted. Reported below: 435 F. 2d 213.

No. 70-300. NEZ PERCE TRIBE OF INDIANS *v.* UNITED STATES. Ct. Cl. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. MR. JUSTICE MARSHALL took no part in the consideration or decision of this petition. Reported below: 194 Ct. Cl. 490.

No. 70-316. NICOLAS ET UX. *v.* MCINTYRE, TRUSTEE, ET AL. Ct. Civ. App. Tex., 8th Sup. Jud. Dist. Motions to dispense with printing petition and brief in opposition granted. Certiorari denied.

No. 70-319. LINSOTT *v.* MILLERS FALLS CO. ET AL. C. A. 1st Cir. Certiorari denied. THE CHIEF JUSTICE and MR. JUSTICE DOUGLAS are of the opinion that certiorari should be granted. Reported below: 440 F. 2d 14.

No. 71-126. SCHNEIDER *v.* RICHARDSON, SECRETARY OF HEALTH, EDUCATION, AND WELFARE. C. A. 6th Cir. Certiorari denied. MR. JUSTICE WHITE is of the opinion that certiorari should be granted. Reported below: 441 F. 2d 1320.

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No. 70-5124. *STANSBERRY v. ILLINOIS*. Sup. Ct. Ill. Certiorari denied. MR. JUSTICE WHITE is of the opinion that certiorari should be granted. Reported below: 47 Ill. 2d 541, 268 N. E. 2d 431.

No. 70-5367. *MORALES v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. MR. JUSTICE DOUGLAS and MR. JUSTICE MARSHALL are of the opinion that certiorari should be granted. Reported below: 440 F. 2d 1332.

No. 71-45. *MARTIN v. PACIFIC NORTHWEST BELL TELEPHONE Co.* C. A. 9th 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: 441 F. 2d 1116.

No. 71-54. *MOORE BUSINESS FORMS, INC. v. UARCO, INC.* C. A. 7th Cir. Certiorari denied. MR. JUSTICE DOUGLAS and MR. JUSTICE BLACKMUN are of the opinion that certiorari should be granted. Reported below: 440 F. 2d 580.

No. 71-118. *MASSILLON-CLEVELAND-AKRON SIGN Co. v. GOLDEN STATE ADVERTISING Co., INC., ET AL.* C. A. 9th Cir. Motion of General Tire & Rubber Co. and Cleveland Patent Law Assn. for leave to file briefs as *amici curiae* granted. Certiorari denied. Reported below: 444 F. 2d 425.

No. 71-150. *GLOBE LIQUOR Co. v. FOUR ROSES DISTILLERS Co.* Sup. Ct. Del. It appearing that the judgment of the Supreme Court of Delaware rests upon an independent and adequate state ground, certiorari denied. Reported below: — Del. —, 281 A. 2d 19.

No. 71-178. *DANNER v. OHIO*. Sup. Ct. Ohio. Motion to dispense with printing respondent's brief granted. Certiorari denied.

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No. 71-5026. *GRIFFIN v. OHIO*. Sup. Ct. Ohio. Motion to amend petition granted. Certiorari denied.

No. 71-5051. *CHACON v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. MR. JUSTICE STEWART and MR. JUSTICE MARSHALL are of the opinion that certiorari should be granted. Reported below: 436 F. 2d 411 and 443 F. 2d 1171.

*Rehearing Denied*

No. 76, October Term, 1970. *AMALGAMATED ASSOCIATION OF STREET, ELECTRIC RAILWAY & MOTOR COACH EMPLOYEES OF AMERICA ET AL. v. LOCKRIDGE*, 403 U. S. 274;

No. 153, October Term, 1970. *TILTON ET AL. v. RICHARDSON, SECRETARY OF HEALTH, EDUCATION, AND WELFARE, ET AL.*, 403 U. S. 672;

No. 323, October Term, 1970. *COOLIDGE v. NEW HAMPSHIRE*, 403 U. S. 443;

No. 1273, October Term, 1970. *STAFFORD v. MICHIGAN*, 402 U. S. 968;

No. 1442, October Term, 1970. *CLEMENT A. EVANS & Co., INC. v. A. M. KIDDER & Co., INC., ET AL.*, 402 U. S. 988;

No. 1467, October Term, 1970. *ITT LAMP DIVISION OF INTERNATIONAL TELEPHONE & TELEGRAPH CORP. v. MINTER, COMMISSIONER OF DEPARTMENT OF PUBLIC WELFARE OF MASSACHUSETTS*, 402 U. S. 933;

No. 1469, October Term, 1970. *HOMART DEVELOPMENT Co. v. DIAMOND ET AL.*, 402 U. S. 988;

No. 1504, October Term, 1970. *GIANNATTI ET AL. v. COUNTY OF LOS ANGELES*, 402 U. S. 992;

No. 1546, October Term, 1970. *HOHENSEE ET AL. v. SCIENTIFIC LIVING, INC., ET AL.*, 402 U. S. 1012;

No. 1547, October Term, 1970. *GENERAL RADIO Co. v. KEPSCO, INC.*, 402 U. S. 1008; and

No. 1574, October Term, 1970. *LOWE v. YOUNG*, 402 U. S. 1006. Petitions for rehearing denied.

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No. 1632, October Term, 1970. *HUGHES TOOL Co. v. INGERSOLL-RAND Co.*, 403 U. S. 918;

No. 1654, October Term, 1970. *GINZBURG v. UNITED STATES*, 403 U. S. 931;

No. 1676, October Term, 1970. *GAMBOCZ v. ELLMYER ET AL.*, 403 U. S. 919;

No. 1692, October Term, 1970. *MACDONALD v. SHAWNEE COUNTRY CLUB, INC., ET AL.*, 403 U. S. 932;

No. 1746, October Term, 1970. *NATIONAL GYPSUM Co. ET AL. v. UNITED STATES GYPSUM Co.*, 403 U. S. 923;

No. 5022, October Term, 1970. *SPECK v. ILLINOIS*, 403 U. S. 946;

No. 5250, October Term, 1970. *BOSTIC v. UNITED STATES*, 402 U. S. 547;

No. 6545, October Term, 1970. *LOMAX v. UNITED STATES*, 401 U. S. 995;

No. 6684, October Term, 1970. *VAN HOOK v. LLOYD, PENITENTIARY SUPERINTENDENT*, 403 U. S. 920;

No. 6794, October Term, 1970. *GRIJALVA v. UNITED STATES*, 402 U. S. 1012;

No. 6857, October Term, 1970. *CASTLE v. MOSELEY, WARDEN*, 403 U. S. 908;

No. 6884, October Term, 1970. *GUNZBURGER v. RICHARDSON, SECRETARY OF HEALTH, EDUCATION, AND WELFARE*, 403 U. S. 934;

No. 6905, October Term, 1970. *VARRELLA v. VARRELLA*, 403 U. S. 909;

No. 6909, October Term, 1970. *WOLFF v. BUCHKOE, WARDEN*, 403 U. S. 909;

No. 6924, October Term, 1970. *LANE ET AL. v. PATE, WARDEN, ET AL.*, 403 U. S. 921;

No. 6935, October Term, 1970. *HYLER ET AL. v. REYNOLDS METALS Co. ET AL.*, 403 U. S. 912;

No. 6951, October Term, 1970. *HILLERY v. NELSON, WARDEN*, 403 U. S. 921; and

No. 6975, October Term, 1970. *SNYDER v. TENNESSEE*, 403 U. S. 935. Petitions for rehearing denied.

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No. 89, October Term, 1970. *LEMON ET AL. v. KURTZMAN, SUPERINTENDENT OF PUBLIC INSTRUCTION OF PENNSYLVANIA, ET AL.*, 403 U. S. 602. Motion for supplemental opinion and petition for rehearing denied. MR. JUSTICE MARSHALL took no part in the consideration or decision of this motion and petition.

No. 130, October Term, 1970. *WENZEL v. UNITED STATES*, 402 U. S. 981;

No. 132, October Term, 1970. *MILLANG v. UNITED STATES*, 402 U. S. 981;

No. 1457, October Term, 1970. *McMILLAN v. FEDERAL NATIONAL MORTGAGE ASSN.*, 402 U. S. 936;

No. 1531, October Term, 1970. *DAVIS v. MEMBERS OF SELECTIVE SERVICE BOARD No. 30 OF DALLAS, TEXAS, ET AL.*, 402 U. S. 999;

No. 1550, October Term, 1970. *SILK v. KLEPPE, ADMINISTRATOR OF SMALL BUSINESS ADMINISTRATION, ET AL.*, 402 U. S. 1012; and

No. 1568, October Term, 1970. *BEAN ET AL. v. ILLINOIS*, 402 U. S. 1009. Motions to dispense with printing petitions for rehearing granted. Petitions for rehearing denied.

No. 299, October Term, 1970. *COHEN v. CALIFORNIA*, 403 U. S. 15. Motion of Charles H. Keating, Jr., for leave to file a brief as *amicus curiae* in support of rehearing granted. Petition for rehearing denied.

No. 1613, October Term, 1970. *GOTTESMAN ET AL. v. GENERAL MOTORS CORP. ET AL.*, 403 U. S. 911. Petition for rehearing denied. MR. JUSTICE MARSHALL took no part in the consideration or decision of this petition.

No. 5006, October Term, 1970. *MATHIS v. NEW JERSEY*, 403 U. S. 946; and

No. 5011, October Term, 1970. *FUNICELLO v. NEW JERSEY*, 403 U. S. 948. Motions for clarification and petitions for rehearing denied.

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No. 1447, October Term, 1970. *ANDREWS v. UNITED STATES*, 402 U. S. 995;

No. 1479, October Term, 1970. *CONSOLIDATION COAL Co. v. SOUTH-EAST COAL Co.*, 402 U. S. 983;

No. 1483, October Term, 1970. *UNITED MINE WORKERS OF AMERICA v. SOUTH-EAST COAL Co.*, 402 U. S. 983;

No. 5102, October Term, 1970. *CHATFIELD v. CALIFORNIA*, 402 U. S. 951;

No. 5606, October Term, 1970. *LEVIN v. PROBATION DEPARTMENT OF CITY OF NEW YORK*, 400 U. S. 907;

No. 6703, October Term, 1970. *SUMMERS v. TEXAS*, 403 U. S. 933; and

No. 6806, October Term, 1970. *KNUCKLES ET AL. v. PRASSE, CORRECTION COMMISSIONER, ET AL.*, 403 U. S. 936. Motions for leave to file petitions for rehearing denied.

No. 1622, October Term, 1970. *WHDH, INC. v. FEDERAL COMMUNICATIONS COMMISSION ET AL.*, 403 U. S. 923. Motion to supplement petition granted. Petition for rehearing denied. *THE CHIEF JUSTICE* took no part in the consideration or decision of this motion and petition.

No. 6908, October Term, 1970. *THERIAULT v. HARRIS, WARDEN*, 403 U. S. 923. Petition for rehearing denied. *MR. JUSTICE BLACKMUN* took no part in the consideration or decision of this petition.

#### *Assignment Orders*

Pursuant to the provisions of Title 28 U. S. C. § 42, it is ordered that *MR. JUSTICE STEWART* be, and he is hereby, temporarily assigned to the Fifth Circuit as Circuit Justice; and

That *MR. JUSTICE MARSHALL* be, and he is hereby, temporarily assigned to the Second Circuit as Circuit Justice.

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*Dismissal Under Rule 60*

No. 71-229. UNITED STATES *v.* DIONISIO ET AL. C. A. 7th Cir. Petition for writ of certiorari as to respondent Smith dismissed pursuant to Rule 60 of the Rules of this Court. Reported below: 442 F. 2d 276.

*Appeals Dismissed*

No. 70-149. STEENHOEK ET AL. *v.* IOWA. Appeal from Sup. Ct. Iowa dismissed for want of substantial federal question. Reported below: 182 N. W. 2d 377.

No. 71-86. ASSOCIATED HOME BUILDERS OF THE GREATER EAST BAY, INC. *v.* CITY OF WALNUT CREEK ET AL. Appeal from Sup. Ct. Cal. dismissed for want of substantial federal question. Reported below: 4 Cal. 3d 633, 484 P. 2d 606.

No. 71-5024. AQUAFREDDA *v.* NEW YORK. Appeal from App. Term, Sup. Ct. N. Y., 1st Jud. Dept., dismissed for want of substantial federal question.

No. 71-5108. CHELEY ET AL. *v.* PARHAM, DIRECTOR OF DEPARTMENT OF FAMILY AND CHILDREN SERVICES. Appeal from D. C. N. D. Ga. dismissed for failure to docket case within time prescribed by Rule 13 of the Rules of this Court. *Shapiro v. Doe*, 396 U. S. 488. MR. JUSTICE DOUGLAS is of the opinion that probable jurisdiction should be noted and case set for oral argument. Reported below: 324 F. Supp. 678.

*Certiorari Granted—Vacated and Remanded*

No. 71-5128. GAINES *v.* UNITED STATES. C. A. 2d Cir. Motion for leave to proceed *in forma pauperis* granted. Certiorari granted, judgment vacated, and case remanded for further consideration in light of suggestion of the Solicitor General in the Memorandum for the United States. Reported below: 441 F. 2d 1122.

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No. 71-15. CONNECTICUT STATE BOARD OF PAROLE *v.* BEY. C. A. 2d Cir. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari granted, judgment vacated, and case remanded to the United States District Court for the District of Connecticut with directions to dismiss as moot. *United States v. Munsingwear*, 340 U. S. 36. Reported below: 443 F. 2d 1079.

#### *Miscellaneous Orders*

No. A-356 (71-595). NICHOL, DISTRICT ATTORNEY OF DANE COUNTY, ET AL. *v.* KENNAN ET AL. D. C. W. D. Wis. Application for stay presented to THE CHIEF JUSTICE, and by him referred to the Court, denied without prejudice to an application for stay to three-judge district court.

No. 70-18. ROE ET AL. *v.* WADE, DISTRICT ATTORNEY OF DALLAS COUNTY. Appeal from D. C. N. D. Tex. [Probable jurisdiction postponed, 402 U. S. 941.] Motion of Women for the Unborn et al. for leave to file a brief as *amici curiae* granted.

No. 70-52. UNITED STATES *v.* MISSISSIPPI CHEMICAL CORP. ET AL. C. A. 5th Cir. [Certiorari granted, 401 U. S. 908.] Motion of M. F. A. Central Cooperative et al. for leave to participate in oral argument as *amici curiae* denied. MR. JUSTICE BLACKMUN took no part in the consideration or decision of this motion.

No. 71-5102. CUNNINGHAM *v.* BRIERLEY, CORRECTIONAL SUPERINTENDENT, ET AL. Motion for leave to file petition for writ of habeas corpus denied.

No. 70-5418. GUY *v.* UNITED STATES. Motion for leave to file petition for writ of mandamus denied.

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*Certiorari Granted*

No. 71-32. *FLOOD v. KUHN ET AL.* C. A. 2d Cir. Certiorari granted. Reported below: 443 F. 2d 264.

No. 71-119. *TRBOVICH v. UNITED MINE WORKERS OF AMERICA ET AL.* C. A. D. C. Cir. Certiorari granted.

*Certiorari Denied*

No. 68-5014. *GARRISON v. PATTERSON, WARDEN.* C. A. 10th Cir. Certiorari denied. Reported below: 405 F. 2d 696.

No. 70-179. *LOMBARDINO v. HEYD, SHERIFF.* C. A. 5th Cir. Certiorari denied. Reported below: 438 F. 2d 1027.

No. 70-221. *LICAVOLI v. MAXWELL, WARDEN.* C. A. 6th Cir. Certiorari denied. Reported below: 438 F. 2d 1182.

No. 70-262. *CARTER v. MOREHOUSE PARISH SCHOOL BOARD.* C. A. 5th Cir. Certiorari denied. Reported below: 441 F. 2d 380.

No. 70-5154. *BLACKBURN ET AL. v. CALIFORNIA.* Ct. App. Cal., 2d App. Dist. Certiorari denied. Reported below: 13 Cal. App. 3d 424, 91 Cal. Rptr. 538.

No. 70-5170. *GOLUB v. UNITED STATES.* C. A. 5th Cir. Certiorari denied.

No. 70-5334. *HERRERA v. NEW MEXICO.* Ct. App. N. M. Certiorari denied. Reported below: 82 N. M. 432, 483 P. 2d 313.

No. 70-5348. *MAULDIN v. HENRY ET AL.* C. A. 4th Cir. Certiorari denied.

No. 70-5356. *MOREFIELD v. UNITED STATES.* C. A. 7th Cir. Certiorari denied.

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No. 70-5378. *SINGAL v. R. J. REYNOLDS TOBACCO CO. ET AL.* C. A. 5th Cir. Certiorari denied.

No. 70-5384. *WILLIAMS v. VIRGIN ISLANDS.* C. A. 3d Cir. Certiorari denied. Reported below: 438 F. 2d 1085.

No. 70-5407. *SANASSARIAN v. CALIFORNIA.* C. A. 9th Cir. Certiorari denied. Reported below: 439 F. 2d 703.

No. 71-4. *FRONTIER CONTACT LENSES, INC., ET AL. v. PLASTIC CONTACT LENS CO.* C. A. 2d Cir. Certiorari denied. Reported below: 441 F. 2d 67.

No. 71-38. *TUCKER v. MOLLER ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 445 F. 2d 1400.

No. 71-116. *CARACCI v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. Reported below: 446 F. 2d 173.

No. 71-120. *CENTRAL GULF STEAMSHIP CORP. v. SAMMON.* C. A. 2d Cir. Certiorari denied. Reported below: 442 F. 2d 1028.

No. 71-130. *PACIFIC WESTBOUND CONFERENCE ET AL. v. FEDERAL MARITIME COMMISSION ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 440 F. 2d 1303.

No. 71-133. *HOLLAND v. HOLLAND.* Sup. Ct. Ohio. Certiorari denied.

No. 71-148. *JOHN KALIN FUNERAL HOME, INC., DBA LACEY FUNERAL HOME v. FULTZ ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 442 F. 2d 1342.

No. 71-152. *ELLIOTT ET AL. v. HOBERMAN ET AL.*; and  
No. 71-252. *MOONEY ET AL. v. HOBERMAN ET AL.* Ct. App. N. Y. Certiorari denied. Reported below: 28 N. Y. 2d 530 and 970, 267 N. E. 2d 886 and 272 N. E. 2d 81.

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No. 71-165. BRIDWELL, AKA BRADLEY *v.* UNITED STATES; and

No. 71-303. PAULDINO, AKA PARKER *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. Reported below: 443 F. 2d 1108.

No. 71-171. WHITFIELD ET AL. *v.* KLEIN INDEPENDENT SCHOOL DISTRICT ET AL. Ct. Civ. App. Tex., 14th Sup. Jud. Dist. Certiorari denied. Reported below: 463 S. W. 2d 232.

No. 71-210. WILSON ET UX. *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 440 F. 2d 1103.

No. 71-211. DON RHOADES CORP. *v.* AMERICAN INSTITUTE OF MARKETING SYSTEMS, INC. Sup. Ct. N. M. Certiorari denied. Reported below: 82 N. M. 659, 486 P. 2d 68.

No. 71-213. HAYES ET AL. *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 444 F. 2d 472.

No. 71-216. WEST *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied.

No. 71-217. SAWYER *v.* ATLANTIC DISCOUNT CORP. ET AL. C. A. 4th Cir. Certiorari denied. Reported below: 442 F. 2d 349.

No. 71-220. POPE, ADMINISTRATRIX *v.* MOORE-McCORMACK LINES, INC. Sup. Jud. Ct. Mass. Certiorari denied.

No. 71-222. DEMASI *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. Reported below: 445 F. 2d 251.

No. 71-223. IANNACONE ET AL. *v.* NEW YORK. Ct. App. N. Y. Certiorari denied. Reported below: 29 N. Y. 2d 612, 273 N. E. 2d 136.

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No. 71-228. *TRANSIT CASUALTY CO. ET AL. v. SECURITY TRUST Co. ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 441 F. 2d 788.

No. 71-231. *SPALITTA, GUARDIAN v. NATIONAL AMERICAN BANK OF NEW ORLEANS ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 444 F. 2d 291.

No. 71-234. *THOMPSON ET UX. v. HOFFMAN.* App. Ct. Ill., 2d Dist. Certiorari denied.

No. 71-235. *THOMPSON v. COUNTY BOARD OF SCHOOL TRUSTEES OF DUPAGE COUNTY ET AL.* App. Ct. Ill., 2d Dist. Certiorari denied. Reported below: 130 Ill. App. 2d 660, 265 N. E. 2d 168.

No. 71-236. *SMITH v. UNITED STATES.* C. A. 9th Cir. Certiorari denied. Reported below: 445 F. 2d 861.

No. 71-241. *HUMBLE OIL & REFINING Co. v. DOMERACKI.* C. A. 3d Cir. Certiorari denied. Reported below: 443 F. 2d 1245.

No. 71-5009. *COX v. UNITED STATES.* C. A. 4th Cir. Certiorari denied.

No. 71-5036. *SALVO v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. Reported below: 447 F. 2d 474.

No. 71-5062. *BAKER v. UNITED STATES.* C. A. 2d Cir. Certiorari denied. Reported below: 442 F. 2d 1024.

No. 71-5088. *EDWARDS v. UNITED STATES.* C. A. 10th Cir. Certiorari denied. Reported below: 440 F. 2d 1293.

No. 71-5089. *DZIALAK v. UNITED STATES.* C. A. 2d Cir. Certiorari denied. Reported below: 441 F. 2d 212.

No. 71-5090. *LOGAN v. UNITED STATES.* C. A. 9th Cir. Certiorari denied. Reported below: 428 F. 2d 826.

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No. 71-5095. *QUILES v. FRITZ, CORRECTIONAL SUPERINTENDENT*. C. A. 2d Cir. Certiorari denied.

No. 71-5106. *KEENY v. SECRETARY OF THE ARMY*. C. A. 8th Cir. Certiorari denied.

No. 71-5107. *WELCH v. CARDWELL, WARDEN*. C. A. 6th Cir. Certiorari denied.

No. 71-5109. *BUSH v. MORRIS, DISTRICT ATTORNEY OF SUMTER COUNTY, ET AL.* Sup. Ct. Ga. Certiorari denied.

No. 71-5110. *MATTHEWS v. UNITED STATES*. Ct. App. D. C. Certiorari denied. Reported below: 267 A. 2d 826.

No. 71-5111. *LOTT v. MANCUSI, CORRECTIONAL SUPERINTENDENT*. C. A. 2d Cir. Certiorari denied.

No. 71-5112. *MONTGOMERY v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 440 F. 2d 694.

No. 71-5116. *VITORATOS v. OHIO*. Sup. Ct. Ohio. Certiorari denied.

No. 71-5117. *BOGDAN v. RODRIGUEZ, WARDEN*. C. A. 10th Cir. Certiorari denied.

No. 71-5118. *HOHLWEILER, ADMINISTRATOR v. PENNSYLVANIA RAILROAD ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 436 F. 2d 1382.

No. 71-5119. *HOPPER v. MICHIGAN*. Sup. Ct. Mich. Certiorari denied.

No. 71-5122. *BROWN v. UNITED STATES*. C. A. 2d Cir. Certiorari denied.

No. 71-5123. *ROOTS v. UNITED STATES*;

No. 71-5147. *MCNEIL v. UNITED STATES*; and

No. 71-5227. *BONEY v. UNITED STATES*. C. A. 4th Cir. Certiorari denied.

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No. 71-5129. *BRYANT v. UNITED STATES*. C. A. 4th Cir. Certiorari denied.

No. 71-5130. *LANDMAN v. UNITED STATES BOARD OF PAROLE*. C. A. 4th Cir. Certiorari denied.

No. 71-5131. *BAKER v. UNITED STATES*. C. A. 10th Cir. Certiorari denied. Reported below: 444 F. 2d 1290.

No. 71-5133. *McCONKEY v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 444 F. 2d 788.

No. 71-5134. *DUMENIGO v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 444 F. 2d 253.

No. 71-5135. *RANKIN v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 443 F. 2d 380.

No. 71-5142. *LEWIS v. LEGISLATIVE BODY OF THE 91ST CONGRESS OF THE UNITED STATES*. C. A. 4th Cir. Certiorari denied.

No. 70-148. *DEBOSE v. THE LOPPERSUM ET AL.* C. A. 5th Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted and case set for oral argument. Reported below: 438 F. 2d 642.

No. 70-5158. *SOUTHERS v. OHIO*. Sup. Ct. Ohio. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted and case set for oral argument.

No. 71-103. *GOODYEAR TIRE & RUBBER Co. v. H. K. PORTER Co., INC.* C. A. 6th Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted and case set for oral argument. Reported below: 437 F. 2d 244.

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No. 71-5155. *RIGDON v. UNITED STATES*. C. A. 4th Cir. Certiorari denied.

No. 70-152. *MINNEAPOLIS FEDERATION OF TEACHERS, LOCAL No. 59 v. SPANNAUS, ATTORNEY GENERAL OF MINNESOTA, ET AL.* Sup. Ct. Minn. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted and case set for oral argument. Reported below: 288 Minn. 496, 182 N. W. 2d 887.

No. 71-132. *MOTOR CITY METAL TREATING, INC. v. KOLENE CORP. ET AL.* C. A. 6th Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted and case set for oral argument. Reported below: 440 F. 2d 77.

No. 71-5014. *ORTEGA-MOJARO v. IMMIGRATION AND NATURALIZATION SERVICE ET AL.* C. A. 9th Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted and case set for oral argument. Reported below: 441 F. 2d 658.

No. 71-5050. *AUTRY v. WILEY ET AL.* C. A. 1st Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted and case set for oral argument. Reported below: 440 F. 2d 799.

No. 71-5101. *WARREN v. GOVERNMENT NATIONAL MORTGAGE ASSN. ET AL.* C. A. 8th Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted and case set for oral argument. Reported below: 443 F. 2d 624.

No. 71-5149. *PERCY v. SOUTH DAKOTA ET AL.* C. A. 8th Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted and case set for oral argument. Reported below: 443 F. 2d 1232.

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No. 70-263. LEE ET AL. v. RUNGE. C. A. 9th Cir. Certiorari denied. Reported below: 441 F. 2d 579.

MR. JUSTICE DOUGLAS, dissenting.

Petitioner Lee infringed respondent's copyright and a verdict was rendered against her. Petitioner argued that because the congressional power over copyrights and patents stemmed from the same constitutional provision, they both should be governed by the same standard. Thus, petitioner contended that the copyright was invalid because the book in question lacked "novelty," but the Court of Appeals rejected this argument saying that the appropriate standard for a copyright was "originality" and that the respondent's book met this criterion.<sup>1</sup> The standard of copyrightability presents an important question concerning the scope of Congress' enumerated powers. It has not heretofore been decided by this Court<sup>2</sup> and, arguably, it was wrongly decided by the courts below.

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<sup>1</sup> *Runge v. Lee*, 441 F. 2d 579, 581 (CA9 1971):

"The standard of 'novelty' urged by appellants is applicable to patents, but not copyrights. The copyright standard is one of 'originality':

"The requirements for the "originality" necessary to support a copyright are modest. The author must have created the work by his own skill, labor and judgment, contributing something "recognizably his own" to prior treatments of the same subject. However, neither great novelty nor superior artistic quality is required." Quoting *Doran v. Sunset House Dist. Corp.*, 197 F. Supp. 940, 944 (SD Cal. 1961), aff'd, 304 F. 2d 251 (CA9 1962).

<sup>2</sup> *Mazer v. Stein*, 347 U. S. 201, dealt only with the statutory standards for copyrightability because the constitutional questions were not raised until oral argument. Respondent's reliance upon *Mazer* as an expression of the constitutional standards for copyrights is therefore misplaced. Those cases in which we have considered the constitutional ramifications of the copyright power have not dealt with the standard of copyrightability. *E. g.*, *Bleistein v. Donaldson Lithographing Co.*, 188 U. S. 239; *Burrow-Giles Lithographic Co. v. Sarony*, 111 U. S. 53. See also Note, 68 Harv. L. Rev. 517 (1955).

In 1961, respondent published and copyrighted a book entitled *Face Lifting by Exercise*. This book explained how isometric facial exercises could be used to preserve the appearance of youth. It was based on respondent's study of anatomy, physical therapy, and magazine and newspaper articles, but there is nothing in the record to indicate that the ideas it contained constituted anything more than "selecting the last piece to put into the last opening in a jig-saw puzzle." *Sinclair & Carroll Co. v. Interchemical Corp.*, 325 U. S. 327, 335. It was merely a repetition of the existing state of the art. During 1962, petitioner was employed in respondent's beauty salon and we may assume that it was during this time that petitioner first read respondent's book and learned of respondent's facial exercises. In 1965, petitioner published *The Joyce Lee Method of Scientific Facial Exercises*. It contained a system of facial exercises strikingly similar to respondent's and, even though it was unquestionably expressed in petitioner's own language, we may safely conclude that it was based on respondent's book. An action for copyright infringement was made out, therefore, if the respondent's copyright was valid and if it embraced the ideas in her book.

The constitutional power over copyrights is found in the same clause that governs the issuance of patents: "The Congress shall have Power . . . To promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries." Art. I, § 8, cl. 8. Many of the same interests underlie both grants of power. The *Federalist* No. 43. While this Court has not had many occasions to consider the constitutional parameters of copyright power, we have indicated that the introductory clause, "To promote the Progress of Science and useful Arts," acts as a limit on Congress'

power to grant monopolies through patents. In *Graham v. John Deere Co.*, 383 U. S. 1, 5-6, we said:

“The clause is both a grant of power and a limitation. This qualified authority, unlike the power often exercised in the sixteenth and seventeenth centuries by the English Crown, is limited to the promotion of advances in the ‘useful arts.’ It was written against the backdrop of the practices—eventually curtailed by the Statute of Monopolies—of the Crown in granting monopolies to court favorites in goods or businesses which had long before been enjoyed by the public. The Congress in the exercise of the patent power may not overreach the restraints imposed by the stated constitutional purpose. Nor may it enlarge the patent monopoly without regard to the innovation, advancement or social benefit gained thereby. Moreover, Congress may not authorize the issuance of patents whose effects are to remove existent knowledge from the public domain, or to restrict free access to materials already available. Innovation, advancement, and things which add to the sum of the useful knowledge are inherent requisites in a patent system which by constitutional command must ‘promote the Progress of . . . useful Arts.’ This is the *standard* expressed in the Constitution and it may not be ignored. And it is in this light that patent validity ‘requires reference to a standard written into the Constitution.’” (Citations omitted.)

In *Mazer v. Stein*, 347 U. S. 201, 219, we indicated that the copyright power is also governed by this same introductory phrase: “The economic philosophy behind the clause empowering Congress to grant patents and copyrights is the conviction that encouragement of individual effort by personal gain is the best way to advance public welfare through the talents of authors and

inventors in 'Science and useful Arts.'" See also *Bleistein v. Donaldson Lithographing Co.*, 188 U. S. 239, 249. In other contexts, we have also shown that patents and copyrights stand on the same footing. *E. g.*, *United States v. Paramount Pictures*, 334 U. S. 131, 158; *Sheldon v. Metro-Goldwyn Pictures Corp.*, 309 U. S. 390, 401. No reason can be offered why we should depart from the plain import of this grant of congressional power and apply more lenient constitutional standards to copyrights than to patents.<sup>3</sup> Indeed, for reasons which will later be considered, a copyright may have to meet greater constitutional standards for validity than a patent. The limitations set forth in *Graham v. John Deere Co.*, therefore, apply with at least equal force to copyrights. Cf. *Burrow-Giles Lithographic Co. v. Sarony*, 111 U. S. 53, 59.

An author's "Writing" or an inventor's "Discovery" can, in the constitutional sense, only extend to that which is his own. It may not be broadened to include matters within the public domain. The congressional power to grant monopolies for "Writings and Discoveries" is likewise limited to that which accomplishes the stated purpose of promoting "the Progress of Science and useful Arts." No distinction is made in the constitutional language between copyrights and patents and I would not create one by judicial gloss. Where, as here, a writer has published a book which compiles and applies infor-

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<sup>3</sup> Statutory support for the distinction made by the courts below is, at best, flimsy. It is true that the standards of "novelty," 35 U. S. C. § 102, and "non-obviousness," 35 U. S. C. § 103, are embodied in the patent statutes. "Originality," however, is not set forth in the copyright laws as a sufficient measure of copyrightability and it owes its development solely to the courts. *E. g.*, *Du Puy v. Post Telegram Co.*, 210 F. 883 (CA3 1914); *Edward Thompson Co. v. American Law Book Co.*, 122 F. 922 (CA2 1903). A longstanding, but erroneous, pattern of statutory interpretation may not be spared from the force of a constitutional mandate by reason of its longevity. *Erie R. Co. v. Tompkins*, 304 U. S. 64.

mation available to all men, should that writer have a monopoly on the ideas in that book through a copyright issued merely because the words used were the author's own?

Patents which did not serve the broad goals of furthering scientific advancement and bettering the lot of mankind (*Great Atlantic & Pacific Tea Co. v. Supermarket Equipment Corp.*, 340 U. S. 147, 154-155 (DOUGLAS, J., concurring)) have been held invalid because they lacked utility, did no more than combine existing inventions, were obvious to someone schooled in the art, or sought to monopolize ideas within the public domain. *Graham v. John Deere Co.*, *supra*; *Great Atlantic & Pacific Tea Co. v. Supermarket Equipment Corp.*, *supra*; *Hotchkiss v. Greenwood*, 11 How. 248. It is not obvious that respondent's system of facial exercises was patentable under these standards. It arguably amounted to nothing more than an application of existing knowledge based upon sources available to all men. We have repeatedly held that patents so devoid of novelty were invalid. To create a monopoly under the copyright power which would not be available under the patent power would be to betray the common birthright of all men at the altar of hollow formalisms.

The application of the constitutional standard of "novelty" will not "invalidate the copyright in a substantial portion of all literary works, where novelty as distinguished from originality is a very rare commodity," as one commentator has suggested.<sup>4</sup> If Johann Spies'

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<sup>4</sup> M. Nimmer on Copyright 33 n. 7a (1971). Professor Nimmer seems to have retreated somewhat from this view, however. Nimmer, *Does Copyright Abridge the First Amendment Guarantees of Free Speech and Press?*, 17 U. C. L. A. L. Rev. 1180 (1970). Even if it were assumed that the application of the "novelty" standard curtailed the monopoly afforded by the copyright, it has recently been demonstrated that this would not seriously affect the publishing

Historia von Dr. Johann Fausten, Christopher Marlowe's The Tragical History of Dr. Faustus, Goethe's Faust and all the other countless operatic, symphonic, dramatic, and literary versions of the Faustian legend were published for the first time today, copyright protection could well be extended to all. "[A] copyright gives no exclusive right to the art disclosed; protection is given only to the expression of the idea—not the idea itself." *Mazer v. Stein, supra*, at 217. The manner in which the words or musical notes are combined to recount the Faustian legend could well satisfy the constitutional requirement of novelty even though the broad ideas they describe may be part of the public domain. This question is not before us in the present case, however, because the manner of expression used by petitioner was unquestionably her own and it was only the ideas of respondent that were used.<sup>5</sup>

Serious First Amendment questions would be raised if Congress' power over copyrights were construed to include the power to grant monopolies over certain ideas. See Nimmer, Does Copyright Abridge the First Amendment Guarantees of Free Speech and Press?, 17 U. C. L. A. L. Rev. 1180 (1970). The framers of the Bill of Rights added the guarantees of freedom of speech and of the press because they did not feel them to be sufficiently protected by the original Constitution. This liberty is necessary if we are to have free, open, and lively debate of political and social ideas. The "public

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industry nor would it disserve the interests underlying the copyright power. Breyer, The Uneasy Case for Copyright: A Study of Copyright in Books, Photocopies, and Computer Programs, 84 Harv. L. Rev. 281 (1970).

<sup>5</sup>I recognize that if copyright protection prevented only literal copying, the clever plagiarist could avoid its sanctions by changing irrelevant words. Protecting the manner of expression, however, cannot be allowed to become the tail that wags the dog.

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interest in having the fullest information available on the murder of President Kennedy," for example, led one court to conclude that photographs of the assassination were not entitled to the full range of copyright protection. *Time, Inc. v. Bernard Geis Associates*, 293 F. Supp. 130, 146 (SDNY 1968). The arena of public debate would be quiet, indeed, if a politician could copyright his speeches or a philosopher his treatises and thus obtain a monopoly on the ideas they contained. We should not construe the copyright laws to conflict so patently with the values that the First Amendment was designed to protect.

Application of the novelty standard does not require that a person whose literary work is used by another be left without a remedy. We deal here only with the extent of Congress' enumerated constitutional powers. Quite different questions would be raised by actions for unfair competition or conversion of a common-law property interest. *International News Service v. Associated Press*, 248 U. S. 215. Similarly, different questions would be involved had Congress acted pursuant to other enumerated powers. Cf. *Missouri v. Holland*, 252 U. S. 416. The respondent's rights are limited to that which is necessary to "promote the Progress of Science and useful Arts." This requires a level of "novelty" which respondent arguably has not satisfied.

I would grant certiorari and set the case for argument.

No. 70-5331. *HULL v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 441 F. 2d 1165.

MR. JUSTICE DOUGLAS, dissenting.

On the morning of September 22, 1968, the petitioner and a companion, both Americans, were walking westward along Highway 94 near Tecate, California, and were three-fourths of a mile from the Mexican border. Two federal customs agents stopped them, learned their iden-

tities, directed the pair to walk in roadside dust, and concluded that their shoeprints were similar to those the officers had seen only hours earlier in sand "traps" some 50 yards south of the highway.<sup>1</sup> Suspecting the two of smuggling contraband, the agents detained them while reinforcements arrived and backtracked in search of contraband which officers believed might have been hidden along the pair's path. During the probe two knapsacks containing marihuana were found at a spot 100 yards east of the point where the two had been stopped and near the trail which officers believed had been left by the petitioner and his companion. The officers then formally arrested them and afterwards traced what they suspected to be the pair's footprints to a railroad tunnel nearer the border leading into Mexico.

The two were convicted of smuggling marihuana, in a trial before a jury. The Government was unable to produce direct evidence that the defendants had actually crossed the border via the railroad tunnel. In fact, all the agents could claim was that they had traced what they believed to be the defendants' footprints into the mouth of the tunnel. Furthermore, no direct evidence was adduced to show, assuming the pair had crossed the border, that they had crossed with marihuana. Given the lack of direct evidence on any of these matters, however, the Government understandably desired to be more persuasive.

To shore up its case the Government introduced, over objection, testimony of an agent that the locality of these events had been "possibly the hottest spot on the Mexican border for smuggling." He was permitted to tell of his participation in six prior, unrelated investiga-

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<sup>1</sup> A "trap" is a sandy area brushed smooth at regular intervals and used to alert border patrols that persons have recently traversed the area on foot.

tions of other persons' smuggling activities. On four of these occasions, said the officer, arrestees had been tracked by their footprints and had been found possessing marihuana. On two other occasions, aliens had been caught unlawfully entering the United States. Apparently, the point the prosecution wished to convey was that using the tunnel was a favorite *modus operandi* for sneaking aliens and hemp into the United States. The Government now attempts to justify this testimony on the theory that it tended to rebut the possibility that the pair had merely been hitchhiking. As a second justification, the Government contends the remarks helped establish the "signcutting" credentials of the agent by showing that his tracking skills had proved successful on prior occasions.<sup>2</sup>

I would reverse the case and order a new trial.

The witness' view on the criminal tendencies of persons found near the border was not relevant to any fact at issue in the trial. It was merely an attempt to construct a supposed class of suspect persons to which it appeared the petitioner belonged. Courts have been hesitant to admit statistical evidence of this nature because of the ease with which it can be abused.<sup>3</sup> Only after many

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<sup>2</sup> "Signcutting" is the art of tracking the path of persons traveling in open spaces.

