

ORDERS OF JUNE 26 THROUGH JUNE 29, 1972

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JUNE 26, 1972

*Affirmed on Appeal*

No. 70-143. SHAMES ET AL. v. NEBRASKA ET AL. Appeal from D. C. Neb. Judgment affirmed. MR. JUSTICE DOUGLAS would note probable jurisdiction. Reported below: 323 F. Supp. 1321.

*Appeals Dismissed*

No. 71-1063. CAREY v. ELROD ET AL. Appeal from Sup. Ct. Ill. dismissed for want of substantial federal question. MR. JUSTICE DOUGLAS would note probable jurisdiction. Reported below: 49 Ill. 2d 464, 275 N. E. 2d 367.

No. 71-1093. WESTENT, INC. v. DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL OF CALIFORNIA ET AL. Appeal from Ct. App. Cal., 1st App. Dist. dismissed for want of substantial federal question. MR. JUSTICE DOUGLAS would note probable jurisdiction.

No. 71-5302. CAULK ET UX. v. NICHOLS, JUDGE. Appeal from Sup. Ct. Del. dismissed for want of substantial federal question. MR. JUSTICE DOUGLAS would note probable jurisdiction. Reported below: — Del. —, 281 A. 2d 24.

*Vacated and Remanded on Appeal*

No. 71-1044. ROSENFELD v. NEW JERSEY. Appeal from Super. Ct. N. J. Judgment vacated and case remanded for reconsideration in light of *Cohen v. Cali-*

*fornia*, 403 U. S. 15 (1971), and *Gooding v. Wilson*, 405 U. S. 518 (1972). Reported below: See 59 N. J. 435, 283 A. 2d 535.

MR. CHIEF JUSTICE BURGER, with whom MR. JUSTICE BLACKMUN and MR. JUSTICE REHNQUIST join, dissenting.\*

I am constrained to express my profound disagreement with what the Court does in these three cases on the basis of *Gooding v. Wilson*, 405 U. S. 518 (1972).

The important underlying aspect of these cases goes really to the function of law in preserving ordered liberty. Civilized people refrain from "taking the law into their own hands" because of a belief that the government, as their agent, will take care of the problem in an organized, orderly way with as nearly a uniform response as human skills can manage. History is replete with evidence of what happens when the law cannot or does not provide a collective response for conduct so widely regarded as impermissible and intolerable.

It is barely a century since men in parts of this country carried guns constantly because the law did not afford protection. In that setting, the words used in these cases, if directed toward such an armed civilian, could well have led to death or serious bodily injury. When we undermine the general belief that the law will give protection against fighting words and profane and abusive language such as the utterances involved in these cases, we take steps to return to the law of the jungle. These three cases, like *Gooding*, are small but symptomatic steps. If continued, this permissiveness will tend further to erode public confidence in the law—that subtle but indispensable ingredient of ordered liberty.

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\*[This opinion applies also to No. 70-5323, *Lewis v. City of New Orleans*, post, p. 913, and No. 71-6535, *Brown v. Oklahoma*, post, p. 914.]

In Rosenfeld's case, for example, civilized people attending such a meeting with wives and children would not likely have an instantaneous, violent response, but it does not unduly tax the imagination to think that some justifiably outraged parent whose family were exposed to the foul mouthings of the speaker would "meet him outside" and, either alone or with others, resort to the 19th century's vigorous modes of dealing with such people. I cannot see these holdings as an "advance" in human liberty but rather a retrogression to what men have struggled to escape for a long time.

MR. JUSTICE POWELL, with whom THE CHIEF JUSTICE and MR. JUSTICE BLACKMUN join, dissenting.

It has long been established that the First and Fourteenth Amendments prohibit the States from punishing all but the most "narrowly limited classes of speech." *Chaplinsky v. New Hampshire*, 315 U. S. 568, 571 (1942). The right of free speech, however, has never been held to be absolute at all times and under all circumstances. To so hold would sanction invasion of cherished personal rights and would deny the States the power to deal with threats to public order. As the Court noted in *Chaplinsky*:

"[I]t is well understood that the right of free speech is not absolute at all times and under all circumstances. There are certain well-defined and narrowly limited classes of speech, the prevention and punishment of which have never been thought to raise any Constitutional problem. These include the lewd and obscene, the profane, the libelous, and the insulting or 'fighting' words—those which by their very utterance inflict injury or tend to incite an immediate breach of the peace. It has been well observed that such utterances are no essential part of any exposition of ideas, and are

of such slight social value as a step to truth that any benefit that may be derived from them is clearly outweighed by the social interest in order and morality. 'Resort to epithets or personal abuse is not in any proper sense communication of information or opinion safeguarded by the Constitution, and its punishment as a criminal act would raise no question under that instrument.' *Cantwell v. Connecticut*, 310 U. S. 296, 309-310." 315 U. S., at 571-572. (Footnotes omitted.)

This case presents an example of gross abuse of the respected privilege in this country of allowing every citizen to speak his mind. Appellant addressed a public school board meeting attended by about 150 people, approximately 40 of whom were children and 25 of whom were women. In the course of his remarks he used the adjective "m----- f-----" on four occasions, to describe the teachers, the school board, the town, and his own country.

For using this language under these circumstances, appellant was prosecuted and convicted under a New Jersey statute which provides:

"Any person who utters loud and offensive or profane or indecent language in any public street or other public place, public conveyance, or place to which the public is invited . . . [i]s a disorderly person." N. J. Rev. Stat. § 2A:170-29 (1) (1971).

Prior to appellant's prosecution, the Supreme Court of New Jersey had limited the statute's coverage as follows:

"[T]he words must be spoken loudly, in a public place and must be of such a nature as to be likely to incite the hearer to an immediate breach of the peace or to be likely, in the light of the gender and age of the listener and the setting of the utterance, to affect the sensibilities of a hearer. The words

must be spoken with the intent to have the above effect or with a reckless disregard of the probability of the above consequences." *State v. Profaci*, 56 N. J. 346, 353, 266 A. 2d 579, 583-584 (1970).

The Court today decides to vacate and remand this case for reconsideration in light of *Gooding v. Wilson*, 405 U. S. 518 (1972), and *Cohen v. California*, 403 U. S. 15 (1971). As it seems to me that neither of these cases is directly relevant, and that considerations not present in those cases are here controlling, I respectfully dissent.

Perhaps appellant's language did not constitute "fighting words" within the meaning of *Chaplinsky*. While most of those attending the school board meeting were undoubtedly outraged and offended, the good taste and restraint of such an audience may have made it unlikely that physical violence would result. Moreover, the offensive words were not directed at a specific individual. But the exception to First Amendment protection recognized in *Chaplinsky* is not limited to words whose mere utterance entails a high probability of an outbreak of physical violence. It also extends to the willful use of scurrilous language calculated to offend the sensibilities of an unwilling audience.

The Court of Appeals for the District of Columbia Circuit has addressed this issue more explicitly. Judge McGowan, writing for the court *en banc* in *Williams v. District of Columbia*, 136 U. S. App. D. C. 56, 419 F. 2d 638 (1969), correctly stated:

"Apart from punishing profane or obscene words which are spoken in circumstances which create a threat of violence, the state may also have a legitimate interest in stopping one person from 'inflict[ing] injury' [*Chaplinsky v. New Hampshire*, 315 U. S., at 572] on others by verbally assaulting them with language which is grossly offensive because of its profane or obscene character. The fact

that a person may constitutionally indulge his taste for obscenities in private does not mean that he is free to intrude them upon the attentions of others." *Id.*, at 64, 419 F. 2d, at 646.

I agree with this view that a verbal assault on an unwilling audience may be so grossly offensive and emotionally disturbing as to be the proper subject of criminal proscription, whether under a statute denominating it disorderly conduct, or, more accurately, a public nuisance. Judge McGowan further noted in *Williams*:

"[A] breach of the peace is threatened either because the language creates a substantial risk of provoking violence, or because it is, under 'contemporary community standards,' so grossly offensive to members of the public who actually overhear it as to amount to a nuisance." *Ibid.* (Footnotes omitted.)

The Model Penal Code, proposed by the American Law Institute, also recognizes a distinction between utterances which may threaten physical violence and those which may amount to a public nuisance, recognizing that neither category falls within the protection of the First Amendment. See Model Penal Code §§ 250.2 (1)(a) and (b). (Proposed Official Draft 1962.)

The decision in *Gooding v. Wilson*, *supra*, turned largely on an application of the First Amendment overbreadth doctrine,<sup>1</sup> and the Court's remand order sug-

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<sup>1</sup> Insofar as the Court's decision in *Gooding* turns on vagueness principles, it seems inapplicable to this case. The essence of the due process vagueness concern is that no man shall be punished for violating a statute which is not "sufficiently explicit to inform those who are subject to it what conduct on their part will render them liable to its penalties . . ." *Connally v. General Construction Co.*, 269 U. S. 385, 391 (1926). Although the New Jersey statute

gests that the overbreadth doctrine should be applied in this case. The consequences and the unusual character of the overbreadth doctrine have been accurately summarized in Note, *The First Amendment Overbreadth Doctrine*, 83 Harv. L. Rev. 844, 852 (1970):

“[The overbreadth doctrine] results often in the wholesale invalidation of the legislature’s handiwork, creating a judicial-legislative confrontation.

“In the end, this departure from the normal method of judging the constitutionality of statutes must find justification in the favored status of rights to expression and association in the constitutional scheme.” (Footnotes omitted.)

Because a “judicial-legislative confrontation” often results from application of the overbreadth doctrine, and because it is a departure from the normal method of judicial review,<sup>2</sup> it should be applied with restraint. In my view, the doctrine is not applicable in this case.

