

ORDERS FROM APRIL 21 THROUGH
JUNE 7, 1972

APRIL 21, 1972

Miscellaneous Orders

No. A-1096. BROWN ET AL. *v.* APODACA ET AL.; and

No. A-1097. NORVELL, ATTORNEY GENERAL OF NEW MEXICO *v.* APODACA. Sup. Ct. N. M. Applications for stay having been filed on April 19, 1972, and responses thereto filed late yesterday afternoon, presented to Mr. JUSTICE WHITE, and by him referred to the Court, judgment of the Supreme Court of New Mexico entered on April 17, 1972, which among other things ordered exclusion from the ballot of candidates who have not paid the statutory filing fees, is hereby stayed until Tuesday, April 25, 1972, or further order of the Court.

No. A-1105. FORTSON, SECRETARY OF STATE OF GEORGIA *v.* MILLICAN. D. C. N. D. Ga. Application for stay presented to Mr. JUSTICE POWELL, and by him referred to the Court, granted. It is ordered that the order of the United States District Court for the Northern District of Georgia, of April 19, 1972, in Civil Action File No. 16401, be, and the same is hereby, stayed pending further order of this Court.

No. A-1106. GEORGIA ET AL. *v.* UNITED STATES. D. C. N. D. Ga. Application for stay presented to Mr. JUSTICE POWELL, and by him referred to the Court, granted. It is ordered that the order of the United States District Court for the Northern District of Georgia, of April 19, 1972, in Civil Action File No. 16373, be, and the same is hereby, stayed pending further order of this Court. Mr. JUSTICE MARSHALL is of the opinion that the application should be denied.

APRIL 24, 1972

Dismissal Under Rule 60

No. 71-1057. *STANDKE ET AL. v. B. E. DARBY & SONS, INC.* Sup. Ct. Minn. Petition for writ of certiorari dismissed pursuant to Rule 60 of the Rules of this Court. Reported below: 291 Minn. 468, 193 N. W. 2d 139.

Affirmed on Appeal

No. 71-975. *ATCHISON, TOPEKA & SANTA FE RAILWAY CO. ET AL. v. CHICAGO & NORTH WESTERN RAILWAY CO. ET AL.* Affirmed on appeal from D. C. C. D. Cal. MR. JUSTICE MARSHALL took no part in the consideration or decision of this appeal.

Appeals Dismissed

No. 70-5093. *DANIELS v. HIRSHBERG, HOSPITAL SUPERINTENDENT.* Appeal from Sup. Ct. Fla. dismissed as moot. Reported below: 243 So. 2d 144.

No. 71-1101. *REITZ ET UX. v. TOWN OF VANDEN BROEK.* Appeal from Sup. Ct. Wis. dismissed for want of substantial federal question. MR. JUSTICE STEWART would dismiss the appeal as moot. Reported below: 53 Wis. 2d 87, 191 N. W. 2d 913.

No. 71-1135. *RIDGILL v. GULF RESTON, INC., ET AL.* Appeal from Sup. Ct. Va. Motion to consider late-docketed appeal granted. Appeal dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied.

*Miscellaneous Orders**

No. A-1053. *McKENNA v. UNITED STATES.* C. A. 7th Cir. Application for bail presented to MR. JUSTICE DOUGLAS, and by him referred to the Court, denied.

*For Court's order prescribing amendments to the Federal Rules of Criminal Procedure and an amendment to the Federal Rules of Appellate Procedure, see *post*, p. 981.

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No. A-1085. *GARRISON v. UNITED STATES*. C. A. 5th Cir. Application for stay presented to MR. JUSTICE DOUGLAS and by him referred to the Court, denied.

No. A-1090. *HOLT v. CITY OF RICHMOND ET AL.* C. A. 4th Cir. Application to enjoin elections for City Council of the city of Richmond, Virginia, scheduled for May 2, 1972, presented to THE CHIEF JUSTICE, and by him referred to the Court, granted. MR. JUSTICE WHITE and MR. JUSTICE POWELL took no part in the consideration or decision of this application.

THE CHIEF JUSTICE, with whom MR. JUSTICE BLACKMUN and MR. JUSTICE REHNQUIST join, concurring.

In joining in MR. JUSTICE BLACKMUN's opinion concurring in the judgment in *Perkins v. Matthews*, 400 U. S. 379, 397 (1971), I indicated that "[g]iven the decision in *Allen v. State Board of Elections*, 393 U. S. 544 (1969)," the result reached by the Court in *Perkins* followed. The instant motion for a stay is not an appropriate occasion to reconsider the holdings in *Allen* and *Perkins*. Hence, I see no alternative but to grant the requested stay of the May 2, 1972, election. *Perkins* squarely held that an annexation enlarging a city's number of eligible voters constitutes a change of a "standard, practice, or procedure with respect to voting" within the meaning of § 5 of the Voting Rights Act of 1965, 79 Stat. 439, 42 U. S. C. § 1973c. That being the case, as stated in the memorandum of the United States as *amicus curiae* filed in this matter in the United States District Court for the Eastern District of Virginia, "[t]he legal effect of the . . . objection by the Attorney General, when coupled with the absence of a declaratory judgment from the United States District Court, District of Columbia, is to preclude the city from holding an election on an at-large basis."

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No. A-1070. *AERO MAYFLOWER TRANSIT Co., INC., ET AL. v. UNITED STATES ET AL.* D. C. S. D. Ind. Application for extension of time in which to docket appeal presented to MR. JUSTICE MARSHALL, and by him referred to the Court, denied.

No. A-1096. *BROWN ET AL. v. APODACA ET AL.*; and No. A-1097. *NORVELL, ATTORNEY GENERAL OF NEW MEXICO v. APODACA.* Sup. Ct. N. M. Applications for stay denied. MR. JUSTICE BRENNAN, MR. JUSTICE WHITE, and MR. JUSTICE BLACKMUN are of the opinion that the applications should be granted. Reported below: 83 N. M. 663, 495 P. 2d 1379.

No. 71-110. *GELBARD ET AL. v. UNITED STATES.* C. A. 9th Cir. [Certiorari granted, 404 U. S. 990.] Motion of petitioners for leave to file supplemental brief after argument granted.

No. 71-651. *CALIFORNIA v. KRIVDA ET AL.* [Certiorari granted, 405 U. S. 1039.] Motion of respondents for appointment of counsel granted. It is ordered that Roger S. Hanson, Esquire, of Woodland Hills, California, a member of the Bar of this Court, be, and he is hereby, appointed to serve as counsel for respondents in this case.

No. 71-685. *LEHNHAUSEN, DIRECTOR, DEPARTMENT OF LOCAL GOVERNMENT AFFAIRS OF ILLINOIS v. LAKE SHORE AUTO PARTS Co. ET AL.*; and

No. 71-691. *BARRETT, COUNTY CLERK OF COOK COUNTY, ILLINOIS, ET AL. v. SHAPIRO ET AL.* [Certiorari granted, 405 U. S. 1039.] Motion of petitioners to advance oral argument denied.

No. 71-1190. *SUMMERS v. CENARRUSA, SECRETARY OF STATE OF IDAHO, ET AL.* Appeal from D. C. Idaho. Motions to accelerate filing of briefs and to advance oral argument denied.

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No. A-1069 (71-1024). SIXTY-SEVENTH MINNESOTA STATE SENATE *v.* BEENS ET AL.; and

No. A-1069 (71-1145). SIXTY-SEVENTH MINNESOTA STATE SENATE *v.* BEENS ET AL. Application for temporary stay presented to MR. JUSTICE BLACKMUN, and by him referred to the Court, granted pending further order of the Court.

No. 71-1317. SCHOOL BOARD OF THE CITY OF NORFOLK ET AL. *v.* BREWER ET AL. C. A. 4th Cir. Motion to advance denied. MR. JUSTICE POWELL took no part in the consideration or decision of this motion. Reported below: 456 F. 2d 943.

No. 71-6130. MOORE *v.* SMITH, WARDEN. Motion for leave to file petition for writ of habeas corpus denied.

Certiorari Granted

No. 71-738. MESCALERO APACHE TRIBE *v.* JONES, COMMISSIONER, BUREAU OF REVENUE OF NEW MEXICO, ET AL. Ct. App. N. M. Motions of Agua Caliente Band of Mission Indians and Association on American Indian Affairs, Inc., et al. for leave to file briefs as *amici curiae* granted. Certiorari granted. Reported below: 83 N. M. 158, 489 P. 2d 666.

No. 71-1134. ROADEN *v.* KENTUCKY. Ct. App. Ky. Certiorari granted limited to Question 1 presented by the petition which reads as follows:

"1. In the absence of a prior adversary hearing, is the seizure incident to arrest of allegedly obscene material, a violation of due process of law?"

Reported below: 473 S. W. 2d 814.

Certiorari Denied. (See also No. 71-1135, *supra*.)

No. 71-997. MCGINNIS, CORRECTION COMMISSIONER, ET AL. *v.* POLLACK. C. A. 2d Cir. Certiorari denied. Reported below: 452 F. 2d 833.

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No. 71-1000. BROTHERHOOD OF LOCOMOTIVE ENGINEERS *v.* UNITED STATES;

No. 71-1010. JACKSONVILLE TERMINAL CO. *v.* UNITED STATES; and

No. 71-1014. BROTHERHOOD OF RAILROAD TRAINMEN ET AL. *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 451 F. 2d 418.

No. 71-1047. WALLER *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied.

No. 71-1084. ANDERSON ET AL., TRADING AS ANDERSON SEAFOOD CO. *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 450 F. 2d 567.

No. 71-1102. ANTONIOLI ET AL. *v.* LEHIGH COAL & NAVIGATION CO. ET AL. C. A. 3d Cir. Certiorari denied. Reported below: 451 F. 2d 1171.

No. 71-1106. UNITED MINE WORKERS OF AMERICA *v.* YABLONSKI ET AL. C. A. D. C. Cir. Certiorari denied. Reported below: 147 U. S. App. D. C. 193, 454 F. 2d 1036.

No. 71-1126. SOCIETE ANONYME DE GERANCE ET D'ARMEMENT *v.* JOSEPH MULLER CORPORATION ZURICH. C. A. 2d Cir. Certiorari denied. Reported below: 451 F. 2d 727.

No. 71-1128. KELEMEN ET AL. *v.* SERBIAN ORTHODOX CHURCH CONGREGATION OF ST. DEMETRIUS OF AKRON. Sup. Ct. Ohio. Certiorari denied.

No. 71-1138. CROSS CONTRACTING CO. *v.* LAW ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 454 F. 2d 408.

No. 71-1164. WATTS *v.* MYLIUS. Ct. App. Ga. Certiorari denied. Reported below: 124 Ga. App. 475, 184 S. E. 2d 195.

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No. 71-1181. *FLANAGAN ET AL. v. NYQUIST, COMMISSIONER OF EDUCATION OF NEW YORK, ET AL.* App. Div., Sup. Ct. N. Y., 3d Jud. Dept. Certiorari denied. Reported below: 38 App. Div. 2d 645, 327 N. Y. S. 2d 119.

No. 71-1197. *RYAN ET AL. v. J. WALTER THOMPSON Co.* C. A. 2d Cir. Certiorari denied. Reported below: 453 F. 2d 444.

No. 71-1208. *ROSE v. ROSE ET AL.* Cir. Ct., Oakland County, Mich. Certiorari denied.

No. 71-5740. *WORLEY v. BUDGET CREDIT, INC.* C. A. 6th Cir. Certiorari denied.

No. 71-5788. *PAULINO v. NEW YORK.* Ct. App. N. Y. Certiorari denied.

No. 71-5794. *WELLS v. WISCONSIN.* Sup. Ct. Wis. Certiorari denied. Reported below: 51 Wis. 2d 477, 187 N. W. 2d 328.

No. 71-5801. *WINWARD v. OREGON.* Ct. App. Ore. Certiorari denied. Reported below: 6 Ore. App. 174, 485 P. 2d 1251.

No. 71-5852. *COOPERSMITH v. TOWN OF GRAND LAKE ET AL.* C. A. 10th Cir. Certiorari denied.

No. 71-6118. *WILLIAMS v. STIRE ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 448 F. 2d 783.

No. 71-6121. *TIMMONS v. SOUTH CAROLINA.* Sup. Ct. S. C. Certiorari denied. Reported below: 257 S. C. 193, 184 S. E. 2d 708.

No. 71-6123. *STINSON v. EYMAN, WARDEN.* C. A. 9th Cir. Certiorari denied.

No. 71-6126. *SCHREINER v. UNITED STATES.* C. A. 10th Cir. Certiorari denied.

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No. 71-6124. *CHAPMAN v. CARDWELL, WARDEN*. C. A. 6th Cir. Certiorari denied. Reported below: 452 F. 2d 1209.

No. 71-6128. *VANDERHORST v. SOUTH CAROLINA*. Sup. Ct. S. C. Certiorari denied. Reported below: 257 S. C. 114, 184 S. E. 2d 540.

No. 71-6131. *FOSTER v. MARYLAND*. Ct. App. Md. Certiorari denied. Reported below: 263 Md. 388, 283 A. 2d 411.

No. 71-6132. *BRYANT v. PICKETT, WARDEN*. C. A. 7th Cir. Certiorari denied.

No. 71-6133. *JORDAN v. MICHIGAN*. Sup. Ct. Mich. Certiorari denied.

No. 71-6134. *ALVAREZ v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 453 F. 2d 413.

No. 71-6135. *KING v. IOWA*. Sup. Ct. Iowa. Certiorari denied. Reported below: 191 N. W. 2d 650.

No. 71-6136. *WEAST v. UNITED STATES*. C. A. 8th Cir. Certiorari denied.

No. 71-6140. *ROBERTS v. TENNESSEE*. Ct. Crim. App. Tenn. Certiorari denied. Reported below: — Tenn. App. —, 474 S. W. 2d 152.

No. 71-6142. *MEAD v. MEIER, WARDEN*. C. A. 9th Cir. Certiorari denied. Reported below: 449 F. 2d 732.

No. 71-6143. *BRANCH ET AL. v. ORISCELLO, SHERIFF, ET AL.* C. A. 3d Cir. Certiorari denied.

No. 71-6145. *HOLMES v. UNITED STATES*; and

No. 71-6157. *MATTHEWS v. UNITED STATES*. C. A. 10th Cir. Certiorari denied. Reported below: 453 F. 2d 950.

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No. 71-6144. *FAY v. CALIFORNIA*. Ct. App. Cal., 2d App. Dist. Certiorari denied.

No. 71-6147. *EARIN v. BETO, CORRECTIONS DIRECTOR*. C. A. 5th Cir. Certiorari denied. Reported below: 453 F. 2d 376.

No. 71-6148. *KUJACA v. DALY*. C. A. 7th Cir. Certiorari denied.

No. 71-6149. *EDWARDS v. SWENSON, WARDEN*. C. A. 8th Cir. Certiorari denied. Reported below: 454 F. 2d 1106.

No. 71-6150. *McGARRITY v. BETO, CORRECTIONS DIRECTOR*. C. A. 5th Cir. Certiorari denied. Reported below: 452 F. 2d 1206.

No. 71-6151. *MOORE v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 446 F. 2d 448.

No. 71-6159. *WILSON v. ROWE, INDUSTRIAL SCHOOL SUPERINTENDENT*. C. A. 7th Cir. Certiorari denied. Reported below: 454 F. 2d 585.

No. 71-6160. *REED v. UNITED STATES*. C. A. 9th Cir. Certiorari denied.

No. 71-6162. *REDDEN v. TENNESSEE*. Sup. Ct. Tenn. Certiorari denied.

No. 70-5417. *HOLMES v. LOUISIANA*. Sup. Ct. La. Certiorari denied. MR. JUSTICE STEWART and MR. JUSTICE POWELL are of the opinion that certiorari should be granted. Reported below: 258 La. 221, 245 So. 2d 707.

No. 71-1023. *CRANSON ET AL. v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. Reported below: 453 F. 2d 123.

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No. 71-964. *PENNSYLVANIA v. WARE*. Sup. Ct. Pa. The order of this Court dated March 20, 1972 [405 U. S. 987], insofar as it granted the petition for writ of certiorari, is vacated. Certiorari denied, it appearing that the judgment below rests upon an adequate state ground. Reported below: 446 Pa. 52, 284 A. 2d 700.