<sup>3</sup> Judicial history is replete with examples of misapplied statistics in criminal cases. One prominent example was the conviction of Captain Alfred Dreyfus in France in 1899. He was accused of writing state secrets and conveying his inscriptions to German spies. The prosecution attempted to show that Dreyfus had penned the letter, by introducing lexicographical experts' opinions. The prosecutor was successful in persuading the jury that there had been an "amazing" frequency of graphical similarities between the letters and others known to have been written by Dreyfus. But, as a panel of experts later pointed out, there was nothing statistically remarkable about the existence of the similarities. For the view that counsel for Dreyfus and the government commissioner failed

years of improvements were evidences of fingerprints, firearms ballistics, and radar data admitted in prosecutions. And, evidence of blood tests for identification purposes or polygraph readings still face an uncertain future in our courts.<sup>4</sup> We have here an attempt by the Government to impute to a class of persons criminal tendencies simply on the strength of one custom agent's anecdotal experiences in four prior investigations. The attempt was not relevant since a rational juror could not have sensibly used the information.<sup>5</sup>

The jury might have suspected the two simply as marihuana users who had been hitchhiking along the highway and who had hidden the contraband upon seeing

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to comprehend any of the witness' mathematical speculation, see A. Charpentier, *The Dreyfus Case* 52-53 (J. May transl. 1935). A more recent American case is that of *People v. Collins*, 68 Cal. 2d 319, 438 P. 2d 33 (1968), in which the prosecutor at trial said he showed that only one in 12 million people could, as the defendant did, match the description of the perpetrator of a robbery. The California Supreme Court ultimately pointed out, among other criticisms of the mathematical demonstration, that in a population of 24 million the prosecutor's assumption would lead to the conclusion that there were *two* persons matching the description, which alone should have established reasonable doubt. These cases and others misapplying statistics are discussed in Tribe, *Trial By Mathematics: Precision and Ritual in the Legal Process*, 84 Harv. L. Rev. 1329, 1338 (1971).

<sup>4</sup> As to the case of breathalizers, radar trackings of automobiles, polygraphs, blood tests for identification purposes, fingerprinting and ballistics tests, see C. McCormick, *Evidence*, c. 20 (1954); Finkelstein & Fairley, *A Comment on Trial By Mathematics*, 84 Harv. L. Rev. 1801 (1971); Tribe, *A Further Critique of Mathematical Proof*, 84 Harv. L. Rev. 1810 (1971); Tribe, *Trial By Mathematics: Precision and Ritual in the Legal Process*, 84 Harv. L. Rev. 1329 (1971); and Finkelstein & Fairley, *A Bayesian Approach to Identification Evidence*, 83 Harv. L. Rev. 489 (1970).

<sup>5</sup> See Committee on Rules of Practice and Procedure, *Revised Draft of Proposed Rules of Evidence for the United States Courts and Magistrates*, Rule 401, 51 F. R. D. 315, 342.

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the customs agents' automobile. Under these circumstances it would have been understandable for the Government to desire to show that a high proportion of persons found with hemp near the Mexican border in fact had recently brought their supply personally from Mexico. It may well be that such is the case. But that proposition does not follow from the four instances recalled by the customs agent. In *Leary v. United States*, 395 U. S. 6, 30 (1969), we noted the increasing harvests of domestic crops of marihuana. And, of course, it would not follow that all possessors even of foreign grown *cannabis* personally import their supply. In short, the Government offered an unbalanced and incomplete picture of the ways in which persons under circumstances such as these had obtained their marihuana.

It is no answer that the defendant was free to challenge the Government's general view of statistical probabilities by presenting other explanations of the circumstances or by impeaching the Government's expert witness. We should not impose upon an accused the burden of independently generating probabilistic evidence and employing experts to study the criminal tendencies of a subgroup of the population. The Government should live up to higher standards and not be allowed to convict people of crimes on suspicion alone.

I would reverse and order a new trial.

No. 71-80. BETO, CORRECTIONS DIRECTOR *v.* HERNANDEZ. C. A. 5th Cir. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 443 F. 2d 634.

No. 71-93. HOWARD ET AL. *v.* FLORIDA EAST COAST RAILWAY Co., INC., ET AL. C. A. 5th Cir. Certiorari denied. MR. JUSTICE MARSHALL took no part in the consideration or decision of this petition. Reported below: See 318 F. Supp. 720.

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No. 71-206. *DUN & BRADSTREET, INC. v. GROVE, TRUSTEE, ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 438 F. 2d 433.

MR. JUSTICE DOUGLAS, dissenting.

The petitioner, Dun & Bradstreet, Inc., publishes credit reports available by private subscription. Because Altoona Clay Products, Inc., was a sizable concern it became a subject of analysis by the petitioner. From time to time the petitioner issued confidential financial studies of Altoona which were requested by the subject's creditors and suppliers.

In early January 1963, one of Dun & Bradstreet, Inc.'s, employees discovered in the judgment index of Blair County, Pennsylvania, an unsatisfied entry of \$60,000 against Altoona Clay Products Company, a predecessor and defunct enterprise which had been operated by those controlling the subject. On January 3, 1963, the petitioner issued an analysis concerning Altoona, noting this find, but failing to state that the unpaid judgment was against an entirely different firm, at least technically, so that its creditors and suppliers were led to believe that the outstanding liability was owed by Altoona. The error was retracted by Dun & Bradstreet, Inc., in April 1963, but respondent Grove, a trustee in bankruptcy presiding over Altoona's estate, claims that the financial demise of his ward was worked during the interim misunderstanding.

After protracted litigation initiated in the District Court on diversity jurisdiction, involving a prior appeal and remand, a jury, applying Pennsylvania libel law, awarded \$110,000 in "general damages" to the trustee in bankruptcy. No special damages were found. The District Court, however, entered a judgment *n. o. v.* in favor of Dun & Bradstreet, Inc., on the ground that *New York Times Co. v. Sullivan*, 376 U. S. 254 (1964), pro-

scribed libel judgments under such circumstances of innocent error.

The respondent appealed this order to the Third Circuit, which reversed, reinstating the verdict and holding that "the doctrine of *New York Times v. Sullivan* does not extend to private credit reports, and that any allegations of defamation concerning such reports are properly subject to the libel laws of the several states." 438 F. 2d 433, 438. The opinion issued by the Third Circuit distinguished *New York Times* on three grounds: (a) unlike *Sullivan*, the subject of these private reports, Altoona, had no access to the same medium to correct the error; (b) unlike the civil rights struggle, the confidential nature of these nonpublic reports fell outside the realm of *public* debate; and (c) unlike *New York Times*, the dispute here was factual in nature, not a difference of opinion.

I would grant certiorari and hear argument on the question whether we should reverse the Third Circuit's holding, not because it misreads the *New York Times* case, but because libel and slander awards are no longer constitutionally permissible elements of American law.

It is clear that the First Amendment would proscribe any attempt to enact a federal libel law, notwithstanding the Alien and Sedition Act (1 Stat. 596) to the contrary.<sup>1</sup> I do not suppose that anyone considered at the time of its adoption whether the Fourteenth Amendment meant that state courts could no longer participate in libel and slander awards. But I have expressed the idea before that "constitutional law is not frozen as of a particular

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<sup>1</sup> Of the constitutionality of the Sedition Act of 1798, Mr. Justice Holmes said, "I wholly disagree with the argument of the Government that the First Amendment left the common law as to seditious libel in force. History seems to me against the notion. I had conceived that the United States through many years had shown its repentance for the Sedition Act of 1798, by repaying fines that it imposed." *Abrams v. United States*, 250 U. S. 616, 630 (1919) (dissenting opinion).

moment of time." *Rosenblatt v. Baer*, 383 U. S. 75, 90 (1966). Thus, after it was settled in *Stromberg v. California*, 283 U. S. 359 (1931), that the Fourteenth Amendment incorporated the First's freedoms of expression, it followed, in my view, that state libel laws were displaced by the same prohibition that had forbidden federal libel laws.

Accordingly, it is difficult to see how it is within our province to hold that both intentional and reckless falsehoods are outside constitutionally protected discussion. That question has been decided to the contrary by constitutional draftsmen believing that even false statements perform an important function. Whether intentional, whether false, all opinions and allegations in this forensic community are catalytic elements which tend to cause us to react, to rethink, and to reply. And even if deliberate untruths were unworthy of protection, it would be counterproductive, as Madison warned, enunciating his views on the Sedition Act, to attempt to adjudicate which were true and which were not:

"Among those principles deemed sacred in America, among those sacred rights considered as forming the bulwark of their liberty, which the Government contemplates with awful reverence and would approach only with the most cautious circumspection, there is no one of which the importance is more deeply impressed on the public mind than the liberty of the press. That this *liberty* is often carried to excess; that it has sometimes degenerated into *licentiousness*, is seen and lamented, *but the remedy has not yet been discovered. Perhaps it is an evil inseparable from the good with which it is allied; perhaps it is a shoot which cannot be stripped from the stalk without wounding vitally the plant from which it is torn. However desirable those measures might be which might correct without enslaving the press,*

*they have never yet been devised in America.*" 6 Writings of James Madison, 1790-1802, p. 336 (Hunt ed. 1906).

Thus under our system the libeled may rebut their accusers and presumably those who care about the debate will listen; but repair to the courts for damages no longer is constitutionally permissible.

The wisdom of an absolute prohibition against libel recoveries has been demonstrated by the subsequent experience with the rule announced in *New York Times Co. v. Sullivan*, *supra*. Although the common law of libel had fallen into relative disuse, it was revived by the Civil Rights Movement of the last decade which generated heated accusations and, in turn, resort by the defamed to sympathetic state courts to penalize with spectacular awards "outside agitators" who had published criticisms. In the *New York Times* case, the plaintiff obtained a half-million-dollar judgment from an Alabama jury against the New York Times which had published an advertisement in support of civil rights workers in Alabama, which seemed to be critical of Sullivan. Thus for the first time after it had become clear that First Amendment freedoms were incorporated into the Fourteenth, this Court considered the extent to which awarding libel damages had to yield to the protection of a free press.<sup>2</sup>

Mr. Justice Black, in my view, correctly stated that "the minimum guarantee of the First Amendment" is that the press has an "unconditional right to say what [it] pleases about public affairs." *Id.*, at 297 (emphasis added). The majority, however, felt it necessary to "balance" the state interests underlying libel awards

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<sup>2</sup> The issue presented in *New York Times* had also been considered by the Court in *Schenectady Union Publishing Co. v. Sweeney*, 316 U. S. 642 (1942) (equally divided vote).

against the countervailing constitutional values of free expression, producing an actual-malice test to be applied where public officials were criticized. *Id.*, at 283. I have continually reiterated my agreement with Mr. Justice Black, but, even if a balancing approach were appropriate, I also believe that the seven years since *New York Times* demonstrate that an improper balance was struck.

There is a strong argument that the reasons which led the *New York Times* majority to reject broader liability of publishers *a fortiori* should also have compelled absolute immunity for defamatory comment. If the common-law tests had been too elusive to protect First Amendment interests then the actual-malice test has proved neither to be more precise nor to be a better guardian. Proof of knowledge that a statement is false requires slippery proof of a mental state, as does a showing of reckless disregard. Seldom is evidence clear on these issues and a local jury asked to "weigh all the circumstances" can continue under this evanescent test to penalize unpopular speech. The formula is not made stronger by placing the burden of proof on the plaintiff or by requiring "convincing clarity" in the degree of proof. These haunting defects have been implicitly recognized on at least ten recent occasions, including the *New York Times* case, wherein majorities declined to remand for further jury proceedings but instead in each case examined the record, weighed the evidence, found it insufficient, and absolved the publisher.<sup>3</sup>

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<sup>3</sup> *Rosenbloom v. Metromedia, Inc.*, 403 U. S. 29 (1971); *Time, Inc. v. Pape*, 401 U. S. 279 (1971); *Monitor Patriot Co. v. Roy*, 401 U. S. 265 (1971); *Greenbelt Cooperative Publishing Assn., Inc. v. Bresler*, 398 U. S. 6 (1970); *St. Amant v. Thompson*, 390 U. S. 727 (1968); *Beckley Newspapers Corp. v. Hanks*, 389 U. S. 81 (1967); *Associated Press v. Walker*, 388 U. S. 130 (1967); *Rosenblatt v. Baer*, 383 U. S. 75 (1966); *New York Times Co. v. Sullivan*, 376 U. S. 254 (1964); see also *Garrison v. Louisiana*, 379 U. S. 64

Moreover, the rationale for permitting even limited liability seems dubious. The actual-malice standard, it is said, permits liability because "calculated falsehoods" are not constitutionally protected. *Garrison v. Louisiana*, 379 U. S. 64, 75 (1964). But, as mentioned earlier, even untrue remarks may have positive effects upon the quality of our re-examination process. Moreover, if the rough-and-tumble of debate is the best vehicle for producing approximations of factual truth or preferred opinion, then courts have no business making premature and interim evaluations of contested statements' merits.

Finally, a factor which the *New York Times* majority failed to gauge properly was the interest of judicial administration in avoiding continuing readjustment of constitutional doctrine. On 16 occasions since and including that case this Court has attempted to clarify the appropriate balance from circumstance to circumstance.<sup>4</sup> The narrow focus on "public officials"<sup>5</sup> was broadened to include "public figures"<sup>6</sup> and most recently has been expanded to statements of "general or public in-

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(1964), which relied on *New York Times* to invalidate a criminal libel statute, thereby precluding a jury retrial. That the actual-malice test provides inadequate protection against whimsical juries has been pointed out by four Justices. See *Linn v. Plant Guard Workers*, 383 U. S. 53, 70-71 (1966) (Fortas, J., dissenting); *New York Times Co. v. Sullivan*, *supra*, at 293 (Black, J., concurring), 297-298 (Goldberg, J., concurring in result); *Garrison v. Louisiana*, *supra*, at 81 (DOUGLAS, J., concurring).

<sup>4</sup> In addition to the citations in n. 3, see *Ocala Star-Banner Co. v. Damron*, 401 U. S. 295 (1971); *Pickering v. Board of Education*, 391 U. S. 563 (1968); *Curtis Publishing Co. v. Butts*, 388 U. S. 130 (1967); *Time, Inc. v. Hill*, 385 U. S. 374 (1967); *Linn v. Plant Guard Workers*, 383 U. S. 53 (1966); *Henry v. Collins*, 380 U. S. 356 (1965).

<sup>5</sup> *New York Times Co. v. Sullivan*, *supra*.

<sup>6</sup> *Curtis Publishing Co. v. Butts*, *supra*.

terest.”<sup>7</sup> The latter, more blurred focus, as Justices Harlan, MARSHALL, and STEWART recently observed, will further require this Court to poll itself with increasing regularity to determine what events are of sufficient general or public interest to deserve protection. *Rosenbloom v. Metromedia, Inc.*, 403 U. S. 29, 62, 81 (1971). Thus in *Time, Inc. v. Hill*, 385 U. S. 374 (1967), an obscure family’s captivity by escaped convicts propelled them into the “public spotlight,” and, similarly, in *Rosenbloom v. Metromedia, Inc.*, *supra*, a majority felt that an arrest of a magazine salesman was sufficiently “public” to endow a radio station with greater protection for an erroneous newscast that his arrest had been for selling obscene material. It is evident that this *ad hoc* approach has backed the Court into the same subjective quagmire which has trapped the judiciary in the obscenity cases.

Decisions subsequent to *New York Times*<sup>8</sup> have both tightened the actual-malice test and expanded its displacement of the common law. The logical extension of these decisions should in time eliminate entirely libel and slander recoveries from American jurisprudence.

I am unpersuaded by the notion that because the petitioner’s publications were commercial in nature they deserved less or no First Amendment protection. It is

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<sup>7</sup> *Rosenbloom v. Metromedia, Inc.*, 403 U. S., at 43.

<sup>8</sup> It is evident that the transition from “public official” to “public figure” to “events of public or general interest” has substantially broadened the instances in which the actual-malice test is applicable. At the same time the actual-malice test has been tightened by virtually eliminating reckless disregard as a component. The Court in *Beckley Newspapers Corp. v. Hanks*, 389 U. S., at 83, 84, defined “reckless disregard” to mean a “‘high degree of awareness of . . . probable falsity.’” But even though the Court in the abstract has gone far toward eliminating libel, in practice, juries remain able to justify libel penalties under the nebulous “actual malice” test.

true that *Valentine v. Chrestensen*, 316 U. S. 52 (1942), held that business advertisements and commercial matters fell outside sanctioned expression, but as I suggested in *Cammarano v. United States*, 358 U. S. 498, 513-515 (1959) (concurring opinion), that holding was ill-conceived and has not weathered subsequent scrutiny. Only two years after *Valentine* we held that a municipality could not apply its flat license tax to an evangelist who earned his livelihood by selling religious tracts door to door. Similarly, *Joseph Burstyn, Inc. v. Wilson*, 343 U. S. 495, 499 (1952), disposed of the view that because cinemas were profit enterprises their films were somehow deprived of full First Amendment status. And, in the field of libel we were unanimous in the *New York Times* case in rejecting the argument that because defamatory comment had been printed as an advertisement for profit it was less deserving of protection. *New York Times Co. v. Sullivan, supra*, at 265-266. Surely we have eroded *Valentine* to the extent that it held a commercial form of publication negated the applicability of the First Amendment. Nor, in my view, should commercial content be controlling. The language of the First Amendment does not except speech directed at private economic decisionmaking. Certainly such speech could not be regarded as less important than political expression. When immersed in a free flow of commercial information, private sector decisionmaking is at least as effective an institution as are our various governments in furthering the social interest in obtaining the best general allocation of resources.<sup>9</sup> W. Baumol, *Economic Theory and*

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<sup>9</sup> Presumably the credit reports published by the petitioner facilitate through the price system the improvement of human welfare at least as much as did the underlying disagreement in our most recent libel opinion, *Rosenbloom v. Metromedia, Inc., supra*, arising out of a squabble over whether a vendor had sold obscene magazines.

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Operations Analysis 249-256 (1961); A. Braff, Microeconomic Analysis 259-275 (1969); R. Dorfman, Prices and Markets 128-136 (3d ed. 1967).

The financial data circulated by Dun & Bradstreet, Inc., are part of the fabric of national commercial communication. There is no doubt that an adverse credit rating can injure a subject. But one injured can inform his suppliers and creditors that a report is misleading. Indeed, in this case, Dun & Bradstreet, Inc., was willing to print a retraction. It is difficult to credit the claim that the "general damages" suffered by the respondent resulted from the short-term confusion between the mispublication and the retraction. In any event, in my view, it has been predetermined that such speculative costs of unfettered communication are preferable to the chill upon free expression that libel laws impose.

I would grant certiorari and set the case for oral argument.

No. 71-215. *IN RE AVALLONE*. Sup. Ct. N. M. Motion to dispense with printing petition granted. Certiorari denied. Reported below: 83 N. M. 189, 490 P. 2d 235.

*Rehearing Denied*

No. 648, Misc., October Term, 1959. *IN RE WILSON*, 362 U. S. 947; and

No. 1257, October Term, 1970. *SAVILLE ET AL. v. UNITED STATES*, 403 U. S. 955. Motions for leave to file petitions for rehearing denied.

No. 883, Misc., October Term, 1967. *PARKER v. MARYLAND ET AL.*, 390 U. S. 982, 1018, 393 U. S. 903, 397 U. S. 1003. Motion for leave to file fourth petition for rehearing denied.

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No. 498, October Term, 1967. COLORADO RIVER WATER CONSERVATION DISTRICT ET AL. *v.* FOUR COUNTIES WATER USERS ASSN. ET AL., 389 U. S. 1049, 390 U. S. 976. Motion for leave to file second petition for rehearing denied. MR. JUSTICE MARSHALL took no part in the consideration or decision of this motion.

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*Affirmed on Appeal*

No. 71-170. BOARD OF VISITORS OF THE COLLEGE OF WILLIAM & MARY IN VIRGINIA ET AL. *v.* NORRIS ET AL. Affirmed on appeal from D. C. E. D. Va. Reported below: 327 F. Supp. 1368.

*Appeal Dismissed*

No. 71-271. LAWSON ET AL. *v.* BOARD OF EDUCATION OF THE VESTAL CENTRAL SCHOOL DISTRICT ET AL. Appeal from App. Div., Sup. Ct. N. Y., 3d Jud. Dept., dismissed for want of substantial federal question. MR. JUSTICE DOUGLAS is of the opinion that question of jurisdiction should be postponed to hearing of case on the merits. Reported below: 35 App. Div. 2d 878, 315 N. Y. S. 2d 877.

*Certiorari Granted—Reversed.* (See No. 70-5135, *ante*, p. 4.)

*Miscellaneous Orders*

No. A-247. REALE *v.* INTERNATIONAL BUSINESS MACHINES CORP. ET AL. Ct. App. N. Y. Application for extension of time within which to file petition for writ of certiorari presented to MR. JUSTICE DOUGLAS, and by him referred to the Court, denied. MR. JUSTICE STEWART is of the opinion that the application should be granted. MR. JUSTICE BLACKMUN took no part in the consideration or decision of this application.

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No. 70-2. UNITED STATES *v.* 12 200-Ft. REELS OF SUPER 8MM. FILM ET AL. (PALADINI, CLAIMANT). Appeal from D. C. C. D. Cal. [Probable jurisdiction noted, 403 U. S. 930.] Motion of Christopher W. Walker for leave to file a brief as *amicus curiae* granted.

No. 70-6. SWARB ET AL. *v.* LENNOX ET AL. Appeal from D. C. E. D. Pa. [Probable jurisdiction noted, 401 U. S. 991.] Motion of David A. Scholl for leave to argue orally *pro hac vice* on behalf of appellants granted. Motion of Pennsylvania Credit Union League for reconsideration of order denying leave to argue orally as *amicus curiae* denied. Motion of American Bankers Assn. for leave to file a brief as *amicus curiae* granted. Motion of Pennsylvania Land Title Assn. for leave to argue orally as *amicus curiae* denied.

No. 70-34. SIERRA CLUB *v.* MORTON, SECRETARY OF THE INTERIOR, ET AL. C. A. 9th Cir. [Certiorari granted, 401 U. S. 907.] Motion of County of Tulare for leave to argue orally as *amicus curiae* denied.

No. 70-54. VICTORY CARRIERS, INC., ET AL. *v.* LAW. C. A. 5th Cir. [Certiorari granted, 401 U. S. 936.] Motion of American Trial Lawyers Assn. for leave to file an untimely brief as *amicus curiae* granted.

No. 70-5009. JACKSON *v.* INDIANA. Sup. Ct. Ind. [Certiorari granted, 401 U. S. 973.] Motion of American Association on Mental Deficiency et al. for leave to file a brief as *amicus curiae* denied.

No. 70-5039. FUENTES ET AL. *v.* SHEVIN, ATTORNEY GENERAL OF FLORIDA, ET AL. Appeal from D. C. S. D. Fla. [Probable jurisdiction noted, 401 U. S. 906, *sub nom. Fuentes v. Faircloth.*] Motion of Bruce S. Rogow for leave to permit C. Michael Abbott to argue orally *pro hac vice* on behalf of appellants granted.

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No. 70-5138. PARHAM ET AL. *v.* CORTESE ET AL. Appeal from D. C. E. D. Pa. [Probable jurisdiction noted, 402 U. S. 994, *sub nom.* *Epps v. Cortese.*] Motion of David A. Scholl for leave to argue orally *pro hac vice* on behalf of appellants granted.

No. 71-119. TRBOVICH *v.* UNITED MINE WORKERS OF AMERICA ET AL. C. A. D. C. Cir. [Certiorari granted, *ante*, p. 880.] Motion to expedite granted.

No. 71-259. KAZUBOWSKI ET AL. *v.* DOLAR, AKA KAZUBOWSKI, ET AL. Motion for leave to file petition for certiorari and other relief denied.

No. 71-273. VICK *v.* SUPERIOR COURT OF CALIFORNIA, COUNTY OF ORANGE, ET AL. Motion for leave to file petition for writ of prohibition and/or mandamus denied.

*Certiorari Granted*

No. 71-107. ATLANTIC COAST LINE RAILROAD CO. *v.* ERIE LACKAWANNA RAILROAD CO. ET AL. C. A. 2d Cir. Certiorari granted. Reported below: 442 F. 2d 694.

No. 71-162. BOARD OF REGENTS OF STATE COLLEGES ET AL. *v.* ROTH. C. A. 7th Cir. Certiorari granted. Reported below: 446 F. 2d 806.

No. 71-247. RABE *v.* WASHINGTON. Sup. Ct. Wash. Certiorari granted. Reported below: 79 Wash. 2d 254, 484 P. 2d 917.

*Certiorari Denied*

No. 70-145. WOOLDRIDGE *v.* KENTUCKY. Ct. App. Ky. Certiorari denied. Reported below: 459 S. W. 2d 404.

No. 70-5161. PATTON *v.* CHEW, DIRECTOR, PROBATION AND PAROLE BOARD OF VIRGINIA, ET AL. C. A. 4th Cir. Certiorari denied.

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No. 70-154. *PRUETT v. TEXAS ET AL.* Ct. Crim. App. Tex. Certiorari denied.

No. 70-5165. *MEADE v. SLAYTON, PENITENTIARY SUPERINTENDENT.* C. A. 4th Cir. Certiorari denied. Reported below: 438 F. 2d 323.

No. 70-5166. *HAIRE v. SARVER, CORRECTIONS COMMISSIONER.* C. A. 8th Cir. Certiorari denied. Reported below: 437 F. 2d 1262.

No. 70-5178. *ROYSTER v. NEW JERSEY.* Sup. Ct. N. J. Certiorari denied. Reported below: 57 N. J. 472, 273 A. 2d 574.

No. 70-5180. *HINKLE v. SMITH, GOVERNOR OF TEXAS, ET AL.* C. A. 5th Cir. Certiorari denied.

No. 70-5187. *RILEY v. NEW JERSEY.* C. A. 3d Cir. Certiorari denied. Reported below: 434 F. 2d 649.

No. 70-5204. *STREETS v. WAINWRIGHT, CORRECTIONS DIRECTOR.* C. A. 5th Cir. Certiorari denied. Reported below: 436 F. 2d 962.

No. 70-5208. *KEYES v. ILLINOIS.* C. A. 7th Cir. Certiorari denied.

No. 70-5217. *HEATH v. ARKANSAS.* Sup. Ct. Ark. Certiorari denied. Reported below: 249 Ark. 217, 459 S. W. 2d 420.

No. 70-5220. *JACOBS ET AL. v. TENNESSEE.* Sup. Ct. Tenn. Certiorari denied. Reported below: 224 Tenn. 106, 450 S. W. 2d 581.

No. 70-5229. *GOLDEN v. UNITED STATES.* C. A. 8th Cir. Certiorari denied. Reported below: 436 F. 2d 941.

No. 70-5246. *JOHNSON v. NEW YORK.* Ct. App. N. Y. Certiorari denied. Reported below: 28 N. Y. 2d 540, 268 N. E. 2d 123.

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No. 70-5236. *HOOKS v. COLBATH*. C. A. 5th Cir. Certiorari denied. Reported below: 440 F. 2d 1068.

No. 70-5274. *MENDEZ v. NEW YORK*. Ct. App. N. Y. Certiorari denied. Reported below: 28 N. Y. 2d 94, 268 N. E. 2d 778.

No. 70-5296. *BURRY v. HASKINS, CORRECTIONAL SUPERINTENDENT*. C. A. 6th Cir. Certiorari denied.

No. 70-5317. *JONES v. AUSTIN, SECRETARY OF STATE OF MICHIGAN*. C. A. 6th Cir. Certiorari denied. Reported below: 440 F. 2d 685.

No. 70-5347. *CHAPMAN v. CARDWELL, WARDEN*. Sup. Ct. Ohio. Certiorari denied.

No. 70-5401. *NEWLAND v. UNITED STATES*;  
No. 71-5027. *HARRISON ET AL. v. UNITED STATES*; and  
No. 71-5161. *SCHAEFER v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 441 F. 2d 1204.

No. 71-151. *WASOFF v. AMERICAN AUTOMOBILE INSURANCE Co.* C. A. 5th Cir. Certiorari denied. Reported below: 441 F. 2d 268.

No. 71-161. *KERR v. OHIO*. Sup. Ct. Ohio. Certiorari denied.

No. 71-195. *CONSOLIDATION COAL Co. ET AL. v. DISABLED MINERS OF SOUTHERN WEST VIRGINIA ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 442 F. 2d 1261.

No. 71-219. *HAWKINS v. UNITED STATES*. C. A. 5th Cir. Certiorari denied.

No. 71-242. *ROGERS ET AL. v. LAIRD, SECRETARY OF DEFENSE, ET AL.* C. A. 4th Cir. Certiorari denied.

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No. 71-233. GENERAL DRIVERS & DAIRY EMPLOYEES, LOCAL UNION No. 563, ET AL. *v.* NATIONAL LABOR RELATIONS BOARD. C. A. 7th Cir. Certiorari denied.

No. 71-253. BONISTALL *v.* BRADEN ET AL. C. A. 6th Cir. Certiorari denied. Reported below: 442 F. 2d 342.

No. 71-255. SANTA FE PACIFIC RAILROAD CO. *v.* CORD ET AL. Ct. App. Ariz. Certiorari denied. Reported below: 14 Ariz. App. 254, 482 P. 2d 503.

No. 71-260. MCGREGOR, DBA MCGREGOR WORLD TRAVEL SERVICE *v.* AIR TRANSPORT ASSOCIATION OF AMERICA ET AL. C. A. 2d Cir. Certiorari denied.

No. 71-261. AMERICAN FEDERATION OF MUSICIANS OF THE UNITED STATES AND CANADA, AFL-CIO, ET AL. *v.* HARRAH'S CLUB, INC., ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 446 F. 2d 471.

No. 71-268. ECKERT *v.* UNITED STATES; and

No. 71-5315. ZAMORA *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 445 F. 2d 974.

No. 71-267. GARGALLO *v.* GARGALLO. Sup. Ct. Ohio. Certiorari denied.

No. 71-270. KEN AKER, INC. *v.* GIRARD TRUST BANK. Cir. Ct. W. Va., Kanawha County. Certiorari denied.

No. 71-274. WINSTON-SALEM/FORSYTH COUNTY BOARD OF EDUCATION *v.* SCOTT ET AL. C. A. 4th Cir. Certiorari denied. Reported below: 444 F. 2d 99.

No. 71-275. ANTONELLO ET AL. *v.* CITY OF SAN DIEGO. Ct. App. Cal., 4th App. Dist. Certiorari denied. Reported below: 16 Cal. App. 3d 161, 93 Cal. Rptr. 820.

No. 71-277. PRICE *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. Reported below: 447 F. 2d 23.

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No. 71-278. *BODNAR v. BODNAR ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 441 F. 2d 1103.

No. 71-280. *SCHOOL DISTRICT OF THE CITY OF PONTIAC, INC., ET AL. v. DAVIS ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 443 F. 2d 573.

No. 71-281. *BLACK ET AL. v. UNITED STATES ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 441 F. 2d 741.

No. 71-282. *STONEHILL ET AL. v. UNITED STATES.* C. A. 9th Cir. Certiorari denied. Reported below: 441 F. 2d 1167.

No. 71-283. *GORE ET AL. v. AMERICAN MOTORISTS INSURANCE Co. ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 441 F. 2d 10.

No. 71-286. *S. F. H., INC., FORMERLY SAM FORTAS HOUSEFURNISHING Co., INC. v. COMMISSIONER OF INTERNAL REVENUE.* C. A. 3d Cir. Certiorari denied. Reported below: 444 F. 2d 139.

No. 71-5016. *PLOTTS v. RICHARDSON, SECRETARY OF HEALTH, EDUCATION, AND WELFARE.* C. A. 8th Cir. Certiorari denied. Reported below: 436 F. 2d 1376.

No. 71-5033. *MORI v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. Reported below: 444 F. 2d 240.

No. 71-5068. *YOUNGBLOOD v. UNITED STATES.* C. A. 6th Cir. Certiorari denied.

No. 71-5082. *JONES v. UNITED STATES.* C. A. 6th Cir. Certiorari denied. Reported below: 438 F. 2d 1199.

No. 71-5091. *TEAGUE v. UNITED STATES.* C. A. 6th Cir. Certiorari denied.

No. 71-5092. *EL v. UNITED STATES.* C. A. 3d Cir. Certiorari denied. Reported below: 443 F. 2d 925.

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No. 71-5096. *FRIEDLAND v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 441 F. 2d 855.

No. 71-5136. *MAGEE v. SUPERIOR COURT OF CALIFORNIA, COUNTY OF MARIN, ET AL.* Sup. Ct. Cal. Certiorari denied.

No. 71-5137. *VESTAL v. IOWA*. Sup. Ct. Iowa. Certiorari denied.

No. 71-5138. *DAVIS v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 439 F. 2d 325.

No. 71-5140. *STARR v. UNITED STATES*. C. A. 6th Cir. Certiorari denied.

No. 71-5143. *WAX v. CRAVEN, WARDEN*. C. A. 9th Cir. Certiorari denied.

No. 71-5145. *SCHERER v. DAVIS*. C. A. 9th Cir. Certiorari denied.

No. 71-5146. *MIRIN, DBA STRIP CAB CO. v. TAXICAB AUTHORITY OF CLARK COUNTY, NEVADA*. C. A. 9th Cir. Certiorari denied. Reported below: 441 F. 2d 1123.

No. 71-5151. *CHAPA v. BRITISH PETROLEUM CORP. ET AL.* Sup. Ct. App. Va. Certiorari denied.

No. 71-5152. *DEFLUMER v. MANCUSI, WARDEN*. C. A. 2d Cir. Certiorari denied. Reported below: 443 F. 2d 940.

No. 70-5162. *YOUNG v. WAINWRIGHT, CORRECTIONS DIRECTOR*. C. A. 5th Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. Reported below: 439 F. 2d 426.

No. 70-5200. *PERRY v. JONES, SHERIFF*. C. A. 5th Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. Reported below: 437 F. 2d 759.

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No. 70-5201. *FUNCHESS v. SOUTH CAROLINA*. Sup. Ct. S. C. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. Reported below: 255 S. C. 385, 179 S. E. 2d 25.

No. 70-5214. *YANCIE v. CALIFORNIA ET AL.* C. A. 9th Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted.

No. 71-125. *LANGONE v. UNITED STATES*. C. A. 1st Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. Reported below: 445 F. 2d 636.

No. 71-209. *BALL v. CALIFORNIA*. App. Dept., Super. Ct. Cal., County of Orange. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted.

No. 71-225. *KIRALY v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. Reported below: 445 F. 2d 291.

No. 71-250. *BAKER v. MONROE COUNTY BAR ASSN.* Ct. App. N. Y. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. Reported below: 28 N. Y. 2d 977, 272 N. E. 2d 337.

No. 71-5125. *DORROUGH v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. Reported below: 440 F. 2d 1336.

No. 71-212. *HOOVER ACADEMY, INC. v. WRIGHT ET AL.* C. A. 5th Cir. Motion to dispense with printing petition and motion of respondents for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 441 F. 2d 447.

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No. 71-5148. *TINCH v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. Reported below: 440 F. 2d 312.

No. 71-251. *BERTUCCELLI v. BELLAMY*. C. A. 9th Cir. Motion to dispense with printing petition granted. Certiorari denied.

No. 71-258. *BRIGGS, SUPERINTENDENT OF SCHOOLS, ET AL. v. CALLOWAY*. C. A. 6th Cir. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 443 F. 2d 296.

No. 71-264. *BOOTH v. LEMONT MANUFACTURING CORP. ET AL.* C. A. 7th Cir. Motion of petitioner to dispense with printing appendix granted. Certiorari denied. Reported below: 440 F. 2d 385.

No. 71-276. *ZELKER, CORRECTIONAL SUPERINTENDENT v. RANDAZZO*. C. A. 2d Cir. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. THE CHIEF JUSTICE is of the opinion that certiorari should be granted. Reported below: 444 F. 2d 625.

No. 71-5132. *THOMPSON v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. MR. JUSTICE DOUGLAS and MR. JUSTICE BRENNAN are of the opinion that certiorari should be granted. Reported below: 443 F. 2d 341.

NOVEMBER 1, 1971

*Dismissals Under Rule 60*

No. 71-117. *CHARLESTON v. UNITED STATES*. C. A. 9th Cir. Petition for writ of certiorari dismissed pursuant to Rule 60 of the Rules of this Court.

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November 1, 5, 6, 1971

No. 71-5388. SMITH *v.* METZNER, U. S. DISTRICT JUDGE. Motion for leave to file petition for writ of mandamus dismissed pursuant to Rule 60 of the Rules of this Court.

NOVEMBER 5, 1971

*Miscellaneous Order*

No. A-483. COMMITTEE FOR NUCLEAR RESPONSIBILITY, INC., ET AL. *v.* SCHLESINGER, CHAIRMAN OF ATOMIC ENERGY COMMISSION, ET AL. C. A. D. C. Cir. Application for injunction presented to THE CHIEF JUSTICE, and by him referred to the Court, set down for oral argument at 9:30 a. m. on November 6, 1971.

NOVEMBER 6, 1971

*Miscellaneous Order*

No. A-483. COMMITTEE FOR NUCLEAR RESPONSIBILITY, INC., ET AL. *v.* SCHLESINGER, CHAIRMAN OF ATOMIC ENERGY COMMISSION, ET AL. C. A. D. C. Cir. Application for Injunction in Aid of Jurisdiction, having been considered by the Court on oral argument and on the papers and documents submitted by the parties, is hereby denied. See: — U. S. App. D. C. —, —, —, 463 F. 2d 783, 788, 796.

*David Sive* argued the cause for applicants. With him on the application for injunction were *Harold P. Green* and *Thomas B. Stoel, Jr.*

*Solicitor General Griswold* argued the cause for respondents.

MR. JUSTICE DOUGLAS.

I would grant the injunction so that the case can be heard on the merits. The most serious question tendered is whether the Atomic Energy Commission (AEC) has satisfied the mandate of the National Environmental

Policy Act of 1969, 83 Stat. 852, 42 U. S. C. § 4321 *et seq.* By § 102 (2)(C) of that Act,<sup>1</sup> 42 U. S. C. § 4332 (2)(C), Congress directed each agency of the Federal Government to “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.”

I agree with the Court of Appeals for the District of Columbia Circuit in *Calvert Cliffs’ Coordinating Committee, Inc. v. Atomic Energy Commission*, 146 U. S. App. D. C. 33, 39, 449 F. 2d 1109, 1115, that “if the decision [under NEPA] was reached [by AEC] procedurally without individualized consideration and balancing of environmental factors—conducted fully and in good faith—it is the responsibility of the courts to reverse.”

That opinion, rendered on July 23, 1971, by a panel consisting of Judges Wright, Tamm, and Robinson, found that AEC’s procedures in this nuclear area did not comply with the Act and that its entire approach

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<sup>1</sup> Guidelines for agency action are provided by the Council on Environmental Quality of which Russell E. Train is Chairman. See 36 Fed. Reg. 7724.

to the environmental problems in the nuclear field violated the Act.

Another panel of the same Court of Appeals, composed of Judges Bazelon, Leventhal, and Robinson, said in the instant case, after examining *in camera* the relevant environmental documents,

“We are left with difficult questions about the validity of the AEC’s environmental statement.<sup>2</sup> But a hurried review of several hundred pages of technical documents cannot provide a satisfactory basis for resolving this litigation.” — U. S. App. D. C. —, —, 463 F. 2d 796, 798.

In that opinion the Court of Appeals did not approve the findings of the District Court that the order complies with the Act, saying, “In our view the case does present a substantial question as to the legality of the proposed test.”

I have added in an appendix some apparently obvious defects in AEC’s Impact Statement (hereafter sometimes I. S.).

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<sup>2</sup> As the Court of Appeals held in an earlier opinion in this case, — U. S. App. D. C. —, —, 463 F. 2d 783, 786, Congress did not intend, by approving funds for the Cannikin detonation, to repeal the NEPA as it applied to the test.

“On the contrary, there is an affirmative indication that at least some of the Congressmen voting for the authorization and appropriations measures specifically contemplated that the claim of illegality remained for resolution by the courts.”