The New Jersey statute was designed to prohibit the public use of language such as that involved in this case, and certainly the State has an interest—perhaps a compelling one—in protecting nonassenting citizens from vulgar and offensive verbal assaults. A statute directed narrowly to this interest does not impinge upon the values of protected free speech. Legitimate First Amendment interests are not furthered by stretching the overbreadth doctrine to cover a case of this kind. In *Cohen v. California*, 403 U. S. 15 (1971), which deals

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involved in this case is hardly a model of clarity, it cannot reasonably be said that appellant could have been unaware that the language used under the circumstances was proscribed by the statute. Unless he was a person of infirm mentality, appellant certainly knew that his deliberate use four times of what Mr. Justice Harlan termed in *Cohen* a “scurrilous epithet,” in the presence of a captive audience including women and children, violated the statute.

<sup>2</sup> See, e. g., *United States v. Raines*, 362 U. S. 17, 20–22 (1960)

with the question of what expressive activity is constitutionally punishable, Mr. Justice Harlan described the purpose of the free speech guarantee as follows:

"It is designed and intended to remove governmental restraints from the arena of public discussion, putting the decision as to what views shall be voiced largely into the hands of each of us, in the hope that use of such freedom will ultimately produce a more capable citizenry and more perfect polity and in the belief that no other approach would comport with the premise of individual dignity and choice upon which our political system rests. See *Whitney v. California*, 274 U. S. 357, 375-377 (1927) (Brandeis, J., concurring)." *Id.*, at 24.

The purpose of the overbreadth doctrine is to excise statutes which have a deterrent effect on the exercise of protected speech.<sup>3</sup> It is difficult to believe that sustaining appellant's conviction under this statute will deter others from the exercise of legitimate First Amendment rights.<sup>4</sup>

The line between such rights and the type of conduct proscribed by the New Jersey statute is difficult to draw.

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<sup>3</sup> See Note, The First Amendment Overbreadth Doctrine, 83 Harv. L. Rev. 844, 853 (1970).

<sup>4</sup> Nor does the continued existence of the New Jersey statute, which must now be construed and applied by the New Jersey courts in light of *Gooding*, have the effect of deterring others in the exercise of their First Amendment rights. To remand this case with the suggestion that the overbreadth doctrine be applied accomplishes only one result: it creates the potential that appellant will receive an undeserved windfall.

I recognize, of course, that serious definitional and enforcement problems are likely to arise even where the statutes in this area are carefully drawn. Yet the inherent difficulty of the problem is not sufficient reason for legislatures and the courts to abdicate their responsibility to protect nonassenting citizens from verbal conduct which is so grossly offensive as to amount to a nuisance.

The preservation of the right to free and robust speech is accorded high priority in our society and under the Constitution. Yet, there are other significant values. One of the hallmarks of a civilized society is the level and quality of discourse. We have witnessed in recent years a disquieting deterioration in standards of taste and civility in speech. For the increasing number of persons who derive satisfaction from vocabularies dependent upon filth and obscenities, there are abundant opportunities to gratify their debased tastes. But our free society must be flexible enough to tolerate even such a debasement provided it occurs without subjecting unwilling audiences to the type of verbal nuisance committed in this case. The shock and sense of affront, and sometimes the injury to mind and spirit, can be as great from words as from some physical attacks.

I conclude in this case that appellant's utterances fall within the proscription of the New Jersey statute, and are not protected by the First Amendment. Accordingly, I would dismiss the appeal for want of a substantial federal question.

MR. JUSTICE REHNQUIST, with whom THE CHIEF JUSTICE and MR. JUSTICE BLACKMUN join, dissenting.\*

In *Lewis*, the police were engaged in making an arrest of appellant's son on grounds not challenged here. While the police were engaged in the performance of their duty, appellant intervened and ultimately addressed the police officers as "g-- d-- m----- f----- police." At that point she herself was arrested for violation of a city ordinance providing:

"It shall be unlawful and a breach of the peace for any person wantonly to curse or revile or to

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\*[This opinion applies also to No. 70-5323, *Lewis v. City of New Orleans*, *post*, p. 913, and No. 71-6535, *Brown v. Oklahoma*, *post*, p. 914.]

use obscene or opprobrious language toward or with reference to any member of the city police while in the actual performance of his duty." § 49-7, Code of City of New Orleans.

In *Rosenfeld*, appellant appeared and spoke at a public school board meeting that was held in an auditorium and was attended by more than 150 men, women, and children of mixed ethnic and racial backgrounds. It was estimated that there were approximately 40 children and 25 women present at the meeting. During his speech, appellant used the adjective "m----- f-----" on four different occasions while concluding his remarks. Testimony varied as to what particular nouns were joined with this adjective, but they were said to include teachers, the community, the school system, the school board, the country, the county, and the town.

Rosenfeld was convicted under a New Jersey statute that provides:

"Any person who utters loud and offensive or profane or indecent language in any public street or other public place, public conveyance, or place to which the public is invited . . . [i]s a disorderly person." N. J. Rev. Stat. § 2A:170-29 (1) (1971).

The New Jersey Supreme Court, prior to the instant case, had placed the following limiting construction on the New Jersey statute:

"[T]he words must be spoken loudly, in a public place and must be of such a nature as to be likely to incite the hearer to an immediate breach of the peace or to be likely, in the light of the gender and age of the listener and the setting of the utterance, to affect the sensibilities of a hearer. The words must be spoken with the intent to have the above effect or with a reckless disregard of the probability of the above consequences." *State v.*

*Profaci*, 56 N. J. 346, 353, 266 A. 2d 579, 583-584 (1970).

Appellant in *Brown* spoke to a large group of men and women gathered in the University of Tulsa chapel. During a question and answer period he referred to some policemen as "m----- f----- fascist pig cops" and to a particular Tulsa police officer as that "black m----- f----- pig . . . ." Brown was convicted of violating an Oklahoma statute that prohibited the utterance of "any obscene or lascivious language or word in any public place, or in the presence of females . . . ." Okla. Stat. Ann., Tit. 21, § 906 (1958).

The Court vacates and remands these cases for reconsideration in the light of *Gooding v. Wilson*, 405 U. S. 518 (1972), and *Cohen v. California*, 403 U. S. 15 (1971) (the latter decided some four months before the opinion of the New Jersey Superior Court, Appellate Division, which upheld Rosenfeld's conviction, and six months before that of the Oklahoma Court of Criminal Appeals in *Brown*).

Insofar as the Court's remand is based on *Cohen, supra*, for the reasons stated in MR. JUSTICE BLACKMUN'S dissenting opinion in that case, *id.*, at 27, I would not deny to these States the power to punish language of the sort used here by appropriate legislation. Appellant Lewis' words to the police officers were "fighting words," and those of appellants Rosenfeld and Brown were "lewd and obscene" and "profane" as those terms are used in *Chaplinsky v. New Hampshire*, 315 U. S. 568 (1942), the leading case in the field. Delineating the type of language that the States may constitutionally punish, the Court there said:

"There are certain well-defined and narrowly limited classes of speech, the prevention and punishment of which have never been thought to raise

any Constitutional problem. These include the lewd and obscene, the profane, the libelous, and the insulting or 'fighting' words—those which by their very utterance inflict injury or tend to incite an immediate breach of the peace. It has been well observed that such utterances are no essential part of any exposition of ideas, and are of such slight social value as a step to truth that any benefit that may be derived from them is clearly outweighed by the social interest in order and morality. 'Resort to epithets or personal abuse is not in any proper sense communication of information or opinion safeguarded by the Constitution, and its punishment as a criminal act would raise no question under that instrument.' *Cantwell v. Connecticut*, 310 U. S. 296, 309–310." 315 U. S., at 571–572.

The language used by these appellants therefore clearly falls within the class of punishable utterances described in *Chaplinsky*.

*Gooding v. Wilson*, *supra*, dealt both with the type of speech that the States could constitutionally punish, and the doctrine of First Amendment overbreadth. With respect to the latter, the Court said:

"The constitutional guarantees of freedom of speech forbid the States to punish the use of words or language not within 'narrowly limited classes of speech.' *Chaplinsky v. New Hampshire*, 315 U. S. 568, 571 (1942). Even as to such a class, however, because 'the line between speech unconditionally guaranteed and speech which may legitimately be regulated, suppressed, or punished is finely drawn,' *Speiser v. Randall*, 357 U. S. 513, 525 (1958), '[i]n every case the power to regulate must be so exercised as not, in attaining a permissible end, unduly to infringe the protected freedom,' *Cant-*

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*well v. Connecticut*, 310 U. S. 296, 304 (1940). In other words, the statute must be carefully drawn or be authoritatively construed to punish only unprotected speech and not be susceptible of application to protected expression." *Id.*, at 521-522.

Unless we are to distort the doctrine of overbreadth into a verbal game of logic-chopping and sentence-parsing reminiscent of common-law pleading, it cannot fairly be said here that either the New Orleans ordinance, or the New Jersey statute as construed by the highest court of that State, could reasonably be thought "unduly to infringe the protected freedom," *Cantwell v. Connecticut*, 310 U. S., at 304.

I would dismiss these appeals for lack of a substantial federal question.

No. 70-5323. *LEWIS v. CITY OF NEW ORLEANS*. Appeal from Sup. Ct. La. Motion for leave to proceed *in forma pauperis* granted. Judgment vacated and case remanded for reconsideration in light of *Gooding v. Wilson*, 405 U. S. 518 (1972).

MR. JUSTICE POWELL, concurring in the result.