No. 71-977. *SHEPHERD v. OKLAHOMA*. Ct. Crim. App. Okla. Motions to dispense with printing petition and respondent's briefs granted. Certiorari denied. MR. JUSTICE DOUGLAS and MR. JUSTICE MARSHALL are of the opinion that certiorari should be granted. Reported below: 489 P. 2d 529.

No. 71-5845. *COLEMAN v. CRAMER*. Sup. Ct. Ohio. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted.

No. 71-6120. *SHIELDS v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. Reported below: 453 F. 2d 1235.

No. 71-1144. *MILSTEIN ET AL. v. GAF CORP.*; and

No. 71-1161. *GAF CORP. v. MILSTEIN*. C. A. 2d Cir. Certiorari denied. MR. JUSTICE STEWART is of the opinion that certiorari should be granted in No. 71-1144. Reported below: 453 F. 2d 709.

No. 71-5423. *MOSES ET AL. v. WASHINGTON*. Sup. Ct. Wash. Certiorari denied. MR. JUSTICE STEWART and MR. JUSTICE WHITE are of the opinion that certiorari should be granted. Reported below: 79 Wash. 2d 104, 483 P. 2d 832.

No. 71-6141. *SMITH v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. MR. JUSTICE POWELL took no part in the consideration or decision of this petition. Reported below: 452 F. 2d 638.

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No. 71-6152. *UNDERWOOD v. ROUSE ET AL.* C. A. 8th Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted.

Rehearing Denied

No. 70-5058. *LYNCH ET AL. v. HOUSEHOLD FINANCE CORP. ET AL.*, 405 U. S. 538;

No. 71-247. *RABE v. WASHINGTON*, 405 U. S. 313;

No. 71-600. *STATE BOARD OF ELECTION COMMISSIONERS ET AL. v. EVERS ET AL.*, 405 U. S. 1001;

No. 71-852. *C. D. CONSTRUCTION CORP. v. COMMISSIONER OF INTERNAL REVENUE*, 405 U. S. 988;

No. 71-853. *GREENBERG v. UNITED STATES*, 405 U. S. 988;

No. 71-948. *GIPE, GUARDIAN v. DEMPSEY ET AL.*, 405 U. S. 990;

No. 71-987. *MOODY v. MOODY*, 405 U. S. 990;

No. 71-1009. *LINDAUER v. OKLAHOMA CITY URBAN RENEWAL AUTHORITY ET AL.*, 405 U. S. 1017;

No. 71-1061. *ARNESON PRODUCTS, INC., ET AL. v. BLUMENFELD*, 405 U. S. 1017;

No. 71-5127. *HARDEE v. NELSON, WARDEN*, 404 U. S. 1060;

No. 71-5428. *LIPSCOMB v. UNITED STATES*, 404 U. S. 1021;

No. 71-5545. *COLLINS v. MICHIGAN*, 405 U. S. 991;

No. 71-5624. *ALCALA v. WYOMING*, 405 U. S. 997;

No. 71-5817. *BURNS v. COLUMBIA PICTURES INTERNATIONAL CORP. ET AL.*, 405 U. S. 991; and

No. 71-5883. *BIBLE v. ARIZONA ET AL.*, 405 U. S. 994. Petitions for rehearing denied.

No. 71-5375. *STANLEY v. UNITED STATES*, 404 U. S. 996; and

No. 71-5771. *MUNCASTER v. UNITED STATES*, 405 U. S. 979. Motions for leave to file petitions for rehearing denied.

May 5, 8, 12, 1972

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MAY 5, 1972

Miscellaneous Orders

No. A-1106. *GEORGIA ET AL. v. UNITED STATES*. D. C. N. D. Ga. Application of the United States to vacate stay order of this Court heretofore granted on April 21, 1972 [*ante*, p. 901], denied. THE CHIEF JUSTICE, MR. JUSTICE DOUGLAS, and MR. JUSTICE STEWART are of the opinion that the application should be granted.

No. A-1116. *ESSEX, SUPERINTENDENT OF PUBLIC SCHOOLS OF OHIO, ET AL. v. WOLMAN ET AL.* D. C. S. D. Ohio. Application for stay of order of the United States District Court for the Southern District of Ohio, Civ. No. 71-396, presented to MR. JUSTICE STEWART, and by him referred to the Court, denied. THE CHIEF JUSTICE, MR. JUSTICE WHITE, and MR. JUSTICE REHNQUIST are of the opinion that the application should be granted.

No. A-1121. *LUROS ET AL. v. UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF CALIFORNIA ET AL.* C. A. 9th Cir. Application for stay presented to MR. JUSTICE DOUGLAS, and by him referred to the Court, denied.

MAY 8, 1972

Dismissal Under Rule 60

No. 70-5005. *TERRY v. CALIFORNIA*. Sup. Ct. Cal. Petition for writ of certiorari dismissed pursuant to Rule 60 of the Rules of this Court. Reported below: 2 Cal. 3d 362, 466 P. 2d 961.

MAY 12, 1972

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No. A-1179. *KLEINDIENST, ACTING ATTORNEY GENERAL, ET AL. v. WASHINGTON POST CO. ET AL.* D. C. D. C. Application of the Solicitor General for stay of judgment of the United States District Court for the District of

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May 12, 15, 1972

Columbia (Civ. Action No. 467-72), presented to THE CHIEF JUSTICE and by him referred to the Court, granted pending appeal to the United States Court of Appeals for the District of Columbia Circuit. MR. JUSTICE DOUGLAS would deny stay and leave Judge Gesell's order in effect pending appeal. See Vanden Heuvel, *The Press and the Prisons*, 11 Col. Journalism Rev. 35 (May/June 1972). MR. JUSTICE BRENNAN and MR. JUSTICE MARSHALL are of the opinion that the application should be denied.

MAY 15, 1972

Affirmed on Appeal

No. 71-1156. GRIVETTI ET AL. *v.* ILLINOIS STATE ELECTORAL BOARD ET AL.; and

No. 71-1246. INDEPENDENT VOTERS OF ILLINOIS ET AL. *v.* LEWIS, SECRETARY OF STATE OF ILLINOIS, ET AL. Affirmed on appeals from D. C. N. D. Ill. Reported below: 335 F. Supp. 779.

No. 71-1176. OSWALD, CORRECTION COMMISSIONER, ET AL. *v.* GESICKI ET AL. Affirmed on appeal from D. C. S. D. N. Y. Reported below: 336 F. Supp. 365 and 371.

No. 71-5872. VAN EEGHEN *v.* FLORIDA ET AL. Affirmed on appeal from D. C. M. D. Fla.

Appeals Dismissed

No. 71-801. COUNTY OF ALAMEDA ET AL. *v.* CALIFORNIA WELFARE RIGHTS ORGANIZATION ET AL. Appeal from Sup. Ct. Cal. dismissed for want of substantial federal question. Reported below: 5 Cal. 3d 730, 488 P. 2d 953.

No. 71-6360. TOCZAUER *v.* STATE BOARD OF REGISTRATION FOR PROFESSIONAL ENGINEERS OF CALIFORNIA. Appeal from Ct. App. Cal., 2d App. Dist., dismissed for want of substantial federal question.

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No. 71-6256. *ALERS v. SUPERIOR COURT OF PUERTO RICO*. Appeal from Sup. Ct. P. R. dismissed for want of substantial federal question.

No. 71-1094. *CROWDER v. GEORGIA ET AL.* 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: 228 Ga. 436, 185 S. E. 2d 908.

No. 71-6372. *CLEARY v. DISTRICT OF COLUMBIA*. Appeal from Ct. App. D. C. 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 postpone consideration of question of jurisdiction to hearing of case on the merits.

Certiorari Granted—Vacated and Remanded

No. 71-5515. *METCALF ET AL. v. SWANK, DIRECTOR, DEPARTMENT OF PUBLIC AID OF ILLINOIS, ET AL.* C. A. 7th Cir. Motion for leave to proceed *in forma pauperis* and certiorari granted. Judgment vacated and case remanded for further consideration in light of *Carter v. Stanton*, 405 U. S. 669. MR. JUSTICE REHNQUIST took no part in the consideration or decision of this case. Reported below: 444 F. 2d 1353.

Miscellaneous Orders

No. A-1105. *FORTSON, SECRETARY OF STATE OF GEORGIA v. MILLICAN*. D. C. N. D. Ga. Motion of appellee to vacate stay order of this Court dated April 21, 1972 [*ante*, p. 901], denied.

No. A-1165. *IN RE DISBARMENT OF MORTON*. It is ordered that William M. Morton, Jr., of St. Joseph, Missouri, be suspended from the practice of law in this Court and that a rule to show cause issue, returnable within 40 days, requiring him to show cause why he should not be disbarred from the practice of law in this Court.

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No. 27, Orig. OHIO *v.* KENTUCKY. Report of Special Master, upon motion of State of Ohio, received and ordered filed. Exceptions, if any, with supporting briefs may be filed within 60 days. Reply briefs, if any, may be filed within 30 days of receipt of exceptions. [For earlier orders herein, see, *e. g.*, 404 U. S. 933.]

No. 71-718. MCGINNIS, CORRECTION COMMISSIONER, ET AL. *v.* ROYSTER ET AL. Appeal from D. C. S. D. N. Y. [Probable jurisdiction noted, 405 U. S. 986.] Motion of appellees for leave to proceed *in forma pauperis* granted.

No. 71-1016. FEDERAL POWER COMMISSION *v.* LOUISIANA POWER & LIGHT CO. ET AL.; and

No. 71-1040. UNITED GAS PIPE LINE CO. ET AL. *v.* LOUISIANA POWER & LIGHT CO. ET AL. C. A. 5th Cir. [Certiorari granted, 405 U. S. 973.] Motion of Mobile Gas Service Corp. et al. for leave to file supplemental *amici curiae* brief after argument granted. MR. JUSTICE STEWART and MR. JUSTICE POWELL took no part in the consideration or decision of this motion.

No. 71-5908. CHAMBERS *v.* MISSISSIPPI. Sup. Ct. Miss. [Certiorari granted, 405 U. S. 987.] Motion of Ramsey Clark to permit Peter Westen to argue orally *pro hac vice* on behalf of petitioner granted.

No. 71-6242. BRADLEY *v.* WINGO, WARDEN;

No. 71-6255. BRISBON *v.* ELROD, SHERIFF, ET AL.; and

No. 71-6315. WOOTEN *v.* WINGO, WARDEN. Motions for leave to file petitions for writs of habeas corpus denied.

No. 71-6186. STUDENTS OPPOSING UNFAIR PRACTICES, INC. *v.* BAZELON, CHIEF JUDGE, U. S. COURT OF APPEALS, ET AL. Motion for leave to file petition for writ of mandamus and/or certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that the motion should be granted.

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No. 71-6219. REESE ET AL. *v.* MEIER, PRISON DIRECTOR, ET AL. Motion for leave to file petition for writ of habeas corpus and other relief denied.

No. 71-6164. LEVY *v.* UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF FLORIDA ET AL.;

No. 71-6261. ANDERSON *v.* TURRENTINE, U. S. DISTRICT JUDGE; and

No. 71-6270. WION *v.* AARAJ, U. S. DISTRICT JUDGE, ET AL. Motions for leave to file petitions for writs of mandamus denied.

Probable Jurisdiction Noted

No. 71-1193. UNITED STATES *v.* ENMONS ET AL. Appeal from D. C. E. D. La. Probable jurisdiction noted. Reported below: 335 F. Supp. 641.

No. 71-834. McCLANAHAN *v.* ARIZONA TAX.COMMISSION. Appeal from Ct. App. Ariz. Probable jurisdiction noted and case set for oral argument with No. 71-738 [*Mescalero Apache Tribe v. Jones*, certiorari granted, *ante*, p. 905]. Reported below: 14 Ariz. App. 452, 484 P. 2d 221.

Certiorari Granted

No. 71-1043. HELLER *v.* NEW YORK. Ct. App. N. Y. Certiorari granted and case set for oral argument with No. 71-1134 [*Roaden v. Kentucky*, certiorari granted, *ante*, p. 905]. Reported below: 29 N. Y. 2d 319, 277 N. E. 2d 651.

No. 71-1136. TILLMAN ET AL. *v.* WHEATON-HAVEN RECREATION ASSN., INC., ET AL. C. A. 4th Cir. Motion to strike brief of respondents, except McIntyre, denied. Certiorari granted. Reported below: 451 F. 2d 1211.

No. 71-6272. ROBINSON *v.* NEIL, WARDEN. C. A. 6th Cir. Motion for leave to proceed *in forma pauperis* and certiorari granted. Reported below: 452 F. 2d 370.

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No. 71-5656. *PHILPOTT ET AL. v. ESSEX COUNTY WELFARE BOARD*. Sup. Ct. N. J. Motion for leave to proceed *in forma pauperis* and certiorari granted. Reported below: 59 N. J. 75, 279 A. 2d 806.

Certiorari Denied. (See also Nos. 71-1094 and 71-6372, *supra*.)

No. 71-849. *GRIMES v. DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL OF CALIFORNIA ET AL.* Ct. App. Cal., 2d App. Dist. Certiorari denied.

No. 71-980. *POWELL v. ARKANSAS*. Sup. Ct. Ark. Certiorari denied. Reported below: 251 Ark. 46, 471 S. W. 2d 333.

No. 71-986. *CRESTFIELD v. TEXAS*. Ct. Crim. App. Tex. Certiorari denied. Reported below: 471 S. W. 2d 50.

No. 71-1049. *ALTOM v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 454 F. 2d 289.

No. 71-1064. *GRUNBERGER v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 452 F. 2d 704.

No. 71-1066. *COLASURDO ET AL. v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 453 F. 2d 585.

No. 71-1083. *COBLENTZ v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 453 F. 2d 503.

No. 71-1086. *MASIELLO v. UNITED STATES*. C. A. 2d Cir. Certiorari denied.

No. 71-1087. *REAM v. OHIO*. Ct. App. Ohio, Hancock County. Certiorari denied.

No. 71-1088. *MORADO ET AL. v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 454 F. 2d 167.

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No. 71-1091. *CASTELL v. UNITED STATES*. C. A. 4th Cir. Certiorari denied.

No. 71-1092. *STAR OFFICE SUPPLY CO. ET AL. v. FEDERAL TRADE COMMISSION*. C. A. 2d Cir. Certiorari denied.

No. 71-1095. *CONTINENTAL INSURANCE CO. v. BYRNE, DEPUTY COMMISSIONER, BUREAU OF EMPLOYEES' COMPENSATION, U. S. DEPARTMENT OF LABOR*. C. A. 7th Cir. Certiorari denied. Reported below: 471 F. 2d 257.

No. 71-1100. *ILLINOIS v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 454 F. 2d 297.

No. 71-1112. *GRIZAFFI ET AL. v. FEDERAL SAVINGS & LOAN INSURANCE CORP., RECEIVER*. C. A. 7th Cir. Certiorari denied. Reported below: 460 F. 2d 422.

No. 71-1113. *UNION CARBIDE CORP. v. VOUTSIS ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 452 F. 2d 889.

No. 71-1114. *FIOTTO ET AL. v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 454 F. 2d 252.

No. 71-1116. *CRUZ ET AL. v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 455 F. 2d 184.

No. 71-1117. *WIDELSKI ET UX. v. UNITED STATES ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 452 F. 2d 1.

No. 71-1120. *SCHULMAN v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 455 F. 2d 323.

No. 71-1124. *LIDDON v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 448 F. 2d 509.

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No. 71-1129. *BEL ET AL. v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 452 F. 2d 683.

No. 71-1131. *HAMLET v. NATIONAL LABOR RELATIONS BOARD*. C. A. 7th Cir. Certiorari denied.

No. 71-1137. *ROTHMAN, RECEIVER v. PACIFIC TELEPHONE & TELEGRAPH Co.* C. A. 9th Cir. Certiorari denied. Reported below: 453 F. 2d 848.

No. 71-1140. *SISALCORDS DO BRAZIL, LTD. v. FIACAO BRASILEIRA DE SISAL, S. A.* C. A. 5th Cir. Certiorari denied. Reported below: 450 F. 2d 419.