See Remarks of Rep. Price, 117 Cong. Rec. H6785, July 15, 1971:

“This matter is before the court. I submit that if there has been any violation of the law, the court will supply the appropriate remedy.”

Other federal courts have similarly concluded that congressional appropriations for a project subject to NEPA are not to be taken as expressing any view with respect to compliance with NEPA. *Environmental Defense Fund v. Corps of Engineers*, 325 F. Supp. 749, 762-763.

We plainly do not have time to resolve this question between now and the scheduled detonation. Accordingly, I would grant the injunction so that a full Court can consider the case on the merits.

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

In the *Calvert Cliffs* case the Court of Appeals held that the procedural rules adopted by AEC for the preparation of Environmental Impact Statements did not meet statutory requirements. And in the October 5, 1971, opinion by the Court of Appeals in the instant case it is held that “*responsible* opposing views” on environmental damage “need be included” in the Impact Statement in the form of “a meaningful reference that identifies the problem at hand for the responsible official.” — U. S. App. D. C. —, —, 463 F. 2d 783, 787.

The Act requires that reports from federal agencies required by the Act and the guidelines of the Council on Environmental Quality (CEQ) to be consulted with respect to the preparation of an Impact Statement, which are adverse to the project with respect to which their views are sought, must be released as part of the Impact Statement prepared by the agency responsible for the project.

Here, several such reports were not disclosed. The existence of these reports became known through newspaper stories and debates on the floor of Congress. These reports were the subject of the discovery proceedings which caused such a long delay in this litigation. The reports in question included those of:

- (a) Russell Train, Chairman of CEQ;
- (b) Edward E. David, Jr., Director of Office of Science and Technology (OST);
- (c) William D. Ruckelshaus, Administrator of Environmental Protection Agency (EPA); and
- (d) Glenn T. Seaborg, Chairman of the AEC.

The CEQ guidelines specifically state that the exemptions in the Freedom of Information Act, 5 U. S. C. § 552, are not applicable to agency comments made in the course of consultations with reference to the preparation of an Impact Statement. The Act and § 7 of the guidelines direct that an agency charged with the preparation of an Impact Statement "consult with, and obtain the comment on the environmental impact of the action of, Federal agencies with jurisdiction by law or special expertise with respect to any environmental impact involved." 36 Fed. Reg. 7725. The EPA is specifically designated to be one of the agencies within the contemplation of § 7, *ibid.* And under § 10 (f) of the regulations, the AEC would be the agency "responsible for making the statement and the comments received available to the public pursuant to the provisions of the Freedom of Information Act." *Id.*, at 7726. Besides the express designation of the EPA, the argument is compelling that the other agencies in question have "special expertise" and, in the case of the AEC, "jurisdiction by law" concerning the various environmental effects to be expected from an underground nuclear explosion.

Once noncompliance with the NEPA is shown, the federal courts have uniformly held that injunctive relief is appropriate.

Disclosure of these statements to the public by any federal agency which has "special expertise with respect to any environmental impact involved" is indeed required by § 102 (2) (C) of the Act. And the courts have consistently held that a defect in the Impact Statement presents a justiciable question and is the basis for equitable relief. *West Virginia Highlands Conservancy v. Island Creek Coal Co.*, 441 F. 2d 232; *Environmental Defense Fund v. Corps of Engineers*, 325 F. Supp. 749, 759; *Wilderness Society v. Hickel*, 325 F. Supp. 422.

*Seismic Dangers:*

According to the Impact Statement, "No significant environmental impact can be expected from the seismic activity caused by the CANNIKIN test." I. S. 3. Two sorts of seismic effects are at issue. First, there is the possibility that the explosion might trigger a natural earthquake of greater force than the bomb itself. The Impact Statement asserts that:

"The possibility of the CANNIKIN test 'triggering' an earthquake with seismic energy comparable to or greater than that produced by the explosion itself is very unlikely. Since the understanding of earthquake mechanisms is still developing and is not yet sufficient for exact calculations, the possibility of such an occurrence cannot be ruled out. However, foremost seismologists have asserted that an explosion at Amchitka will not trigger a large earthquake . . . unless the occurrence of such an event is imminent, very near to the test site." *Ibid.*

This conclusion is based on nothing more than an assertion to this effect by "[a] panel of eminent scientists and engineers . . . acting as consultants to the AEC," *id.*, at 54, which was presumably based, in turn, on

"the size and location of the CANNIKIN explosion, considered along with the size and frequency of naturally occurring earthquakes and the experience gained by observation of past nuclear detonations and aftershocks." *Id.*, at 3.

That more should be required is clear from the heretofore secret memorandum written by Russell Train of the CEQ (hereafter Train memo), the agency charged with the broadest statutory authority in establishing national environmental policy.

According to Mr. Train,

“All the earthquakes triggered by underground explosions in the various Nevada tests released substantially less energy than the explosion itself. If one could establish that this is a necessary condition then there would be no apprehension with regard to the CANNIKIN event. Unfortunately, this is not the case. The magnitude of the triggered earthquakes will depend on the state of strain in the crust in the general region at which the underground explosion is set off. Extrapolation from the Nevada experience is uncertain because of the fundamentally different geologic setting between Nevada and the Aleutians. Further, experience with MILROW [a one-megaton underground detonation set off on Amchitka in 1969] does not provide a sure basis for extrapolation. In the highly nonlinear phenomena involved in earthquake generation, there may be a threshold value of the strain that must be exceeded prior to initiation of a large earthquake.”  
Train memo 4.

Mr. Train goes on to explain that “great earthquakes” (those with a force of 8.0 or more on the Richter scale) are now considered to result from the cumulative effects of a series of smaller shocks. (CANNIKIN is expected to register about 7.0 on the Richter scale.) Referring specifically to great earthquakes occurring within the past few years in Chile and Alaska, he notes that the theoretical explanation for these events justifies a concern that the force of CANNIKIN, which would be the largest underground device exploded by man, might surpass the “threshold” required to trigger a great quake.

“The suggested explanation of the Chilean and Alaskan earthquakes in terms of a succession of smaller earthquakes would support this interpretation. In

this model a number of lock points stabilize a fault. Once one lock point is broken, sufficient energy may be released to break other lock points. If the stored strain energy is large, then the triggered earthquake could be of much greater magnitude than the triggering event. The underground explosion could serve as the first domino of the row of dominoes leading to a major earthquake. The major fault in the general region of Amchitka is thought to be some 40 km. beneath the test shot. The strain field will certainly be altered at this depth by the underground explosion. Observations on the BENHAM event [a one-megaton detonation at the Nevada test sites] showed strains exceeding tidal strains at 29 km." *Ibid.*

The CANNIKIN yield may be as high as five times that of the BENHAM and MILROW devices.

The "lock-point" theory is also explained in a statement by J. W. Hadley (hereafter Hadley memo), which had also been suppressed until this week. The theory is nowhere discussed, nor even "alluded to," in the Impact Statement.

A further misleading conclusion in the Impact Statement is that CANNIKIN could not trigger a natural quake unless that quake "is imminent, very near to the test site." The documents revealed this week indicate there is a possibility that earthquakes may be triggered by a rise in underground fluid levels, or by artificial loading of the earth's crust. Presumably, the fluid lubricates the rock along a fault line, thus enhancing the potential for slippage. A series of earthquakes along a dormant fault near Denver has been definitely attributed to the pumping of waste water deep into the earth by the Rocky Mountain Arsenal. Train memo 2-3.

"A second example is found in the case of earthquakes associated with large lakes or reservoirs. As

a result of loading of the earth's crust by these large bodies of water or by the modification of the ground-water flow or for some other reason not yet understood, substantial earthquakes have been associated with construction of large artificial lakes. A recent earthquake near Koyna Dam in India located in an area that is not normally seismic killed about 200 people. Similarly, many small earthquakes occurred when Lake Mead was filled." *Id.*, at 3.

Increased subsurface fluid pressure will be one result of CANNIKIN.

"[T]he explosion will alter the pressure regime in the groundwater. The water pressure in the rocks interstices will increase due to the compaction of the ground around the cavity. . . . This increase in the fluid pressure will reduce the friction between fracture separated blocks. The effect would be greatest on faults oriented parallel to the residual compressive stresses resulting from the test explosion. Thus, it is possible that the mechanism involved in the Denver earthquake would raise the probability of triggering a large earthquake." *Ibid.*

Thus, it would appear that "imminence" may not be necessary for CANNIKIN to trigger a large earthquake. This possibility is not mentioned in the Impact Statement.

The Impact Statement also fails to consider the long-term effects of the CANNIKIN device on the geology. "The creation of a large cavity together with a later collapse of the chimney produces permanent changes in the strain field. . . . However, the strain field resulting from an underground explosion cannot be calculated with any precision because of the dependence of the field on the detailed geology which is largely unknown at any given location." *Ibid.*

Not only does the Impact Statement fail to assess the possible effects of permanent changes in the strain field, but it represents that the geologic conditions at Amchitka have been fully explored. I. S. 19.

Perhaps the most striking deception of the Impact Statement, in light of the Train memo, is its attempt to represent that professional opinion is unanimous that there is no real danger that CANNIKIN will trigger a large earthquake. According to Mr. Hadley, however,

“Qualified scientific opinion is in good agreement that the possibility of triggering a large earthquake by CANNIKIN is remote, but real. . . . Variation of technical opinion from this position is minor.”  
Hadley memo 6.

The second seismic effect which might result from CANNIKIN is a tsunami, or tidal wave. According to the Impact Statement, “the possibility of the CANNIKIN explosion or an earthquake causing a damaging tsunami (seismic sea wave) is even more unlikely [than the triggering of a great earthquake].” I. S. 3. The Train memo itself points out, “Large earthquakes in the near vicinity of Amchitka have not caused destructive tsunamis in the past.” Train memo 4. Train goes on, however: “[A]s in the case of earthquakes it is not possible at this time to assess quantitatively the probability of a tsunami following the explosion.” *Id.*, at 4–5. Another heretofore suppressed statement, that of Dr. W. G. Van Dorn, entitled Probability of Tsunami Generation and Connection with CANNIKIN, indicates the author to be as deeply concerned about the danger from the explosion as the “well-qualified geophysicists” who believe that the risks are great, and whose views are contained in an attachment to the Train memo. Those views remain suppressed. Considering the awesome destructive capabilities of even a

“small” tsunami, and its ability to retain its destructive force thousands of miles from its source, it would seem incumbent upon the drafters of the Impact Statement to explore in greater detail the sources of such responsible concern.

*Venting:*

The second category of environmental hazards from the CANNIKIN event are those relating to the danger that radioactive material from the explosion might escape to the surface. The most serious problem is the effect on groundwater movement, for the water table on Amchitka extends almost to the surface.

According to the analysis of the Impact Statement, the most probable mode of groundwater circulation by which radionuclides might escape into the sea would take “a thousand years or more.” I. S. 24. The least likely

“involves the very unlikely assumption that the water within the cavity-chimney system becomes completely mixed [with radionuclides, predominately tritium], coupled with a second unlikely assumption that the flow through the rock occurs only through a system of interconnecting fractures. Estimates using these assumptions indicate contaminated water would reach the sea in . . . some three years after the explosion. This would introduce tritiated [radioactive] water into the ocean with an initial concentration about 1,200 times that of the RCG [recommended concentration guideline] for water.”

*Ibid.*

Indeed, the Impact Statement thinks it far more probable that only “some small fraction of the tritiated water” will “move upward in the chimney rubble.” And only relatively near the surface will increased perme-

ability provide a path to the sea. The Impact Statement estimates that no tritium would be released into the water for over a hundred years through this mechanism. *Ibid.*

The Train memo, however, relying on calculations from the United States Geological Survey, comes to a different conclusion.

“Water in the chimney would move to the sea at a rate dependent on the hydraulic head, the permeability of existing aquifers and permeability of any new fractures opened up by the explosion. USGS calculations indicate a time for such movement might be as short as one to two years. These are short times and are inconsistent with estimates made by AEC that tritium will be discharged into the ocean only 145 years after the explosion. . . . If the shorter times (5 to 10 years) postulated above are correct then the level of radioactivity in the groundwater entering the ocean would be in excess of ten thousand to one hundred thousand maximum permissible concentration for water.” Train memo 5.

Thus, the judgment of the Chairman of the Council on Environmental Quality is that it is likely, if not probable, that within 10 years of CANNIKIN, radioactive water of concentrations perhaps 100,000 times permitted maximums will reach the sea near Amchitka. Inasmuch as this estimate is 100 times greater than their own, I should think it would require consideration by the drafters of the Impact Statement.

Another document shown to the applicants herein for the first time this week supports the Train analysis:

“[I]t must also be admitted, and this is the basis for the Council on Environmental Quality’s [Train’s]

comments on CANNIKIN, that the rubble chimney constitutes a highly permeable vertical short circuit of the groundwater system, and that the hydrological measurements indicate zones of fairly permeable rock higher in the section." M. Merritt, *The Ground Water Problem at Amchitka* 1-2.

The USGS recognized that its water migration time scale was highly inconsistent with that of the AEC; in so doing, it reaffirmed its original position:

"It should be emphasized that the foregoing analysis is heavily weighed in favor of the worst case. However, it is difficult to conceive of conditions which might improve the outlook significantly." USGS, *Effects Evaluation Report—Cannikin Event*.

The AEC was aware of the USGS position with respect to groundwater migration. It simply ignored it.

More disturbing than the failure of the Impact Statement to meet the arguments advanced by its critics, perhaps, is a deliberate distortion, in certain instances, of those opposing views. Thus, the statement argues that even were the "extreme case" to occur, and radioactive water migrate to the sea within a few years,

"dilution of that water by the sea water would take place rapidly. With the seeping water being swept up by the passing ocean current and mixed through tidal action and wave action, oceanographers have estimated that there would be an effective dilution factor of about 100,000 within a few hours. In this manner, the sea water tritium would quickly dilute to levels comparable to those freshwater levels acceptable for lifetime use by humans." I. S. 25.

Compare this use of the dilution figure with that of Train:

"Even if the dilution is as great as a hundred thousand, there is the possibility of concentration of tri-

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tium well above background levels in various steps of the food chain." Train memo 5.

MR. JUSTICE BRENNAN and MR. JUSTICE MARSHALL would grant a temporary restraining order pending applicants' filing of a petition for certiorari and action by the Court on the petition. The question to be presented is whether the detonation of CANNIKIN would be illegal if the Atomic Energy Commission did not comply with the mandate of § 102 (2)(C) of the National Environmental Policy Act of 1969. The Court of Appeals did not accept the holding of the District Court that the Commission had complied with § 102 (2)(C), stating, "In our view the case does present a substantial question as to the legality of the proposed test." The oral argument confirmed this view. In that circumstance, to avoid mootness, the Commission must be enjoined from proceeding with CANNIKIN until the Court decides whether to review the question of its legality.

No. A-465. HUGHES TOOL CO. ET AL. *v.* TRANS WORLD AIRLINES, INC. C. A. 2d Cir. It is ordered that the stay of mandate heretofore granted by MR. JUSTICE MARSHALL be, and it is hereby, continued pending further order of this Court. MR. JUSTICE MARSHALL dissents.

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*Affirmed on Appeal*

No. 71-332. BOND ET AL. *v.* FORTSON, SECRETARY OF STATE OF GEORGIA, ET AL. Affirmed on appeal from D. C. N. D. Ga. Reported below: 334 F. Supp. 1192.

No. 71-336. UNITED DAIRY FARMERS COOPERATIVE ASSN. *v.* MILK CONTROL COMMISSION OF PENNSYLVANIA ET AL. Affirmed on appeal from D. C. M. D. Pa. Reported below: 335 F. Supp. 1008.

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*Appeals Dismissed*

No. 70-5269. *BARNES v. LOUISIANA*. 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. Reported below: 257 La. 1017, 245 So. 2d 159.

No. 71-326. *LOWE v. LOWE*. 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. 525, 181 S. E. 2d 715.

No. 71-340. *BRANTON ET AL. v. PARKER, TREASURER OF LOUISIANA, ET AL.* Appeal from Sup. Ct. La. Motion to dispense with printing jurisdictional statement granted. Appeal dismissed for want of substantial federal question. Reported below: 259 La. 279, 249 So. 2d 908.

No. 71-348. *MEALEY ET AL. v. CITY OF LARAMIE ET AL.* Appeal from Sup. Ct. Wyo. dismissed for want of substantial federal question. Reported below: 485 P. 2d 1019.

No. 71-360. *UNITED AIR LINES, INC. v. MICHIGAN ET AL.* Appeal from Sup. Ct. Mich. dismissed for want of substantial federal question. Reported below: 384 Mich. 837.

No. 71-5170. *WOOD ET AL. v. PUBLIC UTILITIES COMMISSION OF CALIFORNIA ET AL.* Appeal from Sup. Ct. Cal. dismissed for want of substantial federal question. Mr. JUSTICE BRENNAN is of the opinion that probable jurisdiction should be noted and case set for oral argument. Reported below: 4 Cal. 3d 288, 481 P. 2d 823.

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*Certiorari Granted—Vacated and Remanded.* (See also No. 71-5679, *ante*, p. 28.)

No. 71-5239. *HARLESS v. TURNER, WARDEN.* C. A. 10th Cir. Motion for leave to proceed *in forma pauperis* and certiorari granted. Judgment vacated and case remanded for reconsideration in light of this Court's decision in *Coolidge v. New Hampshire*, 403 U. S. 443. THE CHIEF JUSTICE, MR. JUSTICE WHITE, and MR. JUSTICE BLACKMUN dissent.

*Miscellaneous Orders*

No. —. *FRIEDLAND v. JUSTICES OF THE UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT EN BANC.* Request for reconsideration of application for extraordinary relief denied.

No. A-404. *SKAGGS v. DIRECTOR OF DEPARTMENT OF MOTOR VEHICLES OF CALIFORNIA ET AL.* Super. Ct. Cal., County of Los Angeles. Application for stay presented to MR. JUSTICE BRENNAN, and by him referred to the Court, denied.

No. A-462. *DUNCANTELL v. INGRAHAM, U. S. CIRCUIT JUDGE, ET AL.* Motion for leave to file petition for writ of mandamus presented to MR. JUSTICE STEWART, and by him referred to the Court, denied.

No. A-379 (71-549). *GIAMO v. FLORIDA.* Sup. Ct. Fla. Application for stay denied.

No. 9, Orig. *UNITED STATES v. LOUISIANA ET AL. (LOUISIANA BOUNDARY CASE).* Motion of the United States for entry of a supplemental decree as to the State of Louisiana is set down for oral argument. MR. JUSTICE MARSHALL took no part in the consideration or decision of this motion. [For earlier orders herein, see, *e. g.*, 403 U. S. 950.]

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No. 17, Orig. NEBRASKA *v.* IOWA. Report of Special Master received and filed. Exceptions, if any, may be filed by the parties within 45 days. Reply briefs, if any, may be filed within 30 days thereafter. [For earlier orders herein, see, *e. g.*, 393 U. S. 910.]

No. 27, Orig. OHIO *v.* KENTUCKY. Motion for leave to file amended bill of complaint referred to Special Master. [For earlier orders herein, see, *e. g.*, 385 U. S. 803.]

No. 30, Orig. MICHIGAN *v.* OHIO. Report of Special Master received and ordered filed. Exceptions, if any, may be filed by the parties within 45 days. Reply briefs, if any, may be filed within 30 days thereafter. [For earlier orders herein, see, *e. g.*, 386 U. S. 1029.]

No. 51, Orig. FOUNDING CHURCH OF SCIENTOLOGY *v.* CROMER ET AL. Motion for leave to file bill of complaint denied.

No. 53, Orig. ALABAMA *v.* CONNALLY, SECRETARY OF THE TREASURY, ET AL. Motion for leave to file bill of complaint denied.

No. 68-5027. AIKENS *v.* CALIFORNIA. Sup. Ct. Cal.;  
No. 69-5003. FURMAN *v.* GEORGIA. Sup. Ct. Ga.;  
No. 69-5030. JACKSON *v.* GEORGIA. Sup. Ct. Ga.;  
and

No. 69-5031. BRANCH *v.* TEXAS. Ct. Crim. App. Tex. [Certiorari granted, 403 U. S. 952.] Motion of Edmund G. Brown et al. for leave to file a brief as *amici curiae* granted.

No. 70-14. COLE, STATE HOSPITAL SUPERINTENDENT, ET AL. *v.* RICHARDSON. Appeal from D. C. Mass. [Probable jurisdiction noted, 403 U. S. 917.] Motion of Harold Hestnes to permit Stephen H. Olesky to argue orally *pro hac vice* on behalf of appellee granted.

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No. 70-6. SWARB ET AL. v. LENNOX ET AL. Appeal from D. C. E. D. Pa. [Probable jurisdiction noted, 401 U. S. 991.] Motion of appellants to dispense with printing reply brief granted. Motion of the Attorney General of Pennsylvania for additional time for oral argument denied. Conditional motion of Pennsylvania Bankers Assn. for leave to present oral argument as *amicus curiae* denied.

No. 70-18. ROE ET AL. v. WADE, DISTRICT ATTORNEY OF DALLAS COUNTY. Appeal from D. C. N. D. Tex.; and

No. 70-40. DOE ET AL. v. BOLTON, ATTORNEY GENERAL OF GEORGIA, ET AL. Appeal from D. C. N. D. Ga. Motions of Certain Physicians, Professors & Fellows of the American College of Obstetrics & Gynecology and the National Right to Life Committee for leave to file briefs as *amici curiae* granted. Motion of Ferdinand Buckley for leave to file a brief as *amicus curiae* in No. 70-40 granted. [Probable jurisdiction postponed, 402 U. S. 941.]

No. 70-36. PERRY ET AL. v. SINDERMAN. C. A. 5th Cir. [Certiorari granted, 403 U. S. 917.] Motion of American Federation of Teachers for leave to file a brief as *amicus curiae* granted.

No. 70-54. VICTORY CARRIERS, INC., ET AL. v. LAW. C. A. 5th Cir. [Certiorari granted, 401 U. S. 936.] Motions of National Maritime Compensation Committee for reconsideration and for leave to file a brief as *amicus curiae* granted.

No. 70-75. MOOSE LODGE NO. 107 v. IRVIS ET AL. Appeal from D. C. M. D. Pa. [Probable jurisdiction postponed, 401 U. S. 992.] Motion of the Attorney General of Pennsylvania for additional time for oral argument denied.

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No. 70-79. RELIANCE ELECTRIC CO. *v.* EMERSON ELECTRIC Co. C. A. 8th Cir. [Certiorari granted, 401 U. S. 1008.] Motion of Gulf & Western Industries, Inc., for leave to file a brief as *amicus curiae* granted.

No. 70-86. UNITED STATES *v.* TUCKER. C. A. 9th Cir. [Certiorari granted, 402 U. S. 942.] Motion to appoint co-counsel on behalf of respondent and for William A. Reppy, Jr., to present oral argument in this case granted. It is ordered that William A. Reppy, Jr., Esquire, of Durham, North Carolina, a member of the Bar of this Court, be, and he is hereby, appointed to serve as co-counsel for respondent.

No. 70-92. CALIFORNIA MOTOR TRANSPORT CO. ET AL. *v.* TRUCKING UNLIMITED ET AL. C. A. 9th Cir. [Certiorari granted, 402 U. S. 1008.] Motion of Landmarks Holding Corp. et al. for leave to file a brief as *amici curiae* granted.

No. 70-113. FORD MOTOR Co. *v.* UNITED STATES ET AL. Appeal from D. C. E. D. Mich. [Probable jurisdiction noted, 403 U. S. 903.] Motion of Zenith Vinyl Fabrics Corp. for leave to file a brief as *amicus curiae* granted.

No. 70-5025. HAINES *v.* KERNER ET AL. C. A. 7th Cir. [Certiorari granted, 401 U. S. 954.] Motion of Joel M. Flaum et al. for leave to permit Warren K. Smoot to argue orally *pro hac vice* on behalf of respondents granted.

No. 70-5032. ALEXANDER ET AL. *v.* SWANK, DIRECTOR, DEPARTMENT OF PUBLIC AID OF ILLINOIS, ET AL. Appeal from D. C. N. D. Ill. [Probable jurisdiction noted, 401 U. S. 906.] Motion of Ronald J. Offenkrantz for leave to permit M. James Spitzer, Jr., to argue orally *pro hac vice* granted.

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No. 70-5082. CARTER ET AL. *v.* STANTON, DIRECTOR, MARION COUNTY DEPARTMENT OF PUBLIC WELFARE, ET AL. Appeal from D. C. S. D. Ind. [Probable jurisdiction noted, 402 U. S. 994.] Motion to postpone oral argument denied.

No. 70-5138. PARHAM ET AL. *v.* CORTESE ET AL. Appeal from D. C. E. D. Pa. [Probable jurisdiction noted, *sub nom. Epps v. Cortese*, 402 U. S. 994.] Motion of the Attorney General of Pennsylvania for additional time for oral argument denied.

No. 71-83. STRAIT *v.* LAIRD, SECRETARY OF DEFENSE, ET AL. C. A. 9th Cir. Motion to dispense with printing petitioner's reply brief granted.

No. 71-119. TRBOVICH *v.* UNITED MINE WORKERS OF AMERICA ET AL. C. A. D. C. Cir. [Certiorari granted, *ante*, p. 880.] Motion of American Civil Liberties Union for leave to file a brief as *amicus curiae* granted.

No. 71-157. R. J. REYNOLDS TOBACCO Co. ET AL. *v.* UNITED STATES ET AL. D. C. N. J. Motion of John J. McMullen for leave to file a brief as *amicus curiae* and to dispense with printing granted.

No. 71-5159. WHITE *v.* CARDWELL, WARDEN. Motion for leave to file petition for writ of habeas corpus denied.

No. 70-5188. RIDDELL *v.* HAMILTON ET AL. Motion for leave to file petition for writ of mandamus denied.

No. 71-5265. THERIAULT *v.* UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT. 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.

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*Probable Jurisdiction Noted*

No. 71-227. UNITED STATES ET AL. *v.* ALLEGHENY-LUDLUM STEEL CORP. ET AL. Appeal from D. C. W. D. Pa. Probable jurisdiction noted. Reported below: 325 F. Supp. 352.

*Certiorari Granted*

No. 71-308. UNITED STATES *v.* BYRUM, EXECUTRIX. C. A. 6th Cir. Certiorari granted. Reported below: 440 F. 2d 949.

No. 71-322. THE BREMEN ET AL. *v.* ZAPATA OFFSHORE Co. C. A. 5th Cir. Certiorari granted. Reported below: 428 F. 2d 888 and 446 F. 2d 907.

No. 70-5344. WILLIS *v.* PRUDENTIAL INSURANCE CO. OF AMERICA. Sup. Ct. Ga. Motion for leave to proceed *in forma pauperis* and certiorari granted. Reported below: 227 Ga. 619, 182 S. E. 2d 420.

No. 71-5172. DUKES *v.* WARDEN, CONNECTICUT STATE PRISON. Sup. Ct. Conn. Motion for leave to proceed *in forma pauperis* and certiorari granted. Reported below: 161 Conn. 337, 288 A. 2d 58.

*Certiorari Denied.* (See also Nos. 70-5269 and 71-326, *supra.*)

No. 70-5248. WILLIAMS *v.* VIRGINIA. Sup. Ct. App. Va. Certiorari denied.

No. 70-5302. GARDNER *v.* MARYLAND. Ct. Sp. App. Md. Certiorari denied.

No. 70-5318. PILGRIM *v.* WOLFF, WARDEN. C. A. 8th Cir. Certiorari denied. Reported below: 440 F. 2d 788.

No. 70-5329. KUPCZYK *v.* NEW YORK. App. Div., Sup. Ct. N. Y., 4th Jud. Dept. Certiorari denied.

No. 70-5406. KAPELUS *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied.

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No. 71-61. *WECHSLER v. GOTTLIEB ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 452 F. 2d 510.

No. 71-101. *BERNIKER v. UNITED STATES.* C. A. 9th Cir. Certiorari denied. Reported below: 439 F. 2d 686.

No. 71-214. *UNITED BONDING INSURANCE Co. v. UNITED STATES.* C. A. 10th Cir. Certiorari denied. Reported below: 444 F. 2d 742.

No. 71-232. *NALLE CLINIC v. SCHULTZ, SECRETARY OF LABOR.* C. A. 4th Cir. Certiorari denied. Reported below: 444 F. 2d 17.

No. 71-248. *SAITTA v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. Reported below: 443 F. 2d 830.

No. 71-266. *BAKER ET AL., TRUSTEES v. UNITED TRANSPORTATION UNION, LOCAL 63E.* C. A. 6th Cir. Certiorari denied. Reported below: 443 F. 2d 131.

No. 71-287. *PALISADES PAGEANTS, INC. v. MISS AMERICA PAGEANT.* C. C. P. A. Certiorari denied. Reported below: — C. C. P. A. (Pat.) —, 442 F. 2d 1385.

No. 71-289. *ZAHN ET AL. v. SECURITY PACIFIC NATIONAL BANK, EXECUTOR, ET AL.* Ct. App. Cal., 2d App. Dist. Certiorari denied. Reported below: 16 Cal. App. 3d 106, 93 Cal. Rptr. 810

No. 71-290. *KILTY v. UNITED STATES.* C. A. 9th Cir. Certiorari denied.

No. 71-291. *McNABB v. RICHARDSON, SECRETARY OF HEALTH, EDUCATION, AND WELFARE.* C. A. 5th Cir. Certiorari denied. Reported below: 444 F. 2d 221.

No. 71-299. *HENDERSON, DBA HENDERSON PLUMBING & HEATING Co. v. PLUMBERS LOCAL No. 8, AFL, ET AL.* Sup. Ct. Mo. Certiorari denied. Reported below: 471 S. W. 2d 929.

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No. 71-294. *NEW YORK v. RUPPERT*. Ct. App. N. Y. Certiorari denied. Reported below: 29 N. Y. 2d 519, 272 N. E. 2d 493.

No. 71-297. *SCHAEFER v. LEONE, WARDEN*. C. A. 2d Cir. Certiorari denied. Reported below: 443 F. 2d 182.

No. 71-307. *ALLEN v. UNITED STATES*. Ct. Cl. Certiorari denied.

No. 71-309. *BURTON v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 443 F. 2d 912.

No. 71-311. *NETSKI v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 448 F. 2d 744.

No. 71-314. *ADCOCK v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 447 F. 2d 1337.

No. 71-320. *AMPEX CORP. v. NATIONAL LABOR RELATIONS BOARD*. C. A. 7th Cir. Certiorari denied. Reported below: 442 F. 2d 82.

No. 71-321. *DREWRY'S LIMITED U. S. A., INC., ET AL. v. BARTMESS*. C. A. 7th Cir. Certiorari denied. Reported below: 444 F. 2d 1186.

No. 71-324. *MCCREA, JUDGE v. SPERRY ET AL.* Sup. Ct. Wash. Certiorari denied. Reported below: 79 Wash. 2d 69, 483 P. 2d 608.

No. 71-330. *COUNTY ASPHALT, INC. v. LEWIS WELDING & ENGINEERING CORP.* C. A. 2d Cir. Certiorari denied. Reported below: 444 F. 2d 372.

No. 71-333. *BANK OF AMERICA NATIONAL TRUST & SAVINGS ASSN. v. UNITED STATES ET AL.* Ct. Cl. Certiorari denied. Reported below: 194 Ct. Cl. 297, 437 F. 2d 981.

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No. 71-341. *PARISH ET AL. v. MARYLAND & VIRGINIA MILK PRODUCERS ASSN., INC., ET AL.* Ct. App. Md. Certiorari denied. Reported below: 261 Md. 618, 277 A. 2d 19.

No. 71-342. *LOUISIANA v. PATOUT ET AL.* Sup. Ct. La. Certiorari denied. Reported below: 258 La. 1159, 249 So. 2d 167.

No. 71-345. *DE CURTIS ET AL. v. NEW YORK.* Ct. App. N. Y. Certiorari denied.

No. 71-351. *PSG Co. v. EL SALTO, S. A. C. A.* 9th Cir. Certiorari denied. Reported below: 444 F. 2d 477.

No. 71-354. *BRODY ET AL. v. AETNA CASUALTY & SURETY Co. ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 438 F. 2d 1148.

No. 71-355. *PULITZER PUBLISHING Co. v. LAZIER.* Sup. Ct. Mo. Certiorari denied. Reported below: 467 S. W. 2d 900.

No. 71-356. *CITY TRADE & INDUSTRIES, LTD. v. ALLAHABAD BANK, LTD., ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 444 F. 2d 451.

No. 71-359. *PEREZ v. DUNCAN.* C. A. 5th Cir. Certiorari denied. Reported below: 445 F. 2d 557.

No. 71-362. *KAPELSKI v. PURCELL ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 444 F. 2d 380.

No. 71-367. *FORCHELLI ET AL. v. HART, ADMINISTRATRIX.* C. A. 2d Cir. Certiorari denied. Reported below: 445 F. 2d 1018.

No. 71-368. *GOLSEN ET UX. v. COMMISSIONER OF INTERNAL REVENUE.* C. A. 10th Cir. Certiorari denied. Reported below: 445 F. 2d 985.

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No. 71-366. *TIDEWATER OIL CO. v. UNITED STATES ET AL.* C. A. 9th Cir. Certiorari denied.

No. 71-370. *SCAGLIONE v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. Reported below: 446 F. 2d 182.

No. 71-371. *KEOGH v. UNITED STATES.* C. A. 2d Cir. Certiorari denied. Reported below: 440 F. 2d 737.

No. 71-372. *LAW RESEARCH SERVICE, INC., ET AL. v. BLAIR & Co., GRANBERY MARACHE, INC.* C. A. 2d Cir. Certiorari denied. Reported below: 442 F. 2d 1346.

No. 71-376. *KINNEAR-WEED CORP. v. HUMBLE OIL & REFINING Co.* C. A. 5th Cir. Certiorari denied. Reported below: 441 F. 2d 631.

No. 71-383. *NUNNELLEY ET AL. v. MILLER ET AL.* Ct. App. Ky. Certiorari denied. Reported below: 468 S. W. 2d 298.

No. 71-386. *RICE GROWERS' ASSOCIATION OF CALIFORNIA v. COUNTY OF YOLO.* Ct. App. Cal., 1st App. Dist. Certiorari denied. Reported below: 17 Cal. App. 3d 227, 94 Cal. Rptr. 847.

No. 71-395. *STONE v. TENNESSEE.* Ct. Crim. App. Tenn. Certiorari denied.

No. 71-397. *CAPITAL ELECTRIC POWER ASSN. ET AL. v. FEDERAL POWER COMMISSION ET AL.* C. A. D. C. Cir. Certiorari denied.

No. 71-399. *AMOCO PRODUCTION Co. v. NATIONAL LABOR RELATIONS BOARD.* C. A. 10th Cir. Certiorari denied. Reported below: 444 F. 2d 328.

No. 71-413. *PHELPS DODGE REFINING CORP. v. ROBLED0 ET AL.* C. A. 5th Cir. Certiorari denied.

No. 71-416. *STOUT v. OHIO.* Sup. Ct. Ohio. Certiorari denied.

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No. 71-414. *VULCAN MATERIALS Co. v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 446 F. 2d 690.

No. 71-417. *LA-TEX SUPPLY Co. v. FRUEHAUF TRAILER DIVISION, FRUEHAUF CORP.* C. A. 5th Cir. Certiorari denied. Reported below: 444 F. 2d 1366.

No. 71-429. *SOHIO PETROLEUM Co. v. OIL TRANSPORT Co. ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 445 F. 2d 435.

No. 71-5034. *FAIR v. LO SCALZO ET AL.* Sup. Ct. Fla. Certiorari denied. Reported below: 244 So. 2d 433.

No. 71-5046. *MACKEY v. CRAVEN, WARDEN.* Sup. Ct. Cal. Certiorari denied.

No. 71-5156. *FRAME v. UNITED STATES.* C. A. 9th Cir. Certiorari denied. Reported below: 444 F. 2d 71.

No. 71-5157. *THROWER v. UNITED STATES.* C. A. 4th Cir. Certiorari denied.

No. 71-5158. *BRIDDLE ET AL. v. UNITED STATES.* C. A. 8th Cir. Certiorari denied. Reported below: 443 F. 2d 443.

No. 71-5163. *POE v. ILLINOIS.* Sup. Ct. Ill. Certiorari denied. Reported below: 48 Ill. 2d 506, 272 N. E. 2d 28.

No. 71-5165. *HOLT v. UNITED STATES.* C. A. D. C. Cir. Certiorari denied. Reported below: 145 U. S. App. D. C. 185, 448 F. 2d 1108.

No. 71-5166. *JANKORD v. MINNESOTA.* Sup. Ct. Minn. Certiorari denied. Reported below: 290 Minn. 168, 186 N. W. 2d 530.

No. 71-5168. *SLOBEN v. NEW YORK.* App. Term, Sup. Ct. N. Y., 1st Jud. Dept. Certiorari denied.

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No. 71-5167. *HARVIN v. UNITED STATES*. C. A. D. C. Cir. Certiorari denied. Reported below: 144 U. S. App. D. C. 199, 445 F. 2d 675.

No. 71-5173. *BRETTI v. WAINWRIGHT, CORRECTIONS DIRECTOR*. C. A. 5th Cir. Certiorari denied. Reported below: 439 F. 2d 1042.

No. 71-5176. *ADAMS v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 446 F. 2d 681.

No. 71-5177. *MCCRAY v. SOLOMON, U. S. DISTRICT JUDGE*; and

No. 71-5279. *MCCRAY v. BELLONI, U. S. DISTRICT JUDGE, ET AL.* C. A. 9th Cir. Certiorari denied.

No. 71-5178. *NEMETH v. UNITED STATES*. C. A. 6th Cir. Certiorari denied.

No. 71-5180. *CHALK ET AL. v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 441 F. 2d 1277.

No. 71-5181. *HARRELSON, AKA STOUGHTENBOROUGH v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 442 F. 2d 290.

No. 71-5182. *MILANO v. UNITED STATES*. C. A. 10th Cir. Certiorari denied. Reported below: 443 F. 2d 1022.

No. 71-5183. *READ v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 443 F. 2d 842.

No. 71-5187. *RAINWATER v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 443 F. 2d 339.

No. 71-5188. *CLEMONS v. UNITED STATES*. C. A. D. C. Cir. Certiorari denied.

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No. 71-5190. *AVILA ET AL. v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 443 F. 2d 792.

No. 71-5193. *EDWARDS v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 443 F. 2d 1286.

No. 71-5195. *DAPPER v. WITT*. C. A. 9th Cir. Certiorari denied.

No. 71-5196. *WION v. UNITED STATES*. C. A. 10th Cir. Certiorari denied.

No. 71-5200. *DINGEE v. MARYLAND*. C. A. 4th Cir. Certiorari denied.

No. 71-5201. *TEAGUE v. NEW YORK*. Ct. App. N. Y. Certiorari denied.

No. 71-5202. *RATOW v. WASHINGTON*. Ct. App. Wash. Certiorari denied. Reported below: 4 Wash. App. 321, 481 P. 2d 20.

No. 71-5203. *SCHAFFER v. SWENSON, WARDEN*. C. A. 8th Cir. Certiorari denied.

No. 71-5204. *MARTINEZ v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 446 F. 2d 118.

No. 71-5205. *WILLIAMS v. UNITED STATES*. C. A. 6th Cir. Certiorari denied.

No. 71-5206. *PRADO v. UNITED STATES*. C. A. 2d Cir. Certiorari denied.

No. 71-5208. *HAWKINS v. MARYLAND*. Ct. Sp. App. Md. Certiorari denied.

No. 71-5209. *LEVIN v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 443 F. 2d 1101.

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No. 71-5210. *RAY v. BRIERLEY, CORRECTIONAL SUPERINTENDENT*. C. A. 3d Cir. Certiorari denied.

No. 71-5211. *DURGIN v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 444 F. 2d 308.