Under *Chaplinsky v. New Hampshire*, 315 U. S. 568 (1942), the issue in a case of this kind is whether "fighting words" were used. Here a police officer, while in the performance of his duty, was called "g-- d--- m----- f-----" police.

If these words had been addressed by one citizen to another, face to face and in a hostile manner, I would have no doubt that they would be "fighting words." But the situation may be different where such words are addressed to a police officer trained to exercise a higher degree of restraint than the average citizen. See Model Penal Code § 250.1, Comments 14 (Tent. Draft No. 13, 1961).

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I see no genuine overbreadth problem in this case for the reasons stated in my dissenting opinion in *Rosenfeld v. New Jersey*, ante, p. 903.

I would remand for reconsideration only in light of *Chaplinsky*.

[For dissenting opinion of MR. CHIEF JUSTICE BURGER, see ante, p. 902.]

[For dissenting opinion of MR. JUSTICE REHNQUIST, see ante, p. 909.]

No. 71-6535. *BROWN v. OKLAHOMA*. Appeal from Ct. Crim. App. Okla. Motion for leave to proceed *in forma pauperis* granted. Judgment vacated and case remanded for reconsideration in light of *Cohen v. California*, 403 U. S. 15 (1971), and *Gooding v. Wilson*, 405 U. S. 518 (1972). Reported below: 492 P. 2d 1106.

MR. JUSTICE POWELL, concurring in the result.

The statute involved in this case is considerably broader than the statute involved in *Rosenfeld v. New Jersey*, ante, p. 901, and it has not been given a narrowing construction by the Oklahoma courts. Moreover, the papers filed in this case indicate that the language for which appellant was prosecuted was used in a political meeting to which appellant had been invited to present the Black Panther viewpoint. In these circumstances language of the character charged might well have been anticipated by the audience.

These factors lead me to conclude that this case is significantly different from *Rosenfeld v. New Jersey*, supra. I therefore concur in the Court's disposition of this case.

[For dissenting opinion of MR. CHIEF JUSTICE BURGER, see ante, p. 902.]

[For dissenting opinion of MR. JUSTICE REHNQUIST, see ante, p. 909.]

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*Certiorari Granted—Reversed.* (See No. 71-5625, *ante*, p. 229; and No. 71-6497, *ante*, p. 234.)

*Certiorari Granted—Remanded or Vacated and Remanded.*

No. 70-5125. CLARK *v.* BOSLOW, INSTITUTION DIRECTOR. C. A. 4th Cir. Motion for leave to proceed *in forma pauperis* and certiorari granted. Judgment vacated and case remanded for further consideration in light of *McNeil v. Director, Patuxent Institution*, 407 U. S. 245.

No. 70-5336. FARRELL *v.* SCHMIDT, SECRETARY, DEPARTMENT OF HEALTH AND SOCIAL SERVICES, ET AL. Sup. Ct. Wis. Motion for leave to proceed *in forma pauperis* and certiorari granted. Judgment vacated and case remanded for further consideration in light of *Humphrey v. Cady*, 405 U. S. 504.

No. 71-239. FERGUSON, U. S. DISTRICT JUDGE *v.* UNITED STATES. Certiorari before judgment to C. A. 9th Cir. Certiorari granted and case remanded for further consideration in light of *United States v. United States District Court for the Eastern District of Michigan (Plamondon et al., Real Parties in Interest)*, 407 U. S. 297.

No. 71-1028. CAMPOPIANO *v.* UNITED STATES. C. A. 2d Cir. Certiorari granted. Judgment vacated and case remanded for further consideration in light of *Barker v. Wingo, Warden*, 407 U. S. 514. Reported below: 446 F. 2d 869.

No. 71-5100. BACON *v.* UNITED STATES. C. A. 9th Cir. Motion for leave to proceed *in forma pauperis* and certiorari granted. Judgment vacated and case remanded for further consideration in light of *Gelbard v. United States*, and *United States v. Egan*, *ante*, p. 41. Reported below: 446 F. 2d 667.

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No. 71-847. *SAGLIMBENE v. UNITED STATES*. C. A. 2d Cir. Certiorari granted. Judgment vacated and case remanded for further consideration in light of *Barker v. Wingo, Warden*, 407 U. S. 514.

No. 71-5040. *McKENZIE v. DIRECTOR, PATUXENT INSTITUTION*. Ct. Sp. App. Md. Petition for rehearing granted and order of November 22, 1971 [404 U. S. 979], denying petition for writ of certiorari vacated. Motion for leave to proceed *in forma pauperis* and certiorari granted. Judgment vacated and case remanded for further consideration in light of *McNeil v. Director, Patuxent Institution*, 407 U. S. 245. MR. JUSTICE DOUGLAS would grant certiorari and reverse in light of *McNeil v. Director, Patuxent Institution, supra*.

No. 71-5672. *OLSEN v. UNITED STATES*. C. A. 9th Cir. Motion for leave to proceed *in forma pauperis* and certiorari granted. Judgment vacated and case remanded for further consideration in light of *Gelbard v. United States*, and *United States v. Egan, ante*, p. 41. Reported below: 446 F. 2d 912.

No. 71-6196. *KELLEY v. KENTUCKY*. Ct. App. Ky. Motion for leave to proceed *in forma pauperis* and certiorari granted. Judgment vacated and case remanded for further consideration in light of *Barker v. Wingo, Warden*, 407 U. S. 514. Reported below: 474 S. W. 2d 63.

No. 71-6337. *FASANARO v. UNITED STATES*. C. A. 2d Cir. Motion for leave to proceed *in forma pauperis* and certiorari granted. Judgment vacated and case remanded for further consideration in light of *Barker v. Wingo, Warden*, 407 U. S. 514.

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*Miscellaneous Orders*

No. 35, Orig. UNITED STATES *v.* MAINE ET AL. [Motion for leave to file bill of complaint granted, 395 U. S. 955.] Motion of Commonwealth of Massachusetts for a preliminary injunction denied. MR. JUSTICE DOUGLAS took no part in the consideration or decision of this motion.

No. 40, Orig. PENNSYLVANIA *v.* NEW YORK ET AL., 407 U. S. 206. It is ordered that the expenditures of John F. Davis as Special Master in the amount of \$626.54 be approved. It is further ordered that the balance of advances made by the parties to meet expenses in the amount of \$1,373.46 be retained by the Special Master and applied toward his compensation. It is further ordered that the total compensation for the Special Master be fixed at ten thousand five hundred dollars (\$10,500) and that that amount, less the balance of the money advanced for expenses, shall be paid to him by Western Union out of the funds in its possession which are the subject of this suit and that Western Union be given credit for that amount divided pro rata among the parties who would otherwise be entitled to the money under the opinion and decree of this Court.

No. 50, Orig. VERMONT *v.* NEW YORK ET AL. [Motion to file bill of complaint granted, 406 U. S. 186.] It is ordered that Justice R. Ammi Cutter (retired) be, and he is hereby, appointed Special Master to conduct supplemental proceedings in this case. The Special Master shall have authority to fix the time and conditions for filing 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

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Master is directed to submit such reports as he may deem appropriate.

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

It is further ordered that if the position of Special Master becomes vacant during the recess of the 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. 54, Orig. UNITED STATES *v.* FLORIDA ET AL. [Motion to file bill of complaint granted, 405 U. S. 984.] Motion to defer consideration denied. Motion of the State of Texas for appointment of a Special Master granted. It is ordered that Honorable Charles L. Powell, Senior Judge of the United States District Court for the Eastern District of Washington, be, and he is hereby, appointed Special Master in this case. The Special Master shall have authority to fix the time and conditions for filing additional pleadings and to direct subsequent proceedings, and authority to summon witnesses, issue subpoenas, and take such evidence as may be introduced and such as he may deem it necessary to call for. The Master is directed to submit such reports as he may deem appropriate.

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

It is further ordered that if the position of Special Master becomes vacant during the recess of the Court,

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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. 70-2. UNITED STATES *v.* 12 200-FT. REELS OF SUPER 8MM. FILM ET AL. (PALADINI, CLAIMANT). Appeal from D. C. C. D. Cal. [Probable jurisdiction noted, 403 U. S. 930];

No. 70-18. ROE ET AL. *v.* WADE, DISTRICT ATTORNEY OF DALLAS COUNTY. Appeal from D. C. N. D. Tex. [Probable jurisdiction postponed, 402 U. S. 941];

No. 70-40. DOE ET AL. *v.* BOLTON, ATTORNEY GENERAL OF GEORGIA, ET AL. Appeal from D. C. N. D. Ga. [Probable jurisdiction postponed, 402 U. S. 941];

No. 70-69. UNITED STATES *v.* ORITO. Appeal from D. C. E. D. Wis. [Probable jurisdiction noted, 404 U. S. 819]; and

No. 70-73. MILLER *v.* CALIFORNIA. Appeal from App. Dept., Super. Ct. Cal., County of Orange. [Probable jurisdiction noted, 401 U. S. 992.] These cases are restored to the calendar for reargument. MR. JUSTICE DOUGLAS dissents in Nos. 70-18 and 70-40.

No. 70-35. AUSTIN ET AL. *v.* MEYER ET AL. Appeal from D. C. M. D. Fla. Motion of appellees to vacate stay heretofore granted by Mr. Justice Black on August 31, 1970, presented to MR. JUSTICE POWELL, and by him referred to the Court, granted. MR. JUSTICE DOUGLAS took no part in the consideration or decision of this motion. Reported below: 319 F. Supp. 457.