No. 71-1143. *YOHANES v. AYERS STEAMSHIP Co., INC.* C. A. 5th Cir. Certiorari denied. Reported below: 451 F. 2d 349.

No. 71-1153. *MEYER v. KENTUCKY*. Ct. App. Ky. Certiorari denied. Reported below: 472 S. W. 2d 479.

No. 71-1154. *OTIS ENGINEERING CORP. v. GUIMBELLOT*. C. A. 5th Cir. Certiorari denied. Reported below: 450 F. 2d 870.

No. 71-1155. *FIELDS, GUARDIAN, ET AL. v. TRAVELERS INSURANCE Co. ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 451 F. 2d 1292.

No. 71-1163. *WING v. OKLAHOMA*. Ct. Crim. App. Okla. Certiorari denied. Reported below: 490 P. 2d 1376.

No. 71-1166. *ORMENTO v. UNITED STATES*. C. A. 2d Cir. Certiorari denied.

No. 71-1172. *UNITED STATES STEEL CORP. ET AL. v. FORTNER ENTERPRISES, INC.* C. A. 6th Cir. Certiorari denied. Reported below: 452 F. 2d 1095.

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No. 71-1183. *GUTHRIE v. TAYLOR ET AL.* Sup. Ct. N. C. Certiorari denied. Reported below: 279 N. C. 703, 185 S. E. 2d 193.

No. 71-1185. *DESHOTELS ET UX. v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. Reported below: 450 F. 2d 961.

No. 71-1189. *ANDREW, ADMINISTRATRIX v. BENDIX CORP.* C. A. 6th Cir. Certiorari denied. Reported below: 452 F. 2d 961.

No. 71-1196. *COREY ET AL. v. STATE SAVINGS & LOAN ASSN. ET AL.* Sup. Ct. Hawaii. Certiorari denied. Reported below: 53 Haw. 132 and 177, 488 P. 2d 703.

No. 71-1204. *FRASER & JOHNSTON CO. v. LODGE 1327, INTERNATIONAL ASSOCIATION OF MACHINISTS & AEROSPACE WORKERS, AFL-CIO.* C. A. 9th Cir. Certiorari denied. Reported below: 454 F. 2d 88.

No. 71-1211. *SAPENTER ET UX. v. DREYCO, INC.* C. A. 5th Cir. Certiorari denied. Reported below: 450 F. 2d 941.

No. 71-1234. *KENNEDY v. COMMISSIONER OF INTERNAL REVENUE.* C. A. 3d Cir. Certiorari denied. Reported below: 451 F. 2d 1023.

No. 71-1238. *KLAES v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. Reported below: 453 F. 2d 1375.

No. 71-1239. *BARDEN v. JUNIOR COLLEGE DISTRICT NO. 520 OF ILLINOIS ET AL.* App. Ct. Ill. 3d Dist. Certiorari denied. Reported below: 132 Ill. App. 2d 1038, 271 N. E. 2d 680.

No. 71-1243. *NEW YORK, SUSQUEHANNA & WESTERN RAILROAD CO. v. LEIGHTON.* C. A. 2d Cir. Certiorari denied. Reported below: 455 F. 2d 389.

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No. 71-1256. *PUGH v. NEW YORK*. Ct. App. N. Y. Certiorari denied. Reported below: 29 N. Y. 2d 909, 279 N. E. 2d 604.

No. 71-1278. *CHEVRON OIL Co., CALIFORNIA COMPANY DIVISION v. ROYAL INSURANCE Co. ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 450 F. 2d 580.

No. 71-1283. *METROPOLITAN SEWERAGE COMMISSION OF COUNTY OF MILWAUKEE v. FATTORE Co., INC.* C. A. 7th Cir. Certiorari denied. Reported below: 454 F. 2d 537.

No. 71-1320. *HANRAHAN ET AL. v. SEARS ET AL.* Sup. Ct. Ill. Certiorari denied. Reported below: 50 Ill. 2d 51, 277 N. E. 2d 705.

No. 71-5572. *CONNER v. WINGO, WARDEN.* C. A. 6th Cir. Certiorari denied.

No. 71-5830. *JONES v. CRAVEN, WARDEN.* C. A. 9th Cir. Certiorari denied.

No. 71-5858. *GRINDSTAFF v. MISSOURI ET AL.* Sup. Ct. Mo. Certiorari denied.

No. 71-5886. *GILREATH v. ARIZONA.* Sup. Ct. Ariz. Certiorari denied. Reported below: 107 Ariz. 318, 487 P. 2d 385.

No. 71-5899. *WHITE v. TENNESSEE.* C. A. 6th Cir. Certiorari denied. Reported below: 447 F. 2d 1354.

No. 71-5914. *SYKES v. CADY, WARDEN.* C. A. 7th Cir. Certiorari denied.

No. 71-5920. *DURLEY v. ILLINOIS.* App. Ct. Ill., 1st Dist. Certiorari denied. Reported below: 132 Ill. App. 2d 570, 270 N. E. 2d 170.

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No. 71-5937. *BOWRING v. SLAYTON, PENITENTIARY SUPERINTENDENT*. C. A. 4th Cir. Certiorari denied.

No. 71-5938. *BARONE v. MANCUSI, CORRECTIONAL SUPERINTENDENT*. Ct. App. N. Y. Certiorari denied. Reported below: 29 N. Y. 2d 484.

No. 71-6146. *TASBY v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 451 F. 2d 394.

No. 71-6163. *AUGELLO v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 452 F. 2d 1135.

No. 71-6165. *HIGGINS v. UNITED STATES*. C. A. 2d Cir. Certiorari denied.

No. 71-6166. *PETERKIN ET AL. v. UNITED STATES*. Ct. App. D. C. Certiorari denied. Reported below: 281 A. 2d 567.

No. 71-6168. *CASTANON v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 453 F. 2d 932.

No. 71-6170. *SOOTS ET UX. v. PANARO*. Sup. Ct. Del. Certiorari denied.

No. 71-6171. *PIZZO v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 453 F. 2d 1063.

No. 71-6172. *MALONE v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 450 F. 2d 344.

No. 71-6173. *COLE v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 453 F. 2d 902.

No. 71-6175. *BEYER v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 453 F. 2d 248.

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No. 71-6174. *KRESS v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 451 F. 2d 576.

No. 71-6177. *ALLEN ET AL. v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 453 F. 2d 1371.

No. 71-6178. *MILLER v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 453 F. 2d 634.

No. 71-6179. *McCLELLAN v. UNITED STATES*. C. A. 6th Cir. Certiorari denied.

No. 71-6180. *WHITE v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 451 F. 2d 351.

No. 71-6181. *NACI v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 450 F. 2d 1144.

No. 71-6184. *ATKINSON v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 450 F. 2d 835.

No. 71-6187. *BAUGHMAN v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 450 F. 2d 1217.

No. 71-6188. *LEWIS v. UNITED STATES*. C. A. D. C. Cir. Certiorari denied.

No. 71-6191. *RAY v. BRIERLEY, WARDEN*. C. A. 3d Cir. Certiorari denied.

No. 71-6192. *REDDING v. BOARD OF COUNTY COMMISSIONERS OF PRINCE GEORGE'S COUNTY*. Ct. App. Md. Certiorari denied. Reported below: 263 Md. 94, 282 A. 2d 136.

No. 71-6194. *BATEN v. DISTRICT UNEMPLOYMENT COMPENSATION BOARD*. Ct. App. D. C. Certiorari denied.

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No. 71-6195. *HAYES v. CADY, WARDEN*. C. A. 7th Cir. Certiorari denied.

No. 71-6198. *OLBROT v. ILLINOIS*. Sup. Ct. Ill. Certiorari denied. Reported below: 49 Ill. 2d 216, 274 N. E. 2d 73.

No. 71-6199. *McDANIEL v. UNITED STATES*. C. A. 6th Cir. Certiorari denied.

No. 71-6200. *AVILA-DIAZ v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 453 F. 2d 1364.

No. 71-6201. *WOLFSON ET AL. v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 454 F. 2d 60.

No. 71-6202. *ARMSTRONG v. UNITED STATES*. Ct. Cl. Certiorari denied.

No. 71-6203. *TOMLIN v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 454 F. 2d 176.

No. 71-6205. *POKRAS v. UNITED STATES*. C. A. 2d Cir. Certiorari denied.

No. 71-6206. *KENNEDY v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 450 F. 2d 1089.

No. 71-6207. *BARAN v. MANCUSI, CORRECTIONAL SUPERINTENDENT*. C. A. 2d Cir. Certiorari denied.

No. 71-6208. *McWILLIAMS v. UNITED STATES*; and
No. 71-6217. *BERKLEY v. UNITED STATES*. C. A. 4th Cir. Certiorari denied.

No. 71-6212. *STRAUSS ET AL. v. DADE COUNTY*. Sup. Ct. Fla. Certiorari denied. Reported below: 253 So. 2d 864.

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No. 71-6211. *COOK v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 450 F. 2d 339.

No. 71-6213. *JONES v. UNITED STATES*. C. A. 6th Cir. Certiorari denied.

No. 71-6214. *GARNER v. UNITED STATES*. C. A. D. C. Cir. Certiorari denied.

No. 71-6215. *HOWELLS v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 452 F. 2d 1182.

No. 71-6216. *MOORE v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 453 F. 2d 601.

No. 71-6218. *FRAME v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 454 F. 2d 1136.

No. 71-6220. *BURKE v. MANCUSI, CORRECTIONAL SUPERINTENDENT*. C. A. 2d Cir. Certiorari denied. Reported below: 453 F. 2d 563.

No. 71-6221. *ETHRIDGE v. HENDERSON, WARDEN*. C. A. 5th Cir. Certiorari denied.

No. 71-6222. *ADAMS ET UX. v. AKRON METROPOLITAN HOUSING AUTHORITY*. Sup. Ct. Ohio. Certiorari denied.

No. 71-6228. *HAMILTON ET AL. v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 452 F. 2d 472.

No. 71-6229. *STEWART v. BETO, CORRECTIONS DIRECTOR*. C. A. 5th Cir. Certiorari denied. Reported below: 451 F. 2d 185.

No. 71-6230. *LINDSEY v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 453 F. 2d 867.

No. 71-6231. *HEIGL v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 455 F. 2d 1256.

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No. 71-6233. *ALLERS v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 453 F. 2d 1244.

No. 71-6234. *RYLES, AKA PETERSON v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 451 F. 2d 190.

No. 71-6240. *THACKER v. BRASWELL, JUDGE, ET AL.* Sup. Ct. N. C. Certiorari denied.

No. 71-6244. *RICE v. NORTH CAROLINA*. C. A. 4th Cir. Certiorari denied.

No. 71-6245. *SANDERS v. UNITED STATES*. C. A. 10th Cir. Certiorari denied. Reported below: 455 F. 2d 863.

No. 71-6246. *JOHNSON v. PATTERSON, WARDEN*. C. A. 10th Cir. Certiorari denied.

No. 71-6248. *BUCKLEY v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 451 F. 2d 594.

No. 71-6249. *KRIKMANIS v. MANNERING ET AL.* C. A. 1st Cir. Certiorari denied.

No. 71-6250. *LAUCHLI v. UNITED STATES*. C. A. 7th Cir. Certiorari denied.

No. 71-6253. *LISK v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 454 F. 2d 205.

No. 71-6254. *SWEENEY v. FRITZ, CORRECTIONAL SUPERINTENDENT*. App. Div., Sup. Ct. N. Y., 4th Jud. Dept. Certiorari denied.

No. 71-6257. *OWINGS v. SECRETARY OF THE AIR FORCE*. C. A. D. C. Cir. Certiorari denied. Reported below: 145 U. S. App. D. C. 76, 447 F. 2d 1245.

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No. 71-6266. *TAYLOR v. SMITH, GOVERNOR OF TEXAS, ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 453 F. 2d 751.

No. 71-6267. *DOWDLE v. MANCUSI, CORRECTIONAL SUPERINTENDENT.* App. Div., Sup. Ct. N. Y., 4th Jud. Dept. Certiorari denied.

No. 71-6268. *LEACH v. UNITED STATES*; and

No. 71-6275. *LEACH v. UNITED STATES.* C. A. 2d Cir. Certiorari denied. Reported below: 453 F. 2d 612.

No. 71-6276. *CUMMINGS v. ZELKER, CORRECTIONAL SUPERINTENDENT.* C. A. 2d Cir. Certiorari denied. Reported below: 455 F. 2d 714.

No. 71-6277. *RASKIN v. UNITED STATES.* C. A. 6th Cir. Certiorari denied.

No. 71-6283. *HALL v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. Reported below: 455 F. 2d 492.

No. 71-6290. *WILLIAMS v. DEEGAN, CORRECTIONAL SUPERINTENDENT.* C. A. 2d Cir. Certiorari denied.

No. 71-6293. *REAVES v. BLACKLEDGE, WARDEN, ET AL.* C. A. 4th Cir. Certiorari denied.

No. 71-6294. *JOHNSON v. UNITED STATES.* C. A. 8th Cir. Certiorari denied. Reported below: 453 F. 2d 1314.

No. 71-6300. *MORRISON v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. Reported below: 451 F. 2d 561.

No. 71-6306. *WEATHERS v. KANSAS.* Sup. Ct. Kan. Certiorari denied. Reported below: 208 Kan. 653, 493 P. 2d 270.

No. 71-6312. *THACKER v. SLAYTON, PENITENTIARY SUPERINTENDENT, ET AL.* C. A. 4th Cir. Certiorari denied.

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No. 71-6310. *EVANS v. UNITED STATES*. C. A. 3d Cir. Certiorari denied.

No. 71-6317. *FINE v. KOLODNY ET AL.* Ct. App. Md. Certiorari denied. Reported below: 263 Md. 647, 284 A. 2d 409.

No. 71-6318. *SUMPTER v. WHITE PLAINS HOUSING AUTHORITY ET AL.* Ct. App. N. Y. Certiorari denied. Reported below: 29 N. Y. 2d 420, 278 N. E. 2d 892.

No. 71-6322. *SCHMEIDEBERG v. BETO, CORRECTIONS DIRECTOR*. C. A. 5th Cir. Certiorari denied.

No. 71-6323. *SHERIS v. THOMPSON ET AL.* Sup. Ct. N. H. Certiorari denied.

No. 71-6324. *DELEVAY v. GREYHOUND CORP.* Ct. App. D. C. Certiorari denied.

No. 71-6331. *WHITE v. OHIO*. Sup. Ct. Ohio. Certiorari denied.

No. 71-6333. *FERENC v. JOHNSON, PENITENTIARY SUPERINTENDENT, ET AL.* C. A. 3d Cir. Certiorari denied.

No. 71-6335. *FAIR v. TAMPA ELECTRIC CO. ET AL.* C. A. 5th Cir. Certiorari denied.

No. 71-6338. *SHUTT v. NORTH CAROLINA*. Sup. Ct. N. C. Certiorari denied. Reported below: 279 N. C. 689, 185 S. E. 2d 206.

No. 71-6343. *CASH v. MARYLAND*. Ct. Sp. App. Md. Certiorari denied.

No. 71-6348. *BROWN v. LAVALLEE, CORRECTIONAL SUPERINTENDENT*. C. A. 2d Cir. Certiorari denied.

No. 71-6351. *BLANCO v. RKO THEATRES, INC., DBA RKO GREENPOINT*. C. A. 2d Cir. Certiorari denied. Reported below: 453 F. 2d 151.

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No. 71-6352. *GREENE v. SOUTH DAKOTA*. Sup. Ct. S. D. Certiorari denied. Reported below: — S. D. —, 192 N. W. 2d 712.

No. 71-6357. *ODEN v. OHIO*. Ct. App. Ohio, Cuyahoga County. Certiorari denied.

No. 71-6358. *SAPP v. TEXAS*. Ct. Crim. App. Tex. Certiorari denied. Reported below: 476 S. W. 2d 321.

No. 71-942. *OZZANTO ET AL. v. SUPERIOR COURT OF CALIFORNIA FOR THE 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. 71-1048. *LONDON v. FLORIDA DEPARTMENT OF HEALTH AND REHABILITATIVE SERVICES, DIVISION OF FAMILY SERVICES*. C. A. 5th Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. Reported below: 448 F. 2d 655.

