

ORDERS FROM FEBRUARY 4 THROUGH  
MARCH 25, 1974

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FEBRUARY 4, 1974

*Dismissal Under Rule 60*

No. 73-532. AMERICAN POSTAL WORKERS UNION, AFL-CIO, DETROIT LOCAL *v.* INDEPENDENT POSTAL SYSTEM OF AMERICA, INC., ET AL. C. A. 6th Cir. [Certiorari granted, 414 U. S. 1110.] Writ of certiorari dismissed under Rule 60 of the Rules of this Court. Reported below: 481 F. 2d 90.

FEBRUARY 6, 1974

*Dismissal Under Rule 60*

No. 73-1053. SEABOARD COAST LINE RAILROAD Co. *v.* INTERNATIONAL MINERALS & CHEMICAL CORP. Sup. Ct. Fla. Petition for writ of certiorari dismissed under Rule 60 of the Rules of this Court. Reported below: 283 So. 2d 45.

FEBRUARY 7, 1974

*Dismissal Under Rule 60*

No. 73-6105. SHADD *v.* UNITED STATES. C. A. 3d Cir. Petition for writ of certiorari dismissed under Rule 60 of the Rules of this Court. Reported below: 487 F. 2d 1395.

*Miscellaneous Order*

No. A-734. BRISCOE, GOVERNOR OF TEXAS, ET AL. *v.* GRAVES ET AL. D. C. W. D. Tex. Motions to vacate stay heretofore granted by MR. JUSTICE POWELL denied. MR. JUSTICE DOUGLAS dissents.

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FEBRUARY 11, 1974

*Dismissal Under Rule 60*

No. 73-576. CYZEWSKI, AKA SCALZI, ET AL. *v.* UNITED STATES. C. A. 5th Cir. Petition for writ of certiorari dismissed under Rule 60 of the Rules of this Court. Reported below: 484 F. 2d 509.

FEBRUARY 19, 1974

*Dismissal Under Rule 60*

No. 73-297. ALLIANCE FOR CONSUMER PROTECTION, HILL DISTRICT BRANCH, ET AL. *v.* MILK MARKETING BOARD OF PENNSYLVANIA ET AL. Pa. Commw. Ct. Petition for writ of certiorari dismissed under Rule 60 of the Rules of this Court. Reported below: 7 Pa. Commw. 180, 299 A. 2d 197.

*Affirmed on Appeal*

No. 73-812. PENNSYLVANIA PUBLIC UTILITY COMMISSION *v.* UNITED STATES ET AL. Affirmed on appeal from D. C. M. D. Pa.

No. 73-961. WALLACE, GOVERNOR OF ALABAMA, ET AL. *v.* SIMS ET AL. Affirmed on appeal from D. C. M. D. Ala. Reported below: 365 F. Supp. 215.

*Appeals Dismissed*

No. 73-766. LEDFORD ET AL. *v.* COMMISSIONER OF INTERNAL REVENUE. Appeal from C. A. 9th Cir. dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied.

No. 73-897. PHELPS *v.* COVEY, REFEREE IN BANKRUPTCY. Appeal from C. A. 7th Cir. dismissed for want of substantial federal question.

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No. 73-940. *BOGART v. STATE BAR OF CALIFORNIA*. Appeal from Sup. Ct. Cal. dismissed for want of substantial federal question. Reported below: 9 Cal. 3d 743, 511 P. 2d 1167.

No. 73-956. *PITTSBURGH COAL CO., DIVISION OF CONSOLIDATION COAL CO. v. PENNSYLVANIA*; and

No. 73-957. *HARMAR COAL CO. v. PENNSYLVANIA*. Appeals from Sup. Ct. Pa. dismissed for want of substantial federal question. Reported below: 452 Pa. 77, 306 A. 2d 308.

No. 73-993. *PHELPS v. COMMISSIONERS OF THE SUPREME COURT OF ILLINOIS ET AL.* Appeal from Sup. Ct. Ill. dismissed for want of substantial federal question. Reported below: 55 Ill. 2d 319, 303 N. E. 2d 13.

No. 73-5879. *CALAWAY v. WEST VIRGINIA*. Appeal from Sup. Ct. App. W. Va. dismissed for want of substantial federal question.

No. 73-5705. *DUN LEAVAY v. TENNEY, U. S. DISTRICT JUDGE, ET AL.* Appeal from D. C. S. D. N. Y. dismissed for want of jurisdiction.

No. 73-6004. *ABERCROMBIE v. OHIO*. Appeal from Ct. App. Ohio, Clermont County, dismissed for want of substantial federal question.

No. 73-929. *DEL PASO RECREATION AND PARK DISTRICT ET AL. v. BOARD OF SUPERVISORS OF THE COUNTY OF SACRAMENTO ET AL.* Appeal from Ct. App. Cal., 3d App. Dist., dismissed for want of substantial federal question. MR. JUSTICE DOUGLAS would note probable jurisdiction and set case for oral argument. Reported below: 33 Cal. App. 3d 483, 109 Cal. Rptr. 169.

No. 73-951. *WEBB v. NOLAN*. Appeal from C. A. 4th Cir. dismissed for want of jurisdiction. Treating the

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papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied. MR. JUSTICE DOUGLAS and MR. JUSTICE BLACKMUN would grant certiorari. Reported below: 484 F. 2d 1049.

No. 73-1005. *Ross v. OHIO*. Appeal from Ct. App. Ohio, Franklin County, dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied. MR. JUSTICE MARSHALL would note probable jurisdiction and set case for oral argument. Reported below: 36 Ohio App. 2d 185, 304 N. E. 2d 396.

No. 73-1007. *FRANKLIN ET AL. v. KRAUSE, CLERK, BOARD OF SUPERVISORS OF NASSAU COUNTY*. Appeal from Ct. App. N. Y. dismissed for want of substantial federal question. MR. JUSTICE BRENNAN would note probable jurisdiction and set case for oral argument. Reported below: 32 N. Y. 2d 234, 298 N. E. 2d 68, and 33 N. Y. 2d 646, 303 N. E. 2d 71.

*Vacated and Remanded on Appeal*

No. 73-232. *EXXON CORP. v. PRESTON*. Appeal from Ct. Civ. App. Tex., 9th Sup. Jud. Dist. [Probable jurisdiction noted, 414 U. S. 1038.] Upon receiving and filing appellee's waiver of his right to file an opposing brief with his representation that he no longer opposes change of venue of the litigation to Harris County, Texas, judgment of the Court of Civil Appeals of Texas, Ninth Supreme Judicial District, is vacated and case remanded to that court to consider whether venue issue has become moot. MR. JUSTICE POWELL took no part in the consideration or decision of this case. Reported below: 487 S. W. 2d 956.

*Certiorari Granted—Vacated and Remanded*

No. 73-285. *NOREIKIS ET AL. v. UNITED STATES*. C. A. 7th Cir. Upon representation of the Solicitor General as set forth in his memorandum for the United

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States filed January 30, 1974, certiorari as to petitioner George Hibma granted, judgment vacated, and case remanded to the United States District Court for the Northern District of Illinois for reconsideration in light of position presently asserted by the Government. Certiorari denied as to Robert A. Noreikis and Robert Rothrock. Reported below: 481 F. 2d 1177.

*Certiorari Granted—Reversed.* (See No. 73-347, *ante*, p. 125.)

#### *Miscellaneous Orders*

No. 52, Orig. UNITED STATES *v.* FLORIDA. Report of Special Master received and ordered filed. Exceptions, if any, may be filed by the parties within 45 days. Reply briefs, if any, may be filed within 30 days thereafter. [For earlier orders herein, see, *e. g.*, 404 U. S. 998.]

No. A-664. GELLIS *v.* CITY OF SAVANNAH ET AL. Application for vacation of order of United States District Court for the Southern District of Georgia (Civil Action No. 3031) dated January 7, 1974, dismissing case for lack of prosecution, denied. Application for stay heretofore denied by MR. JUSTICE POWELL, now presented to THE CHIEF JUSTICE and by him referred to the Court, denied.

No. A-712. NEW YORK ON BEHALF OF NEW YORK COUNTY ET AL. *v.* UNITED STATES ET AL. Application for stay of order of the United States District Court for the District of Columbia, dated January 10, 1974, presented to THE CHIEF JUSTICE and by him referred to the Court, denied.

No. A-742. HARRIS COUNTY COMMISSIONERS COURT ET AL. *v.* MOORE ET AL. D. C. S. D. Tex. Motion of respondents to vacate stay order heretofore granted by MR. JUSTICE POWELL on February 4, 1974, denied. MR. JUSTICE DOUGLAS would vacate the stay.

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No. A-752. *BROBECK v. UNITED STATES ET AL.* C. A. 3d Cir. Application for bail presented to MR. JUSTICE DOUGLAS, and by him referred to the Court, denied.

No. A-760. *ACKERMAN ET AL. v. BOGUE*, U. S. DISTRICT JUDGE. C. A. 8th Cir. Application for stay presented to MR. JUSTICE DOUGLAS, and by him referred to the Court, denied.

No. D-14. *IN RE DISBARMENT OF MACLEOD*. Motion to vacate order of disbarment of this Court dated January 21, 1974 [414 U. S. 1153], denied.

No. D-17. *IN RE DISBARMENT OF ENGLERT*. It having been reported to the Court that Charles E. Englert, of Boston, Massachusetts, has been disbarred from the practice of law in all of the courts of Massachusetts, and this Court by order of November 12, 1973 [414 U. S. 1020], having suspended the said Charles E. Englert from the practice of law in this Court and directed that a rule issue requiring him to show cause why he should not be disbarred;

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

It is ordered that the said Charles E. Englert be, and he is hereby, disbarred from the practice of law in this Court and that his name be stricken from the roll of attorneys admitted to practice before the Bar of this Court.

No. D-19. *IN RE DISBARMENT OF MCWHINNEY*. It having been reported to this Court that Robert R. McWhinney of Greensburg, Pennsylvania, has been disbarred from the practice of law in all of the courts of Pennsylvania, and this Court by order of November 19, 1973 [414 U. S. 1036], having suspended the said Robert R. McWhinney from practice of law in this Court and

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directed that a rule issue requiring him to show cause why he should not be disbarred;

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

It is ordered that the said Robert R. McWhinney be, and he is hereby, disbarred from the practice of law in this Court and that his name be stricken from the roll of attorneys admitted to practice before the Bar of this Court.

No. D-22. *IN RE DISBARMENT OF ROSNER*. It is ordered that Edmund Allen Rosner of New York, New York, be suspended from the practice of law in this Court and that a rule issue, returnable within 40 days, requiring him to show cause why he should not be disbarred from the practice of law in this Court.

No. 72-1490. *FEDERAL POWER COMMISSION v. TEXACO INC. ET AL.*; and

No. 72-1491. *DOUGHERTY, EXECUTOR, ET AL. v. TEXACO INC. ET AL.* C. A. D. C. Cir. [Certiorari granted, 414 U. S. 817.] Motion of the Solicitor General for divided argument granted.

No. 72-1513. *SHEA, EXECUTIVE DIRECTOR, DEPARTMENT OF SOCIAL SERVICES OF COLORADO, ET AL. v. VIALPANDO*. C. A. 10th Cir. [Certiorari granted, 414 U. S. 999.] Motion of petitioners for divided argument granted.

No. 72-1597. *BEASLEY ET AL. v. FOOD FAIR OF NORTH CAROLINA, INC., ET AL.* Sup. Ct. N. C. [Certiorari granted, 414 U. S. 907.] Motion of Associated Industries, Inc., et al., for leave to participate in oral argument as *amici curiae* denied.

No. 72-1690. *SPENCE v. WASHINGTON*. Appeal from Sup. Ct. Wash. [Probable jurisdiction noted, 414 U. S.

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815.] Motion of appellant for leave to file supplemental brief, after argument, granted.

No. 73-206. PARKER, WARDEN, ET AL. *v.* LEVY. Appeal from C. A. 3d Cir. [Probable jurisdiction postponed, 414 U. S. 973.] Motion of Richard G. Augenblick for leave to file a brief as *amicus curiae* granted.

No. 73-235. DEFUNIS ET AL. *v.* ODEGAARD ET AL. Sup. Ct. Wash. [Certiorari granted, 414 U. S. 1038.] Motions of Anti-Defamation League of the B'nai B'rith and National Council of Jewish Women et al. for leave to participate in oral argument as *amici curiae* denied. Motions of Equal Employment Opportunity Commission, Chamber of Commerce of the United States, and American Bar Assn. for leave to file briefs as *amici curiae* granted. Motion of International Association of Official Human Rights Agencies for leave to adopt the *amicus curiae* brief of the State of Ohio denied.

No. 73-300. SAXBE, ATTORNEY GENERAL, ET AL. *v.* BUSTOS ET AL.; and

No. 73-480. CARDONA *v.* SAXBE, ATTORNEY GENERAL, ET AL. C. A. D. C. Cir. [Certiorari granted, 414 U. S. 1143.] Motion of the Solicitor General to waive printing of appendix and to proceed on original record granted.

No. 73-347. PHILLIPS PETROLEUM Co. *v.* TEXACO INC. C. A. 10th Cir. Motion of Northern Natural Gas Co. et al. for leave to file a brief as *amicus curiae* denied.

No. 73-477. GERSTEIN *v.* PUGH ET AL. C. A. 5th Cir. [Certiorari granted, 414 U. S. 1062.] Motion of the Attorney General of Florida for leave to participate in oral argument as *amicus curiae* granted and a total of 15 minutes allotted for that purpose. Respondents allotted an additional 15 minutes for oral argument.

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No. 73-434. MILLIKEN, GOVERNOR OF MICHIGAN, ET AL. *v.* BRADLEY ET AL.;

No. 73-435. ALLEN PARK PUBLIC SCHOOLS ET AL. *v.* BRADLEY ET AL.; and

No. 73-436. GROSSE POINTE PUBLIC SCHOOL SYSTEM *v.* BRADLEY ET AL. C. A. 6th Cir. [Certiorari granted, 414 U. S. 1038.] Motion of the Solicitor General for leave to participate in oral argument as *amicus curiae* granted and a total of 15 minutes allotted for that purpose. Motion of National Education Assn. for leave to file a brief as *amicus curiae* granted.