No. 71-5212. *STEVENS v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 445 F. 2d 304.

No. 71-5213. *CAMPBELL v. OHIO*. Sup. Ct. Ohio. Certiorari denied.

No. 71-5214. *RIDGILL v. NEW YORK*. App. Div., Sup. Ct. N. Y., 1st Jud. Dept. Certiorari denied.

No. 71-5219. *DAVIS v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 443 F. 2d 560.

No. 71-5221. *MESSINA v. MCMANN, WARDEN*. C. A. 2d Cir. Certiorari denied.

No. 71-5222. *GENNARO v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 445 F. 2d 940.

No. 71-5224. *HUGHES ET AL. v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 446 F. 2d 1283.

No. 71-5230. *SECONDINO v. UNITED STATES*. C. A. 2d Cir. Certiorari denied.

No. 71-5233. *WESTFALL v. OHIO*. Sup. Ct. Ohio. Certiorari denied.

No. 71-5234. *HALL v. CRAVEN, WARDEN*. C. A. 9th Cir. Certiorari denied.

No. 71-5235. *GROVE v. RIZZOLO*. C. A. 3d Cir. Certiorari denied. Reported below: 441 F. 2d 1153.

No. 71-5237. *SENFELD v. SALISBURY, CORRECTIONAL SUPERINTENDENT*. C. A. 6th Cir. Certiorari denied.

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No. 71-5238. *TERRY v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 446 F. 2d 579.

No. 71-5240. *McKEE v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 446 F. 2d 974.

No. 71-5241. *PICKELL v. REED ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 446 F. 2d 898.

No. 71-5243. *WILLIAMS v. HENDERSON, CORRECTIONAL SUPERINTENDENT*. C. A. 2d Cir. Certiorari denied.

No. 71-5244. *JOLLEY v. IMMIGRATION AND NATURALIZATION SERVICE*. C. A. 5th Cir. Certiorari denied. Reported below: 441 F. 2d 1245.

No. 71-5245. *ANGLIN v. DIRECTOR, PATUXENT INSTITUTION*. C. A. 4th Cir. Certiorari denied. Reported below: 439 F. 2d 1342.

No. 71-5246. *BICKFORD v. UNITED STATES*. C. A. 1st Cir. Certiorari denied. Reported below: 445 F. 2d 829.

No. 71-5248. *FINLEY v. CRAVEN, WARDEN*. C. A. 9th Cir. Certiorari denied.

No. 71-5249. *SCRUGGS ET AL. v. UNITED STATES*. C. A. 6th Cir. Certiorari denied.

No. 71-5250. *BANKSTON v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 446 F. 2d 864.

No. 71-5251. *GRIGGS v. ALASKA*. Sup. Ct. Alaska. Certiorari denied. Reported below: 481 P. 2d 388.

No. 71-5252. *HITCHCOCK v. ARIZONA ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 446 F. 2d 46.

No. 71-5254. *CAFFEY v. SWENSON, WARDEN*. C. A. 8th Cir. Certiorari denied.

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No. 71-5256. *HUBER ET VIR v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 443 F. 2d 363.

No. 71-5257. *BRADLEY v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 447 F. 2d 224.

No. 71-5258. *BOND v. UNITED STATES*. C. A. 6th Cir. Certiorari denied.

No. 71-5259. *BOYLES v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 446 F. 2d 44.

No. 71-5260. *WEIS v. MANCUSI, CORRECTIONAL SUPERINTENDENT*. C. A. 2d Cir. Certiorari denied.

No. 71-5261. *KRESS v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 446 F. 2d 358.

No. 71-5264. *POLILLO v. NEW JERSEY*. Super. Ct. N. J. Certiorari denied.

No. 70-342. *MACPHERSON v. BOSTON & MAINE CORP.* C. A. 1st Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted and judgment reversed. *Rogers v. Missouri Pacific R. Co.*, 352 U. S. 500. Reported below: 439 F. 2d 1089.

No. 70-5399. *RICHARDSON v. FLORIDA*. Dist. Ct. App. Fla., 3d Dist. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted and case set for oral argument. Reported below: 248 So. 2d 530.

No. 71-184. *PORTELA v. UNITED STATES*;

No. 71-381. *ALEXANDER v. UNITED STATES*;

No. 71-396. *MARTI v. UNITED STATES*; and

No. 71-5215. *MANARITE v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted and cases set for oral argument. Reported below: 448 F. 2d 583.

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No. 71-17. *TUMMINELLO v. MARYLAND*. Ct. Sp. App. Md. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted and case set for oral argument. Reported below: 10 Md. App. 612, 272 A. 2d 77.

No. 71-226. *JERSEY CITY EDUCATION ASSN. ET AL. v. NEW JERSEY*. Super. Ct. N. J. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted and case set for oral argument. Reported below: 115 N. J. Super. 42, 278 A. 2d 206.

No. 71-292. *BALLEW ET AL. v. ROBINSON ET AL.* C. A. 5th Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted and case set for oral argument. Reported below: 447 F. 2d 584.

No. 71-302. *RATLIFF ET AL. v. COOPER LABORATORIES, INC., ET AL.* C. A. 4th Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted and case set for oral argument. Reported below: 444 F. 2d 745.

No. 71-310. *LYZUN v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted and case set for oral argument. Reported below: 444 F. 2d 1043.

No. 71-317. *SWORDS, ADMINISTRATRIX v. AMERICAN SEALANES, INC.* C. A. 4th Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted and case set for oral argument. Reported below: 443 F. 2d 1324.

No. 71-358. *EPTON v. NENNA, WARDEN*. C. A. 2d Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted and case set for oral argument. Reported below: 446 F. 2d 363.

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No. 71-365. *STRAHAN v. STRAHAN ET AL.* C. A. 5th Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted and case set for oral argument. Reported below: 444 F. 2d 528.

No. 71-388. *HALCON INTERNATIONAL, INC. v. MONSANTO AUSTRALIA LTD.* C. A. 7th Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted and case set for oral argument. Reported below: 446 F. 2d 156.

No. 71-455. *RAGLAND ET AL. v. TENNESSEE.* Ct. Crim. App. Tenn. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted and case set for oral argument.

No. 71-5153. *COUMING v. UNITED STATES.* C. A. 1st Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted and case set for oral argument. Reported below: 445 F. 2d 555.

No. 71-5169. *CHRISTY v. UNITED STATES.* C. A. 6th Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted and case set for oral argument. Reported below: 444 F. 2d 448.

No. 71-5186. *BROWN v. MOSELEY, WARDEN.* C. A. 10th Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted and case set for oral argument.

No. 71-5236. *WHITE v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted and case set for oral argument. Reported below: 444 F. 2d 1274.

No. 71-5253. *PARLER v. MANCUSI, CORRECTIONAL SUPERINTENDENT.* C. A. 2d Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted and case set for oral argument.

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No. 71-5226. *DOCKERY v. UNITED STATES*. C. A. D. C. Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted and case set for oral argument. Reported below: 145 U. S. App. D. C. 9, 447 F. 2d 1178.

No. 71-5247. *CUNNINGHAM v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted and case set for oral argument. Reported below: 446 F. 2d 194.

No. 71-89. *EVANS THEATRE CORP. ET AL. v. SLATON ET AL.* Sup. Ct. Ga. Certiorari denied. MR. JUSTICE DOUGLAS took no part in the consideration or decision of this petition. Reported below: 227 Ga. 377, 180 S. E. 2d 712.

No. 71-194. *PAN AMERICAN WORLD AIRWAYS, INC. v. DIAZ*. C. A. 5th 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 and case set for oral argument. Reported below: 442 F. 2d 385.

No. 71-230. *NEWARK TEACHERS UNION ET AL. v. BOARD OF EDUCATION OF NEWARK*. Super. Ct. N. J. Motion of American Civil Liberties Union for leave to file a brief as *amicus curiae* granted. Motion to dispense with printing petitioners' reply brief granted. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted and case set for oral argument. Reported below: 114 N. J. Super. 306, 276 A. 2d 175.

No. 71-285. *ANDERSON ET AL. v. UNITED STATES*. Ct. Cl. Motion to dispense with printing petition granted. Certiorari denied. Reported below: 193 Ct. Cl. 670, 436 F. 2d 1008.

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No. 71-218. *GROUNDS ET AL. v. NORTHERN NATURAL GAS CO. ET AL.* C. A. 10th Cir. Certiorari denied as out of time. MR. JUSTICE WHITE took no part in the consideration or decision of this petition. Reported below: 441 F. 2d 704.

No. 71-301. *FRANKLIN ET AL. v. NEW JERSEY.* Super. Ct. N. J. Motion to dispense with printing petition granted. Certiorari denied.

No. 71-325. *FRAUHIGER v. OHIO.* C. A. 6th Cir. Motion to dispense with printing petition granted. Certiorari denied.

No. 71-334. *JOHNSON ET AL. v. TEXAS.* Ct. Crim. App. Tex. Motion to dispense with printing petition granted. Certiorari denied. Reported below: 467 S. W. 2d 247.

No. 71-338. *ELLIS ET AL. v. HARADA ET AL.* Sup. Ct. Hawaii. Motion to dispense with printing petition granted. Certiorari denied.

No. 71-343. *SMITH ET AL. v. ORISCELLO, SHERIFF.* C. A. 3d Cir. Motion to dispense with printing petition granted. Certiorari denied.

No. 71-361. *UNITED STATES v. SCHMID.* Ct. Cl. Certiorari denied. MR. JUSTICE WHITE and MR. JUSTICE BLACKMUN are of the opinion that certiorari should be granted and case set for oral argument. Reported below: 193 Ct. Cl. 780, 436 F. 2d 987.

No. 71-363. *BECKMAN INSTRUMENTS, INC. v. REEVES INSTRUMENT CORP. ET AL.* C. A. 9th Cir. Certiorari denied. MR. JUSTICE DOUGLAS and MR. JUSTICE BLACKMUN are of the opinion that certiorari should be granted and case set for oral argument. Reported below: 444 F. 2d 263.

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No. 71-305. KAZUBOWSKI *v.* RAY, SHERIFF, ET AL. C. A. 7th Cir. Application for stay and motion to amend petition denied. Certiorari and other relief denied.

No. 71-378. FLICKINGER *v.* ELECTRIC CONSTRUCTION Co., INC. Sup. Ct. Ariz. Motion of National Association of Contractors Licensing Agencies for leave to file a brief as *amicus curiae* granted. Certiorari denied. MR. JUSTICE STEWART is of the opinion that certiorari should be granted and case set for oral argument. Reported below: 107 Ariz. 222, 485 P. 2d 547.

No. 71-389. BLAINE ET AL. *v.* UNITED STATES. C. A. 5th Cir. Motion for the Government to furnish list of pending similar controversies and certiorari denied. Reported below: 441 F. 2d 917.

No. 71-5266. THERIAULT *v.* PITTMAN, U. S. DISTRICT JUDGE. C. A. 5th Cir. Certiorari denied. MR. JUSTICE BLACKMUN took no part in the consideration or decision of this petition.

#### *Rehearing Denied*

No. 70-115. McVEAN *v.* UNITED STATES, *ante*, p. 822. Petition for rehearing denied.

#### *Assignment Order*

An order of THE CHIEF JUSTICE designating and assigning Mr. Justice Reed (retired) to perform judicial duties in the United States Court of Claims beginning November 29, 1971, and ending June 30, 1972, and for such further time as may be required to complete unfinished business, pursuant to 28 U. S. C. § 294 (a), is ordered entered on the minutes of this Court, pursuant to 28 U. S. C. § 295.

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*Dismissals Under Rule 60*

No. 71-124. *GULF SHORES LEASING CORP. v. AVIS RENT-A-CAR SYSTEM, INC.* C. A. 5th Cir. Petition for writ of certiorari dismissed pursuant to Rule 60 of the Rules of this Court. Reported below: 441 F. 2d 1385.

No. 71-205. *BERMAN v. FROEHLKE, SECRETARY OF THE ARMY, ET AL.* C. A. 9th Cir. Petition for writ of certiorari dismissed pursuant to Rule 60 of the Rules of this Court.

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*Appeals Dismissed*

No. 70-5249. *VAN GELDERN v. CALIFORNIA ADULT AUTHORITY.* Appeal from Sup. Ct. Cal. dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied.

No. 70-5428. *SOWDER v. CITY OF CINCINNATI.* Appeal from Sup. Ct. Ohio dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied.

No. 71-5280. *PERRY v. TEXAS.* Appeal from Ct. Crim. App. Tex. 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: 464 S. W. 2d 660.

No. 71-5282. *DUNDON v. JESMER.* Appeal from Ct. App. N. Y. dismissed for want of substantial federal question. Reported below: 29 N. Y. 2d 5, 271 N. E. 2d 905.

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*Certiorari Granted—Reversed.* (See No. 70-5213, *ante*, p. 55.)

*Certiorari Granted—Reversed or Vacated, and Remanded.* (See No. 70-108, *ante*, p. 53, No. 70-353, *ante*, p. 69, No. 70-5343, *ante*, p. 59, and No. 71-5294, *ante*, p. 67.)

### *Miscellaneous Orders*

No. A-453 (71-5633). *OPA v. UNITED STATES*. C. A. 9th Cir. Application for stay presented to MR. JUSTICE DOUGLAS, and by him referred to the Court, denied.

No. 35, Orig. *UNITED STATES v. MAINE ET AL.* Motion of Florida Council of 100, Inc., for leave to file a brief as *amicus curiae* granted. [For earlier orders herein, see, *e. g.*, 403 U. S. 949.]

No. 70-5388. *LOPER v. BETO, CORRECTIONS DIRECTOR*. C. A. 5th Cir. [Certiorari granted, *ante*, p. 821.] Motion of petitioner to have A. C. Turner et al., acting members of the Board of Pardons and Paroles of Texas, joined as parties respondent granted. Motion of petitioner for the appointment of counsel granted. It is ordered that John T. Cabaniss, Esquire, of Houston, Texas, be, and he is hereby, appointed to serve as counsel for petitioner in this case.

No. 71-5267. *MORRISON v. WAINWRIGHT, CORRECTIONS DIRECTOR*; and

No. 71-5278. *SMITH v. CALIFORNIA*. Motions for leave to file petitions for writs of habeas corpus denied.

No. 71-5044. *WELCH v. UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT*. Motion to amend petition granted. Motion for leave to file petition for writ of mandamus denied.

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*Certiorari Granted*

No. 71-83. *STRAIT v. LAIRD, SECRETARY OF DEFENSE, ET AL.* C. A. 9th Cir. Certiorari granted. Reported below: 445 F. 2d 843.

No. 71-288. *LAIRD, SECRETARY OF DEFENSE, ET AL. v. TATUM ET AL.* C. A. D. C. Cir. Certiorari granted. Reported below: 144 U. S. App. D. C. 72, 444 F. 2d 947.

No. 71-300. *ANDREWS v. LOUISVILLE & NASHVILLE RAILROAD CO. ET AL.* C. A. 5th Cir. Certiorari granted. Reported below: 441 F. 2d 1222.

No. 71-5313. *BROOKS v. TENNESSEE.* Ct. Crim. App. Tenn. Motion for leave to proceed *in forma pauperis* granted. Certiorari granted limited to Questions III and IV, presented by the petition, which read as follows:

"III. The trial court was in error in refusing to allow defendant to be placed on the witness stand after other witnesses had testified in his behalf as said Tennessee Statute requiring defendant to be first witness is unconstitutional in violation of the Fifth Amendment and Fourteenth Amendment of the Federal Constitution and Article I, Section 9 of Tennessee Constitution.

"IV. Code section 40-2403 deprives a defendant of due process of law, in violation of the Fourteenth Amendment to the United States Constitution."

Reported below: — Tenn. App. —, — S. W. 2d —.

*Certiorari Denied.* (See also Nos. 70-5249, 70-5428, and 71-5280, *supra.*)

No. 70-5118. *BURK v. NEW MEXICO.* Ct. App. N. M. Certiorari denied. Reported below: 82 N. M. 466, 483 P. 2d 940.

No. 70-5295. *PATILLO v. WILSON ET AL.* Sup. Ct. Ga. Certiorari denied. Reported below: 227 Ga. 530, 181 S. E. 2d 830.

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No. 70-5142. *MITCHELL v. HOCKER, WARDEN*. Sup. Ct. Nev. Certiorari denied.

No. 70-5281. *RODRIGUEZ v. AGNEW, HOSPITAL DIRECTOR*. C. A. 2d Cir. Certiorari denied.

No. 70-5310. *MILES v. KANSAS*. Sup. Ct. Kan. Certiorari denied. Reported below: 206 Kan. 748, 481 P. 2d 1020.

No. 70-5375. *LIPTON v. NEW YORK*. Ct. App. N. Y. Certiorari denied.

No. 70-5381. *JUSTUS v. VIRGINIA*. Sup. Ct. App. Va. Certiorari denied.

No. 70-5389. *KITCHEN v. CRAWFORD ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 442 F. 2d 1345.

No. 70-5409. *UTSLER v. ERICKSON, WARDEN*. C. A. 8th Cir. Certiorari denied. Reported below: 440 F. 2d 140.

No. 71-5005. *BROOKS v. FLORIDA ET AL.* Sup. Ct. Fla. Certiorari denied.

No. 71-5075. *BROOKS v. FLORIDA*. C. A. 5th Cir. Certiorari denied.

No. 71-5087. *DENMARK v. LAVALLEE, CORRECTIONAL SUPERINTENDENT*. C. A. 2d Cir. Certiorari denied.

No. 71-5218. *CLEMONS v. UNITED STATES*. C. A. D. C. Cir. Certiorari denied. Reported below: 144 U. S. App. D. C. 235, 445 F. 2d 711.

No. 71-5229. *IVERSON v. NORTH DAKOTA*. Sup. Ct. N. D. Certiorari denied. Reported below: 187 N. W. 2d 1.

No. 71-5268. *RUSHING v. UNITED STATES*. C. A. 6th Cir. Certiorari denied.

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No. 71-5269. *MORRIS v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 445 F. 2d 1233.

No. 71-5270. *LEWIS v. OKLAHOMA*. C. A. 10th Cir. Certiorari denied.

No. 71-5271. *STELLY v. QUICK MANUFACTURING CO. ET AL.* Sup. Ct. La. Certiorari denied.

No. 71-5272. *TITUS v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 445 F. 2d 577.

No. 71-5273. *BODMER v. RICHARDSON, SECRETARY OF HEALTH, EDUCATION, AND WELFARE*. C. A. 2d Cir. Certiorari denied.

No. 71-5276. *MADDOX v. SIGLER, WARDEN*. C. A. 8th Cir. Certiorari denied. Reported below: 445 F. 2d 269.

No. 71-5281. *MURDOCK v. ILLINOIS*. Sup. Ct. Ill. Certiorari denied. Reported below: 48 Ill. 2d 362, 270 N. E. 2d 21.

No. 71-5283. *BABER v. UNITED STATES*. C. A. D. C. Cir. Certiorari denied. Reported below: 145 U. S. App. D. C. 98, 447 F. 2d 1267.

No. 71-5284. *HICKS v. NEW YORK*. App. Div., Sup. Ct. N. Y., 2d Jud. Dept. Certiorari denied.

No. 71-5285. *SLATER v. TARVER ET AL.* C. A. D. C. Cir. Certiorari denied.

No. 71-5288. *TOSATTO v. ARIZONA*. Sup. Ct. Ariz. Certiorari denied. Reported below: 107 Ariz. 231, 485 P. 2d 556.

No. 71-5290. *WOODARD v. BETO, CORRECTIONS DIRECTOR*. C. A. 5th Cir. Certiorari denied. Reported below: 447 F. 2d 103.

No. 71-5291. *CHUBBS v. CITY OF NEW YORK ET AL.* C. A. 2d Cir. Certiorari denied.

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No. 71-5292. *LePERA v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 443 F. 2d 810.

No. 71-5293. *JACOBS v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 445 F. 2d 1076.

No. 71-5295. *BARBER v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 442 F. 2d 517.

No. 71-5296. *BADGER v. LAVALLEE, CORRECTIONAL SUPERINTENDENT*. C. A. 2d Cir. Certiorari denied.

No. 71-5299. *FAVELL v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 443 F. 2d 383.

No. 71-5300. *GILBREATH v. UNITED STATES*. C. A. 10th Cir. Certiorari denied. Reported below: 445 F. 2d 810.

No. 71-5301. *SMITH v. UNITED STATES*. C. A. 6th Cir. Certiorari denied.

No. 71-5303. *MAIN v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 443 F. 2d 900.

No. 71-5304. *DELEGGE v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 444 F. 2d 1046.

No. 71-5307. *SUBILOSKY v. MOORE, CORRECTIONAL SUPERINTENDENT*. C. A. 1st Cir. Certiorari denied. Reported below: 443 F. 2d 334.

No. 71-5310. *LITTLE v. RHAY, PENITENTIARY SUPERINTENDENT*. C. A. 9th Cir. Certiorari denied. Reported below: 439 F. 2d 765.

No. 71-5314. *WILLAMETZ v. TEECE ET AL.* C. A. 1st Cir. Certiorari denied.

No. 71-5316. *TUZO v. UNITED STATES*. C. A. 2d Cir. Certiorari denied.

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No. 70-5361. CALLAHAN ET AL. *v.* SLAYTON, PENITENTIARY SUPERINTENDENT, ET AL. C. A. 4th Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. Reported below: 441 F. 2d 23.

No. 71-5052. GINSBERG *v.* LEVITT, COMPTROLLER OF NEW YORK. App. Div., Sup. Ct. N. Y., 3d Jud. Dept. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. Reported below: 36 App. Div. 2d 82, 318 N. Y. S. 2d 620.

No. 71-5275. ROBINSON *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. Reported below: 446 F. 2d 562.

No. 71-5287. CROUCH *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. Reported below: 442 F. 2d 427.

*Rehearing Denied*

No. 70-176. ROSENSPAN *v.* UNITED STATES, *ante*, p. 864. Motion to dispense with printing petition for rehearing granted. Petition for rehearing denied.

No. 70-5235. DORROUGH *v.* TEXAS, *ante*, p. 840;

No. 70-5253. CRACKENBERGER *v.* UNITED STATES, *ante*, p. 841;

No. 70-5367. MORALES *v.* UNITED STATES, *ante*, p. 873; and

No. 71-5012. McDUFFIE *v.* UNITED STATES, *ante*, p. 859. Motions for leave to file petitions for rehearing denied.

No. 70-5153. THERIAULT *v.* UNITED STATES, *ante*, p. 869. Motion for leave to file petition for rehearing denied. MR. JUSTICE BLACKMUN took no part in the consideration or decision of this motion.

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No. 1588, October Term, 1970. SEARS, ROEBUCK & CO. ET AL. *v.* SOLIEN, REGIONAL DIRECTOR, NATIONAL LABOR RELATIONS BOARD, ET AL., 403 U. S. 905;

No. 70-131. CALIFORNIA *v.* ELLER TELECASTING COMPANY OF ARIZONA, *ante*, p. 869;

No. 70-158. INJECT-O-METER MANUFACTURING CO., INC. *v.* NORTH PLAINS FERTILIZER & CHEMICAL, INC., *ante*, p. 824;

No. 70-213. GROENDYKE TRANSPORT, INC. *v.* NATIONAL LABOR RELATIONS BOARD, *ante*, p. 827;

No. 70-217. ANSTED *v.* FROEHLKE, SECRETARY OF THE ARMY, ET AL., *ante*, p. 827;

No. 70-248. HARRISON ET AL. *v.* PRATHER, *ante*, p. 829;

No. 70-5140. COLE *v.* NIGRO, JUDGE, *ante*, p. 804;

No. 70-5146. BEASLEY *v.* UNITED STATES, *ante*, p. 866;

No. 70-5169. BROWN *v.* KENTUCKY, *ante*, p. 837;

No. 70-5172. QUARLES *v.* TEXAS ET AL., *ante*, p. 805;

No. 70-5190. CLARK *v.* CRAVEN, WARDEN, *ante*, p. 805;

No. 70-5196. WATSON *v.* GOODWIN, U. S. DISTRICT JUDGE, *ante*, p. 818;

No. 70-5199. MARTS ET AL. *v.* UNITED STATES, *ante*, p. 839;

No. 70-5272. CLAUSER *v.* FIRST NATIONAL BANK OF ARIZONA, ADMINISTRATOR, ET AL., *ante*, p. 842;

No. 70-5279. HERRINGTON *v.* UNITED STATES, *ante*, p. 842;

No. 70-5284. DIXON *v.* UNITED STATES, *ante*, p. 828;

No. 70-5292. McDONALD *v.* METROPOLITAN TRAFFIC AND PARKING COMMISSION ET AL., *ante*, p. 843;

No. 70-5300. FANNING *v.* UNITED STATES, *ante*, p. 828; and

No. 70-5301. MARMORSTEIN ET AL. *v.* UNITED STATES, *ante*, p. 828. Petitions for rehearing denied.

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- No. 71-7. WATSON *v.* CALIFORNIA, *ante*, p. 850;
- No. 71-19. INTERCONTINENTAL PROMOTIONS, INC. *v.* MIAMI BEACH FIRST NATIONAL BANK ET AL., *ante*, p. 850;
- No. 71-47. WORTH *v.* UNITED STATES, *ante*, p. 852;
- No. 71-54. MOORE BUSINESS FORMS, INC. *v.* UARCO, INC., *ante*, p. 873;
- No. 71-63. JURAS *v.* MEYERS ET AL., *ante*, p. 803;
- No. 71-118. MASSILLON-CLEVELAND-AKRON SIGN CO. *v.* GOLDEN STATE ADVERTISING CO., INC., ET AL., *ante*, p. 873;
- No. 71-134. GIBSON *v.* MISSOURI PACIFIC RAILROAD Co., *ante*, p. 855;
- No. 71-149. ALLEN *v.* BANKERS TRUST CO. ET AL., *ante*, p. 856;
- No. 71-175. FERNANDEZ *v.* PARKER, WARDEN, *ante*, p. 863;
- No. 71-192. JOHNSON *v.* OIL TRANSPORT Co., INC., ET AL., *ante*, p. 868;
- No. 71-5019. TYMCIO *v.* OHIO, *ante*, p. 868;
- No. 71-5022. GRAMES *v.* MICHIGAN, *ante*, p. 860;
- No. 71-5042. STODDARD *v.* STODDARD, *ante*, p. 860;
- No. 71-5057. BENOIT *v.* UNITED STATES, *ante*, p. 861;
- No. 71-5060. JOHNSON *v.* UNITED STATES, *ante*, p. 861;
- No. 71-5080. HURD *v.* DIMENTO & SULLIVAN, *ante*, p. 862;
- No. 71-5107. WELCH *v.* CARDWELL, WARDEN, *ante*, p. 884; and
- No. 71-5111. LOTT *v.* MANCUSI, CORRECTIONAL SUPERINTENDENT, *ante*, p. 884. Petitions for rehearing denied.
- No. 71-20. ALO *v.* UNITED STATES, *ante*, p. 850. Motion for disclosure and petition for rehearing denied.

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No. 70-5197. SWEENEY *v.* SHERIDAN, CHIEF JUDGE, U. S. DISTRICT COURT, ET AL., *ante*, p. 839. Petition for rehearing and other relief denied.

NOVEMBER 17, 1971

*Dismissal Under Rule 60*

No. 71-460. CHAPMAN, AKA GARDNER *v.* UNITED STATES. C. A. 4th Cir. Petition for writ of certiorari dismissed pursuant to Rule 60 of the Rules of this Court.

NOVEMBER 19, 1971

*Miscellaneous Orders\**

No. A-507. HAMMOND ET AL. *v.* BROWN ET AL. C. A. 6th Cir. Application for stay presented to MR. JUSTICE STEWART, and by him referred to the Court, denied. MR. JUSTICE DOUGLAS, believing that the Ohio anti-rioting statutes, Ohio Rev. Code Ann. §§ 2923.52 to 2923.54 (Supp. 1970), on their face seem overly broad and *prima facie* infringe on freedom of expression protected by the First Amendment, would grant stay for reasons stated in his dissenting opinion in *Younger v. Harris*, 401 U. S. 37, 58.

No. A-516. HANRAHAN *v.* STATE ELECTORAL BOARD OF ILLINOIS ET AL.; and

No. A-523. GERMANO ET AL. *v.* STATE ELECTORAL BOARD OF ILLINOIS. D. C. N. D. Ill. Applications for stay presented to MR. JUSTICE BLACKMUN, and by him referred to the Court, denied. MR. JUSTICE MARSHALL took no part in the consideration or decision of these applications.

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\*For order amending the Court's Rules, see *post*, p. 1066.

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NOVEMBER 22, 1971

*Affirmed on Appeal*

No. 71-5337. FULLINGTON ET AL. *v.* SHEA, DIRECTOR, COLORADO DEPARTMENT OF SOCIAL SERVICES, ET AL. Appeal from D. C. Colo. Motion for leave to proceed *in forma pauperis* granted and judgment affirmed. MR. JUSTICE DOUGLAS is of the opinion that probable jurisdiction should be noted and case set for oral argument. Reported below: 320 F. Supp. 500.

*Appeal Dismissed*

No. 71-5363. KIRKWOOD *v.* WINSTEAD, COMMISSIONER OF PUBLIC WELFARE, ET AL. Appeal from Sup. Ct. Miss. dismissed for want of substantial federal question. MR. JUSTICE DOUGLAS and MR. JUSTICE BRENNAN are of the opinion that probable jurisdiction should be noted and case set for oral argument. Reported below: 246 So. 2d 557.

*Miscellaneous Orders*

No. A-520. IN RE DISBARMENT OF SAMPLES. It is ordered that Franklin P. Samples, of Huntsville, Alabama, be suspended from the practice of law in this Court and that a rule issue, returnable within 40 days, requiring him to show cause why he should not be disbarred from the practice of law in this Court.

No. A-521. IN RE DISBARMENT OF FREEL. It is ordered that Frederick J. Freel, of Kansas City, Missouri, be suspended from the practice of law in this Court and that a rule issue, returnable within 40 days, requiring him to show cause why he should not be disbarred from the practice of law in this Court.

No. A-522. IN RE RESIGNATION OF PRATT. The request of John E. Pratt, of Boynton Beach, Florida, that his name be stricken from the roll of attorneys admitted to practice in this Court is granted.

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No. 70-34. *SIERRA CLUB v. MORTON, SECRETARY OF THE INTERIOR, ET AL.* C. A. 9th Cir. [Certiorari granted, 401 U. S. 907.] Motion of Environmental Defense Fund for leave to file reply brief as *amicus curiae* granted.

No. 70-153. *UNITED STATES v. UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF MICHIGAN ET AL. (PLAMONDON ET AL., REAL PARTIES IN INTEREST).* C. A. 6th Cir. [Certiorari granted, 403 U. S. 930.] Motion of Plamondon et al. for leave to proceed *in forma pauperis* granted.

No. 70-5025. *HAINES v. KERNER ET AL.* C. A. 7th Cir. [Certiorari granted, 401 U. S. 954.] Motion of Boston College Center for Corrections & the Law for leave to file a brief as *amicus curiae* and motion to dispense with printing granted.

No. 71-93. *HOWARD ET AL. v. FLORIDA EAST COAST RAILWAY Co., INC., ET AL., ante*, p. 897. Motion of respondent Florida East Coast Railway Co., Inc., for damages denied. MR. JUSTICE MARSHALL took no part in the consideration or decision of this motion.

No. A-411 (71-384). *KLEIN v. BOWER ET AL.* C. A. 2d Cir. Application for vacation of preliminary injunction denied.

No. 71-5321. *KINNELL v. GAFFNEY, WARDEN*; and

No. 71-5334. *NEWMAN v. WAINWRIGHT, CORRECTIONS DIRECTOR.* Motions for leave to file petitions for writs of habeas corpus denied.

#### *Certiorari Granted*

No. 71-5078. *PETERS v. KIFF, WARDEN.* C. A. 5th Cir. Motion for leave to proceed *in forma pauperis* and certiorari granted. Reported below: 441 F. 2d 370.

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*Certiorari Denied*

No. 70-5282. *LITTLEJOHN v. ILLINOIS*. App. Ct. Ill., 1st Dist. Certiorari denied. Reported below: 130 Ill. App. 2d 1064, 266 N. E. 2d 358.

No. 70-5330. *SCHILL v. WISCONSIN*. Sup. Ct. Wis. Certiorari denied. Reported below: 50 Wis. 2d 473, 184 N. W. 2d 858.

No. 70-5339. *KNOWLES v. ILLINOIS*. App. Ct. Ill., 1st Dist. Certiorari denied. Reported below: 130 Ill. App. 2d 78, 264 N. E. 2d 716.

No. 70-5351. *TURLEY v. MISSOURI*. C. A. 8th Cir. Certiorari denied. Reported below: 443 F. 2d 1313.

No. 70-5385. *RUTHERFORD v. NEBRASKA*. Sup. Ct. Neb. Certiorari denied. Reported below: 186 Neb. 581, 185 N. W. 2d 449.

No. 71-5032. *REYNOLDS v. TENNESSEE*. Sup. Ct. Tenn. Certiorari denied.

No. 71-5039. *MILLER v. FLORIDA*. Dist. Ct. App. Fla., 3d Dist. Certiorari denied. Reported below: 246 So. 2d 169.

No. 71-5053. *HARDIN v. UNITED STATES*; and

No. 71-5434. *HARDIN v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: No. 71-5434, 446 F. 2d 148.

No. 71-5054. *OAKES v. VERMONT*. Sup. Ct. Vt. Certiorari denied. Reported below: 129 Vt. 241, 276 A. 2d 18.

No. 71-5058. *WOODS ET UX. v. DEPARTMENT OF SOCIAL SERVICES*. Ct. Sp. App. Md. Certiorari denied. Reported below: 11 Md. App. 10, 272 A. 2d 92.

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No. 71-5059. *NEWMAN v. ESTELLE, WARDEN*. Sup. Ct. Mont. Certiorari denied. Reported below: 156 Mont. 502, 484 P. 2d 276.

No. 71-5063. *FAHY ET AL. v. CALIFORNIA*. Ct. App. Cal., 4th App. Dist. Certiorari denied. Reported below: 13 Cal. App. 3d 808, 92 Cal. Rptr. 451.

No. 71-5084. *MATTHEWS v. KENTUCKY*. Ct. App. Ky. Certiorari denied. Reported below: 468 S. W. 2d 313.

No. 71-5207. *BROOKS v. WAINWRIGHT, CORRECTIONS DIRECTOR*. C. A. 5th Cir. Certiorari denied.

No. 71-5320. *GEPHART v. BETO, CORRECTIONS DIRECTOR*. C. A. 5th Cir. Certiorari denied. Reported below: 441 F. 2d 319.

No. 71-5322. *PERRY v. CALIFORNIA*. Ct. App. Cal., 2d App. Dist. Certiorari denied.

No. 71-5323. *WILLIAMS ET AL. v. UNITED STATES*. C. A. 10th Cir. Certiorari denied. Reported below: 445 F. 2d 421.

No. 71-5324. *DAVIS v. UNITED STATES*. C. A. 10th Cir. Certiorari denied.

No. 71-5325. *PANZAVECCHIA v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 446 F. 2d 1293.

No. 71-5328. *VERDUGO-MEDINA v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 443 F. 2d 1351.

No. 71-5329. *HARDEN, AKA BROWN v. ZELKER, CORRECTIONAL SUPERINTENDENT*. C. A. 2d Cir. Certiorari denied.

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No. 71-5330. *MISENHIMER v. UNITED STATES*. C. A. 9th Cir. Certiorari denied.

No. 71-5331. *BRYANT ET AL. v. CARLESON, DIRECTOR, DEPARTMENT OF SOCIAL WELFARE OF CALIFORNIA*. C. A. 9th Cir. Certiorari denied. Reported below: 444 F. 2d 353.

No. 71-5332. *RUBIN v. CALIFORNIA*. Ct. App. Cal., 1st App. Dist. Certiorari denied.

No. 71-5333. *MEACHUM v. UNITED STATES*. C. A. D. C. Cir. Certiorari denied.

No. 71-5338. *TONSUL ET AL. v. NEW JERSEY*. Sup. Ct. N. J. Certiorari denied.

No. 71-5340. *WASHINGTON v. YEAGER, PRINCIPAL KEEPER*. C. A. 3d Cir. Certiorari denied. Reported below: 448 F. 2d 87.

No. 71-5341. *STAFFORD v. NAA EMPLOYEES FEDERAL CREDIT UNION ET AL.* Ct. App. Cal., 2d App. Dist. Certiorari denied.

No. 71-5344. *WISEMAN v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 445 F. 2d 792.

No. 71-5345. *LIPSCOMB v. CHENAULT*. C. A. 6th Cir. Certiorari denied.

No. 71-5346. *HICKS v. PICARD, CORRECTIONAL SUPERINTENDENT*. C. A. 1st Cir. Certiorari denied.

No. 71-5347. *POPE v. HENDRICK, PRISONS SUPERINTENDENT*. C. A. 3d Cir. Certiorari denied.

No. 71-5348. *CRISPIN v. MANCUSI, CORRECTIONAL SUPERINTENDENT*. C. A. 2d Cir. Certiorari denied. Reported below: 448 F. 2d 233.

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No. 71-5350. *CLARK v. ZELKER, CORRECTIONAL SUPERINTENDENT*. C. A. 2d Cir. Certiorari denied.

No. 71-5351. *WILKINSON v. OHIO*. Sup. Ct. Ohio. Certiorari denied. Reported below: 26 Ohio St. 2d 185, 271 N. E. 2d 242.

No. 71-5354. *DAVIS v. UNITED STATES*. C. A. 10th Cir. Certiorari denied.

No. 70-5233. *DONALDSON v. CALIFORNIA*. Ct. App. Cal., 2d App. Dist. Certiorari denied. MR. JUSTICE BRENNAN would grant certiorari.

MR. JUSTICE DOUGLAS, with whom MR. JUSTICE MARSHALL concurs, dissenting.

The Court today denies certiorari to a black man who stands convicted by an all-white jury which had been selected through a process which petitioner alleges methodically excluded members of minority racial groups. The most pernicious of the practices used to exclude black and Chicano jurors was what purported to be an intelligence test which, because of its cultural bias and its blatant unreliability, excluded nearly 50% of the otherwise qualified prospective jurors from minority groups. We would all agree that the brand of justice received in our courts should not depend upon the color of one's skin and that the selection of jury panels should not be tainted by the exclusion of racial groups. With all respect, I fear precisely that result has obtained in the case.

Petitioner was convicted of the unlawful possession of marihuana. The State's evidence consisted of the testimony of two white police officers that they observed and smelled petitioner smoking a marihuana cigarette and that he dropped the cigarette on the ground before he was arrested. Petitioner steadfastly denied his guilt. He offered witnesses who "testified that, because of an obstruction, it was not possible to see" the area where

petitioner was allegedly smoking marihuana, who supported his story "that no one was smoking marihuana," and who gave credence to the apparent theory of the defense that a black man was being framed by white police officers. *People v. Donaldson*, Crim. No. 17615 (Ct. App. Cal., Dec. 21, 1970, unpublished opinion).

The issue for the jury was the relative credibility of two white police officers and the four black defense witnesses. Cf. Note, 79 *Yale L. J.* 531 (1970). That this question was close is indicated by the fact that after some 5¼ hours of deliberation the jury reported itself deadlocked eight-to-four and an *Allen* charge was then given. See *Allen v. United States*, 164 U. S. 492 (1896). It took an additional hour of deliberation before the jury resolved the credibility issue against petitioner and returned a verdict of guilty.

On appeal, the California Court of Appeal affirmed the conviction, holding that petitioner, as a black, had no standing to challenge the exclusion of Chicanos from the jury panel,<sup>1</sup> that the exclusion of racial minorities was unintentional and that, in any event, it did not deny equal protection of the laws. The Supreme Court of California denied a petition for a hearing and petitioner now seeks a writ of certiorari.