No. 71-1056. *MECHANIC ET AL. v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. Reported below: 454 F. 2d 849.

No. 71-1060. *TSAKALOTOS v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted.

No. 71-1103. *HONCHOK ET AL. v. BUTZ, SECRETARY OF AGRICULTURE, ET AL.* C. A. 4th Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted.

No. 71-1149. *CREEK NATION v. UNITED STATES*. Ct. Cl. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. Reported below: 196 Ct. Cl. 639.

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No. 71-1160. *TRANSPORT OF NEW JERSEY v. DELAWARE RIVER PORT AUTHORITY*. Sup. Ct. N. J. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. Reported below: 59 N. J. 531, 284 A. 2d 529.

No. 71-1165. *HARPER v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. Reported below: 458 F. 2d 891.

No. 71-1207. *BAYLESS ET AL. v. MARTINE ET AL.* C. A. 5th Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. Reported below: 451 F. 2d 561.

No. 71-1223. *CALDERONE ENTERPRISES CORP. v. UNITED ARTISTS THEATRE CIRCUIT, INC., ET AL.* C. A. 2d Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. Reported below: 454 F. 2d 1292.

No. 71-5099. *NORWOOD v. HENDERSON, WARDEN*. C. A. 5th Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. Reported below: 440 F. 2d 1073.

No. 71-5789. *ANDERSON v. KENTUCKY*. C. A. 6th Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted.

No. 71-5854. *STANLEY ET AL. v. OHIO*. Sup. Ct. Ohio. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted.

No. 71-5855. *MEALEY v. DELAWARE*. Sup. Ct. Del. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted.

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No. 71-5860. *PINO ET AL. v. FLORIDA*. Sup. Ct. Fla. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted.

No. 71-5896. *TENNANT v. OHIO*. C. A. 6th Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted.

No. 71-5947. *ERENYI v. FITZHARRIS, CORRECTIONAL SUPERINTENDENT, ET AL.* C. A. 9th Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted.

No. 71-5960. *BROWN v. SUPERINTENDENT, VIRGINIA STATE PENITENTIARY*. C. A. 4th Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. Reported below: 435 F. 2d 1352.

No. 71-6225. *DOSTAL ET AL. v. OHIO*. Sup. Ct. Ohio. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. Reported below: 28 Ohio St. 2d 158, 277 N. E. 2d 211.

No. 71-6227. *MAYFIELD v. UNITED STATES*; and

No. 71-6236. *WHITLOCK v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted.

No. 71-6239. *JOE v. UNITED STATES*. C. A. 10th Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. Reported below: 452 F. 2d 653.

No. 71-6280. *ROSENTHAL v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. Reported below: 454 F. 2d 1252.

No. 71-6363. *CAROLINE v. REICHER ET AL.* Ct. App. Md. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted.

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No. 71-6288. *INGRAM v. HASKINS, CORRECTIONAL SUPERINTENDENT*. C. A. 6th Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted.

No. 71-6289. *LESLIE ET AL. v. MATZKIN, JUDGE, ET AL.* C. A. 2d Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. Reported below: 450 F. 2d 310.

No. 71-6365. *GRUMBLES ET AL. v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. Reported below: 453 F. 2d 119.

No. 71-6366. *DUFF v. ZELKER, CORRECTIONAL SUPERINTENDENT*. C. A. 2d Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. Reported below: 452 F. 2d 1009.

No. 71-943. *WHITAKER v. NEW YORK ET AL.* Ct. App. N. Y. Motion to dispense with printing petition granted. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted.

No. 71-966. *DOHERTY v. DISTRICT OF COLUMBIA UNEMPLOYMENT COMPENSATION BOARD*. Ct. App. D. C. Motion to dispense with printing petition granted. Certiorari denied. Reported below: 283 A. 2d 206.

No. 71-1125. *DELAUGHTER ET AL. v. UNITED STATES*. C. A. 5th Cir. Motion to dispense with printing petition granted. Certiorari denied. Reported below: 453 F. 2d 908.

No. 71-1130. *CARGILL, INC., ET AL. v. BUTZ, SECRETARY OF AGRICULTURE, ET AL.* C. A. 8th Cir. Certiorari denied. MR. JUSTICE BLACKMUN took no part in the consideration or decision of this petition. Reported below: 452 F. 2d 1154.

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No. 71-1213. *DeSAPIO 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: 456 F. 2d 644.

No. 71-1174. *UNITED TRANSPORTATION UNION v. GEORGIA RAILROAD*. C. A. 5th Cir. Certiorari denied. MR. JUSTICE POWELL took no part in the consideration or decision of this petition. Reported below: 452 F. 2d 226.

No. 71-6235. *TELEPHONE USERS ASSOCIATION, INC. v. PUBLIC SERVICE COMMISSION OF THE DISTRICT OF COLUMBIA ET AL.* Ct. App. D. C. Certiorari denied. MR. JUSTICE POWELL took no part in the consideration or decision of this petition.

No. 71-6271. *TELEPHONE USERS ASSOCIATION, INC. v. PUBLIC SERVICE COMMISSION OF THE DISTRICT OF COLUMBIA ET AL.* C. A. D. C. Cir. Certiorari denied. MR. JUSTICE POWELL took no part in the consideration or decision of this petition.

No. 71-1198. *TEXAS HIGHWAY DEPARTMENT ET AL. v. NAMED INDIVIDUALS*. C. A. 5th Cir. Motions of Citizens Committee for Completion of the North Expressway et al. and Greater San Antonio Chamber of Commerce for leave to file briefs as *amici curiae* granted. Certiorari denied. Reported below: See 446 F. 2d 1013.

No. 71-1317. *SCHOOL BOARD OF THE CITY OF NORFOLK, VIRGINIA, ET AL. v. BREWER ET AL.* C. A. 4th Cir. Motion of respondents to vacate stay of mandate of the United States Court of Appeals for the Fourth Circuit granted. Certiorari denied. MR. JUSTICE POWELL took no part in the consideration or decision of this motion and petition. Reported below: 456 F. 2d 943.

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No. 71-1110. *VESTAL ET AL. v. HOFFA ET AL.* C. A. 6th Cir. Certiorari denied. MR. JUSTICE WHITE took no part in the consideration or decision of this petition. Reported below: 451 F. 2d 706.

No. 71-5910. *COX v. UNITED STATES.* C. A. 10th Cir. Certiorari denied. MR. JUSTICE BRENNAN and MR. JUSTICE MARSHALL are of the opinion that certiorari should be granted. Reported below: 449 F. 2d 679.

MR. JUSTICE DOUGLAS, dissenting.

Petitioner was convicted of bank robbery after a trial in which the Government introduced over objection tape recordings of his telephone communications. These tape recordings had resulted from a federal court order which was issued pursuant to Title III of the Omnibus Crime Control and Safe Streets Act of 1968, 18 U. S. C. §§ 2510-2520, and which permitted federal agents to wiretap. Although the order was limited to seizures of communications relating to narcotics offenses, the eavesdroppers discovered that the subjects were discussing a bank robbery and those conversations were recorded despite the limited scope of the order.

The petitioner challenged the introduction of these tapes on the ground that their subject matter was outside the scope of the warrant. The Court of Appeals rejected this argument, reasoning that once the device was legitimately spliced into the designated telephone lines anything overheard was in "plain view" and therefore could be seized lawfully. Said the Court of Appeals: "Once the listening commences it becomes impossible to turn it off when a subject other than one which is authorized is overheard," 449 F. 2d 679, 686-687. With all respect, that is precisely the point. As I said in *Osborn v. United States*, 385 U. S. 323, 353:

"Such devices lay down a dragnet which indiscriminately sweeps in all conversations within its scope,

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without regard to the nature of the conversations, or the participants. A warrant authorizing such devices is no different from the general warrants the Fourth Amendment was intended to prohibit."

I would grant this petition, reverse, and hold that Title III offends the Warrant Clause of the Fourth Amendment.

No. 71-6125. *ROACH v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 453 F.2d 1054.

MR. JUSTICE DOUGLAS, dissenting.

I would grant the petition for a writ of certiorari and either reverse out of hand or put the case down for argument.

By a 1903 treaty the United States obtained a corridor across the Republic of Panama from the Caribbean to the Pacific. 33 Stat. 2234. But Art. VI of the treaty provided that the grants to the United States shall not "interfere with the rights of way over the public roads passing through the said zone . . . unless said rights of way or private rights shall conflict with rights herein granted to the United States in which case the rights of the United States shall be superior." 33 Stat. 2235; 3 Canal Zone Code 431.

Petitioner is a Panamanian who has been operating buses in Panama for 23 years. His license to operate was granted by the Republic of Panama and his area of operation begins and ends in the Republic of Panama. Under a reciprocal agreement between the Canal Zone and Panama any motor vehicle inspected in Panama will be accepted in the Canal Zone and *vice versa*.

The public road traveled by petitioner crosses the Canal Zone, and his operations in no way conflict with any rights "granted to the United States" under the 1903 treaty.

The Canal Zone authorities decided to give all cross-Canal Zone public transportation to one Delaware corporation. The necessity of the Delaware corporation's meeting minimum wage requirements was said to be the reason. No hearings, however, were held. The petitioner and the other "indigents" were given no notice and no opportunity to be heard. They were driven out of business by the *ipse dixit* of the Governor and petitioner stands criminally convicted. Petitioner is no fly-by-night operator. He operated 15 buses and employed 30 people and was in this business for 23 years. His crossing of the Canal Zone is guaranteed by the 1903 treaty; and though one agrees, *arguendo*, that the right may be regulated as to times and circumstances, there is no defensible reason given why a person should be driven out of business with no chance to be heard.

The Canal Zone has a Bill of Rights, much of it taken almost word for word from our first Eight Amendments. 1 Canal Zone Code, Tit. 1, c. 3, § 31. One guarantee is that "[a] person may not be . . . deprived of life, liberty, or property without due process of law." § 31 (5)(C). We enacted such a Bill of Rights for the Philippines and when it came for review here this Court said:

"When Congress came to pass the act of July 1, 1902, it enacted, almost in the language of the President's instructions, the Bill of Rights of our Constitution. In view of the expressed declaration of the President, followed by the action of Congress, both adopting, with little alteration, the provisions of the Bill of Rights, there would seem to be no room for argument that in this form it was intended to carry to the Philippine Islands those principles of our Government which the President

declared to be established as rules of law for the maintenance of individual freedom, at the same time expressing regret that the inhabitants of the islands had not theretofore enjoyed their benefit.

"How can it be successfully maintained that these expressions of fundamental rights, which have been the subject of frequent adjudication in the courts of this country, and the maintenance of which has been ever deemed essential to our Government, could be used by Congress in any other sense than that which has been placed upon them in construing the instrument from which they were taken?" *Kepner v. United States*, 195 U. S. 100, 124.

That is the approach we should take here.

Procedural due process, for example, may not be necessary before food unfit for human use is seized. See *North American Storage Co. v. Chicago*, 211 U. S. 306. But barring the need for quick, expeditious action, the amenities of notice and hearing are required whether discharge from public employment be at issue, *Slochower v. Board of Education*, 350 U. S. 551; denial of a tax exemption, *Speiser v. Randall*, 357 U. S. 513; disqualification for unemployment compensation, *Sherbert v. Verner*, 374 U. S. 398; or the termination of welfare benefits, *Goldberg v. Kelly*, 397 U. S. 254, 263-265.

The honor of this Nation, as well as the livelihood of this petitioner, is at stake here. We grant Panamanians a Bill of Rights and dishonor it. The imperialistic, colonial attitude of our administration in the Canal Zone is notorious. But the "natives" are entitled to the same due process which we grant our own citizens.

I see no reason why we should not reverse this judgment out of hand. The least we can do is to set the case for argument.

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No. 71-6176. *MAFFEI v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 450 F. 2d 928.

MR. JUSTICE DOUGLAS, dissenting.

Seven courts of appeals, including the court below, have held that a federal defendant who presents evidence in his behalf thereby waives any error in a prior denial of a motion for acquittal made at the close of the Government's case. *United States v. Haskell*, 327 F. 2d 281, 282, n. 2 (CA2); *United States v. Feldman*, 425 F. 2d 688, 692 (CA3); *United States v. Cashio*, 420 F. 2d 1132, 1134 (CA5); *United States v. Carabbia*, 381 F. 2d 133, 138 (CA6); *Cline v. United States*, 395 F. 2d 138, 144 (CA8); *Viramontes-Medina v. United States*, 411 F. 2d 981, 982 (CA9); *United States v. Greene*, 442 F. 2d 1285, 1286-1287, n. 3 (CA10). Two other courts of appeals, however, have held that presentation of a defense is not a waiver. *United States v. Rizzo*, 416 F. 2d 734, 736 n. 3 (CA7); *Cephus v. United States*, 117 U. S. App. D. C. 15, 324 F. 2d 893. I would grant this petition to resolve the conflict. Rule 19 (1)(b) of the Rules of this Court.

Rehearing Denied

No. 71-5773. *FAIR v. WIGGINS*, 405 U. S. 971;

No. 71-5850. *GRAHAM v. SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES, ET AL. (AEROJET-GENERAL CORP. ET AL., REAL PARTIES IN INTEREST)*, 405 U. S. 993;

No. 71-5853. *TIMMONS v. PENNSYLVANIA ET AL.*, 405 U. S. 993;

No. 71-5877. *SMART v. UNITED STATES*, 405 U. S. 998;

No. 71-5888. *BAXTER v. DAVIS ET AL.*, 405 U. S. 999; and

No. 71-5889. *DENMAN ET AL. v. SCANNELL ET AL.*, 405 U. S. 994. Petitions for rehearing denied.

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No. 71-5902. OLIVER *v.* DUGGAN, DISTRICT ATTORNEY OF ALLEGHENY COUNTY, ET AL., 405 U. S. 995;

No. 71-5905. CRUZ *v.* BETO, CORRECTIONS DIRECTOR, 405 U. S. 998;

No. 71-5912. WILLIAMSON ET AL. *v.* UNITED STATES, 405 U. S. 1026;

No. 71-5944. KYLE *v.* UNITED STATES, 405 U. S. 1018;

No. 71-6000. DUNLEAVAY *v.* ROCKEFELLER CENTER, INC., ET AL., 405 U. S. 1044; and

No. 71-6005. EVANS *v.* UNITED STATES, 405 U. S. 1045. Petitions for rehearing denied.

No. 71-563. ROHRBAUGH ET AL. *v.* PRESBYTERY OF SEATTLE, INC., ET AL., 405 U. S. 996. Petition for rehearing denied. MR. JUSTICE POWELL is of the opinion that rehearing should be granted.

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Dismissal Under Rule 60

No. 70-5002. BUTLER *v.* ALABAMA. Sup. Ct. Ala. Petition for writ of certiorari dismissed under Rule 60 of the Rules of this Court. Reported below: 285 Ala. 387, 232 So. 2d 631.

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Affirmed on Appeal

No. 71-1264. FERRELL ET AL. *v.* HALL, GOVERNOR OF OKLAHOMA, ET AL. Affirmed on appeal from D. C. W. D. Okla. MR. JUSTICE DOUGLAS is of the opinion that probable jurisdiction should be noted. Reported below: 339 F. Supp. 73.

Appeals Dismissed

No. 71-1068. MIDWEST FREIGHT FORWARDING CO., INC., ET AL. *v.* LEWIS, SECRETARY OF STATE OF ILLINOIS, ET AL. Appeal from Sup. Ct. Ill. dismissed for want of substantial federal question. Reported below: 49 Ill. 2d 441, 275 N. E. 2d 388.

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No. 71-5998. *HAYES v. CALIFORNIA*. 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. Reported below: 6 Cal. 3d 216, 490 P. 2d 1137.

Vacated and Remanded on Appeal

No. 71-1142. *UNITED STATES v. HARPER*. Appeal from D. C. Mass. Motion to dispense with printing motion to affirm granted. Judgment vacated and case remanded with directions to dismiss proceedings as moot. Reported below: 335 F. Supp. 904.