No. 73-482. MICHIGAN *v.* TUCKER. C. A. 6th Cir. [Certiorari granted, 414 U. S. 1062.] Motion for appointment of counsel granted. It is ordered that Kenneth M. Mogill, Esquire, of Detroit, Michigan, be, and he is hereby, appointed to serve as counsel for respondent in this case and to argue *pro hac vice*.

No. 73-689. MANESS *v.* MEYERS, JUDGE. 169th Jud. Dist. Ct. Tex., Bell County, Tex. Motion to dispense with printing petition denied with leave to file printed petition in conformity with Rule 39 of the Rules of this Court on or before March 21, 1974.

No. 73-717. ANTOINE ET UX. *v.* WASHINGTON. Appeal from Sup. Ct. Wash. The Solicitor General is invited to file a brief expressing the views of the United States.

No. 73-786. ROSS ET AL. *v.* MOFFITT. C. A. 4th Cir. [Certiorari granted, 414 U. S. 1128.] Motions of respondent for leave to proceed herein *in forma pauperis* and for appointment of counsel granted. It is ordered that Thomas B. Anderson, Jr., Esquire, of Durham, North Carolina, be, and he is hereby, appointed to serve as counsel for respondent in this case.

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No. 73-831. WARDEN, LEWISBURG PENITENTIARY *v.* MARRERO. C. A. 3d Cir. [Certiorari granted, 414 U. S. 1128.] Motion of respondent for leave to proceed *in forma pauperis* granted.

No. 73-918. PELL ET AL. *v.* PROCUNIER, CORRECTIONS DIRECTOR, ET AL. [Probable jurisdiction noted, 414 U. S. 1155.] Motion of appellants for additional time for oral argument granted and a total of one and one-half hours allotted for oral argument in consolidated cases No. 73-754 [*Procunier v. Hillery*, probable jurisdiction noted, 414 U. S. 1127] and No. 73-918.

No. 73-1006. MARTIN-TRIGONA *v.* SUPREME COURT OF ILLINOIS. Sup. Ct. Ill. Motion to dispense with printing petition denied but without prejudice to the Circuit Justice's considering the papers as an application for extension of time within which to file petition properly printed under Rule 39 of the Rules of this Court.

No. 73-5939. MAEMPE *v.* ENOMOTO;

No. 73-5975. WASHINGTON *v.* WAINWRIGHT, CORRECTIONS DIRECTOR;

No. 73-6065. SKINNER *v.* WARDEN, BALTIMORE COUNTY JAIL;

No. 73-6087. ANDERSON *v.* MISSISSIPPI;

No. 73-6120. DELESPINE *v.* ESTELLE, CORRECTIONS DIRECTOR; and

No. 73-6160. CONNER *v.* ROBUCK ET AL. Motions for leave to file petitions for writs of habeas corpus denied.

No. 73-5724. COZZETTI *v.* THOMPSON, U. S. DISTRICT JUDGE; and

No. 73-5760. TATE *v.* DE MASCIO, U. S. DISTRICT JUDGE. Motions for leave to file petitions for writs of mandamus denied.

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No. 73-659. INDIANA *v.* UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT. Motion of respondent Brooks [see *Brooks v. Center Township*, 485 F. 2d 383] for leave to proceed *in forma pauperis* granted. Motion for leave to file petition for writ of mandamus, prohibition, and/or certiorari denied.

No. 73-976. JOHNSON *v.* WILMER ET AL. Motion for leave to file petition for writ of mandamus, prohibition, and/or certiorari denied. Treating the papers presented as a petition for certiorari, MR. JUSTICE DOUGLAS would grant certiorari.

No. 73-744. LUONGO, U. S. DISTRICT JUDGE *v.* UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT. Motion for leave to file petition for writ of prohibition and/or mandamus denied.

*Probable Jurisdiction Noted or Postponed*

No. 73-759. EDWARDS, GOVERNOR OF LOUISIANA, ET AL. *v.* HEALY ET AL. Appeal from D. C. E. D. La. Probable jurisdiction noted and case set for oral argument with No. 73-5744 [immediately *infra*]. Reported below: 363 F. Supp. 1110.

No. 73-5744. TAYLOR *v.* LOUISIANA. Appeal from Sup. Ct. La. Motion of appellant for leave to proceed *in forma pauperis* granted. Probable jurisdiction noted and case set for oral argument with No. 73-759 [immediately *supra*]. Reported below: 282 So. 2d 491.

No. 73-762. SOSNA *v.* IOWA ET AL. Appeal from D. C. N. D. Iowa. Probable jurisdiction noted. In addition to questions presented in the jurisdictional statement, parties requested to address themselves to question of whether the United States District Court should have proceeded to the merits of the constitutional issue presented in light of *Younger v. Harris*, 401 U. S. 37 (1971) and related cases. Reported below: 360 F. Supp. 1182.

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No. 73-776. SCHLESINGER, SECRETARY OF DEFENSE, ET AL. *v.* BALLARD. Appeal from D. C. S. D. Cal. Probable jurisdiction noted. Reported below: 360 F. Supp. 643.

No. 73-848. FUSARI, COMMISSIONER OF LABOR *v.* STEINBERG ET AL. Appeal from D. C. Conn. Motion of appellee Miranda for leave to proceed *in forma pauperis* granted. Probable jurisdiction noted. Reported below: 364 F. Supp. 922.

No. 73-898. GOSS ET AL. *v.* LOPEZ ET AL. Appeal from D. C. S. D. Ohio. Probable jurisdiction noted. Reported below: 372 F. Supp. 1279.

No. 73-938. COX BROADCASTING CORP. ET AL. *v.* COHN. Appeal from Sup. Ct. Ga. Further consideration of question of jurisdiction postponed to hearing of case on the merits. Reported below: 231 Ga. 60, 200 S. E. 2d 127.

No. 73-6033. ROE ET AL. *v.* NORTON, COMMISSIONER OF WELFARE. Appeal from D. C. Conn. Motion of appellants for leave to proceed *in forma pauperis* granted. Probable jurisdiction noted. Reported below: 365 F. Supp. 65.

*Certiorari Granted*

No. 73-822. FRY ET AL. *v.* UNITED STATES. Temp. Emerg. Ct. App. Certiorari granted. Reported below: 487 F. 2d 936.

No. 73-1004. SOUTHEASTERN PROMOTIONS, LTD. *v.* CONRAD ET AL. C. A. 6th Cir. Certiorari granted. Reported below: 486 F. 2d 894.

No. 73-5845. JACKSON *v.* METROPOLITAN EDISON Co. C. A. 3d Cir. Motion for leave to proceed *in forma pauperis* and certiorari granted. Reported below: 483 F. 2d 754.

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No. 73-696. EMPORIUM CAPWELL CO. *v.* WESTERN ADDITION COMMUNITY ORGANIZATION ET AL.; and

No. 73-830. NATIONAL LABOR RELATIONS BOARD *v.* WESTERN ADDITION COMMUNITY ORGANIZATION ET AL. C. A. D. C. Cir. Certiorari granted. Cases consolidated and a total of one hour allotted for oral argument. Reported below: 158 U. S. App. D. C. 138, 485 F. 2d 917.

*Certiorari Denied.* (See also Nos. 73-285, 73-766, 73-951, and 73-1005, *supra.*)

No. 73-327. WOODBURY ET AL. *v.* SPITLER. Sup. Ct. Ohio. Certiorari denied. Reported below: 34 Ohio St. 2d 134, 296 N. E. 2d 526.

No. 73-487. BREWER *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. Reported below: 486 F. 2d 507.

No. 73-525. CUEVAS *v.* FLORIDA. Sup. Ct. Fla. Certiorari denied. Reported below: 279 So. 2d 817.

No. 73-565. RISLEY *v.* MISSISSIPPI. Sup. Ct. Miss. Certiorari denied. Reported below: 279 So. 2d 154.

No. 73-585. KUSS ET AL. *v.* NEW YORK. Ct. App. N. Y. Certiorari denied. Reported below: 32 N. Y. 2d 436, 299 N. E. 2d 249.

No. 73-612. DEVORE ET AL. *v.* WEYERHAEUSER CO. Sup. Ct. Ore. Certiorari denied. Reported below: 265 Ore. 388, 508 P. 2d 220.

No. 73-613. UNITED ASSOCIATION OF JOURNEYMEN & APPRENTICES OF THE PLUMBING & PIPEFITTING INDUSTRY OF THE UNITED STATES & CANADA, LOCAL 540, ET AL. *v.* LUSK. C. A. 4th Cir. Certiorari denied. Reported below: 480 F. 2d 921.

No. 73-615. PRUDHOMME *v.* AL JOHNSON CONSTRUCTION Co.-MASSMAN CONSTRUCTION Co. ET AL. C. A. 5th

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Cir. Certiorari denied. Reported below: 478 F. 2d 1401.

No. 73-616. *MAKRIS v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 483 F. 2d 1082.

No. 73-619. *SAVE OUR CUMBERLAND MOUNTAINS, INC., ET AL. v. TENNESSEE VALLEY AUTHORITY ET AL.* C. A. 6th Cir. Certiorari denied.

No. 73-624. *LAZAROS v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 480 F. 2d 174.

No. 73-638. *JONES v. FLORIDA*. Dist. Ct. App. Fla., 1st Dist. Certiorari denied. Reported below: 276 So. 2d 550.

No. 73-645. *CARDILLO v. UNITED STATES*; and

No. 73-651. *ECONOMY v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 481 F. 2d 1397.

No. 73-650. *REX v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 483 F. 2d 979.

No. 73-664. *RAY BAILLIE TRASH HAULING, INC., ET AL. v. KLEPPE ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 477 F. 2d 696.

No. 73-666. *PHILLIPS ET AL. v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 481 F. 2d 1405.

No. 73-672. *SMITH v. CALIFORNIA ET AL.* C. A. 9th Cir. Certiorari denied.

No. 73-673. *WINTERS v. BOHANON, U. S. DISTRICT COURT JUDGE, ET AL.* C. A. 10th Cir. Certiorari denied.

No. 73-694. *TAGER v. UNITED STATES*. C. A. 10th Cir. Certiorari denied. Reported below: 481 F. 2d 97.

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No. 73-677. BRIGADOON SCOTCH DISTRIBUTORS, LTD., ET AL. *v.* SECURITIES AND EXCHANGE COMMISSION. C. A. 2d Cir. Certiorari denied. Reported below: 480 F. 2d 1047.

No. 73-703. CONNECTICUT COMMISSION ON HUMAN RIGHTS AND OPPORTUNITIES *v.* VEEDER-ROOT Co., A DIVISION OF VEEDER INDUSTRIES, INC. Sup. Ct. Conn. Certiorari denied.

No. 73-705. BARON *v.* SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES (BARON, REAL PARTY IN INTEREST). Ct. App. Cal., 2d App. Dist. Certiorari denied.

No. 73-710. SMALDONE *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. Reported below: 484 F. 2d 311.

No. 73-714. IMEL ET AL. *v.* ZOHN MANUFACTURING Co. ET AL. C. A. 10th Cir. Certiorari denied. Reported below: 481 F. 2d 181.

No. 73-720. WARNER ET UX. *v.* COMMISSIONER OF INTERNAL REVENUE. C. A. 7th Cir. Certiorari denied.

No. 73-724. INTERAMERICAN AIR FREIGHT CORP. *v.* CIVIL AERONAUTICS BOARD. C. A. 9th Cir. Certiorari denied.

No. 73-733. WILSON ET AL. *v.* UNITED BENEFIT LIFE INSURANCE Co. C. A. 9th Cir. Certiorari denied.

No. 73-743. MARTIN LINEN SUPPLY Co. ET AL. *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 485 F. 2d 1143.

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No. 73-745. *DiVARCO ET AL. v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 484 F. 2d 670.

No. 73-763. *HIGHTOWER v. INDIANA*. Sup. Ct. Ind. Certiorari denied. Reported below: — Ind. —, 296 N. E. 2d 654.

No. 73-764. *BETH W. CORP. v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 481 F. 2d 1401.

No. 73-768. *LOCAL UNION NO. 229, INTERNATIONAL BROTHERHOOD OF TEAMSTERS, CHAUFFEURS, WAREHOUSEMEN & HELPERS OF AMERICA v. AFFILIATED FOOD DISTRIBUTORS, INC.* C. A. 3d Cir. Certiorari denied. Reported below: 483 F. 2d 418.

No. 73-773. *McNEILL v. FISHER ET AL.* Ct. App. D. C. Certiorari denied.

No. 73-780. *PREUX v. IMMIGRATION AND NATURALIZATION SERVICE ET AL.* C. A. 10th Cir. Certiorari denied. Reported below: 484 F. 2d 396.

No. 73-798. *FRANCISCO ENTERPRISES, INC. v. KIRBY ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 482 F. 2d 481.

No. 73-799. *BAY SOUND TRANSPORTATION CO. ET AL. v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 474 F. 2d 1397.

No. 73-803. *LEBLANC v. CARDWELL MANUFACTURING Co.* C. A. 5th Cir. Certiorari denied.

No. 73-807. *CYLINDER GAS, CHEMICAL, PETROLEUM, AUTO-SERVICE & ACCESSORY DRIVERS, MAINTENANCE, MECHANICS, HELPERS & INSIDE EMPLOYEES LOCAL No. 283, INTERNATIONAL BROTHERHOOD OF TEAMSTERS,*

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CHAUFFEURS, WAREHOUSEMEN & HELPERS OF AMERICA *v.* OTTAWA SILICA CO. ET AL. C. A. 6th Cir. Certiorari denied. Reported below: 482 F. 2d 945.

No. 73-813. CITY OF CHICAGO ET AL. *v.* HAMPTON, ADMINISTRATRIX, ET AL.; and

No. 73-821. HANRAHAN ET AL. *v.* HAMPTON, ADMINISTRATRIX, ET AL. C. A. 7th Cir. Certiorari denied. Reported below: 484 F. 2d 602.