No. 71-1398. WARNER, SECRETARY OF THE NAVY *v.* FLEMINGS. C. A. 2d Cir. [Certiorari granted, 407 U. S. 919.] Motion of respondent for appointment of counsel granted. It is ordered that Michael Meltsner, Esquire, of New York, New York, a member of the Bar of this Court, be, and he is hereby, appointed to serve as counsel for respondent in this case.

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No. 71-1447. DAVIDSON, SECRETARY, MARYLAND DEPARTMENT OF EMPLOYMENT AND SOCIAL SERVICES, ET AL. v. FRANCIS ET AL.; and

No. 71-1554. UNITED STATES CHAMBER OF COMMERCE v. FRANCIS ET AL. Appeals from D. C. Md. The Solicitor General is invited to file a brief in these cases expressing the views of the United States. Reported below: 340 F. Supp. 351.

No. 71-6633. VALDEZ v. NELSON, WARDEN. Motion for leave to file petition for writ of habeas corpus denied.

No. 71-6620. HEADLEY ET AL. v. PALMIERI, U. S. DISTRICT JUDGE; and

No. 71-6645. REED v. LAWRENCE, U. S. DISTRICT JUDGE. Motions for leave to file petitions for writs of mandamus denied.

No. 71-1437. WHITCOMB, GOVERNOR OF INDIANA, ET AL. v. ESCHBACH, U. S. DISTRICT JUDGE. Motion of Gaither and Roth [plaintiffs in related case] for leave to proceed *in forma pauperis* granted. Motion for leave to file petition for writ of prohibition and/or mandamus denied.

*Probable Jurisdiction Noted*

No. 71-653. GIBSON ET AL. v. BERRYHILL ET AL. Appeal from D. C. M. D. Ala. Probable jurisdiction noted. Reported below: 331 F. Supp. 122.

No. 71-1456. SALYER LAND CO. ET AL. v. TULARE LAKE BASIN WATER STORAGE DISTRICT. Appeal from D. C. E. D. Cal. Probable jurisdiction noted. Reported below: 342 F. Supp. 144.

No. 71-575. GOMEZ v. PEREZ. Appeal from Ct. Civ. App. Tex., 4th Sup. Jud. Dist. Probable jurisdiction noted and case set for oral argument with No. 71-6078 [*S. v. D.*, probable jurisdiction postponed, 405 U. S. 1064]. Reported below: 466 S. W. 2d 41.

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*Certiorari Granted*

No. 71-1422. *KAPLAN v. CALIFORNIA*. App. Dept., Sup. Ct. Cal., County of Los Angeles. Certiorari granted. Reported below: 23 Cal. App. 3d Supp. 9, 100 Cal. Rptr. 372.

No. 71-1051. *PARIS ADULT THEATRE I ET AL. v. SLATON, DISTRICT ATTORNEY, ATLANTA JUDICIAL CIRCUIT, ET AL.* Sup. Ct. Ga. Motion to supplement petition and certiorari granted. Parties requested to brief and argue, in addition to those questions presented in the petition, the following question: "Whether the display of any sexually oriented films in a commercial theatre, when surrounded by notice to the public of their nature and by reasonable protection against exposure of the films to juveniles, is constitutionally protected?" Reported below: 228 Ga. 343, 185 S. E. 2d 768.

No. 71-1225. *GAGNON, WARDEN v. SCARPELLI*. C. A. 7th Cir. Motion of respondent for leave to proceed *in forma pauperis* and certiorari granted. Motion of respondent for appointment of counsel granted. It is ordered that William M. Coffey, Esquire, of Milwaukee, Wisconsin, a member of the Bar of this Court, be, and he is hereby, appointed to serve as counsel for respondent in this case. Reported below: 454 F. 2d 416.

No. 71-1315. *ALEXANDER ET AL. v. VIRGINIA*. Sup. Ct. Va. Certiorari granted. Parties are requested to brief and argue in addition to those questions presented in the petition the following question: "Whether the display of any sexually oriented pictorial magazines for commercial sale, when surrounded by notice to the public of their nature and by reasonable protection against exposure of the magazines to juveniles, is constitutionally protected?" Reported below: 212 Va. 554, 186 S. E. 2d 43.

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No. 71-6193. *BROWN ET AL. v. UNITED STATES*. C. A. 6th Cir. Motion for leave to proceed *in forma pauperis* and certiorari granted. Reported below: 452 F. 2d 868.

No. 71-6356. *DOE ET AL. v. McMILLAN ET AL.* C. A. D. C. Cir. Motion for leave to proceed *in forma pauperis* and certiorari granted. Reported below: 148 U. S. App. D. C. 280, 459 F. 2d 1304.

No. 71-6316. *GOOSBY ET AL. v. OSSER ET AL.* C. A. 3d Cir. Motion of American Jewish Committee (National) et al. for leave to file a brief as *amici curiae* granted. Motion for leave to proceed *in forma pauperis* and certiorari granted. Reported below: 452 F. 2d 39.

*Certiorari Denied*

No. 71-379. *REED v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 448 F. 2d 1276.

No. 71-405. *EGAN v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 450 F. 2d 199.

No. 71-1058. *BECKMAN v. WALTER KIDDE & Co., INC., ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 451 F. 2d 593.

No. 71-1121. *PETREE v. GEORGIA*. Ct. App. Ga. Certiorari denied. Reported below: 124 Ga. App. 670, 185 S. E. 2d 562.

No. 71-1123. *RAFFERTY ET UX. v. COMMISSIONER OF INTERNAL REVENUE*. C. A. 1st Cir. Certiorari denied. Reported below: 452 F. 2d 767.

No. 71-1214. *STEIN v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 456 F. 2d 844.

No. 71-1313. *HAM ET AL. v. ROMNEY, SECRETARY OF HOUSING AND URBAN DEVELOPMENT, ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 455 F. 2d 607.

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No. 71-1316. CRENSHAW, EXECUTOR *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 450 F. 2d 472.

No. 71-1327. SCHWARTZ ET AL. *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied.

No. 71-1329. WARZYNIAK *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied.

No. 71-1330. KATZ *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 455 F. 2d 496.

No. 71-1333. WOLFE *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. Reported below: 457 F. 2d 773.

No. 71-1343. ROSSI *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 453 F. 2d 752.

No. 71-1349. BROWN *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied. Reported below: 456 F. 2d 569.

No. 71-1351. PRÄNNEMAN *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied. Reported below: 455 F. 2d 809.

No. 71-1409. UNITED STATES STEEL CORP. ET AL. *v.* UNITED MINE WORKERS OF AMERICA ET AL. C. A. 3d Cir. Certiorari denied. Reported below: 456 F. 2d 483.

No. 71-1421. BELL *v.* TAYLOR, EXECUTOR. Ct. App. Cal., 2d App. Dist. Certiorari denied. Reported below: 21 Cal. App. 3d 1002, 98 Cal. Rptr. 855.

No. 71-1423. GREENE *v.* REAL ESTATE COMMISSION OF THE DISTRICT OF COLUMBIA. Ct. App. D. C. Certiorari denied.

No. 71-1425. CENTRAL PENN NATIONAL BANK ET AL. *v.* TRUSTEES OF THE PROPERTY OF THE PENN CENTRAL TRANSPORTATION Co. C. A. 3d Cir. Certiorari denied. Reported below: 453 F. 2d 520.

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No. 71-1430. SEAMAN, DBA LES'S ROLLER RINK ET AL. v. EVANS. C. A. 5th Cir. Certiorari denied. Reported below: 452 F. 2d 749.

No. 71-1443. CALIFORNIA DEPARTMENT OF HUMAN RESOURCES DEVELOPMENT ET AL. v. CROW ET AL. Petition for certiorari before judgment to C. A. 9th Cir. Certiorari denied.

No. 71-1444. BLUM v. PENNSYLVANIA. Sup. Ct. Pa. Certiorari denied.

No. 71-1446. HUTTER ET AL. v. DOOR COUNTY, WISCONSIN, ET AL. C. A. 7th Cir. Certiorari denied.

No. 71-1449. GOLDEN ET AL. v. THE SHEARMAN ET AL. C. A. 4th Cir. Certiorari denied. Reported below: 455 F. 2d 133.

No. 71-1450. POFF v. DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL OF CALIFORNIA ET AL. Ct. App. Cal., 2d App. Dist. Certiorari denied.

No. 71-1454. BRENNAN ET AL. v. HAINES ET AL. C. A. 3d Cir. Certiorari denied. Reported below: 455 F. 2d 943.

No. 71-1461. CADOUX v. PLANNING AND ZONING COMMISSION OF THE TOWN OF WESTON. Sup. Ct. Conn. Certiorari denied. Reported below: 162 Conn. 425, 294 A. 2d 582.

No. 71-1550. McFERRIN v. LUBBOCK NATIONAL BANK. C. A. 5th Cir. Certiorari denied. Reported below: 455 F. 2d 991.

No. 71-5737. REYNOLDS v. UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 449 F. 2d 1347.

No. 71-5881. MOLTER v. MARYLAND. Ct. Sp. App. Md. Certiorari denied.

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No. 71-1541. *SUSQUEHANNA CORP. v. DASHO, EXECUTRIX, ET AL.*;

No. 71-1542. *BOGAN ET AL. v. DASHO, EXECUTRIX, ET AL.*; and

No. 71-1543. *HARDIN ET AL. v. DASHO, EXECUTRIX, ET AL.* C. A. 7th Cir. Certiorari denied. Reported below: 461 F. 2d 11.

No. 71-6189. *CANNON v. MISSOURI.* C. A. 8th Cir. Certiorari denied.

No. 71-6232. *BROWN v. CLARK, WARDEN, ET AL.* C. A. 5th Cir. Certiorari denied.