Certiorari Granted—Vacated and Remanded

No. 71-589. *RANCH-WAY, INC. v. NATIONAL LABOR RELATIONS BOARD*. C. A. 10th Cir. Certiorari granted, judgment vacated, and case remanded for further consideration in light of *NLRB v. Burns International Security Services, Inc.*, ante, p. 272. Reported below: 445 F. 2d 625.

Miscellaneous Orders

No. 31, Orig. *UTAH v. UNITED STATES*. [For decree, see ante, p. 484.]

IT IS ORDERED that Honorable Charles Fahy, Senior Judge of the United States Court of Appeals for the District of Columbia Circuit, be, and he is hereby, appointed Special Master in this case in place of Honorable J. Cullen Ganey, deceased. The Special Master shall have authority to fix the time and conditions for filing of additional pleadings and to direct subsequent proceedings, and authority to summon witnesses, issue subpoenas, and take such evidence as may be introduced and such as he may deem it necessary to call for. The Master is directed to submit such reports as he may deem appropriate.

The Master shall be allowed his actual expenses. The

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

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

No. 36, Orig. TEXAS *v.* LOUISIANA. 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. [For earlier orders herein, see, *e. g.*, 398 U. S. 934.]

No. 55, Orig. WEBB *v.* PORTER. Motion for leave to file bill of complaint denied.

No. 71-237. MANCUSI, CORRECTIONAL SUPERINTENDENT *v.* STUBBS. [Certiorari granted, 404 U. S. 1014.] Motions of respondent for appointment of counsel and for leave to proceed *in forma pauperis* granted.

No. 71-257. GRUBBS, DBA T. R. GRUBBS TIRE & APPLIANCE *v.* GENERAL ELECTRIC CREDIT CORP., 405 U. S. 699. Motion of petitioner for a determination of cause on the merits denied.

No. 71-507. KEYES ET AL. *v.* SCHOOL DISTRICT No. 1, DENVER, COLORADO, ET AL. C. A. 10th Cir. [Certiorari granted, 404 U. S. 1036.] Motions of Anti-Defamation League of B'nai B'rith et al., National Education Assn. et al., and Mexican American Legal Defense & Educational Fund for leave to file briefs as *amici curiae* granted. MR. JUSTICE WHITE took no part in the consideration or decision of these motions.

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No. 71-685. LEHNHAUSEN, DIRECTOR, DEPARTMENT OF LOCAL GOVERNMENT AFFAIRS OF ILLINOIS *v.* LAKE SHORE AUTO PARTS CO. ET AL.; and

No. 71-691. BARRETT, COUNTY CLERK OF COOK COUNTY, ILLINOIS, ET AL. *v.* SHAPIRO ET AL. Sup. Ct. Ill. [Certiorari granted, 405 U. S. 1039.] Motion of Lake Shore Auto Parts Co. for leave to withdraw as a party respondent in No. 71-685 denied. Motion for order requiring petitioners to recognize "Maynard Respondents" as parties to the litigation denied without prejudice to seeking leave to appear as *amici curiae*.

No. 71-703. UNITED STATES *v.* FIRST NATIONAL BANK CORPORATION, INC., ET AL. Appeal from D. C. Colo. [Probable jurisdiction noted, 405 U. S. 915.] Motion of New York State Banking Department for leave to file a brief as *amicus curiae* granted. MR. JUSTICE POWELL took no part in the consideration or decision of this motion.

No. 71-732. SCHNECKLOTH, CONSERVATION CENTER SUPERINTENDENT *v.* BUSTAMONTE. C. A. 9th Cir. [Certiorari granted, 405 U. S. 953.] Motion of respondent for additional time for oral argument denied. However, permission granted for two counsel to argue on behalf of respondent.

No. 71-900. UNION OIL COMPANY OF CALIFORNIA *v.* THE SAN JACINTO ET AL. C. A. 9th Cir. [Certiorari granted, 405 U. S. 954.] Motion to dispense with printing appendix and to proceed on original record denied.

No. 71-1476. GAFFNEY *v.* CUMMINGS ET AL. Appeal from D. C. Conn. Motion of appellant to expedite consideration denied. THE CHIEF JUSTICE, MR. JUSTICE WHITE, and MR. JUSTICE REHNQUIST join in denying expedited consideration on the merits but would invite appellant to file an appropriate motion for stay. Reported below: 341 F. Supp. 139.

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No. 71-1263. *KAHN ET UX. v. ARIZONA STATE TAX COMMISSION*. Appeal from Ct. App. Ariz. The Solicitor General is invited to file a brief in this case expressing the views of the United States. Reported below: 16 Ariz. App. 17, 490 P. 2d 846.

No. 71-1443. *CALIFORNIA DEPARTMENT OF HUMAN RESOURCES ET AL. v. CROW ET AL.* Petition for certiorari before judgment to C. A. 9th Cir. Motion of petitioners to expedite consideration and for consolidation with No. 71-1119 [*Indiana Employment Security Division v. Burney*, appeal from D. C. N. D. Ind.] denied.

No. 71-5861. *MOORE v. WAINWRIGHT, CORRECTIONS DIRECTOR*;

No. 71-5876. *PARKER v. NELSON, WARDEN*; and

No. 71-6374. *SMITH v. NELSON, WARDEN*. Motions for leave to file petitions for writs of habeas corpus denied.

No. 71-6384. *BIVENS v. UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT*. Motion for leave to file petition for writ of mandamus denied.

No. 71-1170. *WHDH, INC. v. UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT*. Motion for leave to file petition for writ of mandamus denied. THE CHIEF JUSTICE took no part in the consideration or decision of this motion.

Probable Jurisdiction Noted

No. 71-1470. *LEMON ET AL. v. KURTZMAN, SUPERINTENDENT OF PUBLIC INSTRUCTION OF PENNSYLVANIA, ET AL.* Appeal from D. C. E. D. Pa. Application for extension of injunction, presented to Mr. JUSTICE BRENNAN and by him referred to the Court, granted. Probable jurisdiction noted. Motion to expedite denied. Reported below: 348 F. Supp. 300.

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No. 71-991. OTTER TAIL POWER CO. *v.* UNITED STATES. Appeal from D. C. Minn. Probable jurisdiction noted. MR. JUSTICE BLACKMUN and MR. JUSTICE POWELL took no part in the consideration or decision of this matter. Reported below: 331 F. Supp. 54.

Certiorari Granted

No. 71-1133. UPPER PECOS ASSN. *v.* PETERSON, SECRETARY OF COMMERCE, ET AL. C. A. 10th Cir. Certiorari granted. MR. JUSTICE BRENNAN took no part in the consideration or decision of this petition. Reported below: 452 F. 2d 1233.

No. 71-6278. ALMEIDA-SANCHEZ *v.* UNITED STATES. C. A. 9th Cir. Motion for leave to proceed *in forma pauperis* and certiorari granted. Reported below: 452 F. 2d 459.

Certiorari Denied. (See also No. 71-5998, *supra.*)

No. 71-928. BASKETT *v.* CALIFORNIA. App. Dept., Super. Ct. Cal., County of Los Angeles. Certiorari denied.

No. 71-1141. NEW YORK *v.* PENN CENTRAL TRANSPORTATION Co.; and

No. 71-1229. NEW JERSEY *v.* PENN CENTRAL TRANSPORTATION Co. C. A. 3d Cir. Certiorari denied. Reported below: 452 F. 2d 1107.

No. 71-1150. PATENTS MANAGEMENT CORP. ET AL. *v.* TRUSTEES OF THE PENN CENTRAL TRANSPORTATION Co. C. A. 3d Cir. Certiorari denied. Reported below: 454 F. 2d 710.

No. 71-1151. WARREN *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. Reported below: 453 F. 2d 738.

No. 71-1157. SHEWFELT ET AL. *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 455 F. 2d 836.

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No. 71-1158. *CROW ET AL. v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 453 F. 2d 1328.

No. 71-1159. *LOCOCO v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 450 F. 2d 1196.

No. 71-1177. *BAILEY ET AL. v. DIXON ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 451 F. 2d 160.

No. 71-1184. *WISNIEWSKI v. UNITED STATES*; and
No. 71-6485. *TRAVISANO v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 456 F. 2d 9.

No. 71-1187. *MARCHESE v. MCEACHEN ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 451 F. 2d 555.

No. 71-1216. *BIG "D" DEVELOPMENT CORP. v. COMMISSIONER OF INTERNAL REVENUE*. C. A. 5th Cir. Certiorari denied. Reported below: 453 F. 2d 1365.

No. 71-1237. *GALLINARO ET AL. v. MASSACHUSETTS*. Sup. Jud. Ct. Mass. Certiorari denied. Reported below: — Mass. —, 277 N. E. 2d 527.

No. 71-1242. *NAKAI ET AL. v. HAMILTON ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 453 F. 2d 152.

No. 71-1244. *KING, TRUSTEE v. CITY OF CHICAGO ET AL.* App. Ct. Ill., 1st Dist. Certiorari denied. Reported below: — Ill. App. 2d —, 273 N. E. 2d 712.

No. 71-1249. *BOARD OF COMMISSIONERS OF THE CITY OF JACKSON ET AL. v. MONROE ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 453 F. 2d 259.

No. 71-1250. *NOONAN v. MIDLAND CAPITAL CORP.* C. A. 2d Cir. Certiorari denied. Reported below: 453 F. 2d 459.

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No. 71-1247. *NIX v. GRAND LODGE OF THE INTERNATIONAL ASSOCIATION OF MACHINISTS & AEROSPACE WORKERS*. C. A. 5th Cir. Certiorari denied. Reported below: 452 F. 2d 794.

No. 71-1269. *UNGAR ET AL. v. LEFF, JUSTICE, ET AL.* App. Div., Sup. Ct. N. Y., 1st Jud. Dept. Certiorari denied.

No. 71-1282. *GIANONE v. CALIFORNIA*. App. Dept., Super. Ct. Cal., County of Los Angeles. Certiorari denied.

No. 71-1328. *LANGHORNE v. LANGHORNE ET AL.* Sup. Ct. Va. Certiorari denied. Reported below: 212 Va. 577, 186 S. E. 2d 50.

No. 71-5966. *MITCHELL v. ALLEN, SHERIFF*. Sup. Ct. App. W. Va. Certiorari denied. Reported below: — W. Va. —, 185 S. E. 2d 355.

No. 71-5985. *KANTER v. FLORIDA*. Dist. Ct. App. Fla., 1st Dist. Certiorari denied. Reported below: 253 So. 2d 509.

No. 71-5992. *PICKETT v. MARYLAND*. Ct. Sp. App. Md. Certiorari denied.

No. 71-6034. *SINIBALDI v. NEW YORK*. App. Div., Sup. Ct. N. Y., 4th Jud. Dept. Certiorari denied. Reported below: 37 App. Div. 2d 921, 325 N. Y. S. 2d 738.

No. 71-6056. *GIBSON v. WAINWRIGHT, CORRECTIONS DIRECTOR*. C. A. 5th Cir. Certiorari denied. Reported below: 453 F. 2d 750.

No. 71-6119. *REAGAN v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 453 F. 2d 165.

No. 71-6182. *MOORE v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 454 F. 2d 286.

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No. 71-6197. *TRAMEL v. UNITED STATES*. C. A. 10th Cir. Certiorari denied.

No. 71-6279. *MUNGIA v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 454 F. 2d 734.

No. 71-6292. *JACKSON v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 455 F. 2d 991.

No. 71-6296. *EPPERSON v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 454 F. 2d 769.

No. 71-6297. *RHODEN ET AL. v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 453 F. 2d 598.

No. 71-6303. *ZEMKE ET AL. v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 457 F. 2d 110.

No. 71-6304. *VILHOTTI v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 452 F. 2d 1186.

No. 71-6308. *FERNANDEZ v. UNITED STATES*. C. A. 5th Cir. Certiorari denied.

No. 71-6327. *COLEMAN v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 453 F. 2d 1374.

No. 71-6332. *HAMILTON v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 456 F. 2d 171.

No. 71-6339. *MORAN v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 456 F. 2d 1066.

No. 71-6375. *LALWANI v. CALIFORNIA*. Ct. App. Cal., 1st App. Dist. Certiorari denied.

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No. 71-6376. *BUSH v. FOSTER ET AL.* C. A. 3d Cir. Certiorari denied.

No. 71-6378. *ROBINSON v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. Reported below: 456 F. 2d 800.

No. 71-6379. *LUNDBERG v. BUCHKOE, WARDEN.* C. A. 6th Cir. Certiorari denied.

No. 71-6381. *CAMPBELL v. GEORGIA.* C. A. 5th Cir. Certiorari denied.

No. 71-6386. *MELILLO v. UNITED STATES.* C. A. 2d Cir. Certiorari denied.

No. 71-6388. *ROPER v. BETO, CORRECTIONS DIRECTOR.* C. A. 5th Cir. Certiorari denied. Reported below: 454 F. 2d 499.

No. 71-6389. *SHINDLER v. PENNSYLVANIA.* Super. Ct. Pa. Certiorari denied. Reported below: 219 Pa. Super. 376, 281 A. 2d 745.

No. 71-6395. *DELANY v. MISSOURI.* Sup. Ct. Mo. Certiorari denied. Reported below: 475 S. W. 2d 102.

No. 71-6397. *RIVERA v. CALIFORNIA.* Ct. App. Cal., 4th App. Dist. Certiorari denied.

No. 71-6400. *NASH v. AMERADA HESS CORP. ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 456 F. 2d 799.

No. 71-1146. *POETA v. UNITED STATES.* C. A. 2d Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. Reported below: 455 F. 2d 117.

No. 71-6409. *HAINING v. ROBERTS ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 453 F. 2d 1223.

No. 71-1147. *FORD MOTOR CO. v. ELLIPSE CORP.* C. A. 7th Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. Reported below: 452 F. 2d 163.

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No. 71-6405. *BROZ v. TENNESSEE*. Ct. Crim. App. Tenn. Certiorari denied. Reported below: — Tenn. App. —, 472 S. W. 2d 907.

No. 71-913. *SEABOARD SHIPPING CORP. v. MORAN INLAND WATERWAYS CORP. ET AL.*; and

No. 71-981. *MORAN INLAND WATERWAYS CORP. ET AL. v. SEABOARD SHIPPING CORP.* C. A. 2d Cir. Certiorari denied. MR. JUSTICE BRENNAN, MR. JUSTICE STEWART, and MR. JUSTICE WHITE are of the opinion that certiorari should be granted. Reported below: 449 F. 2d 132.

No. 71-1267. *COENEN v. R. W. PRESSPRICH & CO.* C. A. 2d Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. Reported below: 453 F. 2d 1209.

No. 71-5930. *ROSS v. SOUTH CAROLINA ET AL.* C. A. 4th Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted.

No. 71-5962. *GELLERS v. MAINE*. Sup. Jud. Ct. Me. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. Reported below: 282 A. 2d 173.

No. 71-6070. *LOFTON v. WYOMING*. Sup. Ct. Wyo. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. Reported below: 489 P. 2d 1169.

No. 71-6398. *LUCAS v. TEXAS*. C. A. 5th Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. Reported below: 451 F. 2d 390.

No. 71-6399. *COTA v. EYMAN, WARDEN*. C. A. 9th Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. Reported below: 453 F. 2d 691.

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No. 71-1167. PICARD, CORRECTIONAL SUPERINTENDENT *v.* EISEN. C. A. 1st Cir. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 452 F. 2d 860.

No. 71-1173. FOLLETTE, CORRECTIONAL SUPERINTENDENT *v.* BURGOS. C. A. 2d Cir. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 448 F. 2d 130.

No. 71-1171. WHDH, INC. *v.* FEDERAL COMMUNICATIONS COMMISSION ET AL. C. A. D. C. Cir. Certiorari denied. THE CHIEF JUSTICE took to part in the consideration or decision of this petition. Reported below: 149 U. S. App. D. C. 322, 463 F. 2d 268.

No. 71-1265. GALLAGHER ET AL. *v.* CARTER ET AL. C. A. 8th Cir. Motion of International Association of Fire Fighters for leave to file a brief as *amicus curiae* granted. Certiorari denied. Reported below: 452 F. 2d 315.

Rehearing Denied

No. 70-5197. SWEENEY *v.* SHERIDAN, CHIEF JUDGE, U. S. DISTRICT COURT, ET AL., 404 U. S. 839, 962; and

No. 71-5817. BURNS *v.* COLUMBIA PICTURES INTERNATIONAL CORP. ET AL., 405 U. S. 991, *ante*, p. 911. Motions for leave to file second petitions for rehearing denied.