The culturally biased intelligence test used in this case excludes almost half of the otherwise qualified prospective jurors from minority groups. It is also argued that members of racial minority groups are effectively barred from jury service by (1) the selection of prospec-

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<sup>1</sup> Such reasoning is contrary to *Ballard v. United States*, 329 U. S. 187, 195 (1946), where we said, "[R]eversible error does not depend on a showing of prejudice in an individual case. The evil lies in the admitted exclusion of an eligible class or group in the community in disregard of the prescribed standards of jury selection. . . . The injury is not limited to the defendant—there is injury to the jury system, to the law as an institution, to the community at large, and to the democratic ideal reflected in the processes of our courts."

tive jurors solely from voter registration lists despite the significantly lower incidence of registration by blacks and Chicanos, (2) the absence of any follow-up procedures to correct for the high frequency with which blacks and Chicanos fail to respond to jury service notices, and (3) the token \$5 per diem paid jurors which precludes those in low economic strata from serving as jurors.<sup>2</sup>

Petitioner concludes that "[i]n the 1968 South District Jury Draw [from which his jury was selected], the cumulative effect of the . . . selection procedures . . . was such that the percentage selected from a white middle-class comparison area was *13 times* as great as the percentage selected from a low-income black comparison area, and the exclusion of low-income Mexican-Americans was *virtually total*."<sup>3</sup> The opinion of the Court of Appeal and the argument of the respondent do not, in my mind, sufficiently rebut the prima facie showing petitioner has made that he has been denied the equal protection of the laws by his conviction by a jury selected

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<sup>2</sup> Even if it were assumed that these exclusions were the unavoidable consequences of Los Angeles' method of jury selection, it does not follow that jury panels must be racially unrepresentative of the community. The names of prospective jurors are selected by a computer from voter registration lists. With modern sampling techniques, it would be a simple matter to program the computer so that its initial selection of names would—after the operation of these exclusions—yield a racially representative jury panel. Mills, *A Statistical Study of Occupations of Jurors in a United States District Court*, 22 Md. L. Rev. 205, 214 (1962).

"A selection system which is economically and racially unbalanced by the application of juror quality tests can produce representative panels if a larger percentage of those population segments which tend to fail the tests is considered for jury service so that a fair proportion of their members survive the selection process." Kuhn, *Jury Discrimination: The Next Phase*, 41 S. Cal. L. Rev. 235, 315 (1968).

<sup>3</sup> See Appendix to this opinion.

through racially biased procedures.<sup>4</sup> "If there has been discrimination, whether accomplished ingeniously or ingenuously, the conviction cannot stand." *Smith v. Texas*, 311 U. S. 128, 132 (1940). It would seem enough, therefore, to reverse this conviction out of hand because of the racial bias built into the jury selection and because of the improper legal standard applied by the court below.

The test in question was drafted in 1935 and it consists of some 33 questions designed to measure vocabulary and reading comprehension. The Jury Commissioner testified that it was administered "[t]o see if a prospective juror has sufficient knowledge of the English language," but expert scientific testimony indicated that the test was "not a good measure . . . of average verbal ability." The author of the examination, Psychology Professor Dr. Neil Warren, testified that he validated the test and established the passing score by administering it to some 100 to 200 white middle-class college students. Over the years, the test questions themselves have remained unchanged despite changes in the common vocabulary.<sup>5</sup> At some point, however, the test was divided into two parts and, for some inexplicable reason, the passing grade was changed. Dr. Warren testified that these changes would "reduce the reliability to the point where [he] would not want to condone the results." Another expert witness testified that the test was "completely arbitrary to use in its present form."

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<sup>4</sup> The Court of Appeal argues, for example, that "[t]he poor, the Blacks and Mexican-Americans have the power to register to vote, and voter registration is free and relatively uncomplicated." Be this as it may, this argument is unresponsive to petitioner's contention that jurors are selected from lists which are racially unbalanced.

<sup>5</sup> Evidence was adduced at trial which indicated that, even apart from the unsupported changes in the grading of the examination, the test was likely invalid solely because of its vintage and the unrepresentative sample used to validate it in 1935.

While the test may have been unreliable as a measure of juror competence, it effectively excluded minority group members from jury service. The rate of failure in minority group areas was almost four times that in a white, middle-class comparison area:

<i>Area</i>	<i>Failure Rate</i>
Long Beach (white, middle-class) . . . .	13% (14/106)
Wilmington (48% Spanish surname) and San Pedro (41% Mexican- American and 11% black) . . . . .	45% (23/51)
Central Long Beach (55% black) . . . .	48% (12/25)
District-wide . . . . .	18% (349/1937)

It would seem that this device is ill-suited to serve any legitimate state interest and does serve to exclude from jury panels significantly disproportionate numbers of minority groups. The Constitution does not, of course, require racially balanced juries because, in our pluralistic society, a group of 12 men and women could not possibly represent all of the ethnic, racial, and economic groups which compose our diverse culture. *Swain v. Alabama*, 380 U. S. 202, 208 (1965); *Cassell v. Texas*, 339 U. S. 282, 286-287 (1950); *Akins v. Texas*, 325 U. S. 398 (1945). What the Constitution demands, however, is that no such groups be consciously excluded from the selection process. See *Hill v. Texas*, 316 U. S. 400, 404 (1942); *Smith v. Texas*, 311 U. S. 128, 130 (1940); 5 U. S. Commission on Civil Rights Report, Justice 89-103 (1961).

What the facts might show after oral argument, no one knows. I would hold constitutionally infirm a conviction returned by a jury from which a disproportionately large number of minority group members were excluded through the use of a culturally biased intelligence test where the test is shown to be unreliable as a measure of jury competence. There is a prima facie showing that this test is vulnerable. Accordingly, I would grant the petition for a writ of certiorari.

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

A comparison of the number of jurors approved from white, Chicano, and black residential areas indicates the discriminatory effect of the jury selection method used here:

	<i>Long Beach</i> (white, middle- class)	<i>Wilmington</i> (48% Spanish surname)	<i>Central Long Beach</i> (55% black)
Median family income.....	\$14,252	\$6,584	\$6,534
Total population.....	20,215	36,796	26,400
Population over 21.....	11,522	18,002	13,423
Registered voters (percent of those over 21).....	8,991 (78%)	8,945 (41%)	5,747 (43%)
Notices sent (percent of registered voters).....	315 (3.50%)	163 (1.82%)	110 (1.91%)
Responses received (percent of notices).....	216 (65%)	68 (42%)	46 (42%)
Approved by jury commission.....	83	13	12

Douglas, J., dissenting

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No. 70-5379. RIDDELL *v.* RHAY, PENITENTIARY SUPERINTENDENT. Sup. Ct. Wash. Certiorari denied. Reported below: 79 Wash. 2d 248, 484 P. 2d 907.

MR. JUSTICE DOUGLAS, with whom MR. JUSTICE BRENNAN concurs, dissenting.

Over the dissents of JUSTICES Black, BRENNAN, and MARSHALL, and myself, this Court last Term held that statements elicited in violation of *Miranda v. Arizona*, 384 U. S. 436 (1966), may nevertheless be used to impeach the credibility of a defendant whose testimony in his own behalf is inconsistent with those statements. *Harris v. New York*, 401 U. S. 222 (1971). Denial of certiorari in this case illustrates the rewards that flow to those police interrogators who, deliberately or otherwise, ignore the restrictions placed upon them by *Miranda*—restrictions necessary to safeguard the privilege against self-incrimination and to insure the reliability of statements elicited in the police-dominated atmosphere of an incommunicado custodial interrogation.

Petitioner Riddell was convicted in state court of assault. The facts are undisputed. In the course of an argument over the conduct of a neighbor's dog, a rifle carried by Mr. Riddell discharged, the bullet striking his neighbor in the foot. The only real issue at trial was that of intent. Testifying in his own defense, Mr. Riddell said he did not intend that the rifle go off, and did not have his finger on the trigger when it fired. On cross-examination, however, the prosecution was permitted to confront Mr. Riddell with a statement elicited from him, in violation of *Miranda*, in which he told the police "I cocked the hammer and pulled the trigger. I thought the rifle was aimed towards the ground and only intended to scare Mr. Lewis." This statement was virtually a direct admission of the only element of the offense at issue; and though it was introduced for the

“limited purpose” of “impeachment,” it was certain to have a prejudicial, if not conclusive, effect on the jury.

The possibility of using illegally obtained incriminating statements at trial, for any purpose, raises grave questions concerning police noncompliance with *Miranda*. It is undeniable that *Miranda* was predicated in part upon a deep concern for discouraging coercive police practices. Eleven pages of the opinion are devoted to an examination of police interrogation procedures. They compel the conclusion that

“without proper safeguards the process of in-custody interrogation of persons suspected or accused of crime contains inherently compelling pressures which work to undermine the individual’s will to resist and to compel him to speak where he would not otherwise do so freely.” 384 U. S., at 467.

It is, of course, just this kind of testimonial compulsion that the Fifth Amendment, made applicable to the States by the Fourteenth, proscribes.

There is widespread agreement that police interrogation procedures are sensitive to the mandates of the courts:

“[T]he predominant incentive for interrogation is to obtain evidence for use in court. Consequently, police conduct in this area is likely to be responsive to judicial rules governing the admissibility of that evidence. ‘There can be no doubt,’ the President’s Crime Commission reported, that the Supreme Court’s rulings about interrogation procedures ‘had much to do with the fact that today the third degree is almost nonexistent.’”

Oaks, *Studying The Exclusionary Rule in Search and Seizure*, 37 U. Chi. L. Rev. 665, 722 (1970). See also J. Wilson, *Varieties of Police Behavior* (1968). Thus, to the extent that the use of incriminating statements elic-

ited in violation of constitutional safeguards is prohibited, the police have no incentive to attempt to circumvent those safeguards.

There is the view that the use of *Miranda*-violative statements does not affect the "fundamental fairness" of the courtroom trial.\* I cannot accept this position. The lesson of *Miranda* is that the effective determination of guilt all too often rests on the ruses and stratagems employed in an incommunicado police interrogation, not on the evidence and testimony elicited in the impartial surroundings of a trial court.

Yet, after *Harris*, there is no longer any real incentive for police to obey *Miranda*. Credibility is always an issue when an accused takes the stand in his own defense. The license granted by the *Harris* majority to use *Miranda*-violative statements for impeachment purposes, therefore, foreshadows the possible use of tainted statements in almost every case. This opens the door to a calculated risk by police interrogators. If, in response to *Miranda* warnings, an accused indicates he wishes to have an attorney present during questioning, the request may be ignored with virtual impunity. If a damaging statement is thereafter forthcoming, it may almost certainly be used against the accused if he later elects to take the stand in his own defense. Moreover, the risk

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\*This view is reflected in draft legislation recently submitted by the Justice Department to the Senate Subcommittee on Constitutional Rights. The proposed legislation would restrict federal habeas corpus relief to constitutional rights which have as their "primary purpose the protection of the reliability of either the factfinding process at the trial or the appellate process on appeal from the judgment of conviction." Habeas Corpus Amendments of the Department of Justice, Letter to Hon. Sam J. Ervin, Jr., Oct. 19, 1971, Appendix ii. The covering letter expressly refers to the use of *Miranda*-violative statements as a claim which would be barred under the proposed amendments. Letter 16. But see Dershowitz & Ely, *Harris v. New York*, 80 Yale L. J. 1198 (1971).

is minimal that the inability to use the statement in the prosecution's case in chief will result in a dismissal of the charges or a directed verdict of acquittal. Unlike other situations in which exclusionary rules operate to exclude illegally obtained physical evidence, it is seldom that a prima facie case requires corroboration from the lips of the accused.

The accused may take cold comfort in the fact that if he does take the stand, the tainted statements may only be used for "impeachment." We have often noted the impossible task that faces a jury instructed to close its eyes to the fact that evidence introduced for a limited purpose is highly damaging on the ultimate issue of guilt as well. "The naive assumption that prejudicial effects can be overcome by instructions to the jury . . . all practicing lawyers know to be unmitigated fiction." *Krulewitch v. United States*, 336 U. S. 440, 453 (Jackson, J., concurring). See also *Spencer v. Texas*, 385 U. S. 554, 575 (opinion of Warren, C. J.). Cf. *Bruton v. United States*, 391 U. S. 123; *Jackson v. Denno*, 378 U. S. 368.

It is no answer to say, as did the majority in *Harris*, that the privilege against self-incrimination "cannot be construed to include the right to commit perjury." 401 U. S., at 225. As we said in *Miranda*, the presence of counsel during police questioning may help "to guarantee that the accused gives a fully accurate statement to the police and that the statement is rightly reported by the prosecution at trial." 384 U. S., at 470. A statement made in the inherently coercive, police-dominated atmosphere denounced in *Miranda* is not so reliable that we can safely ignore its implicit involuntariness and the critical burden the use of such a statement places upon the exercise of the Fifth Amendment privilege.

The exclusionary rule is a recognition that the vision of law enforcement authorities is often narrowed by

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their total immersion in the never-ending war against crime. If we permit the legitimate desire to win that war to undermine constitutional guarantees of liberty, our victory will indeed be fleeting. I would grant this petition.

No. 71-5029. *SINGLETON v. DEEGAN*, CORRECTIONAL SUPERINTENDENT. C. A. 2d Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted to review question whether search of bedroom bureau was incident to arrest of petitioner in basement when he was at time of the search outside house in a police car.

No. 71-5030. *HUFFMAN v. OHIO*. Sup. Ct. Ohio. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted and case set for oral argument.

No. 71-5317. *MCCORMICK v. SELECTIVE SERVICE LOCAL BOARD No. 41 ET AL.* C. A. 7th Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted and case set for oral argument.

No. 71-5326. *FELAN v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted and case set for oral argument.

No. 71-5336. *SANNEY v. NEW YORK*. Ct. App. N. Y. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted and case set for oral argument.

No. 71-5343. *MACIAS v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted and case set for oral argument. Reported below: 446 F. 2d 54.

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No. 71-5349. *BUCHANAN v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted and case set for oral argument. Reported below: 446 F. 2d 1379.

No. 71-5352. *BACA v. UNITED STATES*. C. A. 10th Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted and case set for oral argument. Reported below: 444 F. 2d 1292.

No. 71-5040. *McKENZIE v. DIRECTOR, PATUXENT INSTITUTION*. Ct. Sp. App. Md. Certiorari denied as untimely.

No. 71-5319. *KING v. SADDLEBACK JUNIOR COLLEGE DISTRICT ET AL.* C. A. 9th Cir. Certiorari denied. MR. JUSTICE DOUGLAS and MR. JUSTICE WHITE are of the opinion that certiorari should be granted and case set for oral argument. Reported below: 445 F. 2d 932.

*Rehearing Denied*

No. 70-219. *MUNCASTER v. UNITED STATES*, *ante*, p. 827;

No. 70-5180. *HINKLE v. SMITH, GOVERNOR OF TEXAS, ET AL.*, *ante*, p. 910;

No. 71-270. *KEN AKER, INC. v. GIRARD TRUST BANK*, *ante*, p. 912; and

No. 71-5125. *DORROUGH v. UNITED STATES*, *ante*, p. 915. Petitions for rehearing denied.

No. 70-5192. *SPENCER v. EYMAN, WARDEN*, *ante*, p. 838;

No. 70-5212. *BROOKS v. UNITED STATES*, *ante*, p. 839; and

No. 70-5364. *MANUEL v. AMERICAN NATIONAL TRUST ET AL.*, *ante*, p. 846. Motions for leave to file petitions for rehearing denied.

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*Dismissal Under Rule 60*

No. 71-323. TERRY *v.* CALIFORNIA. Sup. Ct. Cal. Petition for writ of certiorari dismissed pursuant to Rule 60 of the Rules of this Court. Reported below: 4 Cal. 3d 911, 484 P. 2d 1375.

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*Miscellaneous Order*

No. A-577. CHANDLER, U. S. DISTRICT JUDGE *v.* O'BRYAN. C. A. 10th Cir. Application for extension of time to file petition for writ of certiorari and stay of mandate presented to MR. JUSTICE WHITE, and by him referred to the Court, granted. It is ordered that the time for filing petition for writ of certiorari be extended, and the mandate be stayed until January 7, 1972. If petition for writ of certiorari be filed on or before January 7, 1972, then mandate is further stayed pending disposition of petition for writ of certiorari. MR. JUSTICE MARSHALL took no part in the consideration or decision of this application.

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*Affirmed on Appeal*

No. 70-12. BARTLEY ET AL. *v.* RICHARDSON, SECRETARY OF HEALTH, EDUCATION, AND WELFARE, ET AL. Appeal from D. C. E. D. Ky. Judgment holding constitutional § 224 of the Social Security Act, 42 U. S. C. § 424a, affirmed. MR. JUSTICE DOUGLAS dissents on basis of his dissent in *Richardson v. Belcher*, ante, p. 78, at 84. Reported below: 311 F. Supp. 876.

No. 71-306. CARLESON, DIRECTOR OF DEPARTMENT OF SOCIAL WELFARE, ET AL. *v.* TAYLOR ET AL. Appeal from D. C. N. D. Cal. Motion of appellees for leave to proceed *in forma pauperis* granted. Judgment affirmed. Reported below: 330 F. Supp. 85.

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*Appeals Dismissed*

No. 71-436. *EMHART CORP. 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: 443 Pa. 397, 278 A. 2d 916.

No. 71-457. *VILLAGE OF WEST MILWAUKEE ET AL. v. AREA BOARD OF VOCATIONAL, TECHNICAL & ADULT EDUCATION (DISTRICT 9)*. Appeal from Sup. Ct. Wis. dismissed for want of substantial federal question. Reported below: 51 Wis. 2d 356, 187 N. W. 2d 387.

No. 71-475. *HOFFMAN v. CARSON, SHERIFF, ET AL.* Appeal from Sup. Ct. Fla. dismissed for want of substantial federal question. MR. JUSTICE DOUGLAS is of the opinion that probable jurisdiction should be noted. Reported below: 250 So. 2d 891.

*Miscellaneous Orders*

No. A-544. *DADURIAN v. UNITED STATES*. C. A. 1st Cir. Application for bail and/or stay of mandate presented to MR. JUSTICE DOUGLAS, and by him referred to the Court, denied. MR. JUSTICE STEWART is of the opinion that the application should be granted.

No. 70-18. *ROE ET AL. v. WADE, DISTRICT ATTORNEY OF DALLAS COUNTY*. Appeal from D. C. N. D. Tex. [Probable jurisdiction postponed, 402 U. S. 941.] Motion of appellee to postpone oral argument denied.

No. 70-55. *BOARD OF REGENTS OF THE UNIVERSITY OF TEXAS SYSTEM v. NEW LEFT EDUCATION PROJECT ET AL.* Appeal from D. C. W. D. Tex. [Probable jurisdiction postponed, 401 U. S. 935.] Motion of appellant to postpone oral argument denied.

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No. 70-5015. ARGERSINGER *v.* HAMLIN, SHERIFF. Sup. Ct. Fla. [Certiorari granted, 401 U. S. 908.] Motion of Bruce S. Rogow for leave to permit J. Michael Shea to argue orally *pro hac vice* on behalf of petitioner granted.

No. 70-5025. HAINES *v.* KERNER ET AL. C. A. 7th Cir. [Certiorari granted, 401 U. S. 954.] Motions of National Law Office of the National Legal Aid & Defenders Assn. for leave to file a brief as *amicus curiae* and to dispense with printing granted.

No. 70-5146. BEASLEY *v.* UNITED STATES, *ante*, p. 866. Order dated November 16, 1971 [*ante*, p. 960], denying petition for rehearing is vacated pending further order of this Court.

*Probable Jurisdiction Noted*

No. 71-11. JAMES, JUDICIAL ADMINISTRATOR, ET AL. *v.* STRANGE. Appeal from D. C. Kan. Probable jurisdiction noted. Reported below: 323 F. Supp. 1230.

No. 71-422. LAKE CARRIERS' ASSN. ET AL. *v.* MACMULLAN ET AL. Appeal from D. C. E. D. Mich. Probable jurisdiction noted. Reported below: 336 F. Supp. 248.

*Certiorari Granted*

No. 70-220. CAPLIN, TRUSTEE *v.* MARINE MIDLAND GRACE TRUST CO. OF NEW YORK. C. A. 2d Cir. Certiorari granted. Reported below: 439 F. 2d 118.

No. 70-314. BRUNETTE MACHINE WORKS, LTD. *v.* KOCKUM INDUSTRIES, INC. C. A. 9th Cir. Certiorari granted. Reported below: 442 F. 2d 420.

No. 71-41. INTERNATIONAL UNION OF OPERATING ENGINEERS, LOCAL 150, AFL-CIO *v.* FLAIR BUILDERS, INC. C. A. 7th Cir. Certiorari granted. Reported below: 440 F. 2d 557.

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No. 71-81. UNITED STATES *v.* BISWELL. C. A. 10th Cir. Certiorari granted. Reported below: 442 F. 2d 1189.

No. 71-257. GRUBBS, DBA T. R. GRUBBS TIRE & APPLIANCE *v.* GENERAL ELECTRIC CREDIT CORP. C. A. 5th Cir. Certiorari granted. Reported below: 447 F. 2d 286.

No. 71-431. IMMIGRATION AND NATURALIZATION SERVICE *v.* VITALES. C. A. 9th Cir. Certiorari granted. Reported below: 443 F. 2d 343.

No. 71-452. HEALY ET AL. *v.* JAMES ET AL. C. A. 2d Cir. Certiorari granted. Reported below: 445 F. 2d 1122.

*Certiorari Denied.* (See also No. 71-436, *supra.*)

No. 70-285. ALPHA CHI OMEGA ET AL. *v.* RADER. C. A. 7th Cir. Certiorari denied. Reported below: 440 F. 2d 469.

No. 70-301. PHELPS *v.* TEXAS. Ct. Crim. App. Tex. Certiorari denied. Reported below: 462 S. W. 2d 310.

No. 71-109. SWANQUIST ET AL. *v.* LIVINGSTON ET AL. C. A. 7th Cir. Certiorari denied.

No. 71-159. FIRST NATIONAL BANK IN PALM BEACH ET AL., TRUSTEES *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 443 F. 2d 480.

No. 71-279. PALLADIO, INC. *v.* DIAMOND, COMMISSIONER OF DEPARTMENT OF ENVIRONMENTAL CONSERVATION OF NEW YORK, ET AL. C. A. 2d Cir. Certiorari denied. Reported below: 440 F. 2d 1319.

No. 71-344. 16,179 MOLSO ITALIAN .22 CALIBER WINLEE DERRINGER CONVERTIBLE STARTER GUNS ET AL. *v.* UNITED STATES ET AL. C. A. 2d Cir. Certiorari denied. Reported below: 443 F. 2d 463.

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No. 71-350. *MIAMI BEACH FIRST NATIONAL BANK, EXECUTOR v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 443 F. 2d 475.

No. 71-380. *IRONWORKERS LOCAL 86 ET AL. v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 443 F. 2d 544.

No. 71-384. *KLEIN v. BOWER ET AL.* C. A. 2d Cir. Certiorari denied.

No. 71-390. *BESSESEN ET UX. v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 445 F. 2d 463.

No. 71-393. *DOWELL ET UX. v. UNITED STATES*. C. A. 10th Cir. Certiorari denied. Reported below: 446 F. 2d 145.

No. 71-394. *LLOYD ET UX. v. CITY OF FORT PIERCE*. Dist. Ct. App. Fla., 4th Dist. Certiorari denied.

No. 71-398. *THOMPSON ET UX. v. CLARK ET AL.* Sup. Ct. Ill. Certiorari denied.

No. 71-402. *OTTO v. HOUSTON BELT & TERMINAL RAILWAY Co.* C. A. 5th Cir. Certiorari denied. Reported below: 444 F. 2d 219.

No. 71-406. *MISCHLICH v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 445 F. 2d 1194.

No. 71-407. *POLISHER v. MARYLAND*. Ct. App. Md. Certiorari denied. Reported below: See 11 Md. App. 555, 276 A. 2d 102.

No. 71-409. *COLLINS v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 445 F. 2d 653.

No. 71-432. *COBB v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 446 F. 2d 1174.

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No. 71-410. *PIPKIN v. CALIFORNIA*. Ct. App. Cal., 2d App. Dist. Certiorari denied. Reported below: 17 Cal. App. 3d 190, 94 Cal. Rptr. 595.

No. 71-418. *MILLER ET AL. v. WINTERS*; and

No. 71-426. *THOMAS ET AL. v. WINTERS*. C. A. 2d Cir. Certiorari denied. Reported below: 446 F. 2d 65.

No. 71-423. *SQUELLA-AVENDANO v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 447 F. 2d 575.

No. 71-450. *MULLIN ET AL. v. CITY OF MANSFIELD ET AL.* Sup. Ct. Ohio. Certiorari denied. Reported below: 26 Ohio St. 2d 129, 269 N. E. 2d 602.

No. 71-459. *ISBRANDTSEN TANKERS, INC. v. PRESIDENT OF INDIA*. C. A. 2d Cir. Certiorari denied. Reported below: 446 F. 2d 1198.

No. 71-484. *INDEPENDENT SOAP & CHEMICAL WORKERS OF KANSAS CITY v. CUNNINGHAM ET AL.* Sup. Ct. Kan. Certiorari denied. Reported below: 207 Kan. 812, 486 P. 2d 1316.

No. 70-215. *LOFTY 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: 440 F. 2d 1144.

No. 71-1. *CRAIG v. CALIFORNIA*. Ct. App. Cal., 3d App. Dist. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted.

No. 71-84. *HILL ET AL. v. PENNSYLVANIA*. C. A. 3d Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. Reported below: 439 F. 2d 1016.

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No. 71-382. *WANAMAKER v. RILEY*. C. A. 6th Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted.

No. 71-391. *SHAFFER v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. Reported below: 445 F. 2d 579.

No. 71-420. *WEST MORRIS REGIONAL BOARD OF EDUCATION v. SILLS, ATTORNEY GENERAL OF NEW JERSEY, ET AL.* Sup. Ct. N. J. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. Reported below: 58 N. J. 464, 279 A. 2d 609.

No. 71-449. *VAN MARK PRODUCTS CORP. ET AL. v. TAPCO PRODUCTS CO.* C. A. 6th Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. Reported below: 446 F. 2d 420.

No. 71-5105. *BENJAMIN 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.

No. 71-240. *BRIGHT ET AL. v. LAIRD, SECRETARY OF DEFENSE, ET AL.* C. A. 9th Cir. Certiorari denied. MR. JUSTICE DOUGLAS and MR. JUSTICE BRENNAN are of the opinion that certiorari should be granted. Reported below: 441 F. 2d 479.

No. 71-357. *J. L. SIMMONS CO., INC. v. LOCAL 742, UNITED BROTHERHOOD OF CARPENTERS & JOINERS OF AMERICA, ET AL.* C. A. D. C. Cir. Motion of Chamber of Commerce of the United States for leave to file a brief as *amicus curiae* granted. Certiorari denied. MR. JUSTICE BRENNAN and MR. JUSTICE WHITE are of the opinion that certiorari should be granted. Reported below: 144 U. S. App. D. C. 20, 444 F. 2d 895.

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No. 71-441. JONES ET AL. *v.* VOGEL ET AL. C. A. 3d Cir. Certiorari denied. MR. JUSTICE BLACKMUN took no part in the consideration or decision of this petition. Reported below: 443 F. 2d 257.

*Rehearing Denied*

No. 70-156. ESCUTE *v.* DELGADO, WARDEN, *ante*, p. 824;

No. 70-157. ADMIRAL-MERCHANTS MOTOR FREIGHT, INC., ET AL. *v.* UNITED STATES ET AL., *ante*, p. 802;

No. 70-289. ROSE *v.* ROSE ET AL., *ante*, p. 831;

No. 70-340. HANCOCK *v.* UNITED STATES, *ante*, p. 833; and

No. 71-62. RAMIREZ *v.* UNITED STATES, *ante*, p. 869. Petitions for rehearing denied.

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*Dismissals Under Rule 60*

No. 71-467. SAVE MORE OF GARY, INC. *v.* UNITED STATES. C. A. 7th Cir. Petition for writ of certiorari dismissed pursuant to Rule 60 of the Rules of this Court. Reported below: 442 F. 2d 36.

No. 71-5439. ROBINSON *v.* SIGLER, WARDEN. Appeal from Sup. Ct. Neb. dismissed pursuant to Rule 60 of the Rules of this Court. Reported below: 187 Neb. 144, 187 N. W. 2d 756.

*Affirmed on Appeal*

No. 71-478. WEAVER, DIRECTOR, ILLINOIS DEPARTMENT OF PUBLIC AID, ET AL. *v.* DOE ET AL. Appeal from D. C. N. D. Ill. Motion of appellee Doe for leave to proceed *in forma pauperis* granted. Judgment affirmed. Reported below: 332 F. Supp. 61.

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*Appeal Dismissed*

No. 71-349. *EGER v. FLORIDA STATE BOARD OF DENTISTRY*. Appeal from Sup. Ct. Fla. dismissed for want of substantial federal question.

*Certiorari Granted—Reversed*

No. 71-190. *HARTSTEIN v. MISSOURI*. Sup. Ct. Mo. Certiorari granted and judgment reversed. *Redrup v. New York*, 386 U. S. 767 (1967). THE CHIEF JUSTICE, MR. JUSTICE WHITE, and MR. JUSTICE BLACKMUN dissent. Reported below: 469 S. W. 2d 329.

No. 71-443. *WIENER ET AL. v. CALIFORNIA*. App. Dept., Super. Ct. Cal., County of San Diego. Certiorari granted and judgment reversed. *Redrup v. New York*, 386 U. S. 767 (1967). THE CHIEF JUSTICE, MR. JUSTICE WHITE, and MR. JUSTICE BLACKMUN dissent.

*Certiorari Granted—Reversed and Remanded*. (See No. 70-5308, *ante*, p. 249, and No. 71-262, *ante*, p. 254.)

*Miscellaneous Orders*

No. 9, Orig. *UNITED STATES v. LOUISIANA ET AL.* (LOUISIANA BOUNDARY CASE). Motion of State of Louisiana for relief pursuant to Rule 60 (b) of the Federal Rules of Civil Procedure denied. MR. JUSTICE MARSHALL took no part in the consideration or decision of this motion. [For earlier orders herein, see, *e. g.*, *ante*, p. 932.]

No. 40, Orig. *PENNSYLVANIA v. NEW YORK ET AL.* Report of Special Master received and filed. Exceptions, if any, may be filed by the parties within 45 days. Reply briefs, if any, may be filed within 30 days thereafter. [For earlier orders herein, see, *e. g.*, 401 U. S. 931.]

No. A-482. *BABBITZ v. McCANN*, DISTRICT ATTORNEY OF MILWAUKEE COUNTY, WISCONSIN, ET AL. C. A. 7th Cir. Application for stay presented to MR. JUSTICE MARSHALL, and by him referred to the Court, denied. MR. JUSTICE DOUGLAS is of the opinion that the stay should be granted.

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No. A-342. UNITED STATES EX REL. ANNALORO *v.* ELIAS, CORRECTIONAL SUPERINTENDENT. Pending appeal to C. A. 3d Cir. Renewed application for bail pending appeal denied. MR. JUSTICE DOUGLAS is of the opinion that bail should be granted. MR. JUSTICE BRENNAN took no part in the consideration or decision of this application.

No. A-578. DIXON, TREASURER OF ILLINOIS, ET AL. *v.* SKOLNICK ET AL. Pending appeal to C. A. 7th Cir. Application for stay and other relief presented to MR. JUSTICE BLACKMUN, and by him referred to the Court, denied. MR. JUSTICE MARSHALL took no part in the consideration or decision of this application.

No. 70-92. CALIFORNIA MOTOR TRANSPORT CO. ET AL. *v.* TRUCKING UNLIMITED ET AL. C. A. 9th Cir. [Certiorari granted, 402 U. S. 1008.] Motion for leave to file supplemental brief after argument granted.

No. 70-295. FIRST NATIONAL CITY BANK *v.* BANCO NACIONAL DE CUBA. C. A. 2d Cir. [Certiorari granted, *ante*, p. 820.] Request for additional time for oral argument denied.

No. 71-162. BOARD OF REGENTS OF STATE COLLEGES ET AL. *v.* ROTH. C. A. 7th Cir. [Certiorari granted, *ante*, p. 909.] Motion of American Federation of Teachers for leave to file a brief as *amicus curiae* granted.

No. 71-415. COLORADO RIVER WATER CONSERVATION DISTRICT *v.* ROCKY MOUNTAIN POWER CO. ET AL. Sup. Ct. Colo. The Solicitor General is invited to file a brief in this case expressing the views of the United States. Reported below: — Colo. —, 486 P. 2d 438.

No. 71-5120. RIDDELL *v.* HAMILTON, CHIEF JUSTICE, SUPREME COURT OF WASHINGTON. Motion for leave to file petition for writ of mandamus denied.

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No. 71-5382. *TURNER v. COX, WARDEN*. Motion for leave to file petition for writ of habeas corpus denied.

*Certiorari Granted*

No. 71-110. *GELBARD ET AL. v. UNITED STATES*. C. A. 9th Cir. Motion to supplement petition denied. Certiorari granted. Reported below: 443 F. 2d 837.

No. 71-263. *UNITED STATES v. EGAN ET AL.* C. A. 3d Cir. Motion of respondent Walsh for leave to proceed *in forma pauperis* granted. Certiorari granted. Reported below: 450 F. 2d 199.

No. 71-5097. *HUFFMAN v. BOERSEN*. Sup. Ct. Neb. Motion for leave to proceed *in forma pauperis* and certiorari granted.

*Certiorari Denied*

No. 70-5207. *WILSON v. COX, ACTING WARDEN*. C. A. 6th Cir. Certiorari denied.

No. 70-5250. *RICHARDSON v. CADY, WARDEN*. C. A. 7th Cir. Certiorari denied. Reported below: 440 F. 2d 1231.

No. 70-5314. *JACKSON v. WOLFF, WARDEN*. C. A. 8th Cir. Certiorari denied.

No. 70-5398. *CAUGHLIN v. CALIFORNIA*. Sup. Ct. Cal. Certiorari denied. Reported below: 4 Cal. 3d 461, 482 P. 2d 211.

No. 71-138. *DONAHUE v. CALIFORNIA JUSTICE COURT FOR THE KLAMATH-TRINITY JUDICIAL DISTRICT ET AL.* Ct. App. Cal., 1st App. Dist. Certiorari denied. Reported below: 15 Cal. App. 3d 557, 93 Cal. Rptr. 310.

No. 71-387. *HERALD Co. ET AL. v. NATIONAL LABOR RELATIONS BOARD ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 444 F. 2d 430.

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No. 71-392. *KAHN v. UNITED STATES*. C. A. 2d Cir. Certiorari denied.

No. 71-419. *BATES INDUSTRIES, INC. v. DAYTONA SPORTS Co. ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 441 F. 2d 1110.

No. 71-424. *HAYUTIN v. COLORADO STATE DEPARTMENT OF HIGHWAYS*. Sup. Ct. Colo. Certiorari denied. Reported below: — Colo. —, 485 P. 2d 896.

No. 71-433. *RICHARDSON v. UNITED STATES ET AL.* C. A. 3d Cir. Certiorari denied.

No. 71-440. *GREAT SOUTHWEST WAREHOUSES, INC. v. NATIONAL LABOR RELATIONS BOARD*. C. A. 5th Cir. Certiorari denied. Reported below: 443 F. 2d 61.

No. 71-442. *PHILPOTT, DISTRICT DIRECTOR OF INTERNAL REVENUE, ET AL. v. HILL*. C. A. 7th Cir. Certiorari denied. Reported below: 445 F. 2d 144.

No. 71-456. *HUMPHREYS, TRUSTEE v. NISSHO AMERICAN CORP.* C. A. 5th Cir. Certiorari denied. Reported below: 445 F. 2d 1096.

No. 71-461. *MENDELL v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 447 F. 2d 639.

No. 71-466. *MILLS v. SMALL*. C. A. 9th Cir. Certiorari denied. Reported below: 446 F. 2d 249.

No. 71-468. *UNITED AIR LINES, INC. v. SPROGIS*. C. A. 7th Cir. Certiorari denied. Reported below: 444 F. 2d 1194.

No. 71-469. *HENDERSON v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 446 F. 2d 960.

No. 71-472. *DUGAN ET AL. v. DIEBER*. App. Div., Sup. Ct. N. Y., 2d Jud. Dept. Certiorari denied.

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No. 71-470. *ERWIN v. UNITED STATES*. C. A. 10th Cir. Certiorari denied. Reported below: 445 F. 2d 1035.

No. 71-477. *FIRST REGULAR BAPTIST CHURCH OF FRANKLIN, OHIO v. INSURANCE CO. OF NORTH AMERICA*. C. A. 6th Cir. Certiorari denied. Reported below: 444 F. 2d 279.

No. 71-483. *DONALD v. JONES, SHERIFF*. C. A. 5th Cir. Certiorari denied. Reported below: 445 F. 2d 601.

No. 71-491. *KANESHIRO, AKA HIGA, ET AL. v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 445 F. 2d 1266.

No. 71-493. *RAMZY v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 446 F. 2d 1184.

No. 71-505. *TUCK v. UNITED STATES*. C. A. 9th Cir. Certiorari denied.

No. 71-511. *CRISTOL ET AL. v. CITY OF MIAMI BEACH ET AL.* Dist. Ct. App. Fla., 3d Dist. Certiorari denied. Reported below: 246 So. 2d 595.

No. 71-535. *FREEDMAN v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 444 F. 2d 1387.

No. 71-538. *CITY OF DETROIT v. GARMENT CORP. OF AMERICA*. Ct. App. Mich. Certiorari denied. Reported below: 32 Mich. App. 715, 189 N. W. 2d 72.

No. 71-5069. *WILLIAMS v. CARDWELL, WARDEN*. C. A. 6th Cir. Certiorari denied.

No. 71-5085. *STEVENSON v. MANCUSI, WARDEN*. C. A. 2d Cir. Certiorari denied.

No. 71-5113. *MAGEE v. CONTI, U. S. DISTRICT JUDGE, ET AL.* C. A. 9th Cir. Certiorari denied.

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No. 71-5124. *PETERSON v. NEVADA*. Sup. Ct. Nev. Certiorari denied. Reported below: — Nev. —, 483 P. 2d 204.

No. 71-5174. *MCNEIL v. DIRECTOR, PATUXENT INSTITUTION*. C. A. 4th Cir. Certiorari denied.

No. 71-5360. *BALC v. ARDELEAN ET AL.* C. A. 6th Cir. Certiorari denied.

No. 71-5362. *ORTIZ v. UNITED STATES*. C. A. 10th Cir. Certiorari denied. Reported below: 445 F. 2d 1100.

No. 71-5366. *MAHLER v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 442 F. 2d 1172.

No. 71-5372. *STRADER v. NORTH CAROLINA*. Ct. App. N. C. Certiorari denied.

No. 71-5373. *NYSTROM v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 447 F. 2d 1350.

No. 71-5376. *WOLLWEBER v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 445 F. 2d 295.

No. 71-5377. *WILLIAMS v. CARLSON, DIRECTOR OF U. S. BUREAU OF PRISONS, ET AL.* C. A. 7th Cir. Certiorari denied.

No. 71-5378. *CHANNEY v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 446 F. 2d 571.

No. 71-5380. *GALDEIRA ET AL. v. RICHARDSON ET AL.* Sup. Ct. Hawaii and 1st Cir. Ct. Hawaii. Certiorari denied.

No. 70-5312. *LAKE v. HALE, WARDEN*. C. A. 5th Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted and case set for oral argument. Reported below: 440 F. 2d 1191.

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No. 71-115. *EGENBERG v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted and case set for oral argument. Reported below: 441 F. 2d 441.

No. 71-173. *STEVENS v. MISSOURI*. Sup. Ct. Mo. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted and case set for oral argument. Reported below: 467 S. W. 2d 10.

No. 71-400. *HARRIS v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted and case set for oral argument. Reported below: 446 F. 2d 129.