No. 71-6241. *SIIRILA v. MINNESOTA.* Sup. Ct. Minn. Certiorari denied. Reported below: 292 Minn. 1, 193 N. W. 2d 467.

No. 71-6247. *NICKERSON v. NORTH CAROLINA.* Sup. Ct. N. C. Certiorari denied. Reported below: See 13 N. C. App. 125, 185 S. E. 2d 326.

No. 71-6262. *NICKOLS v. GAGNON.* C. A. 7th Cir. Certiorari denied. Reported below: 454 F. 2d 467.

No. 71-6295. *SIMPSON v. UNITED STATES.* C. A. 10th Cir. Certiorari denied. Reported below: 453 F. 2d 1028.

No. 71-6299. *CANCINO v. UNITED STATES.* Ct. Cl. Certiorari denied. Reported below: 196 Ct. Cl. 568, 451 F. 2d 1028.

No. 71-6302. *SANDERS v. UNITED STATES.* C. A. 5th Cir. Certiorari denied.

No. 71-6342. *WALTON v. VIRGINIA.* C. A. 4th Cir. Certiorari denied.

No. 71-6433. *SANDERS v. UNITED STATES.* C. A. 4th Cir. Certiorari denied.

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No. 71-6491. *BURNETTE v. UNITED STATES*;  
No. 71-6501. *GRAY v. UNITED STATES*; and  
No. 71-6505. *WILKERSON v. UNITED STATES*. C. A.  
6th Cir. Certiorari denied. Reported below: 456 F. 2d  
57.

No. 71-6492. *GUTIERREZ-RUBIO v. IMMIGRATION AND  
NATURALIZATION SERVICE*. C. A. 5th Cir. Certiorari de-  
nied. Reported below: 453 F. 2d 1243.

No. 71-6504. *ZURITA v. UNITED STATES*. C. A. 7th  
Cir. Certiorari denied.

No. 71-6507. *WALLER v. UNITED STATES*. C. A. 3d  
Cir. Certiorari denied. Reported below: 456 F. 2d 132.

No. 71-6513. *LANDMAN v. CLARK, WARDEN*. C. A.  
5th Cir. Certiorari denied. Reported below: 456 F. 2d  
215.

No. 71-6525. *SPENCER v. UNITED STATES*. C. A. 9th  
Cir. Certiorari denied. Reported below: 456 F. 2d 1202.

No. 71-6527. *DURHAM v. UNITED STATES*. C. A. 10th  
Cir. Certiorari denied.

No. 71-6574. *McGUCKEN v. UNITED STATES*. Ct. Cl.  
Certiorari denied. Reported below: 197 Ct. Cl. 965.

No. 71-6601. *ALLEN v. WORRALL*. C. A. 4th Cir.  
Certiorari denied.

No. 71-6604. *BOAG v. BOIES, SHERIFF, ET AL.* C. A.  
9th Cir. Certiorari denied. Reported below: 455 F. 2d  
467.

No. 71-6607. *INGRAM v. ARKANSAS*. C. A. 8th Cir.  
Certiorari denied.

No. 71-6609. *SZWALLA v. NEW YORK*. Ct. App. N. Y.  
Certiorari denied.

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No. 71-6613. *HAYES v. COULON ET AL.* C. A. 6th Cir. Certiorari denied.

No. 71-6621. *NIXON v. BETO, CORRECTIONS DIRECTOR.* C. A. 5th Cir. Certiorari denied. Reported below: 456 F. 2d 1065.

No. 71-6622. *KEY v. UNITED STATES.* C. A. 10th Cir. Certiorari denied. Reported below: 458 F. 2d 1189.

No. 71-6623. *MORNINGSTAR v. CALIFORNIA.* App. Dept., Super. Ct. Cal., County of Riverside. Certiorari denied.

No. 71-6626. *LOGAN v. NEW YORK.* App. Div., Sup. Ct. N. Y., 2d Jud. Dept. Certiorari denied.

No. 71-6630. *PILLIS ET AL. v. STATE BOARD OF ELECTIONS ET AL.* C. A. 4th Cir. Certiorari denied.

No. 71-6632. *HAMILTON v. WARDEN, MARYLAND PENITENTIARY.* C. A. 4th Cir. Certiorari denied.

No. 71-6635. *JONES v. INDIANA.* Sup. Ct. Ind. Certiorari denied. Reported below: 244 Ind. 682, 195 N. E. 2d 460.

No. 71-6636. *HARDIN v. TEXAS.* Ct. Crim. App. Tex. Certiorari denied. Reported below: 475 S. W. 2d 254.

No. 71-6638. *THORNHILL v. SLAYTON, PENITENTIARY SUPERINTENDENT.* C. A. 4th Cir. Certiorari denied.

No. 71-6642. *LARY v. TEXAS.* Ct. Crim. App. Tex. Certiorari denied. Reported below: 475 S. W. 2d 248.

No. 71-6652. *ROTH v. ZELKER, CORRECTIONAL SUPERINTENDENT.* C. A. 2d Cir. Certiorari denied. Reported below: 455 F. 2d 1105.

No. 71-6655. *SMITH v. UNITED STATES.* C. A. 4th Cir. Certiorari denied.

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No. 71-6661. *MILES v. GRAHAM*. C. A. 4th Cir. Certiorari denied.

No. 71-6721. *SWINTON v. ROSE, WARDEN*. C. A. 6th Cir. Certiorari denied.

No. 70-5035. *DICKERSON v. RUNDLE, CORRECTIONAL SUPERINTENDENT*. C. A. 3d Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. Reported below: 430 F. 2d 462.

No. 70-5077. *BRUMFIELD v. HENDERSON, WARDEN*. C. A. 5th Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. Reported below: 436 F. 2d 1080.

No. 71-1344. *DETORE, AKA HAYES v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted.

No. 71-1383. *POOLEY v. MISSISSIPPI*. Sup. Ct. Miss. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. Reported below: 257 So. 2d 212.

No. 71-1427. *WILSON v. INDIANA*. Sup. Ct. Ind. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. Reported below: 278 Ind. 569, 278 N. E. 2d 569.

No. 71-1433. *BELLISTON ET AL. v. TEXACO INC.* C. A. 10th Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. Reported below: 455 F. 2d 175.

No. 71-1475. *WILSON v. DEITZ, COMMISSIONER, DEPARTMENT OF ECONOMIC SECURITY, DIVISION OF PUBLIC ASSISTANCE, OF KENTUCKY*. C. A. 6th Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. Reported below: 456 F. 2d 314.

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No. 71-1503. *DESOTO, INC. v. CATAPHOTE CORP. ET AL.* C. A. 9th Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. Reported below: 450 F. 2d 769.

No. 71-1513. *RUSO v. BYRNE*, U. S. DISTRICT JUDGE. C. A. 9th Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted.

No. 71-5121. *BAKER v. TOLLETT, WARDEN.* C. A. 6th Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted.

No. 71-6210. *ANSLEY v. GEORGIA.* Ct. App. Ga. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. Reported below: 124 Ga. App. 670, 185 S. E. 2d 562.

No. 71-6340. *ROBINSON v. FLORIDA.* Dist. Ct. App. Fla., 3d Dist. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. Reported below: 256 So. 2d 29.

No. 71-6350. *LEWIS v. MICHIGAN.* Sup. Ct. Mich. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. Reported below: 386 Mich. 407, 192 N. W. 2d 215.

No. 71-6596. *EVANS v. SWENSON, WARDEN.* C. A. 8th Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. Reported below: 455 F. 2d 291.

No. 71-6618. *BOGDAN v. RODRIGUEZ, WARDEN.* C. A. 10th Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted.

No. 71-6628. *GOETZ v. OREGON.* Sup. Ct. Ore. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. Reported below: See 7 Ore. App. 515, 491 P. 2d 220.

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No. 71-256. UNITED STATES *v.* EVANS ET AL. C. A. D. C. Cir. Motion of respondents for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 146 U. S. App. D. C. 310, 452 F. 2d 1239.

No. 71-1340. NEW YORK DISTRICT COUNCIL No. 9, INTERNATIONAL BROTHERHOOD OF PAINTERS & ALLIED TRADES, AFL-CIO *v.* NATIONAL LABOR RELATIONS BOARD ET AL. C. A. 2d Cir. Certiorari denied. MR. JUSTICE BRENNAN and MR. JUSTICE WHITE are of the opinion that certiorari should be granted. Reported below: 453 F. 2d 783.

No. 71-1411. LII *v.* SIDA OF HAWAII, INC., ET AL. Sup. Ct. Haw. Motions to dispense with printing petition and brief in opposition granted. Certiorari denied. Reported below: 53 Haw. 353, 493 P. 2d 1032.

No. 71-1426. CHAMBERS *v.* SPEIGHT, COMMISSIONER OF HIGHWAYS AND PUBLIC WORKS OF TENNESSEE. C. A. 6th Cir. Motion to dispense with printing petition granted. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted.

No. 71-1431. TRIANGLE PUBLICATIONS, INC., ET AL. *v.* MATUS. Sup. Ct. Pa. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 445 Pa. 384, 286 A. 2d 357.

No. 71-1441. CONNORS ET AL. *v.* CHAS. PFIZER & Co., INC., ET AL. C. A. 2d Cir. Certiorari denied. MR. JUSTICE WHITE took no part in the consideration or decision of this petition. Reported below: 450 F. 2d 1119.

No. 71-1534. MONTANA POWER Co. *v.* FEDERAL POWER COMMISSION ET AL. C. A. D. C. Cir. Certiorari denied. THE CHIEF JUSTICE took no part in the consideration or decision of this petition. Reported below: 148 U. S. App. D. C. 74, 459 F. 2d 863.