No. 71-1007. REGENCY REALTY ET AL. *v.* COMMISSIONER OF INTERNAL REVENUE, 405 U. S. 1065;

No. 71-1077. ELLIS, TRUSTEE *v.* POWERS ET AL., 405 U. S. 1075; and

No. 71-6065. BYLAND *v.* CRAVEN, WARDEN, 405 U. S. 1070. Petitions for rehearing denied.

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No. 71-5783. PATTERSON *v.* TULSA LOCAL No. 513, MOTION PICTURE OPERATORS OF THE UNITED STATES & CANADA, 405 U. S. 976; and

No. 71-5975. SAVAGE *v.* UNITED STATES ET AL., 405 U. S. 1043. Motions for leave to file petitions for rehearing denied.

Assignment Order

An order of THE CHIEF JUSTICE designating and assigning Mr. Justice Clark (retired) to perform judicial duties in the United States Court of Appeals for the District of Columbia Circuit during the period beginning June 5, 1972, and ending June 9, 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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Dismissal Under Rule 60

No. 71-1300. DISTRICT COURT OF OKLAHOMA COUNTY, PROBATE DIVISION, ET AL. *v.* WASHINGTON & LEE UNIVERSITY ET AL. Sup. Ct. Okla. Petition for writ of certiorari dismissed under Rule 60 of the Rules of this Court. Reported below: 492 P. 2d 320.

Affirmed on Appeal

No. 71-1276. BIKLEN *v.* BOARD OF EDUCATION, CITY SCHOOL DISTRICT, SYRACUSE, ET AL. Affirmed on appeal from D. C. N. D. N. Y. MR. JUSTICE DOUGLAS would note jurisdiction and reverse. *Board of Education v. Barnette*, 319 U. S. 624. Reported below: 333 F. Supp. 902.

No. 71-1289. NON-RESIDENT TAXPAYERS ASSN. ET AL. *v.* PHILADELPHIA ET AL. Affirmed on appeal from D. C. N. J. Reported below: 341 F. Supp. 1135.

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Appeals Dismissed

No. 70-84. *CATENA v. NEW JERSEY STATE COMMISSION OF INVESTIGATION*. Appeal from Super. Ct. N. J. dismissed for want of a substantial federal question. MR. JUSTICE DOUGLAS would note jurisdiction and reverse.

No. 71-318. *ANNALORO v. NEW JERSEY STATE COMMISSION OF INVESTIGATION*. Appeal from Sup. Ct. N. J. Appeal dismissed for want of substantial federal question. MR. JUSTICE DOUGLAS would note jurisdiction and reverse. Reported below: 58 N. J. 387, 277 A. 2d 880.

No. 71-1107. *GEE v. CALIFORNIA*. Appeal from App. Dept., Super. Ct. Cal., County of Los Angeles, dismissed for want of substantial federal question.

No. 71-6341. *DIGGS v. UNITED STATES*. Appeal from Ct. App. D. C. dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied.

Certiorari Granted—Reversed

No. 70-303. *UNITED STATES v. KORMAN ET AL.* C. A. 7th Cir. Certiorari granted and judgment reversed. *Kastigar v. United States*, ante, p. 441. Reported below: 449 F. 2d 32.

No. 71-775. *UNITED STATES v. CROPPER*. C. A. 5th Cir. Certiorari granted and judgment reversed. *Kastigar v. United States*, ante, p. 441. Reported below: 454 F. 2d 215.

No. 71-377. *ELIAS, CORRECTIONAL SUPERINTENDENT v. CATENA*. C. A. 3d Cir. Certiorari granted and judgment reversed. *Zicarelli v. New Jersey State Commission of Investigation*, ante, p. 472. MR. JUSTICE DOUGLAS dissents. Reported below: 449 F. 2d 40.

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*Certiorari Granted—Vacated and Remanded**

No. 71-6274. *McGARVA v. UNITED STATES*. C. A. 5th Cir. Motion for leave to proceed *in forma pauperis* and certiorari granted. Judgment vacated and case remanded for reconsideration in light of position presently asserted by the Government. THE CHIEF JUSTICE, MR. JUSTICE POWELL, and MR. JUSTICE REHNQUIST would deny certiorari. Reported below: 453 F. 2d 918.

MR. JUSTICE DOUGLAS, whom MR. JUSTICE BRENNAN joins.

This case involves a Selective Service registrant whose local board denied him a conscientious objector exemption. In order to secure aid for his appeal, the registrant met with a Government appeals agent. The agent made out a report which was placed in the registrant's file, and which was before the appeal board when it considered petitioner's claim. The report was unfavorable, and the Solicitor General so concedes. The Solicitor General also concedes that because of the appeal agent's special position in the Selective Service System, his views probably carried substantial weight with the appeal board. Yet, this crucial report was not shown to the registrant, so that he might have attempted to rebut the unfavorable statements contained therein.

It is clear from the decisions of this Court over the past two decades that the failure to show this report to the registrant was a violation of the statutory mandate that the "system of selection" be "fair and just." 50 U. S. C. App. § 451 (c).

Thus, this Court has held that where provisions were

*[REPORTER'S NOTE: The orders of May 30, 1972, granting the petitions for certiorari, vacating the judgments, and remanding the cases to the respective lower courts in Nos. 70-303, 71-377, and 71-775, *infra*, were revoked on the same date.]

made in the Act for FBI reports on claimants for conscientious objector exemptions,

"in accordance with the statutory plan and the concepts of basic fairness which underlie all our legislation . . . the Department must furnish the registrant with a fair résumé of the FBI report." *Simmons v. United States*, 348 U. S. 397, 405.

And, when the Act contemplated that the Department of Justice should recommend to a registrant's appeal board whether a conscientious objector exemption should be granted or denied, this Court held that

"the over-all procedures set up in the statute and regulations, designed to be 'fair and just' in their operation, 62 Stat. 605, 50 U. S. C. App. § 451 (c), require that the registrant receive a copy of the Justice Department's recommendation and be given a reasonable opportunity to file a reply thereto." *Gonzales v. United States*, 348 U. S. 407, 417.

In 1967, the provisions relating to Justice Department hearings and recommendations were deleted from the Act. The statutory mandate of § 451 (c), however, remains unchanged. And, "viewed against our underlying concepts of procedural regularity and basic fair play," *id.*, at 412, the appellate procedures employed in this case cannot stand. "[I]t is procedure that marks much of the difference between rule by law and rule by fiat." *Wisconsin v. Constantineau*, 400 U. S. 433, 436.

The use of adverse information not disclosed to the registrant is exactly analogous to the FBI report summary not disclosed to the registrant in *Simmons*, and the Justice Department recommendation kept from the registrant in *Gonzales*. The failure to disclose the use of such material vitiates petitioner's statutory right of appeal. For no appeal procedure can be "fair" where only one side has had an opportunity to present its case.

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Moreover, the very nature of the procedural error renders impossible the application of a "harmless error" test, and we so held in *Simmons*. Commenting on the effect of a finding that the petitioner therein had not been given a fair résumé of the adverse information in the FBI report, the Court explicitly stated:

"This is not an incidental infringement of technical rights. Petitioner has been deprived of the fair hearing required by the Act, a fundamental safeguard, and he need not specify the precise manner in which he would have used this right—and how such use would have aided his cause—in order to complain of the deprivation." 348 U. S., at 406. (Emphasis added.)

Unless we are to overrule these cases, which have found uniform acceptance by the lower courts (see, *e. g.*, *United States v. Thompson*, 431 F. 2d 1265, 1271; *United States v. Cabbage*, 430 F. 2d 1037, 1039–1041; *United States v. Cummins*, 425 F. 2d 646; *United States v. Owen*, 415 F. 2d 383, 388–389), we must accept the Solicitor General's confession of error and reverse the judgment below.

Miscellaneous Orders

No. A-926 (71-6522). *SCHWARTZ v. UNITED STATES*. Application for stay of execution of sentence for civil contempt presented to Mr. JUSTICE MARSHALL, and by him referred to the Court, granted.

No. 71-718. *MCGINNIS, CORRECTION COMMISSIONER, ET AL. v. ROYSTER ET AL.* Appeal from D. C. S. D. N. Y. [Probable jurisdiction noted, 405 U. S. 986.] Motion for appointment of counsel granted. It is ordered that James J. McDonough, Esquire, and Matthew Muraskin, Esquire, of Mineola, New York, be, and they are hereby, appointed to serve as counsel for appellees in this case.

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No. 71-1511. NORVELL, ATTORNEY GENERAL OF NEW MEXICO *v.* APODACA; and

No. 71-1512. BROWN ET AL. *v.* APODACA ET AL. Sup. Ct. N. M. Motions to expedite consideration denied. Reported below: 83 N. M. 663, 495 P. 2d 1379.

No. A-1235 (71-1531). NOLAN *v.* JUDICIAL COUNCIL OF THE THIRD CIRCUIT OF THE UNITED STATES ET AL. Application for stay 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 this application.

No. 71-1291. CHANDLER, U. S. DISTRICT JUDGE *v.* BATTISTI, CHIEF JUDGE, U. S. DISTRICT COURT. Motion for leave to file petition for writ of mandamus and/or prohibition denied. MR. JUSTICE MARSHALL took no part in the consideration or decision of this motion.

Probable Jurisdiction Noted

No. 71-1119. INDIANA EMPLOYMENT SECURITY DIVISION ET AL. *v.* BURNEY. Appeal from D. C. N. D. Ind. Probable jurisdiction noted. Reported below: 347 F. Supp. 218.

Certiorari Granted

No. 71-1178. GULF STATES UTILITIES CO. *v.* FEDERAL POWER COMMISSION ET AL. C. A. D. C. Cir. Certiorari granted. Reported below: 147 U. S. App. D. C. 98, 454 F. 2d 941.

No. 71-1192. GOLDSTEIN ET AL. *v.* CALIFORNIA. App. Dept., Super. Ct. Cal., County of Los Angeles. Certiorari granted.

No. 71-229. UNITED STATES *v.* DIONISIO; and

No. 71-850. UNITED STATES *v.* MARA, AKA MARASOVICH. C. A. 7th Cir. Certiorari granted and cases to be argued *in tandem*. Reported below: No. 71-229, 442 F. 2d 276; No. 71-850, 454 F. 2d 580.

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No. 71-1371. ROSARIO ET AL. *v.* ROCKEFELLER, GOVERNOR OF NEW YORK, ET AL. C. A. 2d Cir. Motion of Lawyers for McGovern for leave to file a brief as *amicus curiae* granted. Certiorari granted. Motion for summary reversal or, in the alternative, for expedited consideration on the merits denied. MR. JUSTICE STEWART would expedite consideration on the merits. Application for stay, presented to MR. JUSTICE MARSHALL, and by him referred to the Court, denied. MR. JUSTICE DOUGLAS, MR. JUSTICE BRENNAN, MR. JUSTICE STEWART, and MR. JUSTICE MARSHALL would grant the stay. Reported below: 458 F. 2d 649.

No. 71-6042. WARDIUS *v.* OREGON. Sup. Ct. Ore. Motion for leave to proceed *in forma pauperis* and certiorari granted. Reported below: See 6 Ore. App. 391, 487 P. 2d 1380.

Certiorari Denied. (See also No. 71-6341, *supra.*)

No. 71-954. EPELDI ET AL. *v.* ENGELKING ET AL. Sup. Ct. Idaho. Certiorari denied. Reported below: 94 Idaho 390, 488 P. 2d 860.

No. 71-1162. ROGERS ET AL. *v.* EQUAL EMPLOYMENT OPPORTUNITY COMMISSION. C. A. 5th Cir. Certiorari denied. Reported below: 454 F. 2d 234.

No. 71-1194. QUINN & Co., INC., ET AL. *v.* SECURITIES AND EXCHANGE COMMISSION. C. A. 10th Cir. Certiorari denied. Reported below: 452 F. 2d 943.

No. 71-1195. GRIFFITH *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 453 F. 2d 1207.

No. 71-1202. BROTHERHOOD OF PAINTERS, DECORATORS & PAPERHANGERS OF AMERICA, AFL-CIO, LOCAL 130 *v.* NATIONAL LABOR RELATIONS BOARD. C. A. 5th Cir. Certiorari denied. Reported below: 457 F. 2d 500.

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No. 71-1226. *STRACHAN SHIPPING CO. ET AL. v. WEDEMEYER ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 452 F. 2d 1225.

No. 71-1248. *CALIFORNIA v. ANDERSON.* Sup. Ct. Cal. Certiorari denied. Reported below: 6 Cal. 3d 628, 493 P. 2d 880.

No. 71-1294. *ALPHONSE ET AL. v. W. M. KINNER TRANSPORT CO. ET AL.*; and

No. 71-1303. *ZWEIFEL ET AL. v. PHARRIS ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 452 F. 2d 700.

No. 71-1297. *SPEARS ET UX. v. ASHE.* Ct. App. Md. Certiorari denied. Reported below: 263 Md. 622, 284 A. 2d 207.

No. 71-1310. *STA-RITE INDUSTRIES, INC. v. JOHNSON.* C. A. 10th Cir. Certiorari denied. Reported below: 453 F. 2d 1192.

No. 71-1311. *SCHWARTZ v. JEWISH HOSPITAL ASSOCIATION OF CINCINNATI.* Sup. Ct. Ohio. Certiorari denied.

No. 71-1312. *LAYNE ET AL. v. FLOYD COUNTY BOARD OF EDUCATION ET AL.* Ct. App. Ky. Certiorari denied. Reported below: 474 S. W. 2d 397.

No. 71-1314. *VIVAUDOU v. ROYAL NATIONAL BANK OF NEW YORK.* App. Div., Sup. Ct. N. Y., 1st Jud. Dept. Certiorari denied.

No. 71-5735. *VAUGHN v. LAVALLEE, CORRECTIONAL SUPERINTENDENT.* C. A. 2d Cir. Certiorari denied.

No. 71-5887. *CRUZ v. LAVALLEE, CORRECTIONAL SUPERINTENDENT.* C. A. 2d Cir. Certiorari denied. Reported below: 448 F. 2d 671.

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No. 71-5932. *MARTINEZ v. MISTERLY ET AL.* C. A. 9th Cir. Certiorari denied.

No. 71-5972. *ESGATE v. ENGLISH, SHERIFF.* C. A. 5th Cir. Certiorari denied.

No. 71-6017. *GIORDANO v. PERINI, CORRECTIONAL SUPERINTENDENT.* C. A. 6th Cir. Certiorari denied.

No. 71-6037. *ROBERTS v. CALIFORNIA.* Ct. App. Cal., 3d App. Dist. Certiorari denied.

No. 71-6043. *MASCIA v. ZELKER, CORRECTIONAL SUPERINTENDENT.* C. A. 2d Cir. Certiorari denied. Reported below: 450 F. 2d 166.

No. 71-6116. *MORRIS v. LOUISIANA.* Sup. Ct. La. Certiorari denied. Reported below: 259 La. 1001, 254 So. 2d 444.

No. 71-6153. *BEVERLY v. QUATSOE.* C. A. 7th Cir. Certiorari denied.

No. 71-6209. *BROWN v. UNITED STATES.* C. A. 9th Cir. Certiorari denied. Reported below: 454 F. 2d 397.

No. 71-6237. *THOMASON v. UNITED STATES.* C. A. 9th Cir. Certiorari denied. Reported below: 444 F. 2d 1094.

No. 71-6265. *BARCHFELD v. UNITED STATES.* C. A. 9th Cir. Certiorari denied.

No. 71-6269. *HARDIN ET AL. v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. Reported below: 453 F. 2d 859.

No. 71-6273. *DESIMONE v. UNITED STATES;* and

No. 71-6307. *CARUSO v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. Reported below: 452 F. 2d 554.

No. 71-6286. *ANTHONY v. UNITED STATES.* C. A. 9th Cir. Certiorari denied. Reported below: 444 F. 2d 484.

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No. 71-6319. *PAYNE ET AL. v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 455 F. 2d 1201.

No. 71-6328. *MILLS ET AL. v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 456 F. 2d 1111.