No. 73-815. ROBERTS *v.* ARKANSAS. Sup. Ct. Ark. Certiorari denied. Reported below: 497 S. W. 2d 666.

No. 73-816. KELSEY-HAYES Co. *v.* DUNLOP Co., LTD.; and

No. 73-973. DUNLOP Co., LTD. *v.* KELSEY-HAYES Co. C. A. 6th Cir. Certiorari denied. Reported below: 484 F. 2d 407.

No. 73-818. BIGGER ET AL. *v.* CITY OF PONTIAC ET AL. Sup. Ct. Mich. Certiorari denied. Reported below: 390 Mich. 1, 210 N. W. 2d 1.

No. 73-836. HENDERSON, WARDEN *v.* BARRABINO. Sup. Ct. La. Certiorari denied. Reported below: 283 So. 2d 764.

No. 73-847. JONES *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied. Reported below: 486 F. 2d 476.

No. 73-851. BATES *v.* INDIANA. Ct. App. Ind. Certiorari denied. Reported below: — Ind. App. —, 294 N. E. 2d 185.

No. 73-860. MINYARD ET AL. *v.* SHIRLEY. Sup. Ct. Ariz. Certiorari denied. Reported below: 109 Ariz. 510, 513 P. 2d 939.

No. 73-863. HOZIE *v.* HOZIE. Ct. App. Cal., 1st App. Dist. Certiorari denied.

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No. 73-866. *ROSS v. CALIFORNIA*. C. A. 9th Cir. Certiorari denied.

No. 73-880. *LIONEL CORP. v. REPUBLIC TECHNOLOGY FUND, INC., ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 483 F. 2d 540.

No. 73-882. *MCGURREN v. ETTELSON ET AL.* C. A. 7th Cir. Certiorari denied. Reported below: 485 F. 2d 1251.

No. 73-883. *FRANKLIN STEEL PRODUCTS, INC. v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 482 F. 2d 400.

No. 73-884. *MENDOZA ET AL. v. UNITED FARM WORKERS ORGANIZING COMMITTEE ET AL.* C. A. 9th Cir. Certiorari denied.

No. 73-890. *ERIE LACKAWANNA RAILWAY Co. v. NORFOLK & WESTERN RAILWAY Co.* C. A. 6th Cir. Certiorari denied.

No. 73-896. *WORTHEN BANK & TRUST Co., N. A. v. NATIONAL BANKAMERICARD INC.* C. A. 8th Cir. Certiorari denied. Reported below: 485 F. 2d 119.

No. 73-900. *LIBBEY-OWENS-FORD Co. v. SHATTER-PROOF GLASS CORP.* C. A. 6th Cir. Certiorari denied. Reported below: 482 F. 2d 317.

No. 73-904. *DEBERRY v. KENTUCKY*. Ct. App. Ky. Certiorari denied. Reported below: 500 S. W. 2d 64.

No. 73-907. *B & J MANUFACTURING Co. v. SOLAR INDUSTRIES, INC.* C. A. 8th Cir. Certiorari denied. Reported below: 483 F. 2d 594.

No. 73-910. *SPENCE ET AL. v. SPENCE ET AL.* Sup. Ct. N. C. Certiorari denied. Reported below: 283 N. C. 671, 198 S. E. 2d 537.

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No. 73-919. *BUXTON v. FUGAZI*. C. A. 9th Cir. Certiorari denied.

No. 73-920. *KERNS v. JORDON ET AL.* C. A. 6th Cir. Certiorari denied.

No. 73-921. *GROSSMAN v. STATE BAR GRIEVANCE BOARD*. Sup. Ct. Mich. Certiorari denied. Reported below: 390 Mich. 157, 211 N. W. 2d 21.

No. 73-946. *GROSSMAN v. STATE BAR GRIEVANCE BOARD*. Sup. Ct. Mich. Certiorari denied.

No. 73-923. *SOLO CUP Co. v. UNITED STATES DISTRICT COURT FOR THE CENTRAL DISTRICT OF CALIFORNIA (ILLINOIS TOOL WORKS, INC., REAL PARTY IN INTEREST)*. C. A. 9th Cir. Certiorari denied.

No. 73-932. *SKEEN v. VALLEY BANK OF NEVADA*. Sup. Ct. Nev. Certiorari denied. Reported below: 89 Nev. 301, 511 P. 2d 1053.

No. 73-942. *O'NEILL ET AL. v. CRAIG*. Ct. Civ. App. Tex., 13th Sup. Jud. Dist. Certiorari denied. Reported below: 493 S. W. 2d 898.

No. 73-945. *JONES ET AL. v. GAINES*. C. A. 8th Cir. Certiorari denied. Reported below: 486 F. 2d 39.

No. 73-947. *DESALVO v. NEW YORK*. Ct. App. N. Y. Certiorari denied. Reported below: 32 N. Y. 2d 12, 295 N. E. 2d 750.

No. 73-950. *MEGEL ET UX. v. CITY OF PAPILLION ET AL.* Sup. Ct. Neb. Certiorari denied. Reported below: 190 Neb. 238, 207 N. W. 2d 377.

No. 73-954. *STANDARD OIL COMPANY OF CALIFORNIA ET AL. v. ALASKA ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 487 F. 2d 191.

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No. 73-959. *FRIEND v. LIPPMAN ET AL.* Dist. Ct. App. Fla., 1st Dist. Certiorari denied. Reported below: 277 So. 2d 318.

No. 73-962. *PHELPS v. COVEY, REFEREE IN BANKRUPTCY.* C. A. 7th Cir. Certiorari denied.

No. 73-970. *BRINKERHOFF ET AL. v. AMFAC, INC.* C. A. 9th Cir. Certiorari denied. Reported below: 485 F. 2d 1389.

No. 73-979. *KEALEY v. NEW YORK.* Ct. App. N. Y. Certiorari denied.

No. 73-981. *ELLIOTT ET AL. v. CHRYSLER MOTORS CORP. ET AL.* Sup. Ct. Nev. Certiorari denied.

No. 73-986. *DOTLICH v. DOTLICH.* C. A. 8th Cir. Certiorari denied.

No. 73-990. *SWEET ET AL. v. SWEET, ANCILLARY ADMINISTRATOR.* Dist. Ct. App. Fla., 2d Dist. Certiorari denied. Reported below: 276 So. 2d 253.

No. 73-992. *RIZZO, MAYOR OF PHILADELPHIA, ET AL. v. FARBER ET AL.* C. A. 3d Cir. Certiorari denied.

No. 73-1000. *WILSON v. KRANTZ ET AL.* App. Ct. Ill., 1st Dist. Certiorari denied.

No. 73-1001. *SHELL OIL Co. v. MARINELLO, DBA GARDEN SHELL STATION.* Sup. Ct. N. J. Certiorari denied. Reported below: 63 N. J. 402, 307 A. 2d 598.

No. 73-1010. *MITCHELL v. NORFOLK & WESTERN RAILWAY Co.* Ct. App. Ohio, Lucas County. Certiorari denied.

No. 73-1020. *DAVIS v. AMERICAN EXPORT ISBRANDTSEN LINES, INC., ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 485 F. 2d 677.

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No. 73-1025. POINT EAST ONE CONDOMINIUM CORP., INC., ET AL. *v.* POINT EAST MANAGEMENT CORP. ET AL. Sup. Ct. Fla. Certiorari denied. Reported below: 282 So. 2d 628.

No. 73-1028. SKENDZEL ET AL. *v.* MARSHALL ET AL. Sup. Ct. Ind. Certiorari denied. Reported below: — Ind. —, 301 N. E. 2d 641.

No. 73-1037. PACIFIC INDEMNITY CO. *v.* ACEL DELIVERY SERVICE, INC., ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 485 F. 2d 1169.

No. 73-1042. LAMBERT *v.* CLARK ET AL. C. A. 1st Cir. Certiorari denied.

No. 73-1048. ROGERS *v.* BURTON ET AL. Ct. Civ. App. Tex., 3d Sup. Jud. Dist. Certiorari denied. Reported below: 496 S. W. 2d 673.

No. 73-1059. HAMILTON MANUFACTURING CO. *v.* METAL BUILDINGS INSULATION, INC., ET AL. Ct. App. Wash. Certiorari denied. Reported below: 9 Wash. App. 284, 513 P. 2d 102.

No. 73-5272. JONES *v.* CALIFORNIA. Sup. Ct. Cal. Certiorari denied.

No. 73-5292. TATE *v.* FAUVER, PRINCIPAL KEEPER. C. A. 3d Cir. Certiorari denied.

No. 73-5444. BOISSEAU *v.* SCHLESINGER, SECRETARY OF DEFENSE, ET AL. C. A. 7th Cir. Certiorari denied.

No. 73-5450. CUTTER ET AL. *v.* SOUTH CAROLINA. Sup. Ct. S. C. Certiorari denied. Reported below: 261 S. C. 140, 199 S. E. 2d 61.

No. 73-5483. GOOD *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied. Reported below: 484 F. 2d 655.

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No. 73-5498. *MARROQUIN-GUERRERO v. UNITED STATES*. C. A. 2d Cir. Certiorari denied.

No. 73-5532. *PERRAULT v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 484 F. 2d 655.

No. 73-5537. *ALLEN, AKA HAMMOND, ET AL. v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 483 F. 2d 1401.

No. 73-5557. *PEDLEY v. UNITED STATES*. C. A. 9th Cir. Certiorari denied.

No. 73-5559. *FALLON v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 481 F. 2d 1402.

No. 73-5560. *WHITE v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 484 F. 2d 165.

No. 73-5566. *MUHAMMED v. UNITED STATES*. C. A. 9th Cir. Certiorari denied.

No. 73-5570. *PAULDINO v. UNITED STATES*. C. A. 10th Cir. Certiorari denied.

No. 73-5571. *McCALL v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 482 F. 2d 936.

No. 73-5573. *FLETCHER v. UNITED STATES*. C. A. 10th Cir. Certiorari denied.

No. 73-5575. *SHATZ v. UNITED STATES*. C. A. 2d Cir. Certiorari denied.

No. 73-5577. *CARTER v. UNITED STATES*. C. A. 3d Cir. Certiorari denied.

No. 73-5580. *THOMAS v. UNITED STATES*. C. A. 2d Cir. Certiorari denied.

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No. 73-5584. *HASTINGS v. CARDWELL, WARDEN*. C. A. 6th Cir. Certiorari denied. Reported below: 480 F. 2d 1202.

No. 73-5585. *WATTS v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 484 F. 2d 26.

No. 73-5586. *JOHNSON v. UNITED STATES*; and  
No. 73-5590. *ESTES v. UNITED STATES*. C. A. D. C. Cir. Certiorari denied. Reported below: 158 U. S. App. D. C. 299, 485 F. 2d 1078.

No. 73-5591. *BONOMO ET AL. v. UNITED STATES*. C. A. 3d Cir. Certiorari denied.

No. 73-5592. *COCKROFT v. UNITED STATES*. C. A. 3d Cir. Certiorari denied.

No. 73-5593. *MIDDLETON v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 483 F. 2d 1406.

No. 73-5599. *POWERS v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 482 F. 2d 941.

No. 73-5607. *McWILLIAMS ET AL. v. TEXAS*. Ct. Crim. App. Tex. Certiorari denied. Reported below: 496 S. W. 2d 630.

No. 73-5610. *WALLING v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 486 F. 2d 229.

No. 73-5612. *RANDALL v. CALIFORNIA*. Ct. App. Cal., 2d App. Dist. Certiorari denied.

No. 73-5613. *BENNETT v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 483 F. 2d 1406.

No. 73-5622. *PARENT ET AL. v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 484 F. 2d 726.

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No. 73-5626. *ROTHWELL v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 483 F. 2d 1399.

No. 73-5629. *ARRADONDO v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 483 F. 2d 980.

No. 73-5634. *FISHER v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 484 F. 2d 868.

No. 73-5635. *ANDERSON v. UNITED STATES*. C. A. 10th Cir. Certiorari denied. Reported below: 484 F. 2d 746.

No. 73-5639. *THOMAS v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 484 F. 2d 909.

No. 73-5648. *PORTER v. UNITED STATES*. C. A. 8th Cir. Certiorari denied.

No. 73-5649. *LANDERS v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 484 F. 2d 93.

No. 73-5653. *MINNIX v. UNITED STATES*. C. A. D. C. Cir. Certiorari denied.

No. 73-5654. *LEWIS v. UNITED STATES*. C. A. D. C. Cir. Certiorari denied.

No. 73-5658. *OWENS v. UNITED STATES*. C. A. 3d Cir. Certiorari denied.

No. 73-5659. *SILVAS v. UNITED STATES*. C. A. 5th Cir. Certiorari denied.

No. 73-5666. *SMITH v. SLAYTON, PENITENTIARY SUPERINTENDENT*. C. A. 4th Cir. Certiorari denied. Reported below: 484 F. 2d 1188.

No. 73-5670. *LAEHN v. SCHMIDT ET AL.* C. A. 7th Cir. Certiorari denied. Reported below: 483 F. 2d 1406.

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No. 73-5673. *RITTER v. UNITED STATES*. C. A. 6th Cir. Certiorari denied.

No. 73-5676. *WATSON v. WEST VIRGINIA*. Sup. Ct. App. W. Va. Certiorari denied.

No. 73-5690. *LEFTWICH v. UNITED STATES*. C. A. 2d Cir. Certiorari denied.

No. 73-5691. *NORWOODS v. CALIFORNIA*. Ct. App. Cal., 4th App. Dist. Certiorari denied.

No. 73-5703. *WHEAT ET AL. v. HALL, SECRETARY, HUMAN RELATIONS AGENCY, ET AL.* Ct. App. Cal., 2d App. Dist. Certiorari denied. Reported below: 32 Cal. App. 3d 928, 108 Cal. Rptr. 508.

No. 73-5704. *ESPINOZA v. ENOMOTO*. C. A. 9th Cir. Certiorari denied.

No. 73-5708. *MASON v. CALIFORNIA*. Ct. App. Cal., 1st App. Dist. Certiorari denied.

No. 73-5737. *SAJEDAS v. UNITED STATES*. C. A. 2d Cir. Certiorari denied.