No. 71-523. *WILHOIT v. UNITED STATES*. Ct. App. D. C. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted and case set for oral argument. Reported below: 279 A. 2d 505.

No. 71-5356. *STINNETT v. KENTUCKY*. Ct. App. Ky. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted and case set for oral argument. Reported below: 468 S. W. 2d 784.

No. 71-5381. *LUCAS v. NEW YORK*. Ct. App. N. Y. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted and case set for oral argument. Reported below: 28 N. Y. 2d 761, 269 N. E. 2d 914.

No. 71-319. *JOHNSON ET AL. v. MOSES ET AL.* C. A. 1st Cir. Motion of Investment Company Institute for leave to file a brief as *amicus curiae* granted. Certiorari denied. Reported below: 445 F. 2d 369.

No. 71-453. *SWORD ET AL. v. FOX ET AL.* C. A. 4th Cir. Certiorari denied. MR. JUSTICE DOUGLAS and MR. JUSTICE BRENNAN are of the opinion that certiorari should be granted and case set for oral argument. Reported below: 446 F. 2d 1091.

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No. 71-454. *DELOME v. UNION BARGE LINE CO. ET AL.* C. A. 5th Cir. Motion of American Trial Lawyers Assn. for leave to file a brief as *amicus curiae* granted. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted and case set for oral argument. Reported below: 444 F. 2d 225.

No. 71-462. *BRICKER v. SCEVA SPEARE MEMORIAL HOSPITAL.* Sup. Ct. N. H. Motion of American College of Legal Medicine for leave to file a brief as *amicus curiae* granted. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted and case set for oral argument. Reported below: 111 N. H. 276, 281 A. 2d 589.

No. 71-465. *BOWMAN, TRUSTEE IN BANKRUPTCY v. BAY AREA PAINTERS' TRUST FUND.* C. A. 9th Cir. Certiorari denied. MR. JUSTICE WHITE is of the opinion that certiorari should be granted and case set for oral argument. Reported below: 447 F. 2d 1106.

No. 71-5342. *MANNING v. UNITED STATES.* C. A. 2d Cir. Motion for leave to file supplemental brief granted. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted and case set for oral argument. Reported below: 448 F. 2d 992.

No. 71-5374. *ORTIZ v. BETO, CORRECTIONS DIRECTOR, ET AL.* C. A. 5th Cir. Certiorari denied. MR. JUSTICE DOUGLAS and MR. JUSTICE MARSHALL are of the opinion that certiorari should be granted and case set for oral argument.

No. 71-471. *SLAYTON, PENITENTIARY SUPERINTENDENT v. LEVINE.* C. A. 4th Cir. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 444 F. 2d 525.

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No. 71-5375. *STANLEY v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. MR. JUSTICE BRENNAN, MR. JUSTICE STEWART, and MR. JUSTICE MARSHALL are of the opinion that certiorari should be granted and case set for oral argument. Reported below: 446 F. 2d 374.

*Rehearing Denied*

No. 70-119. *BLEVINS v. UNITED STATES*, *ante*, p. 823;

No. 70-154. *PRUETT v. TEXAS ET AL.*, *ante*, p. 910;

No. 70-5071. *ROGERS v. ADAMS, WARDEN*, *ante*, p. 834;

No. 70-5317. *JONES v. AUSTIN, SECRETARY OF STATE OF MICHIGAN*, *ante*, p. 911;

No. 71-289. *ZAHN ET AL. v. SECURITY PACIFIC NATIONAL BANK, EXECUTOR, ET AL.*, *ante*, p. 938;

No. 71-326. *LOWE v. LOWE*, *ante*, p. 931;

No. 71-376. *KINNEAR-WEED CORP. v. HUMBLE OIL & REFINING Co.*, *ante*, p. 941;

No. 71-5016. *PLOTTS v. RICHARDSON, SECRETARY OF HEALTH, EDUCATION, AND WELFARE*, *ante*, p. 913; and

No. 71-5168. *SLOBEN v. NEW YORK*, *ante*, p. 942. Petitions for rehearing denied.

No. 71-219. *HAWKINS v. UNITED STATES*, *ante*, p. 911. Motion for leave to proceed further herein *in forma pauperis* granted. Petition 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 Sixth Circuit during the week of February 7, 1972, and for such additional time in advance thereof to prepare for the trial of cases, and for such further time as may be required to complete unfinished business, pursuant to 28 U. S. C. § 294 (a), is ordered entered on the minutes of this Court, pursuant to 28 U. S. C. § 295.

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*Order Appointing Marshal*

It is ordered by the Court that Frank M. Hepler be, and he is hereby, appointed Marshal of this Court effective January 1, 1972.

*Affirmed on Appeal*

No. 70-315. RESOLUTE INSURANCE CO. ET AL. *v.* SEVENTH JUDICIAL DISTRICT COURT OF OKLAHOMA COUNTY ET AL. Affirmed on appeal from D. C. W. D. Okla. Reported below: 336 F. Supp. 497.

No. 71-425. COIT ET AL. *v.* GREEN ET AL. Affirmed on appeal from D. C. D. C. Reported below: 330 F. Supp. 1150.

*Appeals Dismissed*

No. 71-296. FIRST MERCANTILE CONSUMER DISCOUNT CO. ET AL. *v.* HENRY ET AL. Appeal from Sup. Ct. N. J. dismissed for want of substantial federal question. MR. JUSTICE BRENNAN and MR. JUSTICE STEWART are of the opinion that probable jurisdiction should be noted and case set for oral argument.

No. 71-329. CORSETTI, DBA DICK'S MARKET *v.* DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL. Appeal from Ct. App. Cal., 1st App. Dist., dismissed for want of substantial federal question.

No. 71-5379. HEIDEL *v.* ARIZONA STATE DEPARTMENT OF PUBLIC WELFARE ET AL. Appeal from Sup. Ct. Ariz. 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 and MR. JUSTICE BRENNAN are of the opinion that probable jurisdiction should be noted and case set for oral argument.

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No. 71-5414. *HARDEMAN v. CALIFORNIA ET AL.* Appeal from C. A. 9th Cir. dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied. Reported below: 445 F. 2d 258.

*Miscellaneous Orders*

No. A-611. *HOLT v. CITY OF RICHMOND ET AL.* C. A. 4th Cir. Application to vacate stay order presented to THE CHIEF JUSTICE, and by him referred to the Court, denied. MR. JUSTICE DOUGLAS is of the opinion that the stay should be vacated.

No. 9, Orig. *UNITED STATES v. LOUISIANA ET AL.* (LOUISIANA BOUNDARY CASE). Motion of the United States for entry of supplemental decree as to State of Louisiana granted. [For supplemental decree and counsel, see *ante*, p. 388.] [For earlier orders herein, see, *e. g.*, *ante*, p. 932.]

No. 52, Orig. *UNITED STATES v. FLORIDA.* Report of Special Master upon motion by the United States to dismiss counterclaim and deny demand for jury trial filed by State of Florida is received, filed, and adopted by the Court. [For earlier order, see 403 U. S. 950, *sub nom. United States v. Louisiana et al.* (*Louisiana Boundary Case*).]

No. 71-269. *NATIONAL BREWING CO. v. CALDWELL ET AL.* C. A. 5th Cir. The Solicitor General is invited to file a brief expressing the views of the United States. Reported below: 443 F. 2d 1044.

No. 71-5097. *HUFFMAN v. BOERSEN.* Sup. Ct. Neb. [Certiorari granted, *ante*, p. 990.] Motion of petitioner for appointment of counsel granted. It is ordered that Leo Eisenstatt, Esquire, of Omaha, Nebraska, be, and he is hereby, appointed to serve as counsel for petitioner in this case.

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No. 71-123. NATIONAL LABOR RELATIONS BOARD *v.* BURNS INTERNATIONAL SECURITY SERVICES, INC. (FORMERLY KNOWN AS WILLIAM J. BURNS INTERNATIONAL DETECTIVE AGENCY, INC.), ET AL.; and

No. 71-198. BURNS INTERNATIONAL SECURITY SERVICES, INC. *v.* NATIONAL LABOR RELATIONS BOARD ET AL. C. A. 2d Cir. [Certiorari granted, *ante*, p. 822.] Motion of respondent International Union, United Plant Guard Workers of America, for additional time for oral argument granted and 15 minutes allotted to the Union for that purpose. Burns International Security Services, Inc., allotted 15 additional minutes for oral argument.

No. 70-5015. ARGERSINGER *v.* HAMLIN, SHERIFF. Sup. Ct. Fla. [Certiorari granted, 401 U. S. 908.] Case restored to calendar for reargument. The Solicitor General is invited to file a brief expressing the views of the United States.

*Probable Jurisdiction Noted*

No. 71-36. CALIFORNIA ET AL. *v.* LARUE ET AL. Appeal from D. C. C. D. Cal. Probable jurisdiction noted. Reported below: 326 F. Supp. 348.

*Certiorari Granted*

No. 70-5276. MUREL ET AL. *v.* BALTIMORE CITY CRIMINAL COURT ET AL. C. A. 4th Cir. Motion for leave to proceed *in forma pauperis* and certiorari granted. Reported below: 436 F. 2d 1153.

No. 71-5103. MORRISSEY ET AL. *v.* BREWER, WARDEN, ET AL. C. A. 8th Cir. Motion for leave to proceed *in forma pauperis* and certiorari granted. Reported below: 443 F. 2d 942.

No. 71-5144. MCNEIL *v.* DIRECTOR, PATUXENT INSTITUTION. Ct. Sp. App. Md. Motion for leave to proceed *in forma pauperis* and certiorari granted.

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*Certiorari Denied.* (See also Nos. 71-5379 and 71-5414, *supra.*)

No. 70-336. *BURKE ET AL. v. ILLINOIS.* App. Ct. Ill., 1st Dist. *Certiorari denied.* Reported below: 131 Ill. App. 2d 76, 266 N. E. 2d 547.

No. 70-5173. *THOMPSON v. IOWA.* Sup. Ct. Iowa. *Certiorari denied.*

No. 70-5346. *RINGO v. WINGO, WARDEN.* C. A. 6th Cir. *Certiorari denied.*

No. 71-30. *FORTIS v. CALIFORNIA.* Ct. App. Cal., 2d App. Dist. *Certiorari denied.*

No. 71-153. *STEINBERG v. PENNSYLVANIA;*

No. 71-201. *McCLOSKEY & Co., INC., ET AL. v. PENNSYLVANIA;* and

No. 71-374. *PENNSYLVANIA v. McCLOSKEY ET AL.* Sup. Ct. Pa. *Certiorari denied.* Reported below: 443 Pa. 117, 277 A. 2d 764.

No. 71-245. *DEPANICIS ET AL. v. DEPARTMENT OF PUBLIC SAFETY, TOWN OF NUTLEY.* Super. Ct. N. J. *Certiorari denied.* Reported below: See 58 N. J. 93, 275 A. 2d 149.

No. 71-284. *MITCHELL v. LOUISIANA.* Sup. Ct. La. *Certiorari denied.* Reported below: 258 La. 427, 246 So. 2d 814.

No. 71-312. *SMITH v. WISCONSIN.* Sup. Ct. Wis. *Certiorari denied.* Reported below: 50 Wis. 2d 460, 184 N. W. 2d 889.

No. 71-408. *UNITED STATES v. CONNECTICUT MUTUAL LIFE INSURANCE Co. ET AL.* C. A. 5th Cir. *Certiorari denied.* Reported below: 446 F. 2d 136.

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No. 71-412. *CATALANO v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 444 F. 2d 1095.

No. 71-385. *PRINTING SPECIALTIES & PAPER PRODUCTS UNION No. 447, INTERNATIONAL PRINTING PRESSMEN & ASSISTANTS' UNION OF NORTH AMERICA, AFL-CIO v. PRIDE PAPERS-AARONSON BROS. PAPER CORP. ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 445 F. 2d 361.

No. 71-438. *FIELDS v. ASSOCIATION OF THE BAR OF THE CITY OF NEW YORK*. Ct. App. N. Y. Certiorari denied.

No. 71-447. *ALLEGHENY AIRLINES, INC. v. LEMAY, ADMINISTRATOR*. C. A. 7th Cir. Certiorari denied. Reported below: 448 F. 2d 1341.

No. 71-451. *MACE v. UNITED STATES*. C. A. 4th Cir. Certiorari denied.

No. 71-5001. *PREWITT v. EYMAN, WARDEN*. C. A. 9th Cir. Certiorari denied.

No. 71-5081. *CARTER v. TEXAS*. Ct. Crim. App. Tex. Certiorari denied.

No. 71-5104. *RAMOS v. NEW YORK*. App. Div., Sup. Ct. N. Y., 3d Jud. Dept. Certiorari denied.

No. 71-5115. *WROTH v. GUERRERO ET AL.* Ct. App. Cal., 2d App. Dist. Certiorari denied.

No. 71-5126. *ALEXANDER v. OREGON*. Ct. App. Ore. Certiorari denied. Reported below: — Ore. App. —, 480 P. 2d 729.

No. 71-5164. *FREEMAN v. PAGE, WARDEN*. C. A. 10th Cir. Certiorari denied. Reported below: 443 F. 2d 493.

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No. 71-5189. *MARNIN v. VUKCEVICH, PRISON SUPERINTENDENT*. Sup. Ct. N. J. Certiorari denied.

No. 71-5223. *SALAZAR v. WOLFF, WARDEN*. C. A. 8th Cir. Certiorari denied. Reported below: 441 F. 2d 834.

No. 71-5191. *GONZALES v. CALIFORNIA*. Ct. App. Cal., 2d App. Dist. Certiorari denied. Reported below: 14 Cal. App. 3d 881, 92 Cal. Rptr. 660.

No. 71-5308. *EGGLESTON v. CALIFORNIA*. Ct. App. Cal., 4th App. Dist. Certiorari denied. Reported below: 15 Cal. App. 3d 1026, 93 Cal. Rptr. 776.

No. 71-5383. *LIPSCOMB v. UNITED STATES*. C. A. 5th Cir. Certiorari denied.

No. 71-5385. *OLIVER v. GOVERNOR OF PENNSYLVANIA ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 442 F. 2d 1347.

No. 71-5387. *WHALEY v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 445 F. 2d 1401.

No. 71-5389. *BRAY v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 445 F. 2d 178.

No. 71-5390. *MADELEY v. SHORT ET AL.* C. A. 5th Cir. Certiorari denied.

No. 71-5392. *BENNETT v. DISTRICT DIRECTOR OF INTERNAL REVENUE ET AL.* C. A. 4th Cir. Certiorari denied.

No. 71-5393. *MCCAINE v. SWENSON, WARDEN*. C. A. 8th Cir. Certiorari denied.

No. 71-5394. *SHAPPELL v. MARTIN-MARIETTA CORP.* C. A. 5th Cir. Certiorari denied. Reported below: 435 F. 2d 1262 and 442 F. 2d 1351.

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No. 71-5397. *LEWIS v. PENNSYLVANIA*. Sup. Ct. Pa. Certiorari denied. Reported below: 443 Pa. 305, 279 A. 2d 26.

No. 71-5398. *BETHEA v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 446 F. 2d 30.

No. 71-5401. *WALKER v. UNITED STATES*. C. A. 6th Cir. Certiorari denied.

No. 71-5402. *QUEEN, AKA ARNOLD v. UNITED STATES*. C. A. 10th Cir. Certiorari denied. Reported below: 445 F. 2d 358.

No. 71-5403. *CRONAN v. MANCUSI, CORRECTIONAL SUPERINTENDENT*. C. A. 2d Cir. Certiorari denied. Reported below: 444 F. 2d 51.

No. 71-5404. *LONGO v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 445 F. 2d 305.

No. 71-5406. *SAULSBURY v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 445 F. 2d 4.

No. 71-5408. *LOTHRIDGE ET AL. v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 441 F. 2d 919.

No. 71-53. *REDWOOD v. NEW YORK*. App. Term, Sup. Ct. N. Y., 1st Jud. Dept. Motion to dispense with printing petition granted. Certiorari denied.

No. 71-265. *WALTER, DBA CLASSIC ART THEATRES I & II ET AL. v. SLATON ET AL.* Sup. Ct. Ga. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. Reported below: 227 Ga. 676, 182 S. E. 2d 464.

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No. 71-339. *KERSHAW v. TENNESSEE*. Sup. Ct. Tenn. Motion to dispense with printing petition granted. Certiorari denied.

No. 71-428. *BACALL ET AL. v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. Reported below: 443 F. 2d 1050.

No. 71-141. *COLLIGAN ET AL. v. ACTIVITIES CLUB OF NEW YORK, LTD., AKA NEW YORK WINTER SKI CLUB, ET AL.* C. A. 2d Cir. Certiorari denied. MR. JUSTICE DOUGLAS and MR. JUSTICE STEWART are of the opinion that certiorari should be granted. Reported below: 442 F. 2d 686.

No. 71-435. *RYAN v. TARR, DIRECTOR, SELECTIVE SERVICE SYSTEM, ET AL.* C. A. 8th Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. Reported below: 445 F. 2d 560.

No. 71-5312. *HENDERSON v. CITY OF KANSAS CITY*. Sup. Ct. Mo. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. Reported below: 468 S. W. 2d 48.

No. 71-293. *GOHAM ET AL. v. NEBRASKA*. Sup. Ct. Neb. Motion to dispense with printing petition and reply brief granted. Certiorari denied. Reported below: 187 Neb. 35 and 48, 187 N. W. 2d 305 and 298.

No. 71-421. *TEXAS GULF SULPHUR CO. ET AL. v. MITCHELL ET AL.* C. A. 10th Cir. Certiorari denied. MR. JUSTICE STEWART and MR. JUSTICE BLACKMUN are of the opinion that certiorari should be granted. Reported below: 446 F. 2d 90.

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No. 71-313. PAGE, SUPERINTENDENT OF PUBLIC INSTRUCTION, ET AL. *v.* WILLIAMS ET AL. C. A. 7th Cir. Motion of respondents Alexander et al. for leave to proceed *in forma pauperis* granted. Certiorari denied.

No. 71-327. TEXAS GULF SULPHUR CO. ET AL. *v.* SECURITIES AND EXCHANGE COMMISSION;

No. 71-328. HUNTINGTON *v.* SECURITIES AND EXCHANGE COMMISSION;

No. 71-346. CRAWFORD *v.* SECURITIES AND EXCHANGE COMMISSION; and

No. 71-347. HOLYK ET AL. *v.* SECURITIES AND EXCHANGE COMMISSION. C. A. 2d Cir. Certiorari denied. MR. JUSTICE STEWART and MR. JUSTICE BLACKMUN are of the opinion that certiorari should be granted in No. 71-327. MR. JUSTICE BLACKMUN is of the opinion that certiorari should be granted limited to Question 5 in No. 71-346 and limited to Questions 6 and 7 in No. 71-347. Reported below: 446 F. 2d 1301.

No. 71-446. HAMMOND LEAD PRODUCTS, INC. *v.* UNITED STATES (VALLS, REAL PARTY IN INTEREST). C. C. P. A. Certiorari denied. MR. JUSTICE STEWART is of the opinion that certiorari should be granted. Reported below: 58 C. C. P. A. (Cust.) 129, 440 F. 2d 1024.

No. 71-458. CITY OF TEXARKANA ET AL. *v.* CIVIL AERONAUTICS BOARD. C. A. D. C. Cir. Motion for leave to file copies of decisions of Administrative Agency as an unprinted appendix granted. Certiorari denied. Reported below: 144 U. S. App. D. C. 94, 444 F. 2d 969.

No. 71-5531. LIPSCOMB *v.* WARDEN, ATLANTA PENITENTIARY, ET AL. C. A. 5th Cir. Motion for leave to supplement petition granted. Certiorari denied. Reported below: 444 F. 2d 1055.

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*Rehearing Denied*

No. 70-5146. BEASLEY *v.* UNITED STATES, *ante*, p. 866;

No. 71-302. RATLIFF ET AL. *v.* COOPER LABORATORIES, INC., ET AL., *ante*, p. 948;

No. 71-336. UNITED DAIRY FARMERS COOPERATIVE ASSN. *v.* MILK CONTROL COMMISSION OF PENNSYLVANIA ET AL., *ante*, p. 930;

No. 71-414. VULCAN MATERIALS CO. *v.* UNITED STATES, *ante*, p. 942;

No. 71-5109. BUSH *v.* MORRIS, DISTRICT ATTORNEY OF SUMTER COUNTY, ET AL., *ante*, p. 884; and

No. 71-5181. HARRELSON, AKA STOUGHTENBOROUGH *v.* UNITED STATES, *ante*, p. 943. Petitions for rehearing denied.

DECEMBER 22, 1971

*Dismissal Under Rule 60*

No. 71-427. LORILLARD CORP. ET AL. *v.* ROBINSON ET AL. C. A. 4th Cir. Petition for writ of certiorari dismissed under Rule 60 of the Rules of this Court. Reported below: 444 F. 2d 791.

JANUARY 6, 1972

*Dismissals Under Rule 60*

No. 70-344. MORGAN *v.* UNITED STATES FIDELITY & GUARANTY Co. Sup. Ct. Miss. Petition for writ of certiorari dismissed under Rule 60 of the Rules of this Court. Reported below: 245 So. 2d 587.

No. 71-78. WATSON *v.* BIRDSONG ET AL. C. A. 6th Cir. Petition for writ of certiorari dismissed under Rule 60 of the Rules of this Court.

No. 71-5720. LANE *v.* TEXAS. Ct. Crim. App. Tex. Petition for writ of certiorari dismissed under Rule 60 of the Rules of this Court. Reported below: 471 S. W. 2d 854.

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No. 71-445. TOBACCO WORKERS INTERNATIONAL UNION, AFL-CIO, ET AL. *v.* ROBINSON ET AL. C. A. 4th Cir. Petition for writ of certiorari dismissed under Rule 60 of the Rules of this Court. Reported below: 444 F. 2d 791.

JANUARY 7, 1972

*Miscellaneous Order.* (For Court's order making allotment of Justices, see *ante*, p. III.)

JANUARY 10, 1972

*Affirmed on Appeal*

No. 71-474. LYNCH, DBA BREWSTER PRODUCTS *v.* BLOUNT, POSTMASTER GENERAL, ET AL. Affirmed on appeal from D. C. S. D. N. Y. MR. JUSTICE DOUGLAS would note probable jurisdiction and set the case for oral argument. Reported below: 330 F. Supp. 689.

*Appeals Dismissed*

No. 71-337. BROWN *v.* COLORADO. Appeal from Sup. Ct. Colo. dismissed for want of substantial federal question. MR. JUSTICE DOUGLAS would note probable jurisdiction and set case for oral argument. Reported below: — Colo. —, 485 P. 2d 500.

No. 71-463. KADANS *v.* COLLINS, CHIEF JUSTICE, SUPREME COURT OF NEVADA, ET AL. Appeal from C. A. 9th Cir. 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 and MR. JUSTICE BRENNAN would treat the appeal papers as a petition for writ of certiorari and grant the petition. Reported below: 441 F. 2d 657.

No. 71-569. CAROLYNE *v.* YOUNGSTOWN STATE UNIVERSITY ET AL. Appeal from Ct. App. Ohio, Mahoning County, dismissed for want of substantial federal question.

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No. 71-571. GENERAL MOTORS CORP. *v.* CITY OF LOS ANGELES. Appeal from Sup. Ct. Cal. dismissed for want of substantial federal question. MR. JUSTICE DOUGLAS would note probable jurisdiction and set case for oral argument. MR. JUSTICE POWELL took no part in the consideration or decision of this appeal. Reported below: 5 Cal. 3d 229, 486 P. 2d 163.

No. 71-5297. SEKERES *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 would note probable jurisdiction and set case for oral argument. Reported below: 48 Ill. 2d 431, 270 N. E. 2d 7.

*Vacated and Remanded on Appeal*

No. 70-5305. DIGESUALDO ET AL. *v.* SHEA, DIRECTOR OF DEPARTMENT OF SOCIAL SERVICES, ET AL. Appeal from D. C. Colo. Motion of appellants for leave to proceed *in forma pauperis* granted. Judgment vacated and case remanded for further consideration in light of *Townsend v. Swank*, *ante*, p. 282.

*Certiorari Granted—Vacated and Remanded*

No. 70-5047. MULLINS *v.* UNITED STATES. C. A. 4th Cir. Motion for leave to proceed *in forma pauperis* and certiorari granted. Judgment vacated and case remanded for further consideration in light of *United States v. Bass*, *ante*, p. 336. MR. JUSTICE BLACKMUN, with whom THE CHIEF JUSTICE joins, dissents for reasons stated in his dissenting opinion in *United States v. Bass*, *supra*, at 351. MR. JUSTICE POWELL and MR. JUSTICE REHNQUIST took no part in the consideration or decision of this motion and petition. Reported below: 432 F. 2d 1003.

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No. 70-64. LYKES BROS. STEAMSHIP Co., INC. v. CHAGOIS. C. A. 5th Cir. Certiorari granted, judgment vacated, and case remanded for further consideration in light of *Victory Carriers, Inc. v. Law, ante*, p. 202. MR. JUSTICE DOUGLAS dissents from remand. MR. JUSTICE POWELL and MR. JUSTICE REHNQUIST took no part in the consideration or decision of this case. Reported below: 432 F. 2d 388.

No. 70-5073. WILEY v. UNITED STATES;

No. 70-5074. TAYLOR v. UNITED STATES; and

No. 70-5095. SYNNEs v. UNITED STATES. C. A. 8th Cir. Motions for leave to proceed *in forma pauperis* and certiorari granted. Judgments vacated and cases remanded for further consideration in light of *United States v. Bass, ante*, p. 336. MR. JUSTICE BLACKMUN, with whom THE CHIEF JUSTICE joins, dissents for the reasons stated in his dissenting opinion in *United States v. Bass, supra*, at 351. MR. JUSTICE POWELL and MR. JUSTICE REHNQUIST took no part in the consideration or decision of these motions and petitions. Reported below: No. 70-5073, 438 F. 2d 773, No. 70-5074, 438 F. 2d 774, and No. 70-5095, 438 F. 2d 764.

No. 70-5267. CROW v. UNITED STATES. C. A. 9th Cir. Motion for leave to proceed *in forma pauperis* and certiorari granted. Judgment vacated and case remanded for further consideration in light of *United States v. Bass, ante*, p. 336. MR. JUSTICE BLACKMUN, with whom THE CHIEF JUSTICE joins, dissents for the reasons stated in his dissenting opinion in *United States v. Bass, supra*, at 351. MR. JUSTICE POWELL and MR. JUSTICE REHNQUIST took no part in the consideration or decision of this motion and petition. Reported below: 439 F. 2d 1193.

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No. 71-5335. *MADRIL v. UNITED STATES*. C. A. 9th Cir. Motion for leave to proceed *in forma pauperis* and certiorari granted. Judgment vacated and case remanded for further consideration in light of *United States v. Bass, ante*, p. 336. MR. JUSTICE BLACKMUN, with whom THE CHIEF JUSTICE joins, dissents for the reasons stated in his dissenting opinion in *United States v. Bass, supra*, at 351. MR. JUSTICE POWELL and MR. JUSTICE REHNQUIST took no part in the consideration or decision of this motion and petition. Reported below: 445 F. 2d 827.

No. 70-5048. *WARDEN v. JANKOWSKI ET AL.* Sup. Ct. III. Motion of petitioner for leave to proceed *in forma pauperis* and certiorari granted. Judgment vacated and case remanded for further consideration in light of *Mayer v. City of Chicago, ante*, p. 189. MR. JUSTICE POWELL and MR. JUSTICE REHNQUIST took no part in the consideration or decision of this motion and petition.

No. 70-5092. *COLBERT ET AL. v. CALIFORNIA*. Ct. App. Cal., 1st App. Dist. Motion for leave to proceed *in forma pauperis* and certiorari granted. Judgment vacated and case remanded for further consideration in light of *Mayer v. City of Chicago, ante*, p. 189. MR. JUSTICE POWELL and MR. JUSTICE REHNQUIST took no part in the consideration or decision of this motion and petition.

No. 70-5397. *KEEVER v. BAINTER, JUDGE*. Sup. Ct. Iowa. Motion for leave to proceed *in forma pauperis* and certiorari granted. Judgment vacated and case remanded for further consideration in light of *United States v. Marion, ante*, p. 307. MR. JUSTICE POWELL and MR. JUSTICE REHNQUIST took no part in the consideration or decision of this motion and petition. Reported below: 186 N. W. 2d 133.

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*Certiorari Dismissed*

No. 71-5473. *MILLER v. OHIO*. Ct. App. Ohio, Wayne County. Certiorari dismissed, it appearing that petitioner died on November 1, 1971.

*Miscellaneous Orders*

No. A-357. *BELL v. UNITED STATES*. D. C. E. D. Tex. Application for reconsideration of bail presented to MR. JUSTICE DOUGLAS, and by him referred to the Court, denied.

No. A-574. *SMITH v. NEW YORK*. Ct. App. N. Y. Application for bail denied.

No. A-659. *CHASON v. UNITED STATES*. C. A. 2d Cir. Renewed application for stay and bail denied.

No. 70-36. *PERRY ET AL. v. SINDERMANN*. C. A. 5th Cir. [Certiorari granted, 403 U. S. 917.] Request for two counsel to argue on behalf of petitioners denied.

No. 70-72. *UNITED STATES v. CHAS. PFIZER & Co., INC., ET AL.* C. A. 2d Cir. [Certiorari granted, 402 U. S. 942.] Motion of respondents for additional time for oral argument and for three counsel to argue denied. MR. JUSTICE STEWART, MR. JUSTICE WHITE, and MR. JUSTICE MARSHALL took no part in the consideration or decision of this motion.

No. 70-74. *PIPEFITTERS LOCAL UNION No. 562 ET AL. v. UNITED STATES*. C. A. 8th Cir. [Certiorari granted, 402 U. S. 994.] Motion of American Civil Liberties Union for leave to file a brief as *amicus curiae* denied. MR. JUSTICE BLACKMUN took no part in the consideration or decision of this motion.

No. 70-5012. *MILTON v. WAINWRIGHT, CORRECTIONS DIRECTOR*. [Certiorari granted, 403 U. S. 904.] Motion of J. Robert Olian for leave to argue *pro hac vice* on behalf of respondent granted.

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No. 70-105. HANRAHAN *v.* DOE ET AL.; and  
No. 70-106. HEFFERNAN, GUARDIAN *v.* DOE ET AL.  
Appeals from D. C. N. D. Ill. Motion of appellees to vacate stay order entered by MR. JUSTICE MARSHALL on February 10, 1971, denied.

No. 70-153. UNITED STATES *v.* UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF MICHIGAN ET AL. (PLAMONDON ET AL., REAL PARTIES IN INTEREST). C. A. 6th Cir. [Certiorari granted, 403 U. S. 930.] Motion of respondents for additional time for oral argument granted and a total of two hours allotted for oral argument. The Solicitor General allotted one hour to argue on behalf of the United States; counsel for named respondent allotted one-half hour and counsel for unnamed respondents allotted one-half hour for oral argument. MR. JUSTICE REHNQUIST took no part in the consideration or decision of this motion.

No. 70-286. IOWA BEEF PACKERS, INC. *v.* THOMPSON ET AL. Sup. Ct. Iowa. [Certiorari granted, *ante*, p. 820.] Motion requesting writ of certiorari be dismissed as improvidently granted deferred to hearing of case on the merits.

No. 70-5039. FUENTES ET AL. *v.* SHEVIN, ATTORNEY GENERAL OF FLORIDA, ET AL. Appeal from D. C. S. D. Fla. [Probable jurisdiction noted, 401 U. S. 906, *sub nom.* *Fuentes v. Faircloth.*] Motion for leave to cite supplemental authority granted.

No. A-666; 71-5277. CARTER *v.* COURT OF CRIMINAL APPEALS OF TEXAS. Application for stay of further court proceedings presented to MR. JUSTICE STEWART, and by him referred to the Court, denied. Motion for leave to file petition for writ of mandamus denied. MR. JUSTICE DOUGLAS is of the opinion that the motion should be granted.

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No. 70-5058. LYNCH ET AL. *v.* HOUSEHOLD FINANCE CORP. ET AL. Appeal from D. C. Conn. [Probable jurisdiction noted, 401 U. S. 935.] Motion of appellants for leave to file supplemental brief after argument granted.

No. 71-247. RABE *v.* WASHINGTON. Sup. Ct. Wash. [Certiorari granted, *ante*, p. 909.] Motions of National Association of Theatre Owners, Inc., and Motion Picture Association of America, Inc., for leave to file briefs as *amici curiae* granted.

No. 71-5396. DUHART ET AL. *v.* UNITED STATES COURT OF APPEALS FOR THE TENTH CIRCUIT ET AL. Motion for leave to file petition for writ of habeas corpus denied.

No. 71-5305. CIPOLLA *v.* WARDEN, KANSAS STATE PENITENTIARY, ET AL. Motion for leave to file petition for writ of habeas corpus denied. MR. JUSTICE DOUGLAS is of the opinion that the motion should be granted.

No. 71-464. KADANS *v.* FOLEY, U. S. DISTRICT JUDGE, ET AL.; and

No. 71-5425. LAUGHLIN *v.* UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT. Motions for leave to file petitions for writs of mandamus denied.

*Probable Jurisdiction Noted*

No. 70-250. CARLESON, DIRECTOR OF DEPARTMENT OF SOCIAL WELFARE, ET AL. *v.* REMILLARD ET AL. Appeal from D. C. N. D. Cal. Motion of appellee Remillard for leave to proceed *in forma pauperis* granted. Probable jurisdiction noted. Reported below: 325 F. Supp. 1272.

No. 71-16. MITCHELL, ATTORNEY GENERAL, ET AL. *v.* MANDEL ET AL. Appeal from D. C. E. D. N. Y. Probable jurisdiction noted. Reported below: 325 F. Supp. 620.

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No. 71-404. COLTEN *v.* KENTUCKY. Appeal from Ct. App. Ky. Probable jurisdiction noted. Reported below: 467 S. W. 2d 374.

No. 71-5445. SHADWICK *v.* CITY OF TAMPA. Appeal from Sup. Ct. Fla. Motion of appellant for leave to proceed *in forma pauperis* granted. Probable jurisdiction noted. Reported below: 250 So. 2d 4.

*Certiorari Granted*

No. 70-223. CENTRAL HARDWARE CO. *v.* NATIONAL LABOR RELATIONS BOARD ET AL. C. A. 8th Cir. Certiorari granted. Reported below: 439 F. 2d 1321.

No. 71-237. MANCUSI, CORRECTIONAL SUPERINTENDENT *v.* STUBBS. C. A. 2d Cir. Certiorari granted. Reported below: 442 F. 2d 561.

No. 71-506. UNITED STATES ET AL. *v.* MIDWEST VIDEO CORP. C. A. 8th Cir. Certiorari granted. Reported below: 441 F. 2d 1322.

No. 71-517. COMBS *v.* UNITED STATES. C. A. 6th Cir. Certiorari granted. Reported below: 446 F. 2d 515.

No. 71-564. DISTRICT OF COLUMBIA *v.* CARTER. C. A. D. C. Cir. Certiorari granted. Reported below: 144 U. S. App. D. C. 388, 447 F. 2d 358.

No. 70-283. ADAMS, WARDEN *v.* WILLIAMS. C. A. 2d Cir. Motion of respondent for leave to proceed *in forma pauperis* and certiorari granted. Reported below: 441 F. 2d 394.

*Certiorari Denied.* (See also Nos. 71-463 and 71-5297, *supra.*)

No. 70-159. DEUTSCH ET AL. *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied. Reported below: 440 F. 2d 651.

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No. 70-5288. *ROSS ET AL. v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 439 F. 2d 1355.

No. 70-5319. *POLSKY v. NEW MEXICO*. Ct. App. N. M. Certiorari denied. Reported below: 82 N. M. 393, 482 P. 2d 257.

No. 71-335. *WOLBERG v. OREGON*. Ct. App. Ore. Certiorari denied. Reported below: — Ore. App. —, 483 P. 2d 104.

No. 71-353. *GUMEN ET AL. v. CALIFORNIA*. Sup. Ct. Cal. Certiorari denied. Reported below: 5 Cal. 3d 62, 485 P. 2d 785.

No. 71-375. *THAYER v. CALIFORNIA*. App. Dept., Super. Ct. Cal., County of Orange. Certiorari denied.

No. 71-401. *DE LA PARRA v. UNITED STATES*. C. A. 9th Cir. Certiorari denied.

No. 71-476. *CARZOLI v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 447 F. 2d 774.

No. 71-479. *MARENO ET VIR v. WESTCHESTER ROCKLAND NEWSPAPERS, INC., ET AL.* App. Div., Sup. Ct. N. Y., 2d Jud. Dept. Certiorari denied.

No. 71-487. *SEAMAN v. NEW JERSEY*. Super. Ct. N. J. Certiorari denied. Reported below: 114 N. J. Super. 19, 274 A. 2d 810.

No. 71-489. *ALLIED PILOTS ASSN. v. CIVIL AERONAUTICS BOARD ET AL.*; and

No. 71-550. *AMERICAN AIRLINES, INC. v. CIVIL AERONAUTICS BOARD ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 445 F. 2d 891.

No. 71-494. *URBAN v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 445 F. 2d 641.

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No. 71-488. *SIMMS v. SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES*. Ct. App. Cal., 2d App. Dist. Certiorari denied.

No. 71-490. *BURCH v. NEW JERSEY*. Super. Ct. N. J. Certiorari denied. Reported below: See 58 N. J. 599, 279 A. 2d 684.

No. 71-495. *INTERNATIONAL ASSOCIATION OF MACHINISTS & AEROSPACE WORKERS (AFL-CIO) ET AL. v. UNITED AIRCRAFT CORP.* Sup. Ct. Conn. Certiorari denied. Reported below: 161 Conn. 79, 285 A. 2d 330.

No. 71-497. *KOTSAK v. NEW JERSEY*. Super. Ct. N. J. Certiorari denied.

No. 71-501. *EDGAR, COMMISSIONER OF EDUCATION OF TEXAS, ET AL. v. UNITED STATES*. C. A. 5th Cir. Certiorari denied.

No. 71-502. *ESTATE OF FRIED v. COMMISSIONER OF INTERNAL REVENUE*. C. A. 2d Cir. Certiorari denied. Reported below: 445 F. 2d 979.

No. 71-503. *WHITCOMB v. GENERAL DYNAMICS CORP. ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 443 F. 2d 630.

No. 71-504. *NEWS-JOURNAL Co. v. NATIONAL LABOR RELATIONS BOARD*. C. A. 3d Cir. Certiorari denied. Reported below: 447 F. 2d 65.

No. 71-508. *HENNING v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 446 F. 2d 774.

No. 71-510. *PACIFIC MARITIME ASSN. ET AL. v. LOCAL 13, INTERNATIONAL LONGSHOREMEN'S & WAREHOUSEMEN'S UNION*. C. A. 9th Cir. Certiorari denied. Reported below: 441 F. 2d 1061.

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No. 71-509. *MELTON v. UNITED STATES*. C. A. 4th Cir. Certiorari denied.

No. 71-512. *DISTRICT 20, UNITED MINE WORKERS OF AMERICA v. SAMS*. Sup. Ct. Ala. Certiorari denied. Reported below: 287 Ala. 312, 251 So. 2d 613.

No. 71-513. *COBUZZI v. CONNECTICUT*. Sup. Ct. Conn. Certiorari denied. Reported below: 161 Conn. 371, 288 A. 2d 439.

No. 71-514. *IOWA TRIBE OF THE IOWA RESERVATION IN KANSAS & NEBRASKA ET AL. v. UNITED STATES*. Ct. Cl. Certiorari denied. Reported below: 195 Ct. Cl. 365.

No. 71-522. *ST. LOUIS-SAN FRANCISCO RAILWAY CO. v. UNITED STATES*. Ct. Cl. Certiorari denied. Reported below: 195 Ct. Cl. 343, 444 F. 2d 1102.