No. 71-6330. *COGNATO v. UNITED STATES*. C. A. 2d Cir. Certiorari denied.

No. 71-6334. *POWELL v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 453 F. 2d 885.

No. 71-6344. *QUATTRUCCI v. UNITED STATES*. C. A. 1st Cir. Certiorari denied. Reported below: 454 F. 2d 58.

No. 71-6354. *LAWTON v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 455 F. 2d 328.

No. 71-6359. *MARNIN v. ZAMPELLA ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 456 F. 2d 1097.

No. 71-6361. *JONES ET AL. v. BIRD ET AL.* C. A. 9th Cir. Certiorari denied.

No. 71-6369. *BARNES v. NEW YORK*. App. Div., Sup. Ct. N. Y., 4th Jud. Dept. Certiorari denied. Reported below: 37 App. Div. 2d 918, 325 N. Y. S. 2d 638.

No. 71-6371. *DEWINDT v. UNITED STATES*. C. A. 7th Cir. Certiorari denied.

No. 71-6373. *MAYBURY v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 453 F. 2d 1233.

No. 71-6382. *BOAG v. CRAVEN, WARDEN*. Sup. Ct. Cal. Certiorari denied.

No. 71-6383. *DOLLAR v. CRAVEN, WARDEN*. C. A. 9th Cir. Certiorari denied.

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No. 71-6385. *WALLACE v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 453 F. 2d 420.

No. 71-6402. *GOODMAN v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 457 F. 2d 68.

No. 71-6404. *WATERS v. PENNSYLVANIA*. Sup. Ct. Pa. Certiorari denied. Reported below: 445 Pa. 534, 285 A. 2d 192.

No. 71-6406. *JONES v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 454 F. 2d 255.

No. 71-6418. *KRIKMANIS v. WHITE, MAYOR OF BOSTON, ET AL.* C. A. 1st Cir. Certiorari denied.

No. 71-6419. *BIVENS v. CHANCE*. C. A. 2d Cir. Certiorari denied.

No. 71-6421. *EDWARDS v. MCCARTHY, MEN'S COLONY SUPERINTENDENT*. C. A. 9th Cir. Certiorari denied.

No. 71-6424. *APPLEGATE v. NEW JERSEY*. Sup. Ct. N. J. Certiorari denied.

No. 71-6429. *MAGRO v. LENTINI BROS. MOVING & STORAGE Co., INC., ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 460 F. 2d 1064.

No. 69-6. *UNIFORMED SANITATION MEN ASSN., INC., ET AL. v. COMMISSIONER OF SANITATION OF THE CITY OF NEW YORK ET AL.* C. A. 2d Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. Reported below: 426 F. 2d 619.

No. 71-114. *BOWDEN v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. Reported below: 444 F. 2d 546.

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No. 71-473. *WEG 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 340.

No. 71-1298. *CAVALIERI v. NEW YORK*. Ct. App. N. Y. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. Reported below: 29 N. Y. 2d 762, 276 N. E. 2d 624.

No. 71-5327. *KEILLY v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. Reported below: 445 F. 2d 1285.

No. 71-5795. *PARK v. CALIFORNIA ET AL.* C. A. 9th Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted.

No. 71-5918. *CHERRY v. ILLINOIS*. App. Ct. Ill., 5th Dist. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. Reported below: 130 Ill. App. 2d 965, 267 N. E. 2d 744.

No. 71-5941. *CARTER v. ILLINOIS*. Sup. Ct. Ill. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. Reported below: See 132 Ill. App. 2d 572, 270 N. E. 2d 603.

No. 71-6320. *WHITE v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. Reported below: 454 F. 2d 435.

No. 71-6353. *KELLEY v. UNITED STATES*; and

No. 71-6411. *MACDONALD v. UNITED STATES*. C. A. 1st Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. Reported below: 455 F. 2d 1259.

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No. 71-1199. *KIRK ET AL. v. UNITED STATES*. C. A. 10th Cir. Motion to dispense with printing petition granted. Certiorari denied. Reported below: 451 F. 2d 690.

No. 71-1288. *WHITTINGTON v. GULF OIL CORP. ET AL.* C. A. 5th Cir. Motion to dispense with printing petition granted. Certiorari denied. Reported below: 453 F. 2d 892.

No. 71-1322. *RIZZO, MAYOR OF PHILADELPHIA, ET AL. v. NORTH CITY AREA-WIDE COUNCIL, INC., ET AL.* C. A. 3d Cir. Motion of respondent North City Area-Wide Council, Inc., for leave to dispense with printing brief granted. Certiorari denied. Reported below: 456 F. 2d 811.

No. 71-6106. *VALENTINE v. LOUISIANA*. Sup. Ct. La. Certiorari denied, it appearing that the judgment rests upon an adequate state ground. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. Reported below: 259 La. 1019, 254 So. 2d 450.

Rehearing Denied

No. 71-1208. *ROSE v. ROSE ET AL.*, *ante*, p. 907;

No. 71-5852. *COOPERSMITH v. TOWN OF GRAND LAKE ET AL.*, *ante*, p. 907; and

No. 71-6123. *STINSON v. EYMAN, WARDEN*, *ante*, p. 907. Petitions for rehearing denied.

No. 71-605. *HENRY ET AL. v. CLAIBORNE HARDWARE Co. ET AL.*, 405 U. S. 1019. Motion to dispense with printing petition granted. Petition for rehearing denied. MR. JUSTICE DOUGLAS and MR. JUSTICE MARSHALL took no part in the consideration or decision of this motion and petition.

No. 71-5164. *FREEMAN v. PAGE, WARDEN*, 404 U. S. 1001. Motion for leave to file petition for rehearing denied.

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Affirmed on Appeal

No. 71-1209. UNITED TRANSPORTATION UNION ET AL. v. UNITED STATES ET AL. Affirmed on appeal from D. C. D. C. MR. JUSTICE DOUGLAS dissents from the affirmance. MR. JUSTICE POWELL took no part in the consideration or decision of this case. Reported below: 337 F. Supp. 410.

No. 71-5647. GOODWIN ET AL. v. WYMAN, COMMISSIONER OF NEW YORK DEPARTMENT OF SOCIAL SERVICES, ET AL. Affirmed on appeal from D. C. S. D. N. Y. *Jefferson v. Hackney*, ante, p. 535. MR. JUSTICE DOUGLAS dissents from the affirmance. Reported below: 330 F. Supp. 1038.

Appeals Dismissed

No. 69-5041. BOUTTE 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. MR. JUSTICE DOUGLAS dissents. Reported below: 255 La. 605, 232 So. 2d 288.

No. 71-1070. KEEGAN 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.

No. 71-1104. NORTHERN NATURAL GAS CO. v. WILLIAMS, TREASURER OF RICE COUNTY, ET AL. Appeal from Sup. Ct. Kan. dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied. Reported below: 208 Kan. 407, 493 P. 2d 568; 208 Kan. 337, 492 P. 2d 147; and 208 Kan. 135, 490 P. 2d 399.

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No. 71-1301. *BREWSTER v. CHARLES ET AL.* Appeal from C. A. 7th Cir. dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied.

No. 71-1321. *HANRAHAN v. CALIENDO ET AL.* Appeal from Sup. Ct. Ill. dismissed for want of substantial federal question. Reported below: 50 Ill. 2d 72, 277 N. E. 2d 319.

No. 71-1339. *REPUBLIC NATIONAL BANK OF DALLAS ET AL. v. RODRIGUEZ ET AL.* Appeal from D. C. W. D. Tex. dismissed. Treating the jurisdictional statement in this case as a motion for leave to file a brief as *amici curiae* on behalf of appellants in No. 71-1332 [*San Antonio Independent School District v. Rodriguez*, probable jurisdiction noted, *infra*], motion granted.

Certiorari Granted—Vacated and Remanded

No. 71-982. *HALL, SECRETARY OF HUMAN RELATIONS AGENCY, ET AL. v. VILLA ET AL.* Sup. Ct. Cal. Motion of respondents for leave to proceed *in forma pauperis* and certiorari granted. Judgment vacated and case remanded for further consideration in light of *Jefferson v. Hackney*, *ante*, p. 535. Reported below: 6 Cal. 3d 227, 490 P. 2d 1148.

Miscellaneous Orders

No. A-1151. *DREER v. UNITED STATES.* C. A. 3d Cir. Application for recall of mandate and reinstatement of bail, presented to MR. JUSTICE DOUGLAS, and by him referred to the Court, denied.

No. 71-1193. *UNITED STATES v. ENMONS ET AL.* Appeal from D. C. E. D. La. [Probable jurisdiction noted, *ante*, p. 916.] Motion to dispense with printing appendix and to hear case on original record granted.

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No. 71-507. *KEYES ET AL. v. SCHOOL DISTRICT No. 1, DENVER, COLORADO, ET AL.* C. A. 10th Cir. [Certiorari granted, 404 U. S. 1036.] Motion of American Civil Liberties Union et al. for leave to file a brief as *amici curiae* granted. MR. JUSTICE WHITE took no part in the consideration or decision of this motion.

No. 71-1510. *ROSS, ADMINISTRATIVE JUDGE, ET AL. v. RADICH.* C. A. 2d Cir. Motion to expedite consideration of petition denied. MR. JUSTICE DOUGLAS took no part in the consideration or decision of this motion. Reported below: 459 F. 2d 745.

No. 71-1513. *RUSSO v. BYRNE, U. S. DISTRICT JUDGE.* C. A. 9th Cir. Motion to expedite consideration of petition denied.

No. 71-6278. *ALMEIDA-SANCHEZ v. UNITED STATES.* C. A. 9th Cir. [Certiorari granted, *ante*, p. 944.] Motion for appointment of counsel granted. It is ordered that James A. Chanoux, Esquire, of San Diego, California, a member of the Bar of this Court, be, and he is hereby, appointed to serve as counsel for petitioner in this case.

Probable Jurisdiction Noted

No. 71-1336. *IN RE GRIFFITHS.* Appeal from Sup. Ct. Conn. Probable jurisdiction noted. Reported below: 162 Conn. 249, 294 A. 2d 281.

No. 71-1332. *SAN ANTONIO INDEPENDENT SCHOOL DISTRICT ET AL. v. RODRIGUEZ ET AL.* Appeal from D. C. W. D. Tex. Motion of Wendell Anderson, Governor of Minnesota, et al. for leave to file a brief as *amici curiae* granted. Probable jurisdiction noted. Reported below: 337 F. Supp. 280.

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Certiorari Denied. (See also Nos. 69-5041, 71-1070, 71-1104, and 71-1301, *supra*.)

No. 71-1105. *NORTHERN NATURAL GAS CO. v. WILLIAMS, TREASURER OF RICE COUNTY, ET AL.* Sup. Ct. Kan. *Certiorari denied.* Reported below: 208 Kan. 407, 493 P. 2d 568; 208 Kan. 337, 492 P. 2d 147; 208 Kan. 135, 490 P. 2d 399.

No. 71-1152. *PANHANDLE EASTERN PIPE LINE CO. v. DWYER, DIRECTOR OF PROPERTY VALUATION OF KANSAS, ET AL.* Sup. Ct. Kan. *Certiorari denied.* Reported below: 207 Kan. 417, 485 P. 2d 149, and 208 Kan. 304, 491 P. 2d 961.

No. 71-1205. *RICUCCI v. UNITED STATES.* C. A. 2d Cir. *Certiorari denied.*

No. 71-1217. *GOLDBERG, AKA GOULD v. UNITED STATES.* C. A. 9th Cir. *Certiorari denied.* Reported below: 455 F. 2d 479.

No. 71-1227. *MASTROTATARO v. UNITED STATES.* C. A. 4th Cir. *Certiorari denied.* Reported below: 455 F. 2d 802.

No. 71-1232. *LANDERMAN ET AL. v. COMMISSIONER OF INTERNAL REVENUE.* C. A. 7th Cir. *Certiorari denied.* Reported below: 454 F. 2d 338.

No. 71-1286. *TYLER INDEPENDENT SCHOOL DISTRICT ET AL. v. JUSTICE, U. S. DISTRICT JUDGE.* C. A. 5th Cir. *Certiorari denied.*

No. 71-1287. *MILLS v. MARYLAND.* Ct. Sp. App. Md. *Certiorari denied.* Reported below: 12 Md. App. 449, 279 A. 2d 473.

No. 71-1305. *CARSON v. AMERICAN SAVINGS LIFE INSURANCE Co.* C. A. 4th Cir. *Certiorari denied.*

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No. 71-1319. *IN RE SARELAS*. Sup. Ct. Ill. Certiorari denied. Reported below: 50 Ill. 2d 87, 277 N. E. 2d 313.

No. 71-1323. *GRIMES v. DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL OF CALIFORNIA ET AL.* Ct. App. Cal., 2d App. Dist. Certiorari denied.

No. 71-1325. *STIVERS v. KENTUCKY STATE BAR ASSN.* Ct. App. Ky. Certiorari denied. Reported below: 475 S. W. 2d 900.

No. 71-1338. *COMPTON ET AL. v. METAL PRODUCTS, INC.* C. A. 4th Cir. Certiorari denied. Reported below: 453 F. 2d 38.

No. 71-1342. *ADAMS v. HARRIS COUNTY, TEXAS*. C. A. 5th Cir. Certiorari denied. Reported below: 452 F. 2d 994.

No. 71-1355. *HESSMAN ET AL., DBA SANDY CROCKET DODGE v. NATIONAL LABOR RELATIONS BOARD*; and

No. 71-1356. *VALLEY FORD SALES, INC., DBA FRIENDLY FORD v. NATIONAL LABOR RELATIONS BOARD*. C. A. 9th Cir. Certiorari denied.

No. 71-5949. *GRIMES v. MUNICIPAL COURT FOR THE CENTRAL DISTRICT OF ORANGE COUNTY*. Sup. Ct. Cal. Certiorari denied. Reported below: 5 Cal. 3d 643, 488 P. 2d 169.

No. 71-5983. *SHELTON v. JONES*. C. A. 7th Cir. Certiorari denied.

No. 71-6097. *MOORE v. LAVALLEE, CORRECTIONAL SUPERINTENDENT*. C. A. 2d Cir. Certiorari denied.

No. 71-6109. *NEGRON v. AGNEW, STATE HOSPITAL DIRECTOR*. C. A. 2d Cir. Certiorari denied.

No. 71-6117. *PARKER v. SESSIONS ET AL.* Sup. Ct. Fla. Certiorari denied.

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No. 71-6139. ALLEN *v.* MOORE, CORRECTIONAL SUPERINTENDENT. C. A. 1st Cir. Certiorari denied. Reported below: 453 F. 2d 970.

No. 71-6238. JACKSON *v.* ILLINOIS. App. Ct. Ill., 1st Dist. Certiorari denied. Reported below: 1 Ill. App. 3d 109, 273 N. E. 2d 535.

No. 71-6311. SPENCER *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied.

No. 71-6313. EVANS ET AL. *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied. Reported below: 454 F. 2d 813.

No. 71-6346. GARCIA *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied.

No. 71-6347. ELAM *v.* UNITED STATES; and

No. 71-6364. CRAPPS *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied. Reported below: 456 F. 2d 1119.

No. 71-6377. CHILES ET AL. *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. Reported below: 454 F. 2d 706.

No. 71-6403. GAST *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied. Reported below: 457 F. 2d 141.

No. 71-6408. JACKSON *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied.

No. 71-6410. YETO *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied.

No. 71-6432. APPLGATE *v.* NEW JERSEY. Super. Ct. N. J. Certiorari denied.

No. 71-6435. WARE *v.* UNITED STATES. C. A. D. C. Cir. Certiorari denied. Reported below: 147 U. S. App. D. C. 249, 455 F. 2d 1317.

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No. 71-6434. *SMITH v. WARDEN, MARYLAND PENITENTIARY*. C. A. 4th Cir. Certiorari denied.

No. 71-6439. *FRAGOSO-GASTELLUM v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 456 F. 2d 1287.

No. 71-6440. *MEADOR v. UNITED STATES*. C. A. 10th Cir. Certiorari denied. Reported below: 456 F. 2d 197.

No. 71-6444. *DeBORDE v. PINNOCK*. Sup. Ct. Wash. Certiorari denied.