No. 73-5762. *MILLER v. WAINWRIGHT, CORRECTIONS DIRECTOR*. C. A. 5th Cir. Certiorari denied.

No. 73-5798. *PENIGAR v. CALIFORNIA*. Sup. Ct. Cal. Certiorari denied.

No. 73-5806. *VARGAS v. METZGER*. Sup. Ct. Ohio. Certiorari denied. Reported below: 35 Ohio St. 2d 116, 298 N. E. 2d 600.

No. 73-5814. *JOHNSON v. ALABAMA*. Ct. Crim. App. Ala. Certiorari denied. Reported below: 50 Ala. App. 726, 282 So. 2d 345.

No. 73-5816. *JOYNER v. VIRGINIA*. Sup. Ct. Va. Certiorari denied.

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No. 73-5824. *BRIDWELL v. UNITED STATES*. C. A. 10th Cir. Certiorari denied.

No. 73-5837. *TALLEY v. CALIFORNIA*. Ct. App. Cal., 4th App. Dist. Certiorari denied.

No. 73-5843. *QUINONES v. CALIFORNIA*. Ct. App. Cal., 1st App. Dist. Certiorari denied.

No. 73-5844. *CAUTHEN v. NORTH CAROLINA*. Ct. App. N. C. Certiorari denied. Reported below: 18 N. C. App. 591, 197 S. E. 2d 567.

No. 73-5846. *DULLES v. DULLES*. Ct. App. D. C. Certiorari denied.

No. 73-5847. *MESSINGER v. WASHINGTON*. Ct. App. Wash. Certiorari denied. Reported below: 8 Wash. App. 829, 509 P. 2d 382.

No. 73-5850. *ALEXANDER ET AL. v. COURT OF APPEAL OF CALIFORNIA, SECOND APPELLATE DISTRICT, ET AL.* Sup. Ct. Cal. Certiorari denied.

No. 73-5856. *SNYDER v. MARYLAND*. C. A. 4th Cir. Certiorari denied.

No. 73-5861. *NICHOLS v. CALIFORNIA*. Ct. App. Cal., 2d App. Dist. Certiorari denied.

No. 73-5866. *McKINNEY v. MISSOURI*. Sup. Ct. Mo. Certiorari denied. Reported below: 498 S. W. 2d 768.

No. 73-5869. *BRADLEY v. OHIO*. Ct. App. Ohio, Cuyahoga County. Certiorari denied.

No. 73-5880. *COOK v. BLACKLEDGE, WARDEN*. C. A. 4th Cir. Certiorari denied.

No. 73-5881. *TILLEY v. NORTH CAROLINA*. Ct. App. N. C. Certiorari denied. Reported below: 18 N. C. App. 291, 196 S. E. 2d 818.

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No. 73-5882. *RIFFERT v. JOHNSON, CORRECTIONAL SUPERINTENDENT*. C. A. 3d Cir. Certiorari denied.

No. 73-5886. *ALEXANDER v. NORTH CAROLINA*. Sup. Ct. N. C. Certiorari denied. Reported below: 284 N. C. 87, 199 S. E. 2d 450.

No. 73-5887. *TERRELL ET VIR v. GARCIA*. Ct. Civ. App. Tex., 4th Sup. Jud. Dist. Certiorari denied. Reported below: 496 S. W. 2d 124.

No. 73-5898. *JONES v. JONES*. Ct. App. Ky. Certiorari denied.

No. 73-5899. *ALEXANDER v. CALIFORNIA*. Ct. App. Cal., 3d App. Dist. Certiorari denied.

No. 73-5905. *DE TORO v. VELEZ, CHAIRMAN, INDUSTRIAL COMMISSION OF PUERTO RICO*. Sup. Ct. P. R. Certiorari denied.

No. 73-5913. *NAJAIB v. NEW YORK*. App. Div., Sup. Ct. N. Y., 4th Jud. Dept. Certiorari denied.

No. 73-5915. *KAPLAN v. CONTINENTAL CAN Co., INC.* Sup. Ct. N. J. Certiorari denied.

No. 73-5917. *CROWE v. SOUTH DAKOTA*. C. A. 8th Cir. Certiorari denied. Reported below: 484 F. 2d 1359.

No. 73-5922. *JONES v. HENDERSON, WARDEN*. C. A. 5th Cir. Certiorari denied. Reported below: 486 F. 2d 1400.

No. 73-5924. *LOPEZ ET AL. v. LUGINBILL ET AL.* C. A. 10th Cir. Certiorari denied. Reported below: 483 F. 2d 486.

No. 73-5929. *CORDOVA v. ARIZONA*. Sup. Ct. Ariz. Certiorari denied. Reported below: 109 Ariz. 439, 511 P. 2d 621.

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No. 73-5931. *ORR v. CALIFORNIA*. Ct. App. Cal., 1st App. Dist. Certiorari denied.

No. 73-5934. *SCOTT v. CALIFORNIA*. Ct. App. Cal., 4th App. Dist. Certiorari denied.

No. 73-5935. *SZABO v. BLACK, WARDEN*. C. A. 6th Cir. Certiorari denied.

No. 73-5937. *MULLEN v. GEORGIA*. C. A. 5th Cir. Certiorari denied.

No. 73-5940. *MUMFORD v. BROFMAN, JUDGE*. C. A. 10th Cir. Certiorari denied.

No. 73-5942. *BRONSON v. BRONSON*. Ct. App. Tenn. Certiorari denied.

No. 73-5944. *MOORE v. VINCENT, CORRECTIONAL SUPERINTENDENT*. C. A. 2d Cir. Certiorari denied. Reported below: 483 F. 2d 1400.

No. 73-5951. *HOUSE v. CALIFORNIA*. Sup. Ct. Cal. Certiorari denied.

No. 73-5962. *RICHARDSON v. MISSOURI*. C. A. 8th Cir. Certiorari denied.

No. 73-5971. *HEARD ET UX. v. DEPARTMENT OF MOTOR VEHICLES OF THE DISTRICT OF COLUMBIA*. Ct. App. D. C. Certiorari denied.

No. 73-5976. *EDWARDS v. ILLINOIS*. Sup. Ct. Ill. Certiorari denied. Reported below: 55 Ill. 2d 25, 302 N. E. 2d 306.

No. 73-5978. *KING v. NEW JERSEY*. Super. Ct. N. J. Certiorari denied. Reported below: See 63 N. J. 568, 310 A. 2d 483.

No. 73-5979. *TRAVIS v. ILLINOIS*. App. Ct. Ill., 1st Dist. Certiorari denied. Reported below: 10 Ill. App. 3d 714, 295 N. E. 2d 325.

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No. 73-5981. *ZENGLEIN v. MASTHOFF ET AL.* Ct. App. Cal., 2d App. Dist. Certiorari denied.

No. 73-5982. *MAYBERRY v. ALABAMA.* Ct. Crim. App. Ala. Certiorari denied. Reported below: 51 Ala. App. 343, 285 So. 2d 507.

No. 73-5983. *WHATLEY v. ANDERSON, WARDEN, ET AL.* C. A. 10th Cir. Certiorari denied.

No. 73-5984. *HURD v. SUPREME COURT OF CALIFORNIA.* Sup. Ct. Cal. Certiorari denied.

No. 73-5985. *RICHARDSON v. ARIZONA.* Sup. Ct. Ariz. Certiorari denied. Reported below: 110 Ariz. 48, 514 P. 2d 1236.

No. 73-5986. *JENNINGS v. ILLINOIS.* App. Ct. Ill., 5th Dist. Certiorari denied. Reported below: 11 Ill. App. 3d 132, 296 N. E. 2d 19.

No. 73-5987. *MINOR v. NICHOLSON, JUDGE, ET AL.* Ct. App. Ky. Certiorari denied.

No. 73-5994. *DUNNAVILLE v. VIRGINIA.* Cir. Ct., City of Roanoke, Va. Certiorari denied.

No. 73-5997. *JUTILA v. RESHETYLO, HOSPITAL SUPERINTENDENT.* C. A. 6th Cir. Certiorari denied.

No. 73-5998. *CLEMMER v. MAZURKIEWICZ, CORRECTIONAL SUPERINTENDENT.* C. A. 3d Cir. Certiorari denied.

No. 73-6002. *MAGEE v. NELSON, WARDEN, ET AL.* Sup. Ct. Cal. Certiorari denied.

No. 73-6003. *DALLAS v. VINCENT, CORRECTIONAL SUPERINTENDENT.* C. A. 2d Cir. Certiorari denied.

No. 73-6014. *LINEBACK v. INDIANA.* Sup. Ct. Ind. Certiorari denied. Reported below: — Ind. —, 296 N. E. 2d 788.

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No. 73-6016. BREMER v. MARYLAND. Ct. Sp. App. Md. Certiorari denied. Reported below: 18 Md. App. 291, 307 A. 2d 503.

No. 73-6019. WAIT v. WASHINGTON. Ct. App. Wash. Certiorari denied. Reported below: 8 Wash. App. 787, 509 P. 2d 372.

No. 73-6028. MINOVICH v. MARYLAND. Ct. Sp. App. Md. Certiorari denied. Reported below: 18 Md. App. 368, 306 A. 2d 642.

No. 73-6029. LOTT v. OKLAHOMA ET AL. C. A. 10th Cir. Certiorari denied.

No. 73-6053. MIRSKY v. NEW YORK. App. Div., Sup. Ct. N. Y., 2d Jud. Dept. Certiorari denied.

No. 73-6071. DAWN, DBA GAME CO. v. STERLING DRUG, INC., ET AL. C. A. 9th Cir. Certiorari denied.

No. 73-6091. FALKNER ET UX. v. CULLEN, JUDGE, ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 480 F. 2d 922.

No. 73-6101. HANCOCK v. ROSE, WARDEN. C. A. 6th Cir. Certiorari denied.

No. 73-233. SLAYTON, PENITENTIARY SUPERINTENDENT v. SPELLER. C. A. 4th Cir. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied.

No. 73-901. HENDERSON, WARDEN v. HALE. C. A. 6th Cir. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 485 F. 2d 266.

No. 73-1045. LOUISIANA v. NEWMAN. Sup. Ct. La. Motion of respondent for leave to proceed *in forma*

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*pauperis* granted. Certiorari denied. Reported below: 283 So. 2d 756.

No. 73-265. SEMEL *v.* FEDERAL SUPPLY Co. C. A. 3d Cir. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari. Reported below: 479 F. 2d 1269.

No. 73-272. REYNOLDS ET AL. *v.* CITY OF SACRAMENTO ET AL. Sup. Ct. Cal. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari. Reported below: 9 Cal. 3d 405, 509 P. 2d 497.

No. 73-287. BORSERINE *v.* FLORIDA. Dist. Ct. App. Fla., 3d Dist. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari. Reported below: 273 So. 2d 802.

No. 73-344. OWEN ET AL. *v.* MUSICK, SHERIFF. Sup. Ct. Cal. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari. Reported below: 9 Cal. 3d 405, 509 P. 2d 497.

No. 73-492. KUNSTSAMMLUNGEN ZU WEIMAR *v.* FEDERAL REPUBLIC OF GERMANY ET AL. C. A. 2d Cir. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari. Reported below: 478 F. 2d 231.

No. 73-529. MARTINEZ *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari. Reported below: 481 F. 2d 214.

No. 73-709. CANADIAN PARKHILL PIPE STRINGING, LTD., ET AL. *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari. Reported below: 484 F. 2d 692.

No. 73-719. SANTANA *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari. Reported below: 485 F. 2d 365.

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No. 73-735. *INTERNATIONAL UNION OF ELECTRICAL, RADIO & MACHINE WORKERS, AFL-CIO v. DOW CHEMICAL Co.* C. A. 5th Cir. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari. Reported below: 480 F. 2d 433.

No. 73-876. *CONTRERAS ET AL. v. GROWER SHIPPER VEGETABLE ASSOCIATION OF CENTRAL CALIFORNIA ET AL.* C. A. 9th Cir. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari. Reported below: 484 F. 2d 1346.

No. 73-892. *MANN v. SMITH ET AL.* C. A. 9th Cir. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari. Reported below: 488 F. 2d 245.

No. 73-915. *MORAN v. RAYMOND CORP.* C. A. 7th Cir. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari. Reported below: 484 F. 2d 1008.

No. 73-1041. *LEE v. OKLAHOMA.* Ct. Crim. App. Okla. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari. Reported below: 513 P. 2d 125 and 1321.

No. 73-5347. *LEMONS v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari. Reported below: 480 F. 2d 1214.

No. 73-5348. *GEE ET AL. v. UNITED STATES ET AL.* C. A. 5th Cir. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari. Reported below: 479 F. 2d 642.

No. 73-5561. *SAVAGE v. UNITED STATES.* C. A. 9th Cir. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari. Reported below: 482 F. 2d 1371.

No. 73-5572. *PECK v. WYOMING ET AL.* Sup. Ct. Wyo. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari.

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No. 73-5621. *THROWER v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari. Reported below: 483 F. 2d 283.

No. 73-5636. *WEISLOW v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari. Reported below: 485 F. 2d 560.

No. 73-5651. *MAISONET v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari. Reported below: 484 F. 2d 1356.

No. 73-5722. *FERGUSON v. GATHRIGHT, CORRECTIONAL SUPERINTENDENT*. C. A. 4th Cir. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari. Reported below: 485 F. 2d 504.

No. 73-5751. *FRYE v. DODDRILL ET AL.* C. A. 4th Cir. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari.

No. 73-5820. *LOCKETT v. HENDERSON, WARDEN*. C. A. 5th Cir. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari. Reported below: 484 F. 2d 62.

No. 73-5890. *WHITESIDE v. OHIO*. Ct. App. Ohio, Franklin County. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari.

No. 73-5946. *BAZIS v. NEBRASKA*. Sup. Ct. Neb. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari. Reported below: 190 Neb. 586, 210 N. W. 2d 919.

No. 73-686. *TELEPHONE USERS ASSN., INC. v. PUBLIC SERVICE COMMISSION OF THE DISTRICT OF COLUMBIA ET AL.* Ct. App. D. C. Certiorari denied. MR. JUSTICE BLACKMUN and MR. JUSTICE POWELL took no part in the consideration or decision of this petition. Reported below: 304 A. 2d 293.