No. 71-526. *FREED v. ERIE LACKAWANNA RAILWAY CO.* C. A. 6th Cir. Certiorari denied. Reported below: 445 F. 2d 619.

No. 71-528. *AMALGAMATED LOCAL UNION 355 ET AL. v. NATIONAL LABOR RELATIONS BOARD*. C. A. 2d Cir. Certiorari denied.

No. 71-529. *BLACKBURN v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 446 F. 2d 1089.

No. 71-530. *KELLER v. DRAVO CORP. ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 441 F. 2d 1239.

No. 71-531. *LEE v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 428 F. 2d 917.

No. 71-534. *KALEEL ET AL. v. CALIFORNIA*. Ct. App. Cal., 2d App. Dist. Certiorari denied.

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No. 71-536. *WILKINS, ADMINISTRATRIX v. AMERICAN EXPORT ISBRANDTSEN LINES, INC.*; and

No. 71-542. *AMERICAN EXPORT ISBRANDTSEN LINES, INC. v. WILKINS, ADMINISTRATRIX*. C. A. 2d Cir. Certiorari denied. Reported below: 446 F. 2d 480.

No. 71-537. *ANSUL Co. ET AL. v. UNIROYAL, INC.*; and

No. 71-539. *UNIROYAL, INC. v. LOUISVILLE CHEMICAL Co.* C. A. 2d Cir. Certiorari denied. Reported below: 448 F. 2d 872.

No. 71-541. *WHITAKER ET AL. v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 443 F. 2d 1371.

No. 71-543. *VON ZAMFT v. UNITED STATES*. C. A. 5th Cir. Certiorari denied.

No. 71-544. *SALYER LAND Co. v. SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES (KINGS COUNTY DEVELOPMENT Co., REAL PARTY IN INTEREST)*. Ct. App. Cal., 2d App. Dist. Certiorari denied.

No. 71-545. *UNITED STATES STEEL CORP. v. BLAIR*. C. A. 3d Cir. Certiorari denied. Reported below: 444 F. 2d 1390.

No. 71-546. *LOS ANGELES NEWSPAPER GUILD, LOCAL 69, ET AL. v. NATIONAL LABOR RELATIONS BOARD ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 443 F. 2d 1173.

No. 71-547. *JIMENEZ v. CALIFORNIA*. Ct. App. Cal., 2d App. Dist. Certiorari denied.

No. 71-552. *PHILADELPHIA NEWSPAPER PRINTING PRESSMEN'S UNION LOCAL No. 16 v. NATIONAL LABOR RELATIONS BOARD ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 443 F. 2d 863.

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No. 71-549. *GIAMO v. FLORIDA*. Dist. Ct. App. Fla., 3d Dist. Certiorari denied. Reported below: 245 So. 2d 116.

No. 71-551. *GOLDSTEIN v. FLORIDA STATE BOARD OF DENTISTRY*. C. A. 5th Cir. Certiorari denied.

No. 71-556. *UNITED STATES STEEL CORP. v. PECK*. C. A. 8th Cir. Certiorari denied. Reported below: 446 F. 2d 891.

No. 71-557. *DEUTSCH v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 451 F. 2d 98.

No. 71-560. *LEDES v. UNITED STATES*. C. A. D. C. Cir. Certiorari denied.

No. 71-562. *EATON v. HOBSON*. C. A. 6th Cir. Certiorari denied.

No. 71-566. *FISHBEIN ET AL. v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 446 F. 2d 1201.

No. 71-570. *BURLINGTON INDUSTRIES, INC. v. THIOKOL CHEMICAL CORP.*; and

No. 71-585. *THIOKOL CHEMICAL CORP. v. BURLINGTON INDUSTRIES, INC., ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 448 F. 2d 1328.

No. 71-622. *BODE ET AL. v. NATIONAL DEMOCRATIC PARTY ET AL.* C. A. D. C. Cir. Certiorari denied. Reported below: 146 U. S. App. D. C. 373, 452 F. 2d 1302.

No. 71-5006. *COFFMAN ET AL. v. TENNESSEE*. Ct. Crim. App. Tenn. Certiorari denied. Reported below: — Tenn. App. —, 466 S. W. 2d 241.

No. 71-5175. *DUCKSON v. SOUTH CAROLINA*. Sup. Ct. S. C. Certiorari denied. Reported below: 255 S. C. 372, 179 S. E. 2d 40.

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No. 71-568. *ALOMAR v. DWYER ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 447 F. 2d 482.

No. 71-5216. *SMITH v. HENRY, PRISON ADMINISTRATOR, ET AL.* C. A. 4th Cir. Certiorari denied.

No. 71-5220. *JAMES v. IDAHO.* Sup. Ct. Idaho. Certiorari denied. Reported below: 94 Idaho 101, 482 P. 2d 76.

No. 71-5263. *SCHERER v. HOCKER, WARDEN.* C. A. 9th Cir. Certiorari denied. Reported below: 443 F. 2d 1176.

No. 71-5289. *EVANS v. LAVALLEE, CORRECTIONAL SUPERINTENDENT.* C. A. 2d Cir. Certiorari denied. Reported below: 446 F. 2d 782.

No. 71-5298. *FERRIS v. PENNSYLVANIA.* Super. Ct. Pa. Certiorari denied. Reported below: 219 Pa. Super. 329, 275 A. 2d 391.

No. 71-5306. *FLEMING v. PATE, WARDEN, ET AL.* Sup. Ct. Ill. Certiorari denied. Reported below: 48 Ill. 2d 426, 270 N. E. 2d 4.

No. 71-5311. *BROOKS v. WAINWRIGHT, CORRECTIONS DIRECTOR.* C. A. 5th Cir. Certiorari denied.

No. 71-5353. *PARKS v. ILLINOIS.* Sup. Ct. Ill. Certiorari denied. Reported below: 48 Ill. 2d 232, 269 N. E. 2d 484.

No. 71-5410. *RICHARDSON v. UNITED STATES.* C. A. 6th Cir. Certiorari denied.

No. 71-5411. *SPEARS v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. Reported below: 443 F. 2d 895.

No. 71-5412. *WATKINS v. UNITED STATES.* C. A. 6th Cir. Certiorari denied.

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No. 71-5413. THIBADOUX *v.* MANCUSI, CORRECTIONAL SUPERINTENDENT. C. A. 2d Cir. Certiorari denied.

No. 71-5415. SHUFORD *v.* MANCUSI, CORRECTIONAL SUPERINTENDENT. Ct. App. N. Y. Certiorari denied.

No. 71-5416. DODD *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied. Reported below: 444 F. 2d 1402.

No. 71-5417. BOWLES *v.* LAVALLEE, CORRECTIONAL SUPERINTENDENT. C. A. 2d Cir. Certiorari denied.

No. 71-5420. GRAY *v.* SWENSON, WARDEN. C. A. 8th Cir. Certiorari denied.

No. 71-5422. SIMPSON *v.* TEXAS. C. A. 5th Cir. Certiorari denied.

No. 71-5424. DE VYVER *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied. Reported below: 446 F. 2d 753.

No. 71-5426. RODRIQUEZ *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 446 F. 2d 859.

No. 71-5427. EVANS *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied. Reported below: 446 F. 2d 998.

No. 71-5428. LIPSCOMB *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 447 F. 2d 485.

No. 71-5429. COPELAND, AKA KING *v.* BEARD, SHERIFF, ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 446 F. 2d 1393.

No. 71-5430. LEEPER *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. Reported below: 446 F. 2d 281.

No. 71-5432. ALDRIDGE *v.* NORTH CAROLINA. C. A. 4th Cir. Certiorari denied.

No. 71-5435. CLEMONS *v.* MARYLAND. C. A. 4th Cir. Certiorari denied.

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No. 71-5433. *LANDMAN v. MITCHELL, ATTORNEY GENERAL, ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 445 F. 2d 274.

No. 71-5436. *AGERS v. CALIFORNIA.* C. A. 9th Cir. Certiorari denied.

No. 71-5437. *SHABAZZ v. UNITED STATES.* C. A. 8th Cir. Certiorari denied. Reported below: 446 F. 2d 77.

No. 71-5438. *PRESTON v. UNITED STATES.* C. A. 9th Cir. Certiorari denied. Reported below: 445 F. 2d 808.

No. 71-5451. *JOHNSON v. WAINWRIGHT, CORRECTIONS DIRECTOR.* C. A. 5th Cir. Certiorari denied.

No. 71-5452. *GUZMAN v. UNITED STATES.* C. A. 9th Cir. Certiorari denied. Reported below: 446 F. 2d 1137.

No. 71-5453. *CAMERLIN v. RHODE ISLAND.* Sup. Ct. R. I. Certiorari denied. Reported below: — R. I. —, 277 A. 2d 291.

No. 71-5454. *CHAMBERS v. UNITED STATES.* C. A. 8th Cir. Certiorari denied.

No. 71-5455. *BRADLEY v. UNITED STATES.* C. A. 6th Cir. Certiorari denied.

No. 71-5456. *SHELEY v. UNITED STATES.* C. A. 9th Cir. Certiorari denied. Reported below: 447 F. 2d 455.

No. 71-5457. *OSUNA-SANCHEZ ET AL. v. UNITED STATES.* C. A. 9th Cir. Certiorari denied. Reported below: 446 F. 2d 566.

No. 71-5458. *FLETCHER v. SHULTZ, SHERIFF, ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 446 F. 2d 567.

No. 71-5460. *RICHARDSON v. VIRGINIA.* Sup. Ct. App. Va. Certiorari denied.

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No. 71-5461. *SOWUL v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 447 F. 2d 1103.

No. 71-5463. *GRUBB ET AL. v. WORKMEN'S COMPENSATION APPEALS BOARD ET AL.* Ct. App. Cal., 1st App. Dist. Certiorari denied.

No. 71-5469. *BARBOUR v. NORTH CAROLINA*. Sup. Ct. N. C. Certiorari denied. Reported below: 278 N. C. 449, 180 S. E. 2d 115.

No. 71-5471. *BENNETT v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 445 F. 2d 638.

No. 71-5472. *BLANKS v. MARYLAND*. Ct. Sp. App. Md. Certiorari denied.

No. 71-5475. *CAGLE v. UNITED STATES*. C. A. D. C. Cir. Certiorari denied.

No. 70-193. *RUSSO v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. MR. JUSTICE WHITE took no part in the consideration or decision of this petition. Reported below: 442 F. 2d 498.

No. 70-280. *SUMMERLIN v. OHIO*. Sup. Ct. Ohio. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted and judgment reversed.

No. 70-5060. *CAMPOS-SERRANO v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. MR. JUSTICE POWELL and MR. JUSTICE REHNQUIST took no part in the consideration or decision of this petition. Reported below: 430 F. 2d 173.

No. 71-480. *TOBIAS v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. Reported below: 447 F. 2d 227.

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No. 71-482. *SEWELL v. GRAND LODGE OF THE INTERNATIONAL ASSOCIATION OF MACHINISTS & AEROSPACE WORKERS*. C. A. 5th Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. Reported below: 445 F. 2d 545.

No. 71-516. *TAYLOR v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. Reported below: 448 F. 2d 349.

No. 71-524. *THUGUT v. NEW JERSEY*. Super. Ct. N. J. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. Reported below: See 58 N. J. 601, 279 A. 2d 686.

No. 71-532. *CITY OF DETROIT ET AL. v. SOCOMET, INC.* Ct. App. Mich. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. Reported below: 33 Mich. App. 626, 190 N. W. 2d 551.

No. 71-540. *CRAMER ET UX. v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. Reported below: 447 F. 2d 210.

No. 71-5231. *TURLEY v. ADAMS, JUDGE*. Sup. Ct. Mo. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted.

No. 71-5232. *DIXON v. OREGON*. Ct. App. Ore. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. Reported below: — Ore. App. —, 481 P. 2d 629.

No. 71-5467. *WALKER v. OHIO*. Sup. Ct. Ohio. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. Reported below: 26 Ohio St. 2d 221, 271 N. E. 2d 567.

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No. 71-5468. SUTTON *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. Reported below: 446 F. 2d 916.

No. 71-481. 3,317.39 ACRES OF LAND, MORE OR LESS, IN JEFFERSON COUNTY, ARKANSAS, ET AL. *v.* UNITED STATES. C. A. 8th Cir. Motion of petitioners to defer consideration denied. Certiorari denied. Reported below: 443 F. 2d 104.

No. 71-499. MASCIA *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. MR. JUSTICE DOUGLAS, MR. JUSTICE MARSHALL, and MR. JUSTICE BLACKMUN are of the opinion that certiorari should be granted. Reported below: 447 F. 2d 1111.

No. 71-500. BIRRELL *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. MR. JUSTICE BRENNAN took no part in the consideration or decision of this petition. Reported below: 447 F. 2d 1168.

No. 71-518. COUCH, ADMINISTRATRIX *v.* MISSOURI-KANSAS-TEXAS RAILROAD Co. Sup. Ct. Okla. Certiorari denied. MR. JUSTICE DOUGLAS and MR. JUSTICE BRENNAN are of the opinion that certiorari should be granted and judgment reversed. *Rogers v. Missouri Pacific R. Co.*, 352 U. S. 500.

No. 71-520. MCKENDRICK, CORRECTIONAL SUPERINTENDENT *v.* RIVERA. C. A. 2d Cir. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 448 F. 2d 30.

No. 71-5357. SANTOS *v.* NEW YORK STATE BOARD OF PAROLE. C. A. 2d Cir. Certiorari denied. MR. JUSTICE DOUGLAS, MR. JUSTICE WHITE, and MR. JUSTICE MARSHALL are of the opinion that certiorari should be granted. Reported below: 441 F. 2d 1216.

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No. 71-555. *McINTYRE v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. MR. JUSTICE REHNQUIST took no part in the consideration or decision of this petition.

No. 71-567. *ARREDONDO v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. MR. JUSTICE DOUGLAS and MR. JUSTICE MARSHALL are of the opinion that certiorari should be granted. Reported below: 447 F. 2d 976.

No. 71-5444. *CARLOUGH v. RICHARDSON, SECRETARY OF HEALTH, EDUCATION, AND WELFARE*. C. A. 5th Cir. Certiorari denied. MR. JUSTICE DOUGLAS took no part in the consideration or decision of this petition. Reported below: 445 F. 2d 864.

No. 71-5447. *BEALE v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. MR. JUSTICE MARSHALL is of the opinion that certiorari should be granted. Reported below: 445 F. 2d 977.

#### *Rehearing Denied*

No. 1593, October Term, 1970. *SOCIETE INDUSTRIES MECHANIQUES ALLIES v. LEWIS*, U. S. DISTRICT JUDGE, 403 U. S. 905; and

No. 71-388. *HALCON INTERNATIONAL, INC. v. MONSANTO AUSTRALIA LTD.*, *ante*, p. 949. Motions for leave to file petitions for rehearing denied.

No. 70-97. *NORFOLK & WESTERN RAILWAY Co. v. NEMITZ ET AL.*, *ante*, p. 37;

No. 70-5164. *GUNSTON v. SUPERIOR COURT, COUNTY OF ALAMEDA, CALIFORNIA*, *ante*, p. 819;

No. 70-5295. *PATILLO v. WILSON ET AL.*, *ante*, p. 955;

No. 71-264. *BOOTH v. LEMONT MANUFACTURING CORP. ET AL.*, *ante*, p. 916; and

No. 71-398. *THOMPSON ET UX. v. CLARK ET AL.*, *ante*, p. 984. Petitions for rehearing denied.

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No. 71-5052. GINSBERG *v.* LEVITT, COMPTROLLER OF NEW YORK, *ante*, p. 959; and

No. 71-5337. FULLINGTON ET AL. *v.* SHEA, DIRECTOR, COLORADO DEPARTMENT OF SOCIAL SERVICES, ET AL., *ante*, p. 963. Petitions for rehearing denied.

JANUARY 11, 1972

*Dismissals Under Rule 60*

No. 70-265. SMITH ET AL. *v.* BOARD OF ELECTIONS FOR THE DISTRICT OF COLUMBIA ET AL.; and

No. 70-5431. EL-HAQQ ET AL. *v.* BOARD OF ELECTIONS FOR THE DISTRICT OF COLUMBIA ET AL. Appeals from D. C. D. C. dismissed pursuant to Rule 60 of the Rules of this Court.

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*Affirmed on Appeal*

No. 70-5377. BURR ET AL. *v.* SMITH, SECRETARY OF DEPARTMENT OF SOCIAL AND HEALTH SERVICES. Affirmed on appeal from D. C. W. D. Wash. MR. JUSTICE DOUGLAS would note probable jurisdiction and set case for oral argument. Reported below: 322 F. Supp. 980.

No. 71-519. SPENCER ET AL. *v.* KUGLER, ATTORNEY GENERAL OF NEW JERSEY, ET AL. Affirmed on appeal from D. C. N. J. Reported below: 326 F. Supp. 1235.

MR. JUSTICE DOUGLAS, dissenting.

The black students in this case want nothing more than to receive the same quality of education from our public schools as is enjoyed by the whites. To deny them that equality is to sanction the dispensation of public benefits according to the invidious classification of race.

Appellants sought to convene a three-judge District Court in order to challenge the constitutionality of New Jersey's statutory scheme establishing the boundaries of school districts. They argue that by establishing school district lines to coincide with the boundaries of the State's political subdivisions, cf. N. J. Rev. Stat. § 18A:8-1, the State imposed upon the public schools patterns of racial imbalance in violation of the Civil Rights Act of 1871, Rev. Stat. § 1979, 42 U. S. C. § 1983. It is said in reply that New Jersey prescribes school district boundaries only in conformity with municipal boundaries. There is, however, a showing that at times a black has to walk further to his school than the white school in his neighborhood. The remedy is redistricting. We have sponsored that process to protect the right to vote. *Reynolds v. Sims*, 377 U. S. 533. The right to education in the environment of a multi-racial community seems equally fundamental.

The result, according to appellants, is an inferior education for students of minority races—something this Court has long condemned. *McLaurin v. Oklahoma State Regents*, 339 U. S. 637; *Sweatt v. Painter*, 339 U. S. 629; *Sipuel v. Board of Regents*, 332 U. S. 631; *Missouri ex rel. Gaines v. Canada*, 305 U. S. 337. See also *Plessy v. Ferguson*, 163 U. S. 537; *Yick Wo v. Hopkins*, 118 U. S. 356. Appellants sought either a redistricting or an appropriate racial balance in the public schools so that educational opportunity would not be determined by race, cf. *Gomperts v. Chase*, *post*, p. 1237, or compensatory educational programs to correct the inferior schooling given minority students. The District Court in that case had rejected this approach, however, and dismissed the complaint, finding refuge in *de facto* segregation. 329 F. Supp. 1192.

If any form of state-imposed segregation is proved, then the racially homogeneous residential neighborhoods

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and the consequent racial imbalance in schools would seem to be the result of state action.\* “‘It is a question of the power of the State as a whole,’” Mr. Justice Brandeis

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\*In this case the white exodus to the suburbs and the resultant surrender of the inner city to the blacks is evident. “In 1910, 73 per cent of the Negro population of the United States were rural; in 1960, 73 per cent were urban.” K. Taeuber & A. Taeuber, *Negroes in Cities* 1 (1965). That shift in residential patterns has been both encouraged and facilitated by federal, state, and local actions. In a recent statement to the Senate Subcommittee on Education, the United States Commission on Civil Rights indicated how pervasive this governmental influence is:

“Even in those instances where school segregation is a result of housing patterns with no apparent complicity of school officials, government at all levels—local, State, or Federal—invariably is heavily implicated. Historically, racial zoning ordinances imposed by local law were a formidable factor in creating and maintaining racially exclusive neighborhoods. Although such ordinances were held unconstitutional as early as 1917, some communities continued to enforce them, even as late as the 1950s.

“Judicial enforcement by State courts of racially restrictive covenants has been another important factor. Although these covenants were private agreements to exclude members of designated minority groups, the fact that they were enforceable by the courts gave them maximum effectiveness. Not until 1948 was the judicial enforcement of such covenants held unconstitutional, and not until 1953 was their enforcement by way of money damages held unlawful. Racially restrictive covenants no longer are judicially enforceable, but they still appear in deeds and the residential patterns they helped to create still persist.

“Various exercises of local governmental authority, such as decisions on building permits, the location of sewer and water facilities, building inspection standards, zoning and land use requirements, and the power of eminent domain have been used to exclude minority group members from designated neighborhoods and even from entire communities.

“The Federal Government, principally through its public housing and FHA mortgage insurance programs, has been all too often a willing partner in the creation and perpetuation of racially segregated neighborhoods, even to the point of insisting upon them. Until the

said. "[T]he powers of the several state officials must be treated as if merged in a single officer." *Iowa-Des Moines Bank v. Bennett*, 284 U. S. 239, 244-245 (1931). The Constitution condemns "discrimination, whether accomplished ingeniously or ingenuously," *Smith v. Texas*, 311 U. S. 128, 132 (1940), and where there has been any such discrimination our "objective [is] . . . to eliminate from the public schools *all vestiges* of state-imposed segregation." *Swann v. Board of Education*, 402 U. S. 1, 15 (1971) (emphasis added).

There is, moreover, an ancient American doctrine that as, if, and when public facilities are separate for the races

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late 1940s, for example, FHA insisted on racially restrictive covenants to insure against integrated housing developments. Until 1962 when the Executive Order on Equal Opportunity in Housing was issued, the agency continued willingly to do business with discriminatory builders and developers. The Public Housing Administration permitted its funds to be used for the creation and perpetuation of segregated housing projects well after the courts had made it clear that such practices were in violation of the Constitution. Other Federal programs, such as the highway and urban renewal programs, which involve massive displacement and relocation, also have had the effect of intensifying residential segregation.

"The point we are making is that the current situation we face, in which most minority group children attend school in isolation from children of the majority group, is *not* accidental or purely *de facto*. In many cases, it has resulted in whole or in substantial part from an accumulation of governmental actions. Thus the categorical distinction between *de jure* and *de facto* segregation is not as clear-cut as it would appear. Upon closer examination, there is probably little legal substance to the concept of *de facto* school segregation. Further, in the Commission's view, the Government has a moral as well as legal responsibility to undo the segregation it has helped to create and maintain. There is no statute of limitations by which government in its many forms can be exonerated from its past misdeeds or relieved of its current obligations." Hearings before the Subcommittee on Education of the Senate Committee on Labor and Public Welfare, 91st Cong., 2d Sess., 352-354 (1970).

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they must be equal. *Plessy v. Ferguson, supra*, held that a State could maintain separate facilities for different races providing the facilities were equal. We have long since repudiated the notion that a State may maintain racially distinct facilities for the races, because classifications based upon race are invidious and thus violative of the Fourteenth Amendment. But there can be *de facto* segregation without the State's being implicated in the creation of the dual system and it is in such situations that *Plessy's* mandate that separate facilities be equal has continuing force. Our conclusion in *Brown v. Board of Education*, 347 U. S. 483, 495, that "[s]eparate educational facilities are inherently unequal," has been convincingly borne out by scholarly studies. *E. g.*, J. Coleman, *Equality of Educational Opportunity* (1966); *Harvard Educational Review, Equal Educational Opportunity* (1969); Alexander & Campbell, *Peer Influences on Adolescent Educational Aspirations and Attainments*, 29 *Am. Socio. Rev.* 568 (1964). This inequality led Senator Mondale to conclude:

"In 1968, there were more than 43 million children in our public elementary and secondary schools. 9 million were from minority groups: 6.3 million were black; 2 million were of Spanish origin; 194,000 were from Oriental backgrounds; 178,000 were American Indian.

"Most of these children are from families living in poverty. The vast majority are deprived of a decent education throughout their lives. They go to schools which are inferior—educationally, financially, and physically. They are years behind in achievement. Few go on to higher education." 117 *Cong. Rec.* 10750.

Senator Javits recently summarized the problem: "Whatever you call it, 'de facto segregation,' 'racial un-

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balance,' or 'the absence of intergroup activity,' it is a serious block to effective education for children of minority groups anywhere in the country, especially in the north and central part of the country where you don't have the established social order of segregation." Hearings on Emergency School Aid Act of 1970 before the Subcommittee on Education of the Senate Committee on Labor and Public Welfare, 91st Cong., 2d Sess., 21 (1970).

I would note probable jurisdiction and set the case for oral argument.

No. 71-5729. *LIPPITT v. CIPOLLONE ET AL.* Affirmed on appeal from D. C. N. D. Ohio. Reported below: 337 F. Supp. 1405.

MR. JUSTICE DOUGLAS, dissenting.

In the 1970 Ohio primary election, appellant voted as a Republican and was a candidate for the Republican nomination to the House of Representatives from the 22d Congressional District of Ohio. Political allegiances change and, in the upcoming election, appellant seeks the nomination to Congress of the American Independent Party. He is prevented from pursuing this nomination, however, by an intricate statutory scheme. Central to this scheme is a statute which provides, with various exceptions not relevant here, *e. g.*, Ohio Rev. Code Ann. § 3517.013 *et seq.* (Supp. 1970), that "[n]o person shall be a candidate for nomination or election at a party primary if he voted as a member of a different political party at any primary election within the next preceding four calendar years." Ohio Rev. Code Ann. § 3513.191 (1960). Other provisions also being attacked require those working for primary candidates or signing their nominating petitions to be members of the party in which nomination is sought, *id.*, § 3513.05 (Supp. 1970).

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No one disputes that Ohio's statutory scheme prevents appellant from seeking the nomination of the party of his choice before 1974. Appellees, however, defend this limitation of freedom, saying that it is necessary to ensure "the formation of recognizable, relatively stable political parties with their own leadership, goals and philosophies." They conclude, "The protection of these purposes is a legitimate State concern." The District Court adopted this rationale:

"The compelling State interest the Ohio Legislature seeks to protect by its contested statutes is the integrity of all political parties and membership therein. These Ohio statutes seek to prevent 'raiding' of one party by members of another party and to preclude candidates from '. . . altering their political party affiliations for opportunistic reasons.' State ex rel. Bible v. Board of Elections, 22 O. S. 2d 57, 258 N. E. 2d 227 (1970). Protection of party membership uniformly applied to all parties cannot be characterized as 'invidious discrimination' as defined in *Williams* [v. *Rhodes*, 393 U. S. 23 (1968)]." 337 F. Supp. 1405, 1406 (ND Ohio 1971).

Not only does the denial of appellant's right to seek the nomination of the American Independent Party in 1972 seriously impair his right of political expression, but the "compelling State interest" advanced by the appellees and accepted by the court below seems alien to our political and constitutional heritage. The right to run for public office seems a fundamental one.

The Ohio laws deny appellant that liberty, insofar as the 1972 election is concerned.

While I doubt that any state interest can be so compelling as to justify an impairment of associational freedoms in the area of philosophy—political or other-

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wise\*—the reasons advanced by the court below require an answer. The District Court and the appellees see a compelling state interest in the need to preserve the status quo and to preserve political stability. This interest, it is argued, is secured by creating impediments to changes in party allegiance. Our history is replete with instances in which politicians—having become disenchanted with their previous parties or perhaps only for the “opportunistic” reasons condemned by the court below—have changed from one party to another. This list includes Teddy Roosevelt, Strom Thurmond, Wayne Morse, John Lindsay, George Wallace, and a host of others. Though these breaks from past political ties add vitality to our political process, Ohio makes it very difficult.

I would note probable jurisdiction and put the case down for early argument.

MR. JUSTICE BRENNAN, MR. JUSTICE WHITE, and MR. JUSTICE POWELL:

We are three of the four who dissent from the affirmance of the judgment of the District Court in this case. In the circumstances present here, however, we do not insist that the case be set down for oral argument.

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\*In *Williams v. Rhodes*, 393 U. S. 23, 39–40 (separate opinion), I said:

“Cumbersome election machinery can effectively suffocate the right of association, the promotion of political ideas and programs of political action, and the right to vote. The totality of Ohio’s requirements has those effects. It is unnecessary to decide whether Ohio has an interest, ‘compelling’ or not, in abridging those rights because ‘the men who drafted our Bill of Rights did all the “balancing” that was to be done in this field.’ Appellees would imply that ‘no kind of speech is to be protected if the Government can assert an interest of sufficient weight to induce this Court to uphold its abridgment.’ I reject that suggestion.” (Citations omitted.)

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*Vacated and Remanded on Appeal*

No. 70-5266. LLOYD ET AL. *v.* THIRD JUDICIAL DISTRICT COURT IN AND FOR SALT LAKE COUNTY. Appeal from Sup. Ct. Utah. Motion for leave to proceed *in forma pauperis* granted. Judgment vacated and case remanded for further consideration in light of *Boddie v. Connecticut*, 401 U. S. 371 (1971).

*Appeal Dismissed*

No. 71-5318. GARNER *v.* ROCKEFELLER, GOVERNOR OF NEW YORK, ET AL. Appeal from C. A. 2d Cir. dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied.

*Certiorari Granted—Vacated and Remanded*

No. 71-596. SCRAP LOADERS, INC. *v.* PACIFIC COAST SHIPPING Co., LIBERIA; and

No. 71-602. PACIFIC COAST SHIPPING Co., LIBERIA *v.* RYAN. C. A. 9th Cir. Certiorari granted, judgment vacated, and cases remanded for further consideration in light of *Usner v. Luckenbach Overseas Corp.*, 400 U. S. 494 (1971), and *Victory Carriers, Inc. v. Law, ante*, p. 202. Reported below: 448 F. 2d 525.

*Certiorari Granted—Reversed*

No. 71-5368. DEMINO *v.* NEW YORK. Ct. App. N. Y. Motion for leave to proceed *in forma pauperis* and certiorari granted. Judgment reversed. *Price v. Georgia*, 398 U. S. 323 (1970). Reported below: 29 N. Y. 2d 602, 273 N. E. 2d 133.

*Miscellaneous Orders*

No. 70-88. S&E CONTRACTORS, INC. *v.* UNITED STATES. Ct. Cl. [Certiorari granted, 402 U. S. 971.] Case restored to calendar for reargument.

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No. A-562. *GARNER v. UNITED STATES*. C. A. D. C. Cir. Application for reconsideration of denial of bail presented to THE CHIEF JUSTICE, and by him referred to the Court, denied.

No. A-640 (71-595). *NICHOL, DISTRICT ATTORNEY OF DANE COUNTY, ET AL. v. KENNAN ET AL.* Appeal from D. C. W. D. Wis. Application for stay of interlocutory injunction and of further proceedings presented to MR. JUSTICE MARSHALL, and by him referred to the Court, denied.

No. 68-5027. *AIKENS v. CALIFORNIA*. Sup. Ct. Cal.;

No. 69-5003. *FURMAN v. GEORGIA*. Sup. Ct. Ga.;

No. 69-5030. *JACKSON v. GEORGIA*. Sup. Ct. Ga.;  
and

No. 69-5031. *BRANCH v. TEXAS*. Ct. Crim. App. Tex. [Certiorari granted, 403 U. S. 952.] Motion of American Civil Liberties Union for leave to participate in oral argument as *amicus curiae* denied.

No. 71-609. *TERMINAL FREIGHT HANDLING CO. ET AL. v. SOLIEN*. C. A. 8th Cir. Motion to defer consideration granted. Reported below: 444 F. 2d 699.

No. 71-5103. *MORRISSEY ET AL. v. BREWER, WARDEN, ET AL.* [Certiorari granted, *ante*, p. 999.] Motion of petitioners for appointment of counsel granted. It is ordered that W. Don Brittin, Jr., Esquire, of Des Moines, Iowa, be, and he is hereby, appointed to serve as counsel for petitioners in this case.

#### *Certiorari Granted*

No. 71-507. *KEYES ET AL. v. SCHOOL DISTRICT No. 1, DENVER, COLORADO, ET AL.* C. A. 10th Cir. Certiorari granted. MR. JUSTICE WHITE took no part in the consideration or decision of this petition. Reported below: 445 F. 2d 990.

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No. 71-492. LLOYD CORP., LTD. *v.* TANNER ET AL. C. A. 9th Cir. Certiorari granted. Reported below: 446 F. 2d 545.

No. 71-559. UNITED STATES *v.* FULLER ET UX. C. A. 9th Cir. Certiorari granted. Reported below: 442 F. 2d 504.

No. 71-315. DEEPSOUTH PACKING Co., INC. *v.* LAITRAM CORP. C. A. 5th Cir. Certiorari granted limited to Question 1 presented by the petition, which reads as follows:

"1. Is an apparatus claim of a United States patent directed to a combination of elements, each of which is old, infringed under 35 U. S. C. § 271 (a) when:

"(a) although the individual elements are manufactured in the United States,

"(b) the individual elements are never assembled in the United States, and

"(c) the first and only assembly of the elemental parts into an operable combination or apparatus occurs, and all testing, adjustment, modification and use of the assembled apparatus is conducted in, a foreign country?"

Reported below: 443 F. 2d 936.

No. 71-573. LAIRD, SECRETARY OF DEFENSE, ET AL. *v.* NELMS ET AL. C. A. 4th Cir. Certiorari granted. MR. JUSTICE DOUGLAS took no part in the consideration or decision of this petition. Reported below: 442 F. 2d 1163.

No. 71-5255. BARKER *v.* WINGO, WARDEN. C. A. 6th Cir. Motion for leave to proceed *in forma pauperis* and certiorari granted. Reported below: 442 F. 2d 1141.

*Certiorari Denied.* (See also No. 71-5318, *supra.*)

No. 71-369. SHAW *v.* PITCHESS, SHERIFF. C. A. 9th Cir. Certiorari denied. Reported below: 440 F. 2d 412.

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No. 71-254. *WESTMORELAND v. MISSISSIPPI*. Sup. Ct. Miss. Certiorari denied. Reported below: 246 So. 2d 487.

No. 71-574. *NEMELKA ET AL. v. SECURITIES AND EXCHANGE COMMISSION ET AL.* C. A. 10th Cir. Certiorari denied. Reported below: 447 F. 2d 166.

No. 71-577. *MUNICIPAL COURT OF EAST LOS ANGELES JUDICIAL DISTRICT, COUNTY OF LOS ANGELES, ET AL. v. PERRINE ET AL.* Sup. Ct. Cal. Certiorari denied. Reported below: 5 Cal. 3d 656 and 669, 488 P. 2d 648 and 656.

No. 71-579. *KROFT v. COX ET AL.* Sup. Ct. Ark. Certiorari denied.

No. 71-581. *THE SANTA ROSA ET AL. v. LOOMIS*. C. A. 9th Cir. Certiorari denied. Reported below: 447 F. 2d 105.

No. 71-582. *FROMMHAGEN v. GLAZER*. C. A. 9th Cir. Certiorari denied. Reported below: 442 F. 2d 338.

No. 71-584. *PATRICK v. MISSISSIPPI*. Sup. Ct. Miss. Certiorari denied. Reported below: 249 So. 2d 667.

No. 71-587. *FRANKLIN TOWNSHIP v. BOROUGH OF DELMONT*. Commonwealth Ct. of Pa. Certiorari denied. Reported below: 2 Pa. Commw. 310, 279 A. 2d 387.

No. 71-590. *VEGA v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 447 F. 2d 698.

No. 71-591. *RAWLS v. CONDÉ NAST PUBLICATIONS, INC.* C. A. 5th Cir. Certiorari denied. Reported below: 446 F. 2d 313.

No. 71-592. *GIZA v. CALIFORNIA*. Ct. App. Cal., 4th App. Dist. Certiorari denied.

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No. 71-597. *ANGLE, DBA KANSAS REFINED HELIUM CO. v. NATIONAL LABOR RELATIONS BOARD ET AL.* C. A. D. C. Cir. Certiorari denied. Reported below: 144 U. S. App. D. C. 167, 445 F. 2d 237.

No. 71-598. *MANTZARIS v. UNITED STATES.* C. A. 2d Cir. Certiorari denied.

No. 71-601. *OZARK AIR LINES, INC. v. CIVIL AERONAUTICS BOARD.* C. A. 8th Cir. Certiorari denied. Reported below: 441 F. 2d 892.

No. 71-603. *NOWAK v. UNITED STATES.* C. A. 7th Cir. Certiorari denied. Reported below: 448 F. 2d 134.

No. 71-607. *DECAVALCANTE v. UNITED STATES.* C. A. 3d Cir. Certiorari denied. Reported below: 449 F. 2d 139.

No. 71-610. *TOWN PARK HOTEL CORP. v. COMMISSIONER OF INTERNAL REVENUE.* C. A. 6th Cir. Certiorari denied. Reported below: 446 F. 2d 878.

No. 71-612. *VON POPPENHEIM v. PORTLAND BOXING & WRESTLING COMMISSION ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 442 F. 2d 1047.

No. 71-614. *SEVERSON ET UX. v. UNITED STATES.* C. A. 7th Cir. Certiorari denied. Reported below: 447 F. 2d 631.

No. 71-5141. *CLARKE v. BURKE, WARDEN.* C. A. 7th Cir. Certiorari denied. Reported below: 440 F. 2d 853.

No. 71-5150. *DOWLINGTSON v. MICHIGAN.* Sup. Ct. Mich. Certiorari denied.

No. 71-5160. *SMILEY v. NELSON, WARDEN, ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 442 F. 2d 1026.

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No. 71-5154. *GOLDMAN v. CITY OF ST. LOUIS*. Sup. Ct. Mo. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted.

No. 71-5198. *GASKINS v. MARYLAND*. Ct. Sp. App. Md. Certiorari denied. Reported below: 10 Md. App. 666, 272 A. 2d 413.

No. 71-5358. *IN RE JONES*. C. A. 8th Cir. Certiorari denied.

No. 71-5361. *BROWN v. HIRST*. C. A. 4th Cir. Certiorari denied. Reported below: 443 F. 2d 899.

No. 71-5386. *CRITTENDON v. VIRGINIA*. Sup. Ct. App. Va. Certiorari denied.

No. 71-5476. *OPPENHEIMER v. UNITED STATES*. Ct. Cl. Certiorari denied.

No. 71-5477. *GRAY v. ZELKER, CORRECTIONAL SUPERINTENDENT*. C. A. 2d Cir. Certiorari denied.

No. 71-5478. *LARA v. TEXAS*. Ct. Crim. App. Tex. Certiorari denied. Reported below: 469 S. W. 2d 177.

No. 71-5479. *TODARO v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 448 F. 2d 64.

No. 71-5480. *PROCTOR ET AL. v. UNITED STATES*. C. A. D. C. Cir. Certiorari denied.

No. 71-5481. *STEVENSON v. OKLAHOMA*. Ct. Crim. App. Okla. Certiorari denied. Reported below: 486 P. 2d 646.

No. 71-5482. *MCCRAY v. UNITED STATES MARSHAL FOR THE DISTRICT OF KANSAS ET AL.* C. A. 10th Cir. Certiorari denied.

No. 71-5485. *KENDALL v. MISSISSIPPI*. Sup. Ct. Miss. Certiorari denied. Reported below: 249 So. 2d 657.

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No. 71-5483. *JONES v. ZELKER*, CORRECTIONAL SUPERINTENDENT. C. A. 2d Cir. Certiorari denied.

No. 71-5487. *CESARIO v. DAVISON ET UX.* C. A. 7th Cir. Certiorari denied.

No. 71-5488. *OLIVER v. MICHIGAN.* Sup. Ct. Mich. Certiorari denied.

No. 71-5489. *WALKER v. KINNEARY*, U. S. DISTRICT JUDGE. C. A. 6th Cir. Certiorari denied.

No. 71-5491. *HENRY v. JOHNSON*, ADMINISTRATOR OF VETERANS' ADMINISTRATION. C. A. 5th Cir. Certiorari denied.

No. 71-5492. *MONTEIRO v. PICARD*, CORRECTIONAL SUPERINTENDENT. C. A. 1st Cir. Certiorari denied. Reported below: 443 F. 2d 311.

No. 71-5493. *SANDOVAL ET AL. v. SUPERIOR COURT OF LOS ANGELES COUNTY.* Ct. App. Cal., 2d App. Dist. Certiorari denied.

No. 71-5494. *HILL, ADMINISTRATRIX v. OHIO COUNTY ET AL.* Ct. App. Ky. Certiorari denied. Reported below: 468 S. W. 2d 306.