No. 71-6447. *FOOTE v. CALIFORNIA*. Ct. App. Cal., 4th App. Dist. Certiorari denied.

No. 71-6452. *ECKERT v. CITY OF PHILADELPHIA, PENNSYLVANIA, ET AL.* C. A. 3d Cir. Certiorari denied.

No. 71-6453. *GORDON v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 455 F. 2d 398.

No. 71-6456. *WILLIAMS v. FLORIDA*. Dist. Ct. App. Fla., 3d Dist. Certiorari denied. Reported below: 256 So. 2d 44.

No. 71-6463. *ROY v. MANCHESTER GAS CO.* C. A. 1st Cir. Certiorari denied.

No. 71-6469. *BRYANT v. CALIFORNIA*. Sup. Ct. Cal. Certiorari denied.

No. 71-6470. *JOHNSON v. HENDERSON, CORRECTIONAL SUPERINTENDENT*. C. A. 2d Cir. Certiorari denied.

No. 71-6471. *CURTIS v. TWOMEY, WARDEN*. C. A. 7th Cir. Certiorari denied.

No. 71-6472. *ALLEN v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 458 F. 2d 988.

No. 71-6473. *ZILKO v. OREGON*. Sup. Ct. Ore. Certiorari denied.

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No. 68-5007. *ANDERSON ET AL. v. CALIFORNIA*. Sup. Ct. Cal. Certiorari denied. *Aikens v. California, ante*, p. 813. Reported below: 69 Cal. 2d 613, 447 P. 2d 117; 70 Cal. 2d 60, 447 P. 2d 913.

No. 68-5020. *SMITH v. NELSON, WARDEN*. Sup. Ct. Cal. Certiorari denied. *Aikens v. California, ante*, p. 813.

No. 68-5021. *REEVES v. CALIFORNIA*. Sup. Ct. Cal. Certiorari denied. *Aikens v. California, ante*, p. 813.

No. 68-5025. *MASSIE v. CALIFORNIA*. Sup. Ct. Cal. Certiorari denied. *Aikens v. California, ante*, p. 813.

No. 68-5026. *VARNUM v. CALIFORNIA*. Sup. Ct. Cal. Certiorari denied. *Aikens v. California, ante*, p. 813. Reported below: 70 Cal. 2d 480, 450 P. 2d 553.

No. 68-5029. *ROBINSON v. CALIFORNIA*. Sup. Ct. Cal. Certiorari denied. *Aikens v. California, ante*, p. 813. Reported below: 70 Cal. 2d 171, 449 P. 2d 198.

No. 69-5002. *TOLBERT v. CALIFORNIA*. Sup. Ct. Cal. Certiorari denied. *Aikens v. California, ante*, p. 813. Reported below: 70 Cal. 2d 790, 452 P. 2d 661.

No. 69-5009. *HILL v. CALIFORNIA*. Sup. Ct. Cal. Certiorari denied. *Aikens v. California, ante*, p. 813. Reported below: 70 Cal. 2d 678, 452 P. 2d 329.

No. 69-5012. *PIKE v. CALIFORNIA*. Sup. Ct. Cal. Certiorari denied. *Aikens v. California, ante*, p. 813. Reported below: 71 Cal. 2d 595, 455 P. 2d 776.

No. 69-5019. *MILLER v. CALIFORNIA*. Sup. Ct. Cal. Certiorari denied. *Aikens v. California, ante*, p. 813. Reported below: 71 Cal. 2d 459, 455 P. 2d 377.

No. 69-5020. *COOGLER v. CALIFORNIA*. Sup. Ct. Cal. Certiorari denied. *Aikens v. California, ante*, p. 813. Reported below: 71 Cal. 2d 153, 454 P. 2d 686.

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No. 69-5021. *MABRY v. CALIFORNIA*. Sup. Ct. Cal. Certiorari denied. *Aikens v. California, ante*, p. 813. Reported below: 71 Cal. 2d 430, 455 P. 2d 759.

No. 69-5022. *NYE v. CALIFORNIA*. Sup. Ct. Cal. Certiorari denied. *Aikens v. California, ante*, p. 813. Reported below: 71 Cal. 2d 356, 455 P. 2d 395.

No. 69-5026. *ROBLES v. CALIFORNIA*. Sup. Ct. Cal. Certiorari denied. *Aikens v. California, ante*, p. 813. Reported below: 71 Cal. 2d 924, 458 P. 2d 67.

No. 69-5037. *KING v. CALIFORNIA*. Sup. Ct. Cal. Certiorari denied. *Aikens v. California, ante*, p. 813. Reported below: 1 Cal. 3d 791, 463 P. 2d 753.

No. 69-5040. *MILTON v. CALIFORNIA*; and

No. 69-5042. *FLOYD v. CALIFORNIA*. Sup. Ct. Cal. Certiorari denied. *Aikens v. California, ante*, p. 813. Reported below: 1 Cal. 3d 694, 464 P. 2d 64.

No. 70-5007. *WADE ET AL. v. OREGON*. Ct. App. Ore. Certiorari denied. MR. JUSTICE DOUGLAS dissents. Reported below: 1 Ore. App. 480, 462 P. 2d 701; 1 Ore. App. 627, 464 P. 2d 721; 2 Ore. App. 265, 467 P. 2d 125; 2 Ore. App. 273, 467 P. 2d 122; 1 Ore. App. 624, 463 P. 2d 874; 2 Ore. App. 408, 467 P. 2d 973; 2 Ore. App. 149, 465 P. 2d 892; 2 Ore. App. 20, 465 P. 2d 251; 2 Ore. App. 212, 465 P. 2d 915; 2 Ore. App. 530, 469 P. 2d 37; 2 Ore. App. 446, 467 P. 2d 652; 2 Ore. App. 101, 465 P. 2d 251.

No. 70-5202. *BLEVINS ET AL. v. OREGON*. Sup. Ct. Ore. Certiorari denied. MR. JUSTICE DOUGLAS dissents. Reported below: See 4 Ore. App. 234, 476 P. 2d 927; 5 Ore. App. 60, 481 P. 2d 381; 4 Ore. App. 526, 479 P. 2d 243; 5 Ore. App. 64, 480 P. 2d 730; 5 Ore. App. 63, 480 P. 2d 721; 4 Ore. App. 481, 478 P. 2d 644.

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No. 70-5029. *MARTINKA ET AL. v. OREGON*. Ct. App. Ore. Certiorari denied. MR. JUSTICE DOUGLAS dissents. Reported below: 2 Ore. App. 499, 468 P. 2d 903; 3 Ore. App. 245, 471 P. 2d 862; 3 Ore. App. 36, 470 P. 2d 386; 3 Ore. App. 172, 469 P. 2d 792.

No. 70-5042. *ANDREWS ET AL. v. OREGON*. Ct. App. Ore. Certiorari denied. MR. JUSTICE DOUGLAS dissents. Reported below: 2 Ore. App. 595, 469 P. 2d 802; 3 Ore. App. 343, 472 P. 2d 829; 3 Ore. App. 308, 472 P. 2d 845.

No. 70-5063. *PLANCK v. OREGON*. Ct. App. Ore. Certiorari denied. MR. JUSTICE DOUGLAS dissents. Reported below: 3 Ore. App. 331, 473 P. 2d 694.

No. 70-5203. *RIDDELL v. OREGON*. Sup. Ct. Ore. Certiorari denied. MR. JUSTICE DOUGLAS dissents. Reported below: See 4 Ore. App. 523, 479 P. 2d 254.

No. 71-5002. *MITCHELL ET AL. v. OREGON*. Ct. App. Ore. Certiorari denied. MR. JUSTICE DOUGLAS dissents. Reported below: 5 Ore. App. 230, 482 P. 2d 190; 5 Ore. App. 184, 482 P. 2d 192; 5 Ore. App. 259, 483 P. 2d 87.

No. 71-5581. *ATKISON ET AL. v. OREGON*. Sup. Ct. Ore. Certiorari denied. MR. JUSTICE DOUGLAS dissents. Reported below: See 6 Ore. App. 68, 485 P. 2d 1117; 6 Ore. App. 204, 240, 486 P. 2d 581 (2 cases); 6 Ore. App. 189, 487 P. 2d 100; 6 Ore. App. 22, 485 P. 2d 446.

No. 71-6325. *TEMPLE ET AL. v. OREGON*. Sup. Ct. Ore. Certiorari denied. MR. JUSTICE DOUGLAS dissents. Reported below: See 7 Ore. App. 91, 488 P. 2d 1380; 7 Ore. App. 268, 489 P. 2d 971; 7 Ore. App. 361, 489 P. 2d 1155; 7 Ore. App. 363, 489 P. 2d 1156; 7 Ore. App. 358, 490 P. 2d 528; 8 Ore. App. 78, 492 P. 2d 305.

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No. 71-5407. *DAVIS ET AL. v. OREGON*. Sup. Ct. Ore. Certiorari denied. MR. JUSTICE DOUGLAS dissents. Reported below: See 5 Ore. App. 294, 482 P. 2d 549; 5 Ore. App. 516, 484 P. 2d 327.

No. 71-5875. *O'DELL ET AL. v. OREGON*. Ct. App. Ore. and Sup. Ct. Ore. Certiorari denied. MR. JUSTICE DOUGLAS dissents. Reported below: 7 Ore. App. 9, 17, 488 P. 2d 851 (2 cases); 6 Ore. App. 168, 487 P. 2d 107; 6 Ore. App. 171, 485 P. 2d 1253, and — Ore. —, 490 P. 2d 491; 5 Ore. App. 175, 481 P. 2d 653, and 260 Ore. 60, 488 P. 2d 1366; 6 Ore. App. 311, 487 P. 2d 666; 6 Ore. App. 159, 487 P. 2d 112; 6 Ore. App. 160, 487 P. 2d 98.

No. 70-5010. *MILLER v. OREGON*. Ct. App. Ore. Motion of George Wellington Glover to be named a party petitioner and certiorari denied. MR. JUSTICE DOUGLAS dissents. Reported below: 2 Ore. App. 87, 465 P. 2d 894.

No. 71-1045. *TOMASINO v. CALIFORNIA*. C. A. 9th Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. Reported below: 451 F. 2d 176.

No. 71-1111. *MUSE v. NORTH CAROLINA*. Sup. Ct. N. C. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. Reported below: 280 N. C. 31, 185 S. E. 2d 214.

No. 71-1434. *HARVEST BRAND, INC., NOW HARVEST INDUSTRIES, INC. v. A. E. STALEY MANUFACTURING CO.* C. A. 10th Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. Reported below: 452 F. 2d 735.

No. 71-6051. *BELL v. KANSAS*. C. A. 10th Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. Reported below: 452 F. 2d 783.

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No. 71-6059. *DIXON v. BLACKLEDGE, WARDEN*. C. A. 4th Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted.

No. 71-6345. *GATLING v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted.

No. 71-6367. *INCERTO v. PATTERSON, WARDEN*. C. A. 10th Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted.

No. 71-6387. *VINCENT v. MOSELEY, WARDEN, ET AL.* C. A. 8th Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. Reported below: 453 F. 2d 1218.

No. 71-6391. *FREEMAN v. UNITED STATES*. C. A. D. C. Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. Reported below: 147 U. S. App. D. C. 340, 458 F. 2d 759.

No. 71-6392. *KORENFELD v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. Reported below: 451 F. 2d 770.

No. 71-6401. *MINOR ET AL. v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. Reported below: 455 F. 2d 937.

No. 71-6436. *HINES v. UNITED STATES*. C. A. D. C. Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. Reported below: 147 U. S. App. D. C. 249, 455 F. 2d 1317.

No. 71-6438. *BOBBS v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. Reported below: 454 F. 2d 1178.

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No. 71-6442. *CHESEBROUGH v. FLORIDA*. Sup. Ct. Fla. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. Reported below: 255 So. 2d 675.

No. 71-6459. *WILLIAMS v. McMANN, WARDEN*. C. A. 2d Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. Reported below: 454 F. 2d 1139.

No. 71-1127. *BAILEY v. NORTH CAROLINA*. Ct. App. N. C. Motion to dispense with printing petition granted. Certiorari denied. Reported below: 12 N. C. App. 494, 183 S. E. 2d 885.

No. 71-1169. *MOBIL OIL CORP. v. MATZEN ET AL.*;

No. 71-1179. *AMOCO PRODUCTION CO. v. WAECHTER ET AL.*;

No. 71-1188. *CITIES SERVICE OIL CO. v. MATZEN ET AL.*;

No. 71-1191. *SHELL OIL CO. v. MATZEN ET AL.*; and

No. 71-1326. *FEDERAL POWER COMMISSION v. MOBIL OIL CORP. ET AL.* C. A. D. C. Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. MR. JUSTICE STEWART and MR. JUSTICE POWELL took no part in the consideration or decision of these petitions. Reported below: 149 U. S. App. D. C. 310, 463 F. 2d 256.

No. 71-1285. *PFIZER INC. ET AL. v. LORD, U. S. DISTRICT JUDGE, ET AL.* C. A. 8th Cir. Certiorari denied. MR. JUSTICE BLACKMUN took no part in the consideration or decision of this petition. Reported below: 456 F. 2d 532.

No. 71-6161. *ERVING v. SIGLER, WARDEN*. C. A. 8th Cir. Certiorari denied. MR. JUSTICE BLACKMUN took no part in the consideration or decision of this petition. Reported below: 453 F. 2d 843.

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No. 71-1377. OHIO ANNUAL CONFERENCE OF THE METHODIST CHURCH ET AL. v. BETHANY CHAPEL, INC., ET AL. Sup. Ct. Ohio. Certiorari denied. MR. JUSTICE BLACKMUN took no part in the consideration or decision of this petition.

No. 71-1331. MONTANYE, CORRECTIONAL SUPERINTENDENT v. CLAYTON. C. A. 2d Cir. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 454 F. 2d 454.

No. 71-6393. GREENE v. UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 456 F. 2d 256.

MR. JUSTICE DOUGLAS, dissenting.

This case involves an apparently lawless action by a Selective Service Board.

The Regulations¹ provide in pertinent part:

"A majority of the members of the local board shall constitute a quorum for the transaction of business. A majority of the members present at any meeting at which a quorum is present shall decide any question or classification. . . . Every member present . . . shall vote on every question or classification."

While petitioner had been classified as I-A and was ordered to report for induction,² prior to the reporting date³ two letters were submitted to the Local Board asking for reconsideration of petitioner's classification. The Board never considered the letters. The only decision was that of the chairman who talked only with the clerk of the Board. Whether the new presentation would satisfy the Regulations governing the reopening of a

¹ 32 CFR § 1604.56.

² Petitioner was convicted of failure to report for induction and his defense was the Board's failure to follow the Regulations.

³ The order was mailed March 13, 1970, directing him to report on April 21, 1970.

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case can never be known because that is a decision that only the Board can make; and the Board never had a chance to reopen the classification or to keep it closed.

We talk much about law and order. But when we allow a Selective Service Board to act beyond the law, we embark upon a course of conduct that inflames an area already charged with emotions. Those charged with the responsibility of disposing of the lives and liberties of men should be the most meticulous in observing the Regulations which govern them.

I would grant this petition and set the case for argument.

No. 71-6450. *TAYLOR v. MONTANA*. Sup. Ct. Mont. Certiorari denied. MR. JUSTICE BRENNAN, MR. JUSTICE WHITE, and MR. JUSTICE BLACKMUN are of the opinion that certiorari should be granted. Reported below: 158 Mont. 323, 491 P. 2d 877.

Rehearing Denied

No. 203, October Term, 1970. *McGAUTHA v. CALIFORNIA*, 402 U. S. 183. Motion for leave to file supplement to petition for rehearing granted. Petition for rehearing denied. *Aikens v. California*, ante, p. 813.

No. 71-6020. *SUNDLUN v. SUNDLUN*, 405 U. S. 1068;
No. 71-6066. *SULLIVAN v. SULLIVAN*, 405 U. S. 1070;
and

No. 71-6104. *PATTERSON v. LASH, WARDEN*, 405 U. S. 1075. Petitions for rehearing denied.

No. 71-5984. *WALKER v. TWOMEY, WARDEN*, 405 U. S. 1044. Motion for leave to file petition for rehearing denied.