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No. 73-687. TELEPHONE USERS ASSN., INC. *v.* PUBLIC SERVICE COMMISSION OF THE DISTRICT OF COLUMBIA ET AL. Ct. App. D. C. Certiorari denied. MR. JUSTICE BLACKMUN and MR. JUSTICE POWELL took no part in the consideration or decision of this petition.

No. 73-778. SWOAP, DIRECTOR, DEPARTMENT OF SOCIAL WELFARE *v.* HYPOLITE ET AL. Ct. App. Cal., 1st App. Dist. Motion of respondent Hypolite for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 32 Cal. App. 3d 979, 108 Cal. Rptr. 751.

No. 73-835. WHITE, SECRETARY OF STATE OF TEXAS *v.* WHATLEY ET AL. C. A. 5th Cir. Motion of LeRoy E. Symm, Voter Registrar of Waller County, Texas, for leave to file a brief as *amicus curiae* granted. Certiorari denied. Reported below: 482 F. 2d 1230.

No. 73-879. CALIFORNIA INDEPENDENT TELEPHONE ASSN. ET AL. *v.* PUBLIC UTILITIES COMMISSION ET AL. Sup. Ct. Cal. Certiorari denied. MR. JUSTICE BLACKMUN took no part in the consideration or decision of this petition.

No. 73-906. PATTERSON ET AL. *v.* UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA (VUN CANNON, REAL PARTY IN INTEREST). C. A. 9th Cir. Motion of respondent Vun Cannon for leave to proceed *in forma pauperis* granted. Certiorari denied.

No. 73-928. ROEDER ET UX. *v.* GENERAL MOTORS CORP. C. A. 3d Cir. Certiorari denied. MR. JUSTICE POWELL took no part in the consideration or decision of this petition.

No. 73-1017. UNITED STATES *v.* WALT DISNEY PRODUCTIONS. C. A. 9th Cir. Certiorari denied. MR. JUSTICE BLACKMUN would grant certiorari. Reported below: 480 F. 2d 66.

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No. 73-1013. STONE & WEBSTER ENGINEERING CORP. *v.* VIRGINIA ELECTRIC & POWER CO., FOR THE USE AND BENEFIT OF INSURANCE COMPANY OF NORTH AMERICA; and

No. 73-1014. WESTINGHOUSE ELECTRIC CORP. *v.* VIRGINIA ELECTRIC & POWER CO., FOR THE USE AND BENEFIT OF INSURANCE COMPANY OF NORTH AMERICA. C. A. 4th Cir. Certiorari denied. MR. JUSTICE POWELL took no part in the consideration or decision of these petitions. Reported below: 485 F. 2d 78.

No. 73-1067. SEABOARD AIR LINE RAILROAD CO. *v.* WILLIAMS. Sup. Ct. Fla. Certiorari denied. MR. JUSTICE POWELL took no part in the consideration or decision of this petition. Reported below: 283 So. 2d 33.

No. 73-952. ECTOR *v.* CITY OF TORRANCE ET AL. Sup. Ct. Cal. Motion of American Civil Liberties Union of Southern California for leave to file a brief as *amicus curiae* granted. Certiorari denied. Reported below: 10 Cal. 3d 129, 514 P. 2d 433.

No. 73-971. D. C. TRANSIT SYSTEM, INC. *v.* DEMOCRATIC CENTRAL COMMITTEE OF THE DISTRICT OF COLUMBIA ET AL. C. A. D. C. Cir. Motions of Potomac Electric Power Co. and Washington Gas Light Co. for leave to file briefs as *amici curiae* granted. Certiorari denied. Reported below: 158 U. S. App. D. C. 7 and 107, 485 F. 2d 786 and 886.

No. 73-1027. INDIANA *v.* ADAMS. Sup. Ct. Ind. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied, it appearing that judgment below rests upon an adequate state ground. Reported below: — Ind. —, 299 N. E. 2d 834.

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No. 73-5679. WRIGHT v. NORTH CAROLINA ET AL.  
C. A. 4th Cir. Certiorari denied. Reported below: 483  
F. 2d 405.

MR. JUSTICE DOUGLAS, dissenting.

The petitioner in this case challenges the admission at his trial for rape of certain self-incriminating statements. The statements were the result of police interrogation preceded by warnings which the petitioner asserts to be inadequate in light of the requirements enunciated in *Miranda v. Arizona*, 384 U. S. 436 (1966). The warning petitioner received stated in pertinent part:

"You have the right to talk to a lawyer for advice before we ask you any questions, and to have him with you during questioning. You have this right to advice and presence of a lawyer even if you cannot afford to hire one. *We have no way of giving you a lawyer, but one will be appointed for you if you wish, if and when you go to Court.*" (Emphasis added.)

Petitioner contends that the right to appointed counsel only "if and when he goes to court" is contrary to *Miranda, supra*, where we said:

"This does not mean, as some have suggested, that each police station must have a 'station house lawyer' present at all times to advise prisoners. It does mean, however, that if police propose to interrogate a person they must make known to him that he is entitled to a lawyer and that *if he cannot afford one, a lawyer will be provided for him prior to any interrogation.*" *Id.*, at 474 (emphasis added).

The validity of warnings which advise only of some *in futuro* right to counsel is an issue on which lower courts are divided. Courts of Appeals for the Seventh, Ninth, and Tenth Circuits have all concluded that such

warnings are inadequate compliance with *Miranda*.<sup>1</sup> In this case the Court of Appeals for the Fourth Circuit joined the Second, Fifth, and Eighth Circuits in holding the warnings adequate.<sup>2</sup> State courts are also widely divided on this issue, with Alabama, Arkansas, Idaho, Kansas, Oklahoma, and Washington finding the warnings insufficient<sup>3</sup> while Illinois, Indiana, Michigan, Mississippi, and New York have reached a contrary result.<sup>4</sup>

We are, of course, the only source of resolution for this conflict and it is our obligation to provide uniformity on such important federal constitutional questions. In reforming the Court's jurisdiction in 1925 the purpose was to allow us to "hear and determine those cases which should alone engage [our] attention," since under the prior law the Court was "hindered from . . . efficiently functioning in the performance of its highest duty of interpreting the Constitution and preserving uniformity of decision by the intermediate courts of appeals." H. R. Rep. No. 1075, 68th Cong., 2d Sess., 2 (1925). Mr.

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<sup>1</sup> *Williams v. Twomey*, 467 F. 2d 1248 (CA7 1972); *United States v. Garcia*, 431 F. 2d 134 (CA9 1970); *Coyote v. United States*, 380 F. 2d 305 (CA10), cert. denied, 389 U. S. 992 (1967).

<sup>2</sup> *Massimo v. United States*, 463 F. 2d 1171 (CA2 1972), cert. denied, 409 U. S. 1117 (1973); *United States v. Lacy*, 446 F. 2d 511 (CA5 1971); *Klingler v. United States*, 409 F. 2d 299 (CA8 1969).

<sup>3</sup> *Square v. State*, 283 Ala. 548, 219 So. 2d 377 (1968); *Moore v. State*, 251 Ark. 436, 472 S. W. 2d 940 (1971); *State v. Grierson*, 95 Idaho 155, 504 P. 2d 1204 (1972) (dicta); *State v. Carpenter*, 211 Kan. 234, 505 P. 2d 753 (1973); *Schorr v. State*, 499 P. 2d 450 (Okla. Cr. App. 1972); *State v. Creach*, 77 Wash. 2d 194, 461 P. 2d 329 (1969).

<sup>4</sup> *People v. Williams*, 131 Ill. App. 2d 149, 264 N. E. 2d 901 (1970); *Jones v. State*, 253 Ind. 235, 252 N. E. 2d 572 (1969); *People v. Campbell*, 26 Mich. App. 196, 182 N. W. 2d 4 (1970), cert. denied, 401 U. S. 945 (1971); *Evans v. State*, 275 So. 2d 83 (Miss. 1973); *People v. Swift*, 32 App. Div. 2d 183, 300 N. Y. S. 2d 639 (1969), cert. denied, 396 U. S. 1018 (1970).

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Justice Van Devanter had told Congress that the prime consideration in the exercise of discretionary jurisdiction was "whether the case is of such a character that the last word, the ultimate guiding rule, should be announced by the Supreme Court, so that there may be uniformity of decision in the several circuit courts of appeals, and also uniformity of decision in the State courts in so far as Federal matters are concerned." Hearings on Procedure in Federal Courts before a Subcommittee of the Senate Committee on the Judiciary, 68th Cong., 1st Sess., 29-30 (1924).

Because of the present conflict, the extent of one's federal constitutional rights varies according to the State or Circuit in which the question is presented. I would grant certiorari in order to resolve the issue and provide uniformity.

No. 73-5688. *HART v. COINER, WARDEN*. C. A. 4th Cir. Petition for writ of certiorari denied as untimely filed. 28 U. S. C. § 2101 (c). Reported below: 483 F. 2d 136.

No. 73-5900. *DAWKINS ET AL. v. CRAIG, COMMISSIONER OF SOCIAL SERVICES OF NORTH CAROLINA, ET AL.* C. A. 4th Cir. Petition for writ of certiorari denied as untimely filed. 28 U. S. C. § 2101 (c). Reported below: 483 F. 2d 1191.

No. 73-5992. *MATHIS v. ALABAMA*. Sup. Ct. Ala. Certiorari and other relief denied. Reported below: See 288 Ala. 464, 262 So. 2d 287.

*Rehearing Denied*

No. 72-6762. *SMILGUS v. BERGMAN ET AL.*, 414 U. S. 842, 1052. Motion for leave to file second petition for rehearing and other relief denied.

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No. 72-6576. *DAWN, DBA GAME CO. v. STERLING DRUG, INC., ET AL.*, 414 U. S. 880;

No. 72-6790. *SMILGUS v. LETTTS, JUDGE*, 414 U. S. 843;

No. 72-6930. *EX PARTE KENT*, 414 U. S. 1077;

No. 73-459. *NEW RIDER ET AL. v. BOARD OF EDUCATION OF INDEPENDENT SCHOOL DISTRICT NO. 1, PAWNEE COUNTY, OKLAHOMA, ET AL.*, 414 U. S. 1097;

No. 73-621. *UNION PACIFIC RAILROAD CO. ET AL. v. CITY AND COUNTY OF DENVER ET AL.*, 414 U. S. 1088;

No. 73-636. *COKER ET UX. v. COMMISSIONER OF INTERNAL REVENUE*, 414 U. S. 1130;

No. 73-663. *WESSON v. LEVIN ET AL.*, 414 U. S. 1112;

No. 73-728. *CITY OF MIAMI v. SPICY*, 414 U. S. 1131;

No. 73-5288. *D'ORSAY v. UNITED STATES*, 414 U. S. 1070;

No. 73-5399. *WHITE v. UNITED STATES*, 414 U. S. 1132;

No. 73-5477. *RING v. CALIFORNIA*, 414 U. S. 1072;

No. 73-5513. *FRIST v. HAYNSWORTH, CHIEF JUDGE, U. S. COURT OF APPEALS, ET AL.*, 414 U. S. 1073;

No. 73-5597. *SERRANO v. NEW YORK*, 414 U. S. 1075;

No. 73-5625. *FREED ET AL. v. MICHIGAN DEPARTMENT OF TREASURY, REVENUE DIVISION*, 414 U. S. 1075; and

No. 73-5632. *LYONS v. INDIANA*, 414 U. S. 1096.  
Petitions for rehearing denied.

No. 72-6704. *DILLARD v. NEW YORK CITY TRANSIT AUTHORITY*, 414 U. S. 839; and

No. 73-5086. *WHETTON v. TURNER, WARDEN*, 414 U. S. 862. Motions for leave to file petitions for rehearing denied.

No. 73-254. *DORL v. UNITED STATES*, 414 U. S. 1032. Motion to dispense with printing petition for rehearing granted. Petition for rehearing denied.

No. 73-5467. *LEGION ET AL. v. WEINBERGER, SECRETARY OF HEALTH, EDUCATION, AND WELFARE, ET AL.*, 414

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U. S. 1058. Motion to defer consideration denied. MR. JUSTICE BLACKMUN would grant the motion. Motions for leave to file briefs as *amici curiae* in support of rehearing filed by the following were granted: American Nurses Assn., American Orthopsychiatric Assn., Inc., National Association for the Advancement of Colored People, Association of Black Psychologists, Black Psychiatrists of America, Inc., National Health Law Program, Congress of Racial Equality, National Conference of Black Lawyers, American Medical Assn., National Black Feminist Organization, National Urban League, Inc., and National Medical Assn., Inc. Petition for rehearing denied.

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*Certiorari Denied*

No. 73-660. NEFF *v.* MORAN. C. A. 4th Cir. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied.

No. 73-5868. MORAN *v.* NEFF. C. A. 4th Cir. Certiorari denied.

MR. JUSTICE DOUGLAS, dissenting.

The petitioner brought this federal habeas corpus action to challenge his Virginia conviction for possession of controlled drugs with intent to distribute. The District Court granted the writ as to one ground, challenged here by the State in the related matter of *Neff v. Moran*, No. 73-660, certiorari denied today (immediately *supra*), but rejected the petitioner's claim that evidence seized in a warrantless search should have been suppressed. The Court of Appeals affirmed in reliance upon the District Court's opinion.

An informer who had given accurate information in the past called State Police Investigator Mitchell concerning the possession and sale of controlled drugs at a

truck-stop motel. He provided Mitchell with a physical description of the petitioner and trailer-tractor rig, the license number of the rig, and the number of petitioner's motel room. Mitchell made no attempt to secure a search warrant based upon this information. Rather, he called three other officers to his home where they arranged a plan whereby Mitchell would present himself to petitioner as a truck driver and attempt to purchase drugs. Two hours later the officers arrived at the motel, but found petitioner's room unoccupied and his truck absent. Soon afterward they saw the described rig on a nearby freeway. Mitchell pulled the truck over and informed petitioner that he had probable cause to believe that he was transporting illegal drugs, and that his vehicle would be searched. Petitioner came down from the rig and a search of his person revealed a vial containing five pills. A subsequent search inside the cab, however, produced a considerable cache of drugs in the glove compartment, a cigar box, a briefcase, and a suitcase, all of which had to be opened by the officers.