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No. 71-1549. *BLANKNER v. CITY OF CHICAGO*. Sup. Ct. Ill. Motions of Janitors Union Local 1, Chicago Property Owners Assn. et al., and Roman C. Pucinski for leave to file briefs as *amici curiae* granted. Certiorari denied. Reported below: 50 Ill. 2d 69, 277 N. E. 2d 129.

No. 71-1581. *FERRARA ET AL. v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. MR. JUSTICE DOUGLAS took no part in the consideration or decision of this petition. Reported below: 458 F. 2d 868.

No. 71-6468. *HURST v. ESTES*, U. S. DISTRICT JUDGE; and

No. 71-6790. *HURST v. UNITED STATES*. C. A. 5th Cir. Motion of petitioner to consolidate granted. Certiorari denied. Reported below: 460 F. 2d 1258.

No. 71-6625. *HOLT v. CITY OF RICHMOND ET AL.* C. A. 4th Cir. Certiorari denied. MR. JUSTICE POWELL took no part in the consideration or decision of this petition. Reported below: 459 F. 2d 1093.

*Rehearing Granted.* (See No. 71-5040, *supra.*)

*Rehearing Denied*

No. 70-78. *AFFILIATED UTE CITIZENS OF UTAH ET AL. v. UNITED STATES ET AL.*, 406 U. S. 128. Petition for rehearing denied. MR. JUSTICE POWELL and MR. JUSTICE REHNQUIST took no part in the consideration or decision of this petition.

No. 70-117. *KASTIGAR ET AL. v. UNITED STATES*, 406 U. S. 441. Petition for rehearing denied. MR. JUSTICE BRENNAN and MR. JUSTICE REHNQUIST took no part in the consideration or decision of this petition.

No. 71-5830. *JONES v. CRAVEN, WARDEN*, 406 U. S. 921. Motion for leave to file petition for rehearing denied.

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No. 71-913. SEABOARD SHIPPING CORP. *v.* MORAN INLAND WATERWAYS CORP. ET AL., 406 U. S. 949;

No. 71-1068. MIDWEST FREIGHT FORWARDING CO., INC., ET AL. *v.* LEWIS, SECRETARY OF STATE OF ILLINOIS, ET AL., 406 U. S. 939;

No. 71-1264. FERRELL ET AL. *v.* HALL, GOVERNOR OF OKLAHOMA, ET AL., 406 U. S. 939;

No. 71-5795. PARK *v.* CALIFORNIA ET AL., 406 U. S. 962;

No. 71-6170. SOOTS ET UX. *v.* PANARO, 406 U. S. 922;

No. 71-6194. BATEN *v.* DISTRICT UNEMPLOYMENT COMPENSATION BOARD, 406 U. S. 923;

No. 71-6205. POKRAS *v.* UNITED STATES, 406 U. S. 924;

No. 71-6249. KRIKMANIS *v.* MANNERING ET AL., 406 U. S. 926;

No. 71-6324. DELEVAY *v.* GREYHOUND CORP., 406 U. S. 928; and

No. 71-6429. MAGRO *v.* LENTINI BROS. MOVING & STORAGE CO. ET AL., 406 U. S. 961. Petitions for rehearing denied.

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*Vacated and Remanded on Appeal*

No. 68-5017. JOHNSON ET AL. *v.* LOUISIANA. Appeal from Sup. Ct. La. Motion for leave to proceed *in forma pauperis* granted. Judgment vacated insofar as it leaves undisturbed the death penalty imposed, and case remanded for further proceedings. See *Stewart v. Massachusetts, ante*, p. 845. Reported below: 253 La. 18, 215 So. 2d 838.

No. 69-5050. KERRIGAN *v.* SCAFATI, CORRECTIONAL SUPERINTENDENT. Appeal from D. C. Mass. Motion for leave to proceed *in forma pauperis* granted. Judgment vacated insofar as it leaves undisturbed the death penalty imposed, and case remanded for further proceedings. See *Stewart v. Massachusetts, ante*, p. 845.

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No. 71-5073. POPE *v.* NEBRASKA. Appeal from Sup. Ct. Neb. Motion for leave to proceed *in forma pauperis* granted. Judgment vacated insofar as it leaves undisturbed the death penalty imposed, and case remanded for further proceedings. See *Stewart v. Massachusetts*, *ante*, p. 845. MR. JUSTICE BLACKMUN took no part in the consideration or decision of this case. Reported below: 186 Neb. 489, 184 N. W. 2d 395.

No. 70-210. OYEN ET AL. *v.* WASHINGTON. Appeal from Sup. Ct. Wash. Motion to dispense with printing jurisdictional statement granted. Judgment vacated and case remanded for further consideration in light of *Police Department of City of Chicago v. Mosley*, *ante*, p. 92, and *Grayned v. City of Rockford*, *ante*, p. 104. Reported below: 78 Wash. 2d 909, 480 P. 2d 766.

*Appeal Dismissed*

No. 68-5012. HOWARD *v.* NEVADA. Appeal from Sup. Ct. Nev. dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied. Reported below: 84 Nev. 599, 446 P. 2d 163.

*Certiorari Granted—Vacated and Remanded*

In each of the following cases (beginning with No. 68-5001 on this page and extending through No. 71-6592 on p. 940), the motion for leave to proceed *in forma pauperis* and certiorari are granted. The judgment is vacated insofar as it leaves undisturbed the death penalty imposed, and the case is remanded for further proceedings. See *Stewart v. Massachusetts*, *ante*, p. 845.

No. 68-5001. MARKS *v.* LOUISIANA. Sup. Ct. La. Reported below: 252 La. 277, 211 So. 2d 261.

No. 68-5002. McCANTS *v.* ALABAMA. Sup. Ct. Ala. Reported below: 282 Ala. 397, 211 So. 2d 877.

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No. 68-5003. *IN RE REYNOLDS ET AL.* C. A. 3d Cir. Reported below: 397 F. 2d 131.

No. 68-5004. *YATES v. COOK, PENITENTIARY SUPERINTENDENT.* C. A. 5th Cir. Reported below: 402 F. 2d 113.

No. 68-5005. *SIMS v. EYMAN, PENITENTIARY SUPERINTENDENT.* C. A. 9th Cir. Reported below: 405 F. 2d 439.

No. 68-5006. *WRIGHT v. BETO, CORRECTIONS DIRECTOR.* Ct. Crim. App. Tex. Reported below: 422 S. W. 2d 184.

No. 68-5008. *MILLER v. MARYLAND.* Ct. App. Md. Reported below: 251 Md. 362, 247 A. 2d 530.

No. 68-5010. *WILLIAMS v. LOUISIANA.* Sup. Ct. La. Reported below: 252 La. 1023, 215 So. 2d 799.

No. 68-5011. *HUBBARD v. ALABAMA.* Sup. Ct. Ala. Reported below: 283 Ala. 183, 215 So. 2d 261.

No. 68-5013. *SCOLERI v. PENNSYLVANIA.* Sup. Ct. Pa. Reported below: 432 Pa. 571, 248 A. 2d 295.

No. 68-5015. *JANOVIC v. EYMAN, WARDEN.* C. A. 9th Cir. Reported below: 406 F. 2d 314.

No. 68-5016. *SMITH ET AL. v. WASHINGTON.* Sup. Ct. Wash. Reported below: 74 Wash. 2d 744, 446 P. 2d 571.

No. 68-5018. *BILLINGSLEY v. NEW JERSEY ET AL.* C. A. 3d Cir. Reported below: 408 F. 2d 1181.

No. 68-5019. *MORFORD v. HOCKER, WARDEN.* Sup. Ct. Nev.

No. 68-5022. *KRUCHTEN v. EYMAN, WARDEN.* C. A. 9th Cir. Reported below: 406 F. 2d 304.

No. 68-5023. *SMITH v. TEXAS.* Ct. Crim. App. Tex. Reported below: 437 S. W. 2d 835.

No. 68-5024. *MCALLISTER v. LOUISIANA.* Sup. Ct. La. Reported below: 253 La. 382, 218 So. 2d 305.

No. 69-2. *KOONCE v. OKLAHOMA.* Ct. Crim. App. Okla. Reported below: 456 P. 2d 549.

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No. 69-3. *PARK v. GEORGIA*. Sup. Ct. Ga. Reported below: 225 Ga. 618, 170 S. E. 2d 687.

No. 69-5004. *HURST v. ILLINOIS ET AL.* Sup. Ct. Ill. Reported below: 42 Ill. 2d 217, 247 N. E. 2d 614.

No. 69-5005. *LOKOS v. ALABAMA*. Sup. Ct. Ala. Reported below: 284 Ala. 53, 221 So. 2d 689.

No. 69-5006. *SULLIVAN v. GEORGIA*. Sup. Ct. Ga. Reported below: 225 Ga. 301, 168 S. E. 2d 133.

No. 69-5007. *FESMIRE v. OKLAHOMA*. Ct. Crim. App. Okla. Reported below: 456 P. 2d 573.

No. 69-5008. *DUISEN v. MISSOURI*. Sup. Ct. Mo. Reported below: 441 S. W. 2d 688.

No. 69-5010. *THOMAS v. FLORIDA*. Sup. Ct. Fla. Reported below: 223 So. 2d 318.

No. 69-5011. *WALKER v. NEVADA*. Sup. Ct. Nev. Reported below: 85 Nev. 337, 455 P. 2d 34.

No. 69-5013. *MEFFORD v. WARDEN, MARYLAND PENITENTIARY*. C. A. 4th Cir. Reported below: 413 F. 2d 439.