No. 71-5495. *DUNMORE v. UNITED STATES.* C. A. 8th Cir. Certiorari denied. Reported below: 446 F. 2d 1214.

No. 71-5496. *ANDREWS v. NORTH CAROLINA.* Super. Ct. N. C., Wake County. Certiorari denied.

No. 71-5498. *BAUGUESS v. UNITED STATES.* C. A. 4th Cir. Certiorari denied.

No. 71-5499. *O'NEAL v. WAINWRIGHT*, CORRECTIONS DIRECTOR. C. A. 5th Cir. Certiorari denied. Reported below: 444 F. 2d 111.

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No. 71-498. *OLFF v. EAST SIDE UNION HIGH SCHOOL DISTRICT*. C. A. 9th Cir. Certiorari denied. Reported below: 445 F. 2d 932.

MR. JUSTICE DOUGLAS, dissenting.

It seems incredible that under our federalism a State can deny a student education in its public school system unless his hair style comports with the standards of the school board.

Some institutions in Asia require their enrollees to shave their heads. Would we sustain that regulation if imposed by a public school?

Would we sustain a public school regulation requiring male students to have crew cuts?

The present regulation—to some at least—seems as extreme as the examples given. It provides:

“Hair shall be trim and clean. A boy’s hair shall not fall below the eyes in front and shall not cover the ears, and it shall not extend below the collar in back.”

Robert Olf, a 15-year-old boy speaking through his mother, has a full panoply of constitutional rights, though he is a minor. We said in *Tinker v. Des Moines School Dist.*, 393 U. S. 503, 511:

“Students in school as well as out of school are ‘persons’ under our Constitution. They are possessed of fundamental rights which the State must respect, just as they themselves must respect their obligations to the State.”

Moreover, a parent’s control over the child, though not absolute, as witness our decisions placing sanctions against child labor, is pervasive. We said in *Prince v. Massachusetts*, 321 U. S. 158, 166:

“It is cardinal with us that the custody, care and nurture of the child reside first in the parents, whose

primary function and freedom include preparation for obligations the state can neither supply nor hinder. . . . And it is in recognition of this that these decisions have respected the private realm of family life which the state cannot enter."

Hair style is highly personal,<sup>1</sup> an idiosyncrasy which I had assumed was left to family or individual control and was of no legitimate concern to the State. It seems to me to be as much a purely private choice as was the family-student decision, sustained against a State's prohibition, to study the German language in a public school. *Meyer v. Nebraska*, 262 U. S. 390. That family-student right, the Court held, was included within "liberty" as the word is used in the Fourteenth Amendment. *Id.*, at 400. Opposed there—as in the present case—is the authoritarian philosophy favoring regimentation. The Court said:

"In order to submerge the individual and develop ideal citizens, Sparta assembled the males at seven into barracks and intrusted their subsequent education and training to official guardians. Although such measures have been deliberately approved by men of great genius, their ideas touching the rela-

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<sup>1</sup> Feelings run high among people concerning hair styles. Yet as Professor Chafee said:

"This breach of the peace theory is peculiarly liable to abuse when applied against unpopular expressions and practices. It makes a man a criminal simply because his neighbors have no self-control and cannot refrain from violence. The *reductio ad absurdum* of this theory was the imprisonment of Joseph Palmer, one of Bronson Alcott's fellow-settlers at 'Fruitlands,' not because he was a communist, but because he persisted in wearing such a long beard that people kept mobbing him, until law and order were maintained by shutting him up. A man does not become a criminal because some one else assaults him, unless his own conduct is in itself illegal or may be reasonably considered a direct provocation to violence." Z. Chafee, *Free Speech in the United States* 151-152 (1942).

tion between individual and State were wholly different from those upon which our institutions rest; and it hardly will be affirmed that any legislature could impose such restrictions upon the people of a State without doing violence to both letter and spirit of the Constitution." *Id.*, at 402.

The word "liberty" is not defined in the Constitution. But, as we held in *Griswold v. Connecticut*, 381 U. S. 479, it includes at least the fundamental rights "retained by the people" under the Ninth Amendment. *Id.*, at 484. One's hair style, like one's taste for food, or one's liking for certain kinds of music, art, reading, recreation, is certainly fundamental in our constitutional scheme—a scheme designed to keep government off the backs of people.<sup>2</sup> That is not to say that the police power of the state is powerless to deal with known evils. An epidemic of lice might conceivably authorize a shearing of locks. Other like crises might be imagined. But I see no way of allowing a State to set hair styles for patrons of its schools, any more than it could establish a welfare system only for men with crew cuts and women with bobbed

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<sup>2</sup> "This Court takes judicial notice that hairstyles have altered from time to time throughout the ages. Samson's locks symbolically signified his virility. Many of the Founding Fathers of this country wore wigs. President Lincoln grew a beard at the suggestion of a juvenile female admirer. Chief Justice Hughes' beard furnished the model for the frieze over the portico of the Supreme Court of the United States proclaiming 'equal justice under law.' Today many of both the younger and older generations have avoided the increased cost of barbering by allowing their locks or burnsidies to grow to greater lengths than when a haircut cost a quarter of a dollar.

"Whether hair styles be regarded as evidence of conformity or of individuality, they are one of the most visible examples of personality. This is what every woman has always known. And so have many men, without the aid of an anthropologist, behavioral scientist, psychiatrist, or practitioner of any of the fine arts or black arts." *Richards v. Thurston*, 304 F. Supp. 449, 451.

hair.<sup>3</sup> Once these lines are drawn, a serious question of equal protection of the law is raised.<sup>4</sup>

The federal courts are in conflict and the decisions in disarray.<sup>5</sup> We have denied certiorari where the lower

<sup>3</sup> In the 1920's the fad turned to short hair:

"To conservatives, short-haired women were as much 'radicals and freaks of society' as long-haired musicians, artists, and anarchists. Some saw in bobbed hair a symbol of all the ills of the age, ranging from jazz, short skirts, sexy movies, the automobile, and prohibition to such threats as 'Freudian psychology' and the 'growing cult of the so-called free woman.' The boyish bob, followed by the shingle and bingle which shaved the nape of the neck, and then by the curly bob and spit curls, were all part of what the older generation denounced as 'Flaming Youth.'

"Preachers took to pulpits to warn that 'a bobbed woman is a disgraced woman.' In a Missouri courtroom, a mother pleading for the return of her six children who had been living with a guardian heard the oldest of them testify to the judge: 'We don't believe mother is a Christian woman. She bobs her hair.' Men divorced their wives over bobbed hair. Other males banded together with vows to give up shaving until wives agreed to let their hair grow out again. A large department store fired all bobbed haired employees and a hospital discharged bobbed haired nurses." W. Severn, *The Long And Short of It* 122 (1971).

<sup>4</sup> In *Ho Ah Kow v. Nunan*, 12 Fed. Cas. 252, an alien Chinese was allowed to recover damages under the Civil Rights Act against the sheriff of San Francisco for cutting his hair "to an uniform length of one inch from the scalp" on entering a prison to serve a five-day sentence for a petty offense. The Circuit Court, speaking through Mr. Justice Field, held that the ordinance made an invidious discrimination against the Chinese ("only the dread of the loss of his queue will induce a Chinaman to pay his fine," *id.*, at 255) and was a cruel and unusual punishment. *Ibid.*

<sup>5</sup> "Long hair" cases have occasioned a deep division in the circuits. There is a conflict as to the extent that a student's interest in his hair style enjoys constitutional protection, compare *Breen v. Kahl*, 419 F. 2d 1034 (CA7 1969), and *Richards v. Thurston*, 424 F. 2d 1281 (CA1 1970), with *Ferrell v. Dallas Ind. School Dist.*, 392 F. 2d 697 (CA5 1968), and *Jackson v. Dorrier*, 424 F. 2d 213 (CA6 1970). Where it has been found to exist, there is a split as to the constitutional basis for such protection. Compare *Breen, supra*, with

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court has sustained the school board<sup>6</sup> and also where it has overruled the board.<sup>7</sup> The question tendered is of great personal concern to many and of unusual constitutional importance which we should resolve. I would grant this petition and set the case for argument.

No. 71-5500. *CASH v. MUNICIPAL COURT OF THE CITY AND COUNTY OF SAN FRANCISCO*. Ct. App. Cal., 1st App. Dist. Certiorari denied.

No. 71-5501. *SHERIS v. MORTON ET AL.* Sup. Ct. N. H. Certiorari denied. Reported below: 111 N. H. 66, 276 A. 2d 813.

No. 71-5503. *COUNTS v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 441 F. 2d 1377.

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*Richards, supra*. And there is a conflict as to the showing necessary by the school board to justify a hair regulation even among those circuits permitting such a justification. Compare the decision of the Ninth Circuit in the present case, and its companion, *King v. Saddleback Jr. College Dist.*, 445 F. 2d 932 (1971), with *Griffin v. Tatum*, 425 F. 2d 201 (CA5 1970).

Not only is the conflict deep and irreconcilable, but the issue is a recurrent one. There are well over 50 reported cases squarely presenting the issue, students having won in about half of them. In addition to the 37 cases cited in Note, 84 Harv. L. Rev. 1702, 1703 n. 4 (1971), see, e. g., *King v. Saddleback Jr. College Dist.*, *supra*; *Valdes v. Monroe County Bd. of Public Instruction*, 325 F. Supp. 572 (SD Fla. 1971); *Axtell v. LaPenna*, 323 F. Supp. 1077 (WD Pa. 1971); *Parker v. Fry*, 323 F. Supp. 728 (ED Ark. 1971); *Alberda v. Noell*, 322 F. Supp. 1379 (ED Mich. 1971); *Lambert v. Marushi*, 322 F. Supp. 326 (SD W. Va. 1971); *Martin v. Davison*, 322 F. Supp. 318 (WD Pa. 1971); *Dawson v. Hillsborough County, Florida School Board*, 322 F. Supp. 286 (MD Fla. 1971); *Karr v. Schmidt*, 320 F. Supp. 728 (WD Tex. 1970); *Freeman v. Flake*, 320 F. Supp. 531 (Utah 1970); *Lansdale v. Tyler Jr. College*, 318 F. Supp. 529 (ED Tex. 1970); *Alexander v. Thompson*, 313 F. Supp. 1389 (CD Cal. 1970).

<sup>6</sup> See, e. g., *Jackson v. Dorrier, supra*, cert. denied, 400 U. S. 850.

<sup>7</sup> See, e. g., *Breen v. Kahl, supra*, cert. denied, 398 U. S. 937.

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No. 71-5502. *EVANS ET AL. v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 447 F. 2d 129.

No. 71-5504. *FEURTADO v. FLORIDA*. Sup. Ct. Fla. Certiorari denied. Reported below: 249 So. 2d 440.

No. 71-5506. *CALABRO, AKA CALABRONE v. UNITED STATES*. C. A. 2d Cir. Certiorari denied.

No. 71-5507. *LEGREE v. NEW YORK*. Ct. App. N. Y. Certiorari denied. Reported below: 28 N. Y. 2d 918, 271 N. E. 2d 699.

No. 71-5509. *BURT v. NEW JERSEY*. Sup. Ct. N. J. Certiorari denied. Reported below: 59 N. J. 156, 279 A. 2d 850.

No. 71-5512. *ESOCOBAR v. ROBERTS, DISTRICT ATTORNEY OF BRONX COUNTY, ET AL.* Ct. App. N. Y. Certiorari denied. Reported below: 29 N. Y. 2d 594, 272 N. E. 2d 898.

No. 70-173. *ALUMINUM CO. OF AMERICA ET AL. v. WOODS EXPLORATION & PRODUCING CO., INC., ET AL.* C. A. 5th Cir. Certiorari denied. MR. JUSTICE STEWART is of the opinion that certiorari should be granted. Reported below: 438 F. 2d 1286.

No. 71-121. *PRO-FOOTBALL, INC., ET AL. v. HECHT ET AL.* C. A. D. C. Cir. Certiorari denied. MR. JUSTICE STEWART, MR. JUSTICE WHITE, and MR. JUSTICE MARSHALL are of the opinion that certiorari should be granted. Reported below: 144 U. S. App. D. C. 56, 444 F. 2d 931.

No. 71-578. *PORTER ET AL. v. LYNCH*. C. A. 8th Cir. Certiorari denied. MR. JUSTICE WHITE and MR. JUSTICE BLACKMUN are of the opinion that certiorari should be granted. Reported below: 446 F. 2d 225.

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No. 71-5514. *McGOVERN v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 439 F. 2d 266.

No. 71-580. *KELLIS v. UNITED STATES*. C. A. 5th Cir. Motion to dispense with printing petition granted. Certiorari denied. Reported below: 445 F. 2d 863.

No. 71-606. *COLLINS v. BLACK, CONSERVATION CENTER SUPERINTENDENT*. C. A. 9th Cir. Motion to dispense with printing petition granted. Certiorari denied.

No. 71-583. *TUCKER v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted.

No. 71-594. *ZIZZO v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. Reported below: 447 F. 2d 857.

No. 71-613. *MELANCON v. RMK-BRJ, A JOINT VENTURE*. C. A. 5th Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. Reported below: 449 F. 2d 1289.

No. 71-5185. *KEARNEY v. FRITZ, CORRECTIONAL SUPERINTENDENT, ET AL.* C. A. 2d Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted.

No. 71-5484. *PRYOR v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. Reported below: 448 F. 2d 1273.

No. 71-5508. *HONORE v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. Reported below: 450 F. 2d 31.

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No. 71-604. *WHITE v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. MR. JUSTICE REHNQUIST took no part in the consideration or decision of this petition. Reported below: 447 F. 2d 1124.

No. 71-608. *C. T. S. Co., INC. v. CORNWELL QUALITY TOOLS Co.*; and

No. 71-697. *CORNWELL QUALITY TOOLS Co. v. C. T. S. Co., INC.* C. A. 9th Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted in No. 71-608. MR. JUSTICE POWELL took no part in the consideration or decision of these petitions. Reported below: 446 F. 2d 825.

No. 71-5162. *PADILLA v. ARIZONA*. Sup. Ct. Ariz. Certiorari denied. MR. JUSTICE DOUGLAS and MR. JUSTICE MARSHALL are of the opinion that certiorari should be granted. Reported below: 107 Ariz. 134, 483 P. 2d 549.

No. 71-5286. *SOSTRE v. OSWALD, COMMISSIONER OF CORRECTIONS, ET AL.* C. A. 2d Cir. Motion of Wisconsin Judicare for leave to file a brief as *amicus curiae* and to dispense with printing brief granted. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. Reported below: 442 F. 2d 178.

No. 71-5405. *ROBINS v. UNITED STATES*. C. A. 10th Cir. Certiorari denied.

MR. JUSTICE BRENNAN, with whom MR. JUSTICE DOUGLAS and MR. JUSTICE MARSHALL join, dissenting.

On March 4, 1964, petitioner was arraigned in the United States District Court on charges of prison escape and accompanying assaults. Counsel was appointed that day, and after petitioner and the attorney assured the court they had had sufficient time earlier in the day to

confer, the court accepted petitioner's guilty pleas. On June 22, 1964, petitioner returned for sentencing, and the following occurred:

"The Court: Mr. Robbins [*sic*], when [last] before the Court, was represented by appointed counsel, Mr. Sheldon Crossette, a member of the bar of Wyandotte County and of this Court.

"I excused Mr. Corssette [*sic*] from further representation of Mr. Robbins [*sic*] since he is in Kansas City and this hearing is in Leavenworth.

"Mr. Robbins [*sic*], do you desire that other counsel be appointed to represent you at this hearing?

"Defendant Robbins [*sic*]: No.

"The Court: You understand that you have the right to have counsel?

"Defendant Robbins [*sic*]: Yes.

"The Court: And you waive that right?

"Defendant Robbins [*sic*]: Yes, sir."

Petitioner was then sentenced to consecutive five-year terms of imprisonment on two counts and a concurrent five-year term on a third, all to follow any sentence then being served.

Petitioner subsequently filed a motion in the sentencing court to vacate sentence under 28 U. S. C. § 2255, contending, first, that in summarily relieving his appointed attorney, the trial court had denied him his constitutional right to the assistance of counsel and, second, that he had not validly waived his right to counsel. In particular, petitioner alleges that he did not accept the court's offer to appoint new counsel for fear of angering the court, and because he did not think a new attorney, unfamiliar with the case, could help him. The District Court in an unreported order denied relief without a

hearing, on the ground that the records of the case "conclusively" demonstrated a valid waiver. The Court of Appeals for the Tenth Circuit affirmed in an unreported *per curiam* opinion.

The principles governing this case are well established. Petitioner, of course, had a constitutional right to counsel at his sentencing proceedings. *McConnell v. Rhay*, 393 U. S. 2 (1968); *Mempa v. Rhay*, 389 U. S. 128 (1967). Although the Constitution "does not require that under all circumstances counsel be forced upon a defendant," *Carter v. Illinois*, 329 U. S. 173, 174-175 (1946), a waiver of the right to counsel is valid only if it is voluntarily and understandingly made. *Johnson v. Zerbst*, 304 U. S. 458 (1938).

"The fact that an accused may tell [the judge] that he is informed of his right to counsel and desires to waive this right does not automatically end the judge's responsibility. To be valid such waiver must be made with an apprehension of . . . all . . . facts essential to a broad understanding of the whole matter." *Von Moltke v. Gillies*, 332 U. S. 708, 724 (1948).

Moreover, "'courts indulge every reasonable presumption against waiver' of fundamental constitutional rights and . . . we 'do not presume acquiescence in the loss of fundamental rights.'" *Johnson v. Zerbst, supra*, at 464. See also, *e. g.*, *Carnley v. Cochran*, 369 U. S. 506 (1962); *Moore v. Michigan*, 355 U. S. 155 (1957); *Von Moltke v. Gillies, supra*; *Glasser v. United States*, 315 U. S. 60 (1942). Finally, petitioner was entitled to "a prompt hearing" on his motion "[u]nless the motion and the files and records of the case conclusively show that the prisoner [was] entitled to no relief . . . ." 28 U. S. C. § 2255. See, *e. g.*, *Sanders v. United States*, 373 U. S. 1 (1963).

Whether petitioner was properly denied a hearing presents a serious question. Nothing in the record suggests, let alone demonstrates "conclusively," that petitioner's statement of waiver of new counsel at sentencing was made "with an apprehension of . . . all . . . facts essential to a broad understanding of the whole matter." *Von Moltke v. Gillies*, *supra*, at 724. Nothing reveals an awareness on his part that the offer of new counsel was more than "a mere procedural formality," *id.*, at 722—that counsel would have been appointed not merely to stand by his side while the court pronounced sentence. Nothing indicates an appreciation that a continuance might have been granted to permit new counsel to familiarize himself with the case and render the services that this Court has said are integral to "the very integrity of the fact-finding process.'" *McConnell v. Rhay*, *supra*, at 3. On the contrary, the record offers some support for petitioner's allegation that, although he wanted meaningful representation, he felt he could not press for it without antagonizing the court.

Moreover, the record is silent on any waiver of error in the dismissal of petitioner's already appointed attorney, and that dismissal itself raises substantial constitutional questions. In *Vellucci v. United States*, 430 F. 2d 188 (1970), the Court of Appeals for the Sixth Circuit held it to be plain error for a trial judge to excuse the defendant's attorney before sentencing. The Court of Appeals below distinguished *Vellucci* on the ground that the defendant there, unlike petitioner here, was not offered new counsel. But an unaccepted offer of new counsel can hardly render harmless any error in dismissing an already appointed attorney.

Lawyers are not necessarily fungible goods, to be replaced at the whim of the court. Counsel's prior experience in a case, his familiarity with the facts and prior proceedings, and the position of trust he may have

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gained with the defendant are factors arguing for continued representation by the same attorney. This case is barren of any indication that the interests of petitioner were considered in the dismissal of his appointed counsel. I would accordingly grant this petition for certiorari.

No. 71-5459. *POLK v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 447 F. 2d 1.

MR. JUSTICE DOUGLAS, with whom MR. JUSTICE BRENNAN concurs.

I would grant certiorari in this case. Prison censorship of mail discovered a letter written by an inmate which at the trial of the inmate was used to convict him. The evils of censorship are thus compounded. The right of privacy protected by the Bill of Rights (*Griswold v. Connecticut*, 381 U. S. 479) is re-emphasized when government is dealing with a captive audience (see *Public Utilities Comm'n v. Pollak*, 343 U. S. 451, 467-469 (dissenting opinion)). It includes, *inter alia*, the sanctity of thought and belief of the individual that is protected by the First and Fifth Amendments. As Mr. Justice Holmes said in *Milwaukee Pub. Co. v. Burleson*, 255 U. S. 407, 437 (dissenting) "the use of the mails is almost as much a part of free speech as the right to use our tongues." Under our regime the right to use the mail free of censorship is basic whether the censor be a federal official working for the post office or a federal official working for the Department of Justice. The problem is squarely raised here, free from all problems of prison security.

*Rehearing Denied*

No. 71-262. O'KEEFFE, DEPUTY COMMISSIONER, SIXTH COMPENSATION DISTRICT, DEPARTMENT OF LABOR *v.* AEROJET-GENERAL SHIPYARDS, INC., *ante*, p. 254; and

No. 71-393. DOWELL ET UX. *v.* UNITED STATES, *ante*, p. 984. Petitions for rehearing denied.

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No. 71-443. WIENER ET AL. *v.* CALIFORNIA, *ante*, p. 988;

No. 71-5081. CARTER *v.* TEXAS, *ante*, p. 1001; and

No. 71-5392. BENNETT *v.* DISTRICT DIRECTOR OF INTERNAL REVENUE ET AL., *ante*, p. 1002. Petitions for rehearing denied.

#### *Assignment Orders*

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 during the period beginning April 3, 1972, and ending April 7, 1972, and for such additional time in advance thereof to prepare for the trial of cases, 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.

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 Eighth Circuit during the period beginning April 10, 1972, and ending April 14, 1972, and for such additional time in advance thereof to prepare for the trial of cases, and for such further time as may be required to complete unfinished business, pursuant to 28 U. S. C. § 294 (a), is ordered entered on the minutes of this Court, pursuant to 28 U. S. C. § 295.

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#### *Affirmed on Appeal*

No. 71-679. DUNN, DIRECTOR OF WELFARE OF CITY OF NEW HAVEN, ET AL. *v.* RIVERA ET AL. Appeal from D. C. Conn. Motion of appellee Rivera for leave to proceed *in forma pauperis* granted. Judgment affirmed. Reported below: 329 F. Supp. 554.

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No. 71-595. NICHOL, DISTRICT ATTORNEY OF DANE COUNTY, ET AL. *v.* KENNAN ET AL. Affirmed on appeal from D. C. W. D. Wis. THE CHIEF JUSTICE, MR. JUSTICE STEWART, MR. JUSTICE WHITE, and MR. JUSTICE REHNQUIST would dismiss the appeal for failure to comply with Rule 13 (1).

No. 71-620. WYMAN, COMMISSIONER OF NEW YORK DEPARTMENT OF SOCIAL SERVICES *v.* LOPEZ ET AL. Affirmed on appeal from D. C. W. D. N. Y.

*Certiorari Granted—Vacated and Remanded.* (See also No. 71-5431, *ante*, p. 567.)

No. 71-5419. PIPER *v.* HAUCK, SHERIFF, ET AL. C. A. 5th Cir. Motion for leave to proceed *in forma pauperis* and certiorari granted. Judgment vacated and case remanded for further consideration in light of *Haines v. Kerner*, *ante*, p. 519.

*Certiorari Granted—Reversed.* (See No. 71-244, *ante*, p. 553.)

#### *Miscellaneous Orders*

No. A-657. DOHERTY *v.* UNITED STATES. C. A. 9th Cir. Reapplication for bail denied.

No. A-677 (71-864). FEDERAL COMMUNICATIONS COMMISSION ET AL. *v.* BUSINESS EXECUTIVES' MOVE FOR VIETNAM PEACE ET AL. C. A. D. C. Cir. Application for stay presented to THE CHIEF JUSTICE, and by him referred to the Court, denied.

No. 70-45. UNITED STATES *v.* BREWSTER. Appeal from D. C. D. C. [Probable jurisdiction postponed, 401 U. S. 935]; and

No. 70-5061. KIRBY *v.* ILLINOIS. App. Ct. Ill., 1st Dist. [Certiorari granted, 402 U. S. 995.] Cases restored to calendar for reargument.

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No. A-336 (70-5101). *PATLER v. VIRGINIA*. Sup. Ct. App. Va. Renewed application for bail denied.

No. A-521. *IN RE DISBARMENT OF FREEL*. It having been reported to the Court that Frederick J. Freel, of Kansas City, Missouri, has been indefinitely suspended from the practice of law by the Supreme Court of Missouri, duly entered April 15, 1971, and this Court by order of November 22, 1971 [*ante*, p. 963], having suspended the said Frederick J. Freel from the practice of law in this Court and directed that a rule issue requiring him to show cause why he should not be disbarred;

And it appearing that the said rule was duly issued and served upon the respondent, and that a response has been filed;

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

No. 68-5027. *AIKENS v. CALIFORNIA*. Sup. Ct. Cal.;  
No. 69-5003. *FURMAN v. GEORGIA*. Sup. Ct. Ga.; and  
No. 69-5030. *JACKSON v. GEORGIA*. Sup. Ct. Ga.  
[Certiorari granted, 403 U. S. 952.] Motion of the State of Alaska for leave to file a brief as *amicus curiae* granted. Motions of the District Attorney for the Eastern Circuit of Georgia for leave to file briefs as *amicus curiae* in Nos. 69-5003 and 69-5030 denied.

No. 71-600. *STATE BOARD OF ELECTION COMMISSIONERS ET AL. v. EVERS ET AL.* Appeal from D. C. S. D. Miss. The Solicitor General is invited to file a brief in this case expressing the views of the United States. Reported below: 327 F. Supp. 640.

No. 71-650. *MINNESOTA v. NORTHERN STATES POWER Co.* Appeal from C. A. 8th Cir. The Solicitor General is invited to file a brief in this case expressing the views of the United States. Reported below: 447 F. 2d 1143.

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No. 71-5144. *McNEIL v. DIRECTOR, PATUXENT INSTITUTION*. Ct. Sp. App. Md. [Certiorari granted, *ante*, p. 999.] Motion of petitioner for appointment of counsel granted. It is ordered that E. Barrett Prettyman, Jr., 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. 71-5497. *HERRON v. WAINWRIGHT, CORRECTIONS DIRECTOR*. Motion for leave to file petition for writ of habeas corpus denied.

No. 71-588. *DIXIE MINING Co. v. BAZELON, CHIEF JUDGE, U. S. COURT OF APPEALS, ET AL.* Motion for leave to file petition for writ of mandamus and/or prohibition denied.

No. 71-5523. *BUTENKO v. ALLDREDGE, WARDEN, ET AL.* Motion for leave to file petition for writ of mandamus denied. MR. JUSTICE MARSHALL took no part in the consideration or decision of this motion.

No. 71-630. *CURTIS, U. S. DISTRICT JUDGE, ET AL. v. UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT*. Motion for leave to file petition for writ of prohibition denied.

*Certiorari Granted*

No. 71-5139. *HAM v. SOUTH CAROLINA*. Sup. Ct. S. C. Motion for leave to proceed *in forma pauperis* granted. Certiorari granted limited to Question 1, presented by the petition, which reads as follows:

"1. Whether the trial judge's refusal to examine the jurors on *voir dire* as to whether petitioner's race or pre-trial publicity would affect their ability to render a fair verdict violated petitioner's right to an impartial jury, guaranteed by the Sixth and Fourteenth Amendments to the Constitution?"

Reported below: 256 S. C. 1, 180 S. E. 2d 628.

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No. 71-224. SWENSON, WARDEN *v.* STIDHAM. C. A. 8th Cir. Motion of respondent for leave to proceed *in forma pauperis* and certiorari granted. Reported below: 443 F. 2d 1327.

No. 71-496. WARD *v.* VILLAGE OF MONROEVILLE. Sup. Ct. Ohio. Certiorari granted. Reported below: 27 Ohio St. 2d 179, 271 N. E. 2d 757.

*Certiorari Denied*

No. 71-576. WADE *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 450 F. 2d 337.

No. 71-611. HYDE *v.* UNITED STATES;

No. 71-618. GANTT *v.* UNITED STATES; and

No. 71-625. FLOWERS *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 448 F. 2d 815.

No. 71-616. INTERNATIONAL UNION OF OPERATING ENGINEERS, LOCAL 12, ET AL. *v.* SUPERIOR COURT OF CALIFORNIA FOR THE COUNTY OF SAN DIEGO (ASSOCIATED GENERAL CONTRACTORS OF AMERICA, SAN DIEGO CHAPTER, INC., ET AL., REAL PARTIES IN INTEREST). Super Ct. Cal., County of San Diego. Certiorari denied.

No. 71-617. GOLAY & Co., INC. *v.* NATIONAL LABOR RELATIONS BOARD. C. A. 7th Cir. Certiorari denied. Reported below: 447 F. 2d 290.

No. 71-623. KEE MING HSU *v.* HART, U. S. DISTRICT JUDGE. C. A. D. C. Cir. Certiorari denied.

No. 71-626. GORDON *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied. Reported below: 449 F. 2d 100.

No. 71-632. HODGDON *v.* SECURITIES AND EXCHANGE COMMISSION; and

No. 71-637. HAIGHT ET AL. *v.* SECURITIES AND EXCHANGE COMMISSION. C. A. D. C. Cir. Certiorari denied.

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No. 71-631. CURTIS, U. S. DISTRICT JUDGE, ET AL. *v.* MUNOZ ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 439 F. 2d 1176.

No. 71-633. CITY MESSENGER SERVICE OF HOLLYWOOD, INC., DBA CITY MESSENGER AIR EXPRESS AND/OR C. M. A. X. *v.* CAPITOL RECORDS DISTRIBUTING CORP. C. A. 6th Cir. Certiorari denied. Reported below: 446 F. 2d 6.

No. 71-634. DOBBS *v.* CALIFORNIA. Ct. App. Cal., 4th App. Dist. Certiorari denied.

No. 71-635. STEAD *v.* SECURITIES AND EXCHANGE COMMISSION. C. A. 10th Cir. Certiorari denied. Reported below: 444 F. 2d 713.

No. 71-636. COMPANIA ANONIMA VENEZOLANA DE NAVEGACION (VENEZUELAN LINE) *v.* WESTINGHOUSE ELECTRIC INTERNATIONAL Co. C. A. 2d Cir. Certiorari denied. Reported below: 446 F. 2d 1339.

No. 71-638. WASHINGTON TRUST BANK, TRUSTEE, ET AL. *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 444 F. 2d 1235 and 1232.

No. 71-639. WATSON CHAPEL SCHOOL DISTRICT No. 24 ET AL. *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied. Reported below: 446 F. 2d 933.

No. 71-643. ROSS ET AL. *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied.

No. 71-644. SANTOBELLO *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied.

No. 71-645. SMITH ET AL. *v.* SCRIVNER-BOOGAART, INC. C. A. 10th Cir. Certiorari denied. Reported below: 447 F. 2d 1014.

No. 71-646. SYSTEM COUNCIL T-4 *v.* NATIONAL LABOR RELATIONS BOARD. C. A. 7th Cir. Certiorari denied. Reported below: 446 F. 2d 815.

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No. 71-647. *JAMES E. SIMON Co., INC. v. ARDELT-HORN CONSTRUCTION Co. ET AL.* C. A. 8th Cir. Certiorari denied. Reported below: 446 F. 2d 820.

No. 71-648. *D'EUGENIO v. SLATTERY CONSTRUCTION Co., INC.* App. Div., Sup. Ct. N. Y., 2d Jud. Dept. Certiorari denied.

No. 71-649. *CAAMANA v. UNITED STATES.* C. A. 2d Cir. Certiorari denied.

No. 71-656. *MASIELLO ET AL. v. UNITED STATES.* C. A. 2d Cir. Certiorari denied. Reported below: 445 F. 2d 1324.

No. 71-660. *TATUM ET UX. v. UNITED STATES.* C. A. 2d Cir. Certiorari denied.

No. 71-663. *FLANAGAN v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. Reported below: 445 F. 2d 263.

No. 71-5127. *HARDEE v. NELSON, WARDEN.* C. A. 9th Cir. Certiorari denied.

No. 71-5339. *MORGAN v. CRAVEN, WARDEN.* C. A. 9th Cir. Certiorari denied.

No. 71-5391. *BRADFORD v. SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES.* Ct. App. Cal., 2d App. Dist. Certiorari denied.

No. 71-5474. *LINEBERGER v. UNITED STATES.* C. A. 4th Cir. Certiorari denied. Reported below: 444 F. 2d 122.

No. 71-5486. *GEPII v. MARYLAND.* Ct. Sp. App. Md. Certiorari denied.

No. 71-5518. *PERRY v. UNITED STATES.* C. A. 8th Cir. Certiorari denied.

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No. 71-5520. *BUSH v. HORNE, JUDGE*. Sup. Ct. Ga. Certiorari denied. Reported below: 228 Ga. 1, 183 S. E. 2d 754.

No. 71-5521. *BUSH v. GEORGIA*. Ct. App. Ga. Certiorari denied. Reported below: 123 Ga. App. 584, 181 S. E. 2d 917.

No. 71-5522. *BETHEA v. REID ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 445 F. 2d 1163.

No. 71-5524. *LOGAN v. CORRECTIONAL SUPERINTENDENT, WALLKILL PRISON*. C. A. 2d Cir. Certiorari denied.

No. 71-5526. *DELLINGER v. UNITED STATES*. C. A. 4th Cir. Certiorari denied.

No. 71-5527. *WESTON, AKA WALLACE v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 448 F. 2d 626.

No. 71-5529. *QUIMBY, AKA DEARDORFF v. UNITED STATES*. C. A. 10th Cir. Certiorari denied.

No. 71-5530. *SPINELLI v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 446 F. 2d 646.

No. 71-5533. *CEFALO v. UNITED STATES*. C. A. 1st Cir. Certiorari denied.

No. 71-5534. *OLIVER v. HARRISON COUNTY CLERK ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 442 F. 2d 421.

No. 71-5536. *WICKLINE v. BROOKS ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 446 F. 2d 1391.

No. 71-5537. *BARBER v. UNITED STATES*. C. A. 5th Cir. Certiorari denied.

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No. 71-5538. *KENNON v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 447 F. 2d 465.

No. 71-5539. *SCHERER v. HOCKER, WARDEN*. C. A. 9th Cir. Certiorari denied. Reported below: 443 F. 2d 1176.

No. 71-5542. *POOL v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 442 F. 2d 1340.

No. 71-5546. *DUNLEAVAY v. ROCKEFELLER CENTER, INC., ET AL.* C. A. 2d Cir. Certiorari denied.

No. 70-290. *GAS LIGHT COMPANY OF COLUMBUS v. GEORGIA POWER CO. ET AL.* C. A. 5th Cir. Certiorari denied. MR. JUSTICE WHITE is of the opinion that certiorari should be granted. MR. JUSTICE POWELL took no part in the consideration or decision of this petition. Reported below: 440 F. 2d 1135.

No. 70-5049. *BURNS v. SWENSON, WARDEN, ET AL.* C. A. 8th Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. MR. JUSTICE POWELL took no part in the consideration or decision of this petition. Reported below: 430 F. 2d 771.

No. 70-5072. *HARPER ET AL. v. ILLINOIS*. Sup. Ct. Ill. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. MR. JUSTICE POWELL took no part in the consideration or decision of this petition. Reported below: See 127 Ill. App. 2d 420, 262 N. E. 2d 298.

No. 71-295. *GIBBS ET AL. v. SEXTON*. C. A. 5th Cir. Motion of respondent to dispense with printing brief granted. Certiorari denied. Reported below: 446 F. 2d 904.

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No. 71-238. NORTHERN NATURAL GAS CO. ET AL. *v.* MOBIL OIL CORP. ET AL.; and

No. 71-243. PANHANDLE EASTERN PIPE LINE CO. ET AL. *v.* MOBIL OIL CORP. ET AL. C. A. 10th Cir. Certiorari denied. MR. JUSTICE STEWART and MR. JUSTICE BLACKMUN are of the opinion that certiorari should be granted. MR. JUSTICE POWELL took no part in the consideration or decision of these petitions. Reported below: 441 F. 2d 704.

No. 71-437. AMATO ET AL. *v.* WISCONSIN. Sup. Ct. Wis. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari and reverse. *Redrup v. New York*, 386 U. S. 767. Reported below: 49 Wis. 2d 638, 183 N. W. 2d 29.

No. 71-619. BLAYLOCK *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. Reported below: 448 F. 2d 1307.

No. 71-621. AMERICAN MANUFACTURERS MUTUAL INSURANCE CO. ET AL. *v.* AMERICAN BROADCASTING-PARAMOUNT THEATRES, INC. C. A. 2d Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. Reported below: 446 F. 2d 1131.

No. 71-5543. JACKSON *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. Reported below: 448 F. 2d 539.

No. 71-627. MYERS, CORRECTIONAL SUPERINTENDENT *v.* GOCKLEY. C. A. 3d Cir. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 450 F. 2d 232.

No. 71-652. SMITH *v.* UNITED STATES. C. A. 4th Cir. Motion to dispense with printing petition granted. Certiorari denied.

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No. 71-5171. CUNNINGHAM *v.* WINGO, WARDEN. C. A. 6th Cir. Certiorari denied. MR. JUSTICE STEWART and MR. JUSTICE MARSHALL are of the opinion that certiorari should be granted. Reported below: 443 F. 2d 195.

No. 71-5532. PATTERSON *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. MR. JUSTICE DOUGLAS and MR. JUSTICE MARSHALL are of the opinion that certiorari should be granted. Reported below: 447 F. 2d 424.

No. 71-5541. THERIAULT *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. MR. JUSTICE BLACKMUN took no part in the consideration or decision of this petition. Reported below: 447 F. 2d 1361.

*Rehearing Denied*

No. 70-54. VICTORY CARRIERS, INC., ET AL. *v.* LAW, *ante*, p. 202;

No. 71-327. TEXAS GULF SULPHUR CO. ET AL. *v.* SECURITIES AND EXCHANGE COMMISSION, *ante*, p. 1005;

No. 71-328. HUNTINGTON *v.* SECURITIES AND EXCHANGE COMMISSION, *ante*, p. 1005;

No. 71-346. CRAWFORD *v.* SECURITIES AND EXCHANGE COMMISSION, *ante*, p. 1005;

No. 71-347. HOLYK ET AL. *v.* SECURITIES AND EXCHANGE COMMISSION, *ante*, p. 1005;

No. 71-421. TEXAS GULF SULPHUR CO. ET AL. *v.* MITCHELL ET AL., *ante*, p. 1004;

No. 71-5105. BENJAMIN *v.* RICHARDSON, SECRETARY OF HEALTH, EDUCATION, AND WELFARE, *ante*, p. 986;

No. 71-5126. ALEXANDER *v.* OREGON, *ante*, p. 1001; and

No. 71-5531. LIPSCOMB *v.* WARDEN, ATLANTA PENITENTIARY, ET AL., *ante*, p. 1005. Petitions for rehearing denied.

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No. 71-218. *GROUNDS ET AL. v. NORTHERN NATURAL GAS CO. ET AL.*, *ante*, p. 951. Petition for rehearing denied. MR. JUSTICE POWELL took no part in the consideration or decision of this petition.

No. 71-390. *BESSESEN ET UX. v. UNITED STATES*, *ante*, p. 984. Motion for leave to file and to dispense with printing petition for rehearing and other relief denied.

No. 71-5316. *TUZO v. UNITED STATES*, *ante*, p. 958. Motion for leave to file petition for rehearing denied.

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*Miscellaneous Order*

No. A-760. *BULLOCK, SECRETARY OF STATE OF TEXAS v. WEISER ET AL.* D. C. N. D. Tex. Application for stay of judgment presented to MR. JUSTICE POWELL, and by him referred to the Court, granted.