Petitioner here does not contest the District Court's conclusion that the officers had probable cause. But "no amount of probable cause can justify a warrantless seizure," *Coolidge v. New Hampshire*, 403 U. S. 443, 471. The District Court found, however, that there were exigent circumstances justifying the warrantless search, since here there was an "out-of-state truck on a highway leading out of the jurisdiction." The petitioner argues that there were no exigent circumstances precluding the police from securing a warrant in the first instance, before going to the motel room, or after stopping the truck. He draws support from the District Court's own findings. The informer provided the police with no information suggesting that petitioner would soon be leaving the motel, and it was not a perception

of need for immediate action that led the police to choose their course. Rather, the District Court found that "Officer Mitchell admittedly desired to circumvent the warrant process in order to protect his informant's identity." Although the officer's reasoning was erroneous, as there is no requirement that the informer be identified in obtaining a warrant, the District Court concluded that the police were acting "in good faith," so that the "investigative tactics, although dilatory with reference to the procurement of a warrant, were not so unreasonable as to constitute a conscious disregard and avoidance of the warrant process."

But "good faith" cannot under the Fourth Amendment justify a warrantless search. An officer may in good faith believe there is ample probable cause to justify a search, but the Constitution requires that decision to be made by a "neutral and detached magistrate instead of being judged by the officer engaged in the often competitive enterprise of ferreting out crime," *Johnson v. United States*, 333 U. S. 10, 14. Nor can an officer's good-faith belief that no warrant was required render unnecessary a judicial officer's independent determination of whether the search was reasonable under the Fourth Amendment.

Nor can this search be justified as incident to a valid arrest, and the District Court so held, since "Mitchell had no intention of arresting or detaining [petitioner] unless he discovered narcotics within his possession." Thus, this is a simple case, presenting the question of whether a police officer with ample time to secure a warrant may deliberately circumvent this constitutional requirement on the basis of his judgment that the police will be more effective without judicial oversight of his decision to search. My views on the necessity for obtaining a warrant are detailed in my dissenting opinion in

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*United States v. Matlock*, ante, p. 178, decided this day. On that basis I would grant this petition for certiorari.

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*Affirmed on Appeal*

No. 73-987. GUGGENHEIM, DIRECTOR, DEPARTMENT OF LIQUOR CONTROL, ET AL. *v.* PETO, DBA LOOP CARRY OUT. Affirmed on appeal from D. C. S. D. Ohio. MR. JUSTICE WHITE and MR. JUSTICE REHNQUIST would note probable jurisdiction and set case for oral argument. Reported below: 364 F. Supp. 1.

No. 73-1087. KOSCHERAK ET AL. *v.* SCHMELLER ET AL. Affirmed on appeal from D. C. S. D. N. Y. Reported below: 363 F. Supp. 932.

*Appeal Dismissed*

No. 73-6036. FISCHLER *v.* ITT FEDERAL ELECTRIC CORP. ET AL. Appeal from C. A. 9th Cir. dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied.

*Certiorari Granted—Reversed and Remanded.* (See No. 73-428, ante, p. 239.)

*Miscellaneous Orders*

No. A-741. DAVISON *v.* FLORIDA. Application for stay of mandate of the Supreme Court of Florida presented to MR. JUSTICE STEWART, and by him referred to the Court, denied. MR. JUSTICE DOUGLAS and MR. JUSTICE BRENNAN would grant the stay. Reported below: 288 So. 2d 483.

No. A-793. BAKER ET AL., TRUSTEES OF PENN CENTRAL TRANSPORTATION CO. *v.* UNITED STATES ET AL. D. C. E. D. Pa. Application for stay presented to MR. JUSTICE

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BRENNAN, and by him referred to the Court, denied. Reported below: See 368 F. Supp. 101.

No. D-21. *IN RE DISBARMENT OF LIDDY*. It having been reported to the Court that George Gordon Liddy, of Oxon Hill, Maryland, has been disbarred from the practice of law in all of the courts of the State of New York, and this Court by order of November 19, 1973 [414 U. S. 1037], having suspended the said George Gordon Liddy from the practice of law in this Court and directed that a rule issue requiring him so show cause why he should not be disbarred;

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

It is ordered that the said George Gordon Liddy be, and he is hereby, disbarred from the practice of law in this Court and that his name be stricken from the roll of attorneys admitted to practice before the Bar of this Court.

No. 72-942. *HAINSWORTH v. WHITE, SECRETARY OF STATE OF TEXAS*. Appeal from D. C. W. D. Tex. [Probable jurisdiction noted, 410 U. S. 965.] Motion of appellant for leave to file supplemental brief after argument granted.

No. 72-1713. *SECRETARY OF THE NAVY v. AVRECH*. Appeal from C. A. D. C. Cir. [Probable jurisdiction noted, 414 U. S. 816.] Counsel for parties directed to file within 21 days supplemental briefs on issues of jurisdiction of the District Court and on exhaustion of remedies. Briefs may be typewritten.

No. 72-6160. *MITCHELL v. W. T. GRANT Co.* Sup. Ct. La. [Certiorari granted, 411 U. S. 981.] Motion of the State of Louisiana for leave to file a brief on the merits after argument granted.

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No. 73-235. *DEFUNIS ET AL. v. ODEGAARD ET AL.* Sup. Ct. Wash. [Certiorari granted, 414 U. S. 1038.] Motions of National Association of Manufacturers of the United States and Committee on Academic Nondiscrimination and Integrity to file briefs as *amici curiae* denied.

No. 73-300. *SAXBE, ATTORNEY GENERAL, ET AL. v. BUSTOS ET AL.*; and

No. 73-480. *CARDONA ET AL. v. SAXBE, ATTORNEY GENERAL, ET AL.* C. A. D. C. Cir. [Certiorari granted, 414 U. S. 1143.] Motion of California Farm Bureau Federation et al. for leave to participate in oral argument as *amici curiae* denied.

No. 73-434. *MILLIKEN, GOVERNOR OF MICHIGAN, ET AL. v. BRADLEY ET AL.*;

No. 73-435. *ALLEN PARK PUBLIC SCHOOLS ET AL. v. BRADLEY ET AL.*; and

No. 73-436. *GROSSE POINTE PUBLIC SCHOOL SYSTEM v. BRADLEY ET AL.* C. A. 6th Cir. [Certiorari granted, 414 U. S. 1038.] Motion of respondents Board of Education for the School District of the City of Detroit et al. for leave to participate in oral argument denied.

No. 73-437. *MOBIL OIL CORP. v. FEDERAL POWER COMMISSION ET AL.*;

No. 73-457. *PUBLIC SERVICE COMMISSION OF NEW YORK v. FEDERAL POWER COMMISSION ET AL.*; and

No. 73-464. *MUNICIPAL DISTRIBUTORS GROUP v. FEDERAL POWER COMMISSION ET AL.* C. A. 5th Cir. [Certiorari granted, 414 U. S. 1142.] Motion of Shell Oil Co. to recuse MR. JUSTICE DOUGLAS denied. MR. JUSTICE POWELL took no part in the consideration or decision of this motion.

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No. 73-482. MICHIGAN *v.* TUCKER. C. A. 6th Cir. [Certiorari granted, 414 U. S. 1062.] Motion of the Solicitor General for leave to participate in oral argument as *amicus curiae* granted and a total of 15 minutes allotted for that purpose. Respondent allotted an additional 15 minutes for oral argument.

No. 73-507. HAMLING ET AL. *v.* UNITED STATES. C. A. 9th Cir. [Certiorari granted, 414 U. S. 1143.] Motion of petitioners for additional time for oral argument denied.

No. 73-679. WOLFF, WARDEN, ET AL. *v.* McDONNELL. C. A. 8th Cir. [Certiorari granted, 414 U. S. 1156.] Motion of the Solicitor General for leave to participate in oral argument as *amicus curiae* granted and a total of 15 minutes allotted for that purpose. Respondent allotted an additional 15 minutes for oral argument.

No. 73-1003. NATIONAL INDIAN YOUTH COUNCIL ET AL. *v.* BRUCE ET AL. C. A. 10th Cir. Motion of petitioners for leave to proceed *in forma pauperis* denied without prejudice to named individuals to file appropriate affidavits *in forma pauperis*. See 28 U. S. C. § 1915; Rule 53 of the Rules of this Court; and *Pothier v. Rodman*, 261 U. S. 307, 309 (1923).

No. 73-5812. WOLF *v.* HOLLOWELL, PENITENTIARY SUPERINTENDENT. Motion for leave to file petition for writ of habeas corpus denied.

*Probable Jurisdiction Noted or Postponed*

No. 73-364. AMERIND *v.* MANCARI ET AL. Appeal from D. C. N. Mex. Motion of appellee Mancari for leave to proceed *in forma pauperis* in this case and in

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No. 73-362 [*Morton, Secretary of the Interior v. Mancari*, probable jurisdiction noted, 414 U. S. 1142] granted. Motion as to all other appellees in this case and in No. 73-362 denied. Probable jurisdiction noted. Case consolidated with No. 73-362 and a total of one hour allotted for oral argument. Reported below: 359 F. Supp. 585.

No. 73-858. *GONZALEZ v. AUTOMATIC EMPLOYEES CREDIT UNION ET AL.* Appeal from D. C. N. D. Ill. Further consideration of question of jurisdiction postponed to hearing of case on the merits. Reported below: 363 F. Supp. 143.

*Certiorari Granted*

No. 73-748. *AMERICAN RADIO ASSN., AFL-CIO, ET AL. v. MOBILE STEAMSHIP ASSN., INC., ET AL.* Sup. Ct. Ala. Certiorari granted. Reported below: 291 Ala. 201, 279 So. 2d 467.

No. 73-1018. *UNITED STATES v. MAZURIE ET AL.* C. A. 10th Cir. Motions of National Tribal Chairmen's Assn. and Shoshone Indian Tribe et al. for leave to file briefs as *amici curiae* granted. Certiorari granted. Reported below: 487 F. 2d 14.

*Certiorari Denied.* (See also No. 73-6036, *supra.*)

No. 73-675. *RUTH v. UNITED STATES.* C. A. 3d Cir. Certiorari denied.

No. 73-700. *BIONDO ET AL. v. UNITED STATES.* C. A. 8th Cir. Certiorari denied. Reported below: 483 F. 2d 635.

No. 73-722. *MOSTAD v. UNITED STATES.* C. A. 8th Cir. Certiorari denied. Reported below: 485 F. 2d 199.

No. 73-727. *LEWIS v. UNITED STATES.* C. A. 9th Cir. Certiorari denied.

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No. 73-730. *SABATINO v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 485 F. 2d 540.

No. 73-734. *GOMEZ v. UNITED STATES*. C. A. 10th Cir. Certiorari denied.

No. 73-741. *FIFTH AVENUE PEACE PARADE COMMITTEE ET AL. v. KELLEY, DIRECTOR, FEDERAL BUREAU OF INVESTIGATION, ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 480 F. 2d 326.

No. 73-805. *COPPOLA v. UNITED STATES*. C. A. 10th Cir. Certiorari denied. Reported below: 486 F. 2d 882.

No. 73-849. *TUNNELL v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 481 F. 2d 149.

No. 73-878. *PACIFIC TRANSPORT CO. ET AL. v. COMMISSIONER OF INTERNAL REVENUE*. C. A. 9th Cir. Certiorari denied. Reported below: 483 F. 2d 209.

No. 73-934. *SERVICE TECHNOLOGY CORP., A SUBSIDIARY OF LTV AEROSPACE CORP. v. NATIONAL LABOR RELATIONS BOARD*. C. A. 5th Cir. Certiorari denied. Reported below: 480 F. 2d 923.

No. 73-974. *BRINEGAR, SECRETARY OF TRANSPORTATION v. NATIONAL ASSOCIATION OF MOTOR BUS OWNERS ET AL.* C. A. D. C. Cir. Certiorari denied. Reported below: 157 U. S. App. D. C. 291, 483 F. 2d 1294.

No. 73-1040. *DISTRICT OF COLUMBIA ET AL. v. MARSH*. C. A. D. C. Cir. Certiorari denied. Reported below: 158 U. S. App. D. C. 289, 485 F. 2d 1068.

No. 73-1051. *BRIGANDI ET AL. v. NEW YORK*. App. Div., Sup. Ct. N. Y., 1st Jud. Dept. Certiorari denied.

No. 73-1129. *HARNOIS v. HARNOIS*. App. Ct. Ill., 1st Dist. Certiorari denied. Reported below: 10 Ill. App. 3d 1062, 295 N. E. 2d 511.

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No. 73-5567. *TREADWELL ET AL. v. NEW YORK*. App. Div., Sup. Ct. N. Y., 2d Jud. Dept. Certiorari denied. Reported below: 40 App. Div. 2d 953, 344 N. Y. S. 2d 1045.

No. 73-5641. *SAVAGE v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 483 F. 2d 67.

No. 73-5672. *WHITE v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 482 F. 2d 485.

No. 73-5685. *JONES v. HENDERSON, WARDEN*. C. A. 5th Cir. Certiorari denied. Reported below: 481 F. 2d 1401.

No. 73-5686. *APODACA v. UNITED STATES*. C. A. 9th Cir. Certiorari denied.

No. 73-5693. *USKI v. CALIFORNIA*. Ct. App. Cal., 1st App. Dist. Certiorari denied.

No. 73-5695. *BULL v. UNITED STATES*. C. A. 8th Cir. Certiorari denied.

No. 73-5700. *KURZYNA v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 485 F. 2d 517.

No. 73-5709. *BOULWARE v. UNITED STATES*. C. A. 3d Cir. Certiorari denied.

No. 73-5773. *CRAWFORD v. ESTELLE, CORRECTIONS DIRECTOR*. C. A. 5th Cir. Certiorari denied. Reported below: 483 F. 2d 1403.