No. 69-5014. *DAVIS v. CONNECTICUT*. Sup. Ct. Conn. Reported below: 158 Conn. 341, 260 A. 2d 587.

No. 69-5015. *MANOR v. GEORGIA*. Sup. Ct. Ga. Reported below: 225 Ga. 538, 170 S. E. 2d 290.

No. 69-5018. *EATON v. OHIO*. Sup. Ct. Ohio. Reported below: 19 Ohio St. 2d 145, 249 N. E. 2d 897.

No. 69-5023. *IRVING v. MISSISSIPPI*. Sup. Ct. Miss. Reported below: 228 So. 2d 266.

No. 69-5024. *PARAMORE v. FLORIDA*. Sup. Ct. Fla. Reported below: 229 So. 2d 855.

No. 69-5025. *KELBACH ET AL. v. UTAH*. Sup. Ct. Utah. Reported below: 23 Utah 2d 231, 461 P. 2d 297.

No. 69-5027. *CUMMINGS v. GEORGIA*. Sup. Ct. Ga. Reported below: 226 Ga. 46, 172 S. E. 2d 395.

No. 69-5028. *WILLIAMS v. SLAYTON, PENITENTIARY SUPERINTENDENT*. Sup. Ct. Va.

No. 69-5029. *EUBANKS v. OHIO*. Sup. Ct. Ohio.

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No. 69-5032. *ARKWRIGHT v. GEORGIA*. Sup. Ct. Ga. Reported below: 226 Ga. 192, 173 S. E. 2d 179.

No. 69-5033. *ATKINSON v. SOUTH CAROLINA*. Sup. Ct. S. C. Reported below: 253 S. C. 531, 172 S. E. 2d 111.

No. 69-5034. *CARTER v. OHIO*. Sup. Ct. Ohio. Reported below: 21 Ohio St. 2d 212, 256 N. E. 2d 714.

No. 69-5036. *HUBBARD v. ALABAMA*. Sup. Ct. Ala. Reported below: 285 Ala. 212, 231 So. 2d 86.

No. 69-5038. *KEATON v. OHIO*. Ct. App. Ohio, Franklin County. Reported below: 19 Ohio App. 2d 254, 250 N. E. 2d 901.

No. 69-5039. *LEE, AKA KING v. GEORGIA*. Sup. Ct. Ga. Reported below: 226 Ga. 162, 173 S. E. 2d 209.

No. 69-5043. *HUFFMAN v. BETO, CORRECTIONS DIRECTOR*. Ct. Crim. App. Tex. Reported below: 450 S. W. 2d 858.

No. 69-5044. *SWAIN v. ALABAMA*. Sup. Ct. Ala. Reported below: 285 Ala. 292, 231 So. 2d 737.

No. 69-5045. *THACKER v. GEORGIA*. Sup. Ct. Ga. Reported below: 226 Ga. 170, 173 S. E. 2d 186.

No. 69-5047. *DULING v. OHIO*. Sup. Ct. Ohio. Reported below: 21 Ohio St. 2d 13, 254 N. E. 2d 670.

No. 69-5048. *LASKEY v. OHIO*. Sup. Ct. Ohio. Reported below: 21 Ohio St. 2d 187, 257 N. E. 2d 65.

No. 69-5049. *WILLIAMS v. GEORGIA*. Sup. Ct. Ga. Reported below: 226 Ga. 140, 173 S. E. 2d 182.

No. 70-3. *WALKER v. GEORGIA*. Sup. Ct. Ga. Reported below: 226 Ga. 292, 174 S. E. 2d 440.

No. 70-5. *LIMONE ET AL. v. MASSACHUSETTS*. Sup. Jud. Ct. Mass. Reported below: 357 Mass. 356, 259 N. E. 2d 195.

No. 71-1139. *LIMONE ET AL. v. MASSACHUSETTS*. Sup. Jud. Ct. Mass. Reported below: — Mass. —, 276 N. E. 2d 698.

No. 70-5001. *POLAND v. LOUISIANA*. Sup. Ct. La. Reported below: 255 La. 746, 232 So. 2d 499.

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No. 70-5003. *CAPLER v. MISSISSIPPI*. Sup. Ct. Miss. Reported below: 237 So. 2d 445.

No. 70-5006. *HAMBY ET AL. v. NORTH CAROLINA*. Sup. Ct. N. C. Reported below: 276 N. C. 674, 174 S. E. 2d 385.

No. 70-5008. *DAVID, AKA DAVIS v. TEXAS*. Ct. Crim. App. Tex. Reported below: 453 S. W. 2d 172.

No. 70-5011. *THAMES v. TEXAS*. Ct. Crim. App. Tex. Reported below: 453 S. W. 2d 495.

No. 70-5016. *STRONG v. LOUISIANA*. Sup. Ct. La. Reported below: 256 La. 455, 236 So. 2d 798.

No. 70-5017. *FULLER v. SOUTH CAROLINA*. Sup. Ct. S. C. Reported below: 254 S. C. 260, 174 S. E. 2d 774.

No. 70-5018. *MILLER v. NORTH CAROLINA*. Sup. Ct. N. C. Reported below: 276 N. C. 681, 174 S. E. 2d 481.

No. 70-5019. *FOGG v. SLAYTON, PENITENTIARY SUPERINTENDENT*. Sup. Ct. Va. Reported below: See 208 Va. 541, 159 S. E. 2d 616.

No. 70-5022. *TEA v. TEXAS*. Ct. Crim. App. Tex. Reported below: 453 S. W. 2d 179.

No. 70-5023. *DOUGLAS ET AL. v. LOUISIANA*. Sup. Ct. La. Reported below: 256 La. 572, 237 So. 2d 382.

No. 70-5027. *ALVAREZ v. NEBRASKA*. Sup. Ct. Neb. Reported below: 185 Neb. 557, 177 N. W. 2d 591.

No. 70-5031. *SELLARS v. BETO, CORRECTIONS DIRECTOR*. C. A. 5th Cir. Reported below: 430 F. 2d 1150.

No. 70-5034. *TYLER v. WASHINGTON*. Sup. Ct. Wash. Reported below: 77 Wash. 2d 726, 466 P. 2d 120.

No. 70-5043. *HERRON v. TENNESSEE*. Ct. Crim. App. Tenn. Reported below: 3 Tenn. Cr. App. 39, 456 S. W. 2d 873.

No. 70-5044. *JACKSON v. BETO, CORRECTIONS DIRECTOR*. C. A. 5th Cir. Reported below: 428 F. 2d 1054.

No. 70-5046. *JOHNSON v. MARYLAND*. Ct. App. Md. Reported below: 258 Md. 597, 267 A. 2d 152.

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No. 70-5050. *BRICKHOUSE v. SLAYTON, PENITENTIARY SUPERINTENDENT*. Sup. Ct. Va.

No. 70-5051. *JACKSON v. ALABAMA*. Sup. Ct. Ala. Reported below: 286 Ala. 287, 239 So. 2d 303.

No. 70-5054. *BRYSON v. OHIO*. Sup. Ct. Ohio. Reported below: 22 Ohio St. 2d 224, 259 N. E. 2d 740.

No. 70-5062. *CUNNINGHAM v. WARDEN, MARYLAND PENITENTIARY*. Ct. App. Md. Reported below: See 247 Md. 404, 231 A. 2d 501.

No. 70-5065. *MILLER v. GEORGIA*. Sup. Ct. Ga. Reported below: 226 Ga. 730, 177 S. E. 2d 253.

No. 70-5066. *WILLIAMS v. SMITH, WARDEN*. C. A. 5th Cir. Reported below: 431 F. 2d 70.

No. 70-5067. *MORALES v. TEXAS*. Ct. Crim. App. Tex. Reported below: 458 S. W. 2d 56.

No. 70-5069. *McKENZIE v. TEXAS*. Ct. Crim. App. Tex. Reported below: 450 S. W. 2d 341.

No. 70-5070. *ANDERSON v. FLORIDA*. Sup. Ct. Fla. Reported below: 241 So. 2d 390.

No. 70-5079. *HENDERSON v. GEORGIA*. Sup. Ct. Ga. Reported below: 227 Ga. 68, 179 S. E. 2d 76.

No. 70-5084. *MOREHEAD v. OHIO*. Sup. Ct. Ohio. Reported below: 24 Ohio St. 2d 166, 265 N. E. 2d 551.

No. 70-5221. *STATEN v. OHIO*. Sup. Ct. Ohio. Reported below: 25 Ohio St. 2d 107, 267 N. E. 2d 122.

No. 70-5326. *ARRINGTON v. MARYLAND*. C. A. 4th Cir.

No. 70-5394. *BROWN v. FLORIDA*. Sup. Ct. Fla. Reported below: 245 So. 2d 68.

No. 70-5400. *WILLIAMS v. KENTUCKY*. Ct. App. Ky. Reported below: 464 S. W. 2d 244.

No. 71-5008. *BARTHOLOMEY v. MARYLAND*. Ct. App. Md. Reported below: 260 Md. 504, 273 A. 2d 164.

No. 71-5114. *SQUARE v. LOUISIANA*. Sup. Ct. La. Reported below: 257 La. 743, 244 So. 2d 200.

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No. 71-5184. *SINCLAIR v. LOUISIANA*. Sup. Ct. La. Reported below: 258 La. 84, 245 So. 2d 365.

No. 71-5192. *TULL v. WARDEN, MARYLAND PENITENTIARY*. Ct. App. Md. Reported below: 262 Md. 299, 278 A. 2d 599.

No. 71-5194. *SEENEY v. DELAWARE*. Sup. Ct. Del. Reported below: — Del. —, 277 A. 2d 670.