No. 73-5778. *SILVERTHORN v. WASHINGTON*. Ct. App. Wash. Certiorari denied. Reported below: 9 Wash. App. 295, 513 P. 2d 108.

No. 73-6032. *WHITEAKER v. MISSOURI*. Sup. Ct. Mo. Certiorari denied. Reported below: 499 S. W. 2d 412.

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No. 73-6044. BRASHIER *v.* CALIFORNIA. Ct. App. Cal., 3d App. Dist. Certiorari denied.

No. 73-6048. MOORE *v.* SWENSON, WARDEN. C. A. 8th Cir. Certiorari denied.

No. 73-6050. OLDEN *v.* PHELPS ET AL. C. A. 9th Cir. Certiorari denied.

No. 73-6051. ADAMS *v.* CALIFORNIA. Ct. App. Cal., 1st App. Dist. Certiorari denied.

No. 73-6057. OLBROT *v.* ILLINOIS. C. A. 7th Cir. Certiorari denied.

No. 73-6058. PAGE *v.* COWAN, PENITENTIARY SUPERINTENDENT. C. A. 6th Cir. Certiorari denied.

No. 73-6060. SOLES *v.* MARYLAND. Ct. Sp. App. Md. Certiorari denied. Reported below: 16 Md. App. 656, 299 A. 2d 502.

No. 73-6066. REED *v.* NELSON, WARDEN. C. A. 9th Cir. Certiorari denied.

No. 73-6155. LONG *v.* HAIRE ET AL. C. A. 9th Cir. Certiorari denied.

No. 73-6168. URBAUER *v.* ARIZONA. Sup. Ct. Ariz. Certiorari denied. Reported below: 109 Ariz. 584, 514 P. 2d 717.

No. 72-1503. SEARS, ROEBUCK & Co. *v.* NATIONAL LABOR RELATIONS BOARD ET AL. C. A. D. C. Cir. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari. MR. JUSTICE POWELL took no part in the consideration or decision of this petition. Reported below: 153 U. S. App. D. C. 380, 473 F. 2d 91.

No. 73-794. NATIONAL ASSOCIATION OF MOTOR BUS OWNERS ET AL. *v.* BRINEGAR, SECRETARY OF TRANSPORTA-

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TION. C. A. D. C. Cir. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari. Reported below: 157 U. S. App. D. C. 291, 483 F. 2d 1294.

No. 73-737. ESPOSITO *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari. Reported below: 485 F. 2d 682.

No. 73-806. NATIONAL PETROLEUM REFINERS ASSN. ET AL. *v.* FEDERAL TRADE COMMISSION ET AL. C. A. D. C. Cir. Certiorari denied. MR. JUSTICE STEWART would grant certiorari. MR. JUSTICE POWELL took no part in the consideration or decision of this petition. Reported below: 157 U. S. App. D. C. 83, 482 F. 2d 672.

No. 73-854. BEVAN *v.* TRUSTEES OF PENN CENTRAL TRANSPORTATION Co.;

No. 73-964. GREENOUGH *v.* TRUSTEES OF PENN CENTRAL TRANSPORTATION Co.; and

No. 73-1039. TWENTY-ONE RETIRED EMPLOYEES *v.* TRUSTEES OF PENN CENTRAL TRANSPORTATION Co. C. A. 3d Cir. Certiorari denied. MR. JUSTICE POWELL took no part in the consideration or decision of these petitions. Reported below: 484 F. 2d 1300.

No. 73-1102. TRANSCON LINES *v.* XEROX CORP. Ct. App. Cal., 2d App. Dist. Certiorari denied. MR. JUSTICE POWELL took no part in the consideration or decision of this petition.

No. 73-1043. HOLLOWELL, PENITENTIARY SUPERINTENDENT *v.* McNEAL. C. A. 5th Cir. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 481 F. 2d 1145.

No. 73-6061. SOLOMON *v.* CALIFORNIA. Ct. App. Cal., 2d App. Dist. Certiorari denied for want of final judgment. 28 U. S. C. § 1257.

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*Rehearing Denied*

No. 72-1040. COMMUNIST PARTY OF INDIANA ET AL. *v.* WHITCOMB, GOVERNOR OF INDIANA, ET AL., 414 U. S. 441;

No. 72-1195. AMERICAN PIPE & CONSTRUCTION Co., ET AL. *v.* UTAH ET AL., 414 U. S. 538;

No. 73-573. VACHON *v.* NEW HAMPSHIRE, 414 U. S. 478;

No. 73-618. HARRISON PROPERTY MANAGEMENT Co., INC., ET AL. *v.* UNITED STATES, 414 U. S. 1130;

No. 73-5308. SCHNEIDER *v.* CALIFORNIA, 414 U. S. 1132;

No. 73-5550. MILLER *v.* UNITED STATES, 414 U. S. 1159;

No. 73-5712. CHAVEZ *v.* MCCARTHY, WARDEN, 414 U. S. 1134; and

No. 73-5781. MADDEN *v.* CIRCUIT COURT FOR DODGE COUNTY ET AL., 414 U. S. 1142. Petitions for rehearing denied.

No. 72-1289. NATIONAL RAILROAD PASSENGER CORP. ET AL. *v.* NATIONAL ASSOCIATION OF RAILROAD PASSENGERS, 414 U. S. 453. Petition for rehearing denied. Mr. Justice POWELL took no part in the consideration or decision of this petition.

*Assignment Order*

An order of THE CHIEF JUSTICE designating and assigning Mr. Justice Clark (retired) to perform judicial duties in the United States Court of Appeals for the Tenth Circuit during the period of March 18, 1974, to March 22, 1974, and for such additional time as may be required to complete unfinished business, pursuant to 28 U. S. C. § 294 (a), is ordered entered on the minutes of this Court, pursuant to 28 U. S. C. § 295.

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*Affirmed on Appeal*

No. 73-298. VELA ET AL. *v.* VOWELL, COMMISSIONER OF PUBLIC WELFARE OF TEXAS, ET AL. Appeal from D. C. W. D. Tex. Motion of appellants for leave to proceed further herein *in forma pauperis* granted. Judgment affirmed. MR. JUSTICE DOUGLAS would note probable jurisdiction and set case for oral argument.

No. 73-6081. BUTLER *v.* WILSON, GOVERNOR OF NEW YORK, ET AL. Affirmed on appeal from D. C. S. D. N. Y. MR. JUSTICE DOUGLAS would note probable jurisdiction and set case for oral argument. Reported below: 365 F. Supp. 377.

*Appeals Dismissed*

No. 73-1083. BENNETT, ADMINISTRATRIX *v.* GEELER ET AL. Appeal from App. Ct. Ill., 1st Dist., dismissed for want of substantial federal question. Reported below: 11 Ill. App. 3d 51, 295 N. E. 2d 491.

No. 73-6116. MAS *v.* LAVINE, COMMISSIONER, DEPARTMENT OF SOCIAL SERVICES OF NEW YORK, ET AL. Appeal from App. Div., Sup. Ct. N. Y., 2d Jud. Dept., dismissed for want of substantial federal question.

No. 73-1108. PANKO *v.* DONOVAN ET AL. Appeal from Cir. Ct. Cook County, Ill., dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied.

*Vacated and Remanded on Appeal*

No. 72-6023. BIAS *v.* GIES ET AL. Appeal from D. C. S. D. W. Va. Motion of appellant for leave to proceed *in forma pauperis* granted. Judgment vacated and case remanded for reconsideration in light of *Patterson v. War-*

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*ner, ante*, p. 303; and *State ex rel. Reece v. Gies*, — W. Va. —, 198 S. E. 2d 211 (1973).

*Miscellaneous Orders*

No. A-590 (73-1221). CONTINENTAL CASUALTY Co. *v.* WARD. Application for stay of execution of judgment of the Supreme Court of Ohio and for approval of supersedeas bond, presented to MR. JUSTICE DOUGLAS and by him referred to the Court, denied. Reported below: 36 Ohio St. 2d 38, 303 N. E. 2d 861.

No. 72-1603. CARDWELL, WARDEN *v.* LEWIS. C. A. 6th Cir. [Certiorari granted, 414 U. S. 1062.] Motion of the Solicitor General for leave to participate in oral argument as *amicus curiae* in support of petitioner granted and 15 minutes allotted for that purpose. Respondent allotted 15 additional minutes for oral argument.

No. 73-434. MILLIKEN, GOVERNOR OF MICHIGAN, ET AL. *v.* BRADLEY ET AL.;

No. 73-435. ALLEN PARK PUBLIC SCHOOLS ET AL. *v.* BRADLEY ET AL.; and

No. 73-436. GROSSE POINTE PUBLIC SCHOOL SYSTEM *v.* BRADLEY ET AL. C. A. 6th Cir. [Certiorari granted, 414 U. S. 1038.] Motion of Inter-Faith Centers for Racial Justice, Inc., for leave to file a brief as *amicus curiae* granted. Motion of National Suburban League, Ltd., for leave to file a brief as *amicus curiae* in No. 73-434 granted.

No. 73-557. JENKINS *v.* GEORGIA. Appeal from Sup. Ct. Ga. [Probable jurisdiction noted, 414 U. S. 1090.] Motion of Directors Guild of America, Inc., for leave to participate in oral argument as *amicus curiae* denied.

No. 73-604. CASS *v.* UNITED STATES; and

No. 73-5661. ADAMS ET AL. *v.* SECRETARY OF THE NAVY ET AL. C. A. 9th Cir. [Certiorari granted, 414 U. S.

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1128.] Motion of petitioners in No. 73-5661 for divided argument granted. It is ordered that 15 minutes be allotted to petitioners for oral argument in each of these consolidated cases.

No. 73-631. HOWARD JOHNSON CO., INC. *v.* DETROIT LOCAL JOINT EXECUTIVE BOARD, HOTEL & RESTAURANT EMPLOYEES & BARTENDERS INTERNATIONAL UNION, AFL-CIO. C. A. 6th Cir. [Certiorari granted, 414 U. S. 1091.] Motion of Chamber of Commerce of the United States for leave to file a brief as *amicus curiae* granted.

No. 73-679. WOLFF, WARDEN, ET AL. *v.* McDONNELL. C. A. 8th Cir. [Certiorari granted, 414 U. S. 1156.] Motion of the Attorney General of California for leave to participate in oral argument as *amicus curiae* denied.

No. 73-690. AIR POLLUTION VARIANCE BOARD OF COLORADO *v.* WESTERN ALFALFA CORP. Ct. App. Colo. [Certiorari granted, 414 U. S. 1156.] Motion of the Solicitor General for leave to participate in oral argument as *amicus curiae* in support of petitioner granted and 15 minutes allotted for that purpose. Respondent allotted 15 additional minutes for oral argument.

No. 73-786. ROSS ET AL. *v.* MOFFITT. C. A. 4th Cir. [Certiorari granted, 414 U. S. 1128.] Motion of the State of Virginia for leave to participate in oral argument as *amicus curiae* denied.

No. 73-1016. LASCARIS, COMMISSIONER, DEPARTMENT OF SOCIAL SERVICES OF ONONDAGA COUNTY *v.* SHIRLEY ET AL.; and

No. 73-1095. LAVINE, COMMISSIONER, DEPARTMENT OF SOCIAL SERVICES OF NEW YORK *v.* SHIRLEY ET AL. Appeals from D. C. N. D. N. Y. The Solicitor General

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is invited to file a brief in these cases expressing the views of the United States.

No. 73-5265. *KOKOSZKA v. BELFORD, TRUSTEE IN BANKRUPTCY*. C. A. 2d Cir. [Certiorari granted, 414 U. S. 1091.] Benjamin R. Civiletti, Esquire, of Baltimore, Maryland, a member of the Bar of this Court, is invited to brief and argue this case as *amicus curiae* in support of judgment below.

No. 73-5412. *DILLARD ET AL. v. INDUSTRIAL COMMISSION OF VIRGINIA ET AL.* Appeal from D. C. E. D. Va. [Probable jurisdiction noted, 414 U. S. 1110.] Motion of appellee Aetna Casualty & Surety Co. for divided argument granted.

No. 73-5872. *CAVER v. UNITED STATES*;

No. 73-5888. *VAN HOOK v. UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF CALIFORNIA, CENTRAL DIVISION*; and

No. 73-6213. *JONES v. ALABAMA*. Motions for leave to file petitions for writs of habeas corpus denied.

*Certiorari Granted*

No. 73-1106. *COUSINS ET AL. v. WIGODA ET AL.* App. Ct. Ill., 1st Dist. Certiorari granted. Reported below: 14 Ill. App. 3d 460, 302 N. E. 2d 614.

No. 73-1265. *SAXBE, ATTORNEY GENERAL, ET AL. v. WASHINGTON POST Co. ET AL.* C. A. D. C. Cir. Certiorari granted. Time for filing appendix and briefs accelerated so that this case may be argued with consolidated cases No. 73-754 [*Procurier v. Hillery*, probable jurisdiction noted, 414 U. S. 1127] and No. 73-918 [*Pell v. Procurier*, probable jurisdiction noted, 414 U. S. 1155]. A total of two hours allotted for oral argument for all three cases. Reported below: 161 U. S. App. D. C. 75, 494 F. 2d 994.

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No. 73-5768. FRANCISCO *v.* GATHRIGHT, CORRECTIONAL SUPERINTENDENT. C. A. 4th Cir. Motion for leave to proceed *in forma pauperis* and certiorari granted.

*Certiorari Denied.* (See also No. 73-1108, *supra.*)

No. 73-697. GETTELMAN *v.* COMMISSIONER OF INTERNAL REVENUE. C. A. 7th Cir. Certiorari denied.

No. 73-731. SNIDER ET AL. *v.* ALL STATE ADMINISTRATORS, INC., ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 481 F. 2d 387.

No. 73-755. CREIGHTON *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 483 F. 2d 1403.

No. 73-775. NEDD *v.* LOUISIANA. Sup. Ct. La. Certiorari denied. Reported below: 281 So. 2d 131.

No. 73-782. HIBBS *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied. Reported below: 485 F. 2d 682.

No. 73-930. MARITIME COMMUNICATIONS SERVICE *v.* FEDERAL COMMUNICATIONS COMMISSION. C. A. D. C. Cir. Certiorari denied.

No. 73-948. GILL TRAILER & EQUIPMENT RENTALS, INC. *v.* S. D'ANTONI, INC., ET AL. Sup. Ct. La. Certiorari denied. Reported below: 282 So. 2d 714.

No. 73-1030. HOME INDEMNITY Co. *v.* RUPPEL, DBA YO-RO DIESEL SERVICE, INC., ET AL.; and

No. 73-1036. RUPPEL, DBA YO-RO DIESEL SERVICE, INC. *v.* TRAVELERS INDEMNITY Co. C. A. 5th Cir. Certiorari denied. Reported below: 484 F. 2d 296.

No. 73-1081. LONG ISLAND COLLEGE HOSPITAL *v.* NEW YORK STATE LABOR RELATIONS BOARD ET AL. Ct. App. N. Y. Certiorari denied. Reported below: 32 N. Y. 2d 314, 298 N. E. 2d 614.

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No. 73-1094. *G. D. SEARLE & Co. v. STEELE*. C. A. 5th Cir. Certiorari denied. Reported below: 483 F. 2d 339.

No. 73-1098. *DUBUIT v. HARWELL ENTERPRISES, INC., ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 486 F. 2d 131.

No. 73-1128. *DICKS, DBA OZARK GARDENS RESTAURANT, ET AL. v. NAFF, MAYOR OF EUREKA SPRINGS, ET AL.* Sup. Ct. Ark. Certiorari denied. Reported below: 255 Ark. 357, 500 S. W. 2d 350.

No. 73-1133. *JONES v. SMITH ET AL.* Dist. Ct. App. Fla., 4th Dist. Certiorari denied. Reported below: 278 So. 2d 339.

No. 73-1154. *WOLF v. WOLF*. Sup. Ct. Ohio. Certiorari denied.

No. 73-5702. *WHITE v. UNITED STATES*. C. A. 9th Cir. Certiorari denied.

No. 73-5721. *ANDERSON ET UX. v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 485 F. 2d 239.

No. 73-5755. *SHARROW v. ABZUG ET AL.* C. A. 2d Cir. Certiorari denied.

No. 73-5759. *BOAG v. GUNN, WARDEN*. Sup. Ct. Cal. Certiorari denied.

No. 73-5774. *GATTON v. SUPERINTENDENT, VIRGINIA STATE PENITENTIARY*. C. A. 4th Cir. Certiorari denied. Reported below: 483 F. 2d 1401.

No. 73-5813. *MITCHELL v. NEW HAMPSHIRE*. Sup. Ct. N. H. Certiorari denied. Reported below: 113 N. H. 542, 311 A. 2d 134.

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No. 73-5826. *PORTILLO v. UNITED STATES*. C. A. 9th Cir. Certiorari denied.

No. 73-5839. *HERNANDEZ v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 486 F. 2d 614.

No. 73-5977. *PFEIFER v. UNITED STATES ET AL.* C. A. 7th Cir. Certiorari denied.

No. 73-6068. *WATSON v. DREADIN*. Ct. App. D. C. Certiorari denied. Reported below: 309 A. 2d 493.

No. 73-6072. *ROOTS v. CREWS, JUDGE*. C. A. 5th Cir. Certiorari denied.

No. 73-6078. *CURRY v. CALIFORNIA*. Ct. App. Cal., 3d App. Dist. Certiorari denied.

No. 73-6079. *PETE v. TEXAS*. Ct. Crim. App. Tex. Certiorari denied. Reported below: 501 S. W. 2d 683.

No. 73-6083. *SAUNDERS v. MICHIGAN DEPARTMENT OF CORRECTIONS ET AL.* C. A. 6th Cir. Certiorari denied.

No. 73-6097. *DEARING v. CALIFORNIA ADULT AUTHORITY ET AL.* Sup. Ct. Cal. Certiorari denied.

No. 73-6111. *STEWART v. CALIFORNIA*. Ct. App. Cal., 2d App. Dist. Certiorari denied. Reported below: 34 Cal. App. 3d 244, 109 Cal. Rptr. 826.

No. 73-6113. *DAY, AKA GRANT v. KENTUCKY*. Ct. App. Ky. Certiorari denied.

No. 73-6118. *KEIL v. GLOVER, AKA EDGAR*. Dist. Ct. App. Fla., 2d Dist. Certiorari denied.

No. 73-6163. *CLARK v. RODRIGUEZ, WARDEN*. C. A. 10th Cir. Certiorari denied.

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No. 73-862. *LIMONE v. UNITED STATES*. C. A. 1st Cir. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari.

No. 73-911. *DRISCOLL v. INTERNATIONAL UNION OF OPERATING ENGINEERS, LOCAL 139, ET AL.* C. A. 7th Cir. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari. Reported below: 484 F. 2d 682.

No. 73-1019. *DENNIS v. WOOD ET AL.* C. A. 7th Cir. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari. Reported below: 489 F. 2d 849.

No. 73-5620. *BROWN v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari. Reported below: 484 F. 2d 418.

No. 73-5701. *BATES v. MCCARTHY, WARDEN*. C. A. 9th Cir. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari. Reported below: 485 F. 2d 90.

No. 73-1056. *A & B TRANSFER, INC., ET AL. v. S. S. KRESGE Co.* C. A. 6th Cir. Motion to defer consideration and certiorari denied. Reported below: 488 F. 2d 894.

No. 73-1097. *ELECTRONICS CORPORATION OF AMERICA v. HONEYWELL, INC.* C. A. 1st Cir. Certiorari denied. THE CHIEF JUSTICE and MR. JUSTICE BLACKMUN took no part in the consideration or decision of this petition. Reported below: 487 F. 2d 513.

No. 73-5827. *DIGGS v. PALMAN ET AL.* C. A. D. C. Cir. Motion to strike respondents' memorandum and other relief denied. Certiorari denied.

*Rehearing Denied*

No. 73-276. *LANDRY v. HEMPHILL, NOYES & Co. ET AL.*, 414 U. S. 1002; and

No. 73-5459. *TAYLOR v. ESTELLE, CORRECTIONS DIRECTOR*, 414 U. S. 1159. Petitions for rehearing denied.

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No. 73-808. MILLER *v.* BROWN ET AL., 414 U. S. 1158;  
No. 73-559. HECK'S, INC. *v.* FOOD STORE EMPLOYEES  
UNION, LOCAL 347, AMALGAMATED MEAT CUTTERS &  
BUTCHER WORKMEN OF NORTH AMERICA, AFL-CIO, 414  
U. S. 1069; and

No. 73-5675. TARLTON *v.* TEXAS, 414 U. S. 1150. Pe-  
titions for rehearing denied.

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*Dismissal Under Rule 60*

No. 73-980. MOORE *v.* UNITED STATES. C. A. 7th  
Cir. Petition for writ of certiorari dismissed under Rule  
60 of the Rules of this Court. Reported below: 486 F.  
2d 1406.

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*Dismissal Under Rule 60*

No. 73-6217. McDONALD *v.* TENNESSEE ET AL. C. A.  
6th Cir. Petition for writ of certiorari dismissed under  
Rule 60 of the Rules of this Court.

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*Affirmed on Appeal*

No. 73-729. CORPORATION COMMISSION OF OKLAHOMA  
ET AL. *v.* FEDERAL POWER COMMISSION ET AL. Affirmed  
on appeal from D. C. W. D. Okla. Reported below: 362  
F. Supp. 522.

MR. JUSTICE REHNQUIST, with whom MR. JUSTICE  
STEWART and MR. JUSTICE POWELL join, dissenting.

“There was a young lady from Niger  
Who smiled as she rode on a tiger.  
They returned from the ride  
With the lady inside,  
And the smile on the face of the tiger.”

When Congress enacted the Natural Gas Act in 1938, 52 Stat. 821, 15 U. S. C. § 717 *et seq.*, the state regulatory agencies were among its strongest supporters.<sup>1</sup> For, without supplanting any of the existing authority of the state agencies, the Act was intended to provide a powerful regulatory partner, the Federal Power Commission, which could regulate activities where the state bodies could not. As the Senate Report on the bill stated:

“The bill takes no authority from State commissions, and is so drawn as to complement and in no manner usurp State regulatory authority, and contains provisions for cooperative action with State regulatory bodies.”<sup>2</sup>

Yet the Court today affirms a holding of the District Court which permits the Federal Power Commission to sue the Oklahoma Corporation Commission and enjoin the enforcement of those state agency orders which the court finds violate either the Natural Gas Act or the Commerce Clause of the United States Constitution. After this decision, the state regulatory agencies must surely feel a special kinship with the young lady from Niger.

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<sup>1</sup> S. Rep. No. 1162, 75th Cong., 1st Sess., 2-3 (1937).

<sup>2</sup> *Id.*, at 2. This Court has recognized that the Act was not intended to deprive States of their prior authority:

“The Act, though extending federal regulation, had no purpose or effect to cut down state power. On the contrary, perhaps its primary purpose was to aid in making state regulation effective, by adding the weight of federal regulation to supplement and reinforce it in the gap created by the prior decisions. The Act was drawn with meticulous regard for the continued exercise of state power, not to handicap or dilute it in any way.” *Panhandle Eastern Pipe Line Co. v. Public Service Comm’n of Indiana*, 332 U. S. 507, 517-518 (1947).

The District Court judgment which is here affirmed arose out of an action brought by appellee Federal Power Commission against appellant Corporation Commission of Oklahoma in the United States District Court for the Western District of Oklahoma. The complaint alleged that various orders which had been issued by the Oklahoma Commission were invalid under the Commerce Clause and also conflicted with the authority of the Federal Power Commission granted by the Natural Gas Act. The three-judge District Court which was convened agreed with the contentions of the Federal Power Commission, and enjoined enforcement of the orders of the Oklahoma Commission. 362 F. Supp. 522.

My disagreement with the Court's summary affirmance of this judgment stems, not from any disagreement with the substantive holding of the District Court, but with what seems to me the more important holding that the Federal Power Commission has authority to institute an action such as this at all. Despite the total absence of precedent for such litigation by the Federal Power Commission, and language in the Natural Gas Act which, at least on its face, seems to preclude it, the Court chooses to summarily affirm. At the least, I feel the question deserves plenary consideration.

## I

The major share of the Natural Gas Act as it presently exists was passed by Congress in 1938 with the recognition that "the business of transporting and selling natural gas for ultimate distribution to the public is affected with a public interest, and that Federal regulation in matters relating to the transportation of natural gas and the sale thereof in interstate and foreign commerce is necessary in the public interest."<sup>3</sup> Congress recognized

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<sup>3</sup> 15 U. S. C. § 717 (a).

at that time that state regulatory agencies, with authority over intrastate sales and transportation of natural gas, were unable to deal effectively with interstate sales and transportation of that resource. The States themselves acknowledged their inadequacy in this area, and earnestly supported the bill as a supplement to the jurisdictions of their own regulatory agencies.<sup>4</sup> The Act specifically stated that it "shall not apply to any other transportation or sale of natural gas or to the local distribution of natural gas or to the facilities used for such distribution or to the production or gathering of natural gas."<sup>5</sup> There can be no doubt, I think, that the autonomy of the state regulatory agencies and their spheres of influence were to be preserved.<sup>6</sup>

The Act grants to the Federal Power Commission extensive authority to regulate the interstate transportation and sale of natural gas. It makes unlawful the establishment of rates and charges which are not "just and reasonable,"<sup>7</sup> and further grants to the Commission the power to establish just and reasonable rates where natural gas companies have not done so.<sup>8</sup> "Any State, municipality, or State commission" may file a complaint with the Commission relating to "anything done or omitted to be done by any natural-gas company in contravention of the provisions" of the Natural Gas Act.<sup>9</sup> The Commission is then empowered to hold hearings on

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<sup>4</sup> See n. 1, *supra*.

<sup>5</sup> 15 U. S. C. § 717 (b).

<sup>6</sup> The Court in *Panhandle Eastern Pipe Line Co.*, *supra*, stated: "Congress, it is true, occupied a field. But it was meticulous to take in only territory which this Court had held the states could not reach." 332 U. S., at 519.

<sup>7</sup> 15 U. S. C. § 717c (a).

<sup>8</sup> *Id.*, § 717d (a).

<sup>9</sup> *Id.*, § 717l.

the complaint,<sup>10</sup> and the parties are given the right of appeal from any resulting order of the Commission to the appropriate Court of Appeals.<sup>11</sup>

The Act does not simply grant the Commission administrative and adjudicative functions, but prosecutorial functions as well. Subsection (a) of 15 U. S. C. § 717s reads as follows:

“Whenever it shall appear to the Commission that any *person* is engaged or about to engage in any acts or practices which constitute or will constitute a violation of the provisions of this chapter, or of any rule, regulation, or order thereunder, it may in its discretion bring an action in the proper district court of the United States, . . . to enjoin such acts or practices and to enforce compliance with this chapter or any rule, regulation, or order thereunder, and upon a proper showing a permanent or temporary injunction or decree or restraining order shall be granted without bond.” (Emphasis added.)

It is clear from this section that the Commission is granted ample authority to proceed against any *person* engaging in practices which violate the Natural Gas Act. It would seem equally clear that if the Commission deemed companies subject to its jurisdiction to be engaging in such practices under claim of authority from the Oklahoma Commission those companies could be forced to defend their conduct in District Court under the provisions of § 717s. But it is a long leap from this provision, which finds a counterpart in other regulatory acts, to the conclusion reached by the District Court here: that the State Commission itself was a “person” for pur-

<sup>10</sup> *Id.*, § 717n (a).

<sup>11</sup> *Id.*, § 717r (b).

poses of § 717s, and might be named a defendant in the District Court for purposes of enjoining enforcement of its orders claimed to violate provisions of the Natural Gas Act. I find no support in the Act for that result.

## II

The term "person" is defined in the Act itself, 15 U. S. C. § 717a, as follows:

"'Person' includes an individual or a corporation."

Since one would not commonly expect a state corporation commission to be subsumed under the term "individual," it seems reasonable to look at the definition of the word "corporation" to determine whether a state agency is within the class of "persons" which