No. 71-5197. *STRONG v. MARYLAND*. Ct. App. Md. Reported below: 261 Md. 371, 275 A. 2d 491.

No. 71-5225. *STEIGLER v. DELAWARE*. Sup. Ct. Del. Reported below: — Del. —, 277 A. 2d 662.

No. 71-5228. *CURRY v. TEXAS*. Ct. Crim. App. Tex. Reported below: 468 S. W. 2d 455.

No. 71-5274. *ELLIOTT v. OHIO*. Sup. Ct. Ohio. Reported below: 25 Ohio St. 2d 249, 267 N. E. 2d 806.

No. 71-5359. *CERNY v. WASHINGTON*. Sup. Ct. Wash. Reported below: 78 Wash. 2d 845, 480 P. 2d 199.

No. 71-5369. *TILFORD v. PAGE, WARDEN*. C. A. 10th Cir. Reported below: See 307 F. Supp. 781.

No. 71-5395. *WESTBROOK v. NORTH CAROLINA*. Sup. Ct. N. C. Reported below: 279 N. C. 18, 181 S. E. 2d 572.

No. 71-5525. *WHITE v. OHIO*. Sup. Ct. Ohio. Reported below: 27 Ohio St. 2d 73, 271 N. E. 2d 804.

No. 71-5648. *ALFORD v. EYMAN, WARDEN*. C. A. 9th Cir. Reported below: 448 F. 2d 306.

No. 71-5744. *PHELAN v. BRIERLEY, WARDEN*. C. A. 3d Cir. Reported below: 453 F. 2d 73.

No. 71-5866. *JOHNSON v. FLORIDA*. Sup. Ct. Fla. Reported below: 252 So. 2d 361.

No. 71-6001. *DOSS v. NORTH CAROLINA*. Sup. Ct. N. C. Reported below: 279 N. C. 413, 183 S. E. 2d 671.

No. 71-6068. *STANLEY v. TEXAS*. Ct. Crim. App. Tex. Reported below: 471 S. W. 2d 72.

No. 71-6081. *KASSOW v. OHIO*. Sup. Ct. Ohio. Reported below: 28 Ohio St. 2d 141, 277 N. E. 2d 435.

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No. 71-6137. *GILMORE v. MARYLAND*. Ct. App. Md. Reported below: 263 Md. 268, 283 A. 2d 371.

No. 71-6138. *TERRY v. MISSOURI*. Sup. Ct. Mo. Reported below: 472 S. W. 2d 426.

No. 71-6154. *BOYKIN v. FLORIDA*. Sup. Ct. Fla. Reported below: 257 So. 2d 251.

No. 71-6156. *YOUNG v. OHIO*. Sup. Ct. Ohio. Reported below: 27 Ohio St. 2d 310, 272 N. E. 2d 353.

No. 71-6183. *MATTHEWS v. TEXAS*. Ct. Crim. App. Tex. Reported below: 471 S. W. 2d 834.

No. 71-6204. *BROWN v. VIRGINIA*. Sup. Ct. Va. Reported below: 212 Va. 515, 184 S. E. 2d 786.

No. 71-6223. *MUSIC v. WASHINGTON*. Sup. Ct. Wash. Reported below: 79 Wash. 2d 699, 489 P. 2d 159.

No. 71-6224. *CHANCE v. NORTH CAROLINA*. Sup. Ct. N. C. Reported below: 279 N. C. 643, 185 S. E. 2d 227.

No. 71-6282. *CANADAY v. WASHINGTON*. Sup. Ct. Wash. Reported below: 79 Wash. 2d 647, 488 P. 2d 1064.

No. 71-6539. *MENTHEN v. OKLAHOMA*. Ct. Crim. App. Okla. Reported below: 492 P. 2d 351.

No. 71-6592. *DELGADO v. CONNECTICUT*. Sup. Ct. Conn. Reported below: 161 Conn. 536, 290 A. 2d 338.

No. 71-819. *THOMAS ET AL. v. SHIRCK*; and

No. 71-946. *SHIRCK v. THOMAS ET AL.* C. A. 7th Cir. Certiorari granted, judgment vacated, and cases remanded for further consideration in light of *Board of Regents of State Colleges v. Roth, ante*, p. 564. MR. JUSTICE DOUGLAS would affirm the judgment below. Reported below: 447 F. 2d 1025.

No. 71-5790. *CANTY v. BOARD OF EDUCATION OF THE CITY OF NEW YORK*. C. A. 2d Cir. Motion for leave to proceed *in forma pauperis* and certiorari granted. Judgment vacated and case remanded for further consideration in light of *Perry v. Sindermann, ante*, p. 593; *Board of Regents of State Colleges v. Roth, ante*, p. 564; and *Lynch v. Household Finance Corp.*, 405 U. S. 538.

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MR. JUSTICE DOUGLAS would grant, vacate, and remand solely in light of *Lynch v. Household Finance Corp.*, *supra*. Reported below: 448 F. 2d 428.

No. 69-5016. *PITTS v. WAINWRIGHT, CORRECTIONS DIRECTOR*. Sup. Ct. Fla. Motion for leave to proceed *in forma pauperis* granted. Motion for leave to file petition for writ of habeas corpus denied. Treating the petition for writ of habeas corpus as a petition for writ of certiorari, certiorari granted. Judgment vacated insofar as it leaves undisturbed the death penalty imposed, and case remanded for further proceedings. See *Stewart v. Massachusetts, ante*, p. 845. Reported below: 185 So. 2d 164.

No. 69-5017. *HAWKINS v. WAINWRIGHT, CORRECTIONS DIRECTOR*. Sup. Ct. Fla. Motion for leave to proceed *in forma pauperis* granted. Motion for leave to file petition for writ of habeas corpus denied. Treating the petition for writ of habeas corpus as a petition for writ of certiorari, certiorari granted. Judgment vacated insofar as it leaves undisturbed the death penalty imposed, and case remanded for further proceedings. See *Stewart v. Massachusetts, ante*, p. 845. Reported below: 199 So. 2d 276.

No. 70-5020. *WILLIAMS v. WAINWRIGHT, CORRECTIONS DIRECTOR*. C. A. 5th Cir. Motion for leave to proceed *in forma pauperis* granted. Motion for leave to file petition for writ of habeas corpus denied. Treating the petition for writ of habeas corpus as a petition for writ of certiorari, certiorari granted. Judgment vacated insofar as it leaves undisturbed the death penalty imposed, and case remanded for further proceedings. See *Stewart v. Massachusetts, ante*, p. 845. Reported below: See 228 So. 2d 377.

No. 204, October Term, 1970. *CRAMPTON v. OHIO*. Sup. Ct. Ohio. Petition for rehearing granted. Judgment affirming judgment of the Supreme Court of Ohio, 402 U. S. 183 (1971), vacated. Judgment, 18 Ohio St.

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2d 182, 248 N. E. 2d 614 (1969), vacated insofar as it leaves undisturbed the death penalty imposed, and case remanded for further proceedings. See *Furman v. Georgia*, ante, p. 238.

*Miscellaneous Orders*

No. 71-1255. UNITED STATES *v.* ASH. C. A. D. C. Cir. [Certiorari granted, 407 U. S. 909.] Motion for appointment of counsel granted. It is ordered that Sherman L. Cohn, Esquire, of Washington, D. C., a member of the Bar of this Court, be, and he is hereby, appointed to serve as counsel for respondent in this case.

No. 71-575. GOMEZ *v.* PEREZ. Appeal from Ct. Civ. App. Tex., 4th Sup. Jud. Dist. [Probable jurisdiction noted, ante, p. 920.] Joseph Jaworski, Esquire, of Houston, Texas, a member of the Bar of this Court, is invited to brief and argue this case as *amicus curiae* in support of the judgment below.

*Certiorari Denied.* (See also No. 68-5012, *supra.*)

No. 70-228. WARDEN, MARYLAND PENITENTIARY *v.* RALPH; and

No. 70-5198. RALPH *v.* WARDEN, MARYLAND PENITENTIARY. C. A. 4th Cir. Certiorari denied. Reported below: 438 F. 2d 786.

No. 71-1284. NEW JERSEY *v.* PRESH A ET AL. Sup. Ct. N. J. Certiorari denied. Reported below: 60 N. J. 60, 286 A. 2d 55.

No. 70-322. IN RE WARREN. Gen. Ct. Justice, Super. Ct. Div., Caswell County, N. C. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari, vacate judgment below, and remand case for further consideration in light of his opinion dissenting in part in *Morrissey v. Brewer*, ante, p. 471, at 491.

No. 70-141. HODGIN *v.* NOLAND. C. A. 4th Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion

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that certiorari should be granted. Reported below: 435 F. 2d 859.

No. 70-354. *FOODEN ET AL. v. BOARD OF GOVERNORS OF STATE COLLEGES AND UNIVERSITIES OF ILLINOIS*. Sup. Ct. Ill. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. Reported below: 48 Ill. 2d 580, 272 N. E. 2d 497.

No. 71-430. *CRABTREE v. BOARD OF EDUCATION, WELLSTON CITY SCHOOL DISTRICT, ET AL.* Sup. Ct. Ohio. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted.

No. 71-6259. *MCENTEGGART v. CATALDO ET AL.* C. A. 1st Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. Reported below: 451 F. 2d 1109.

No. 71-249. *ORR v. TRINTER ET AL.* C. A. 6th Cir. Motions of National Education Assn. and Board of Education of the City of Washington C. H., Ohio, for leave to file briefs as *amici curiae* granted. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. Reported below: 444 F. 2d 128.

*Rehearing Granted.* (See No. 204, October Term, 1970, *supra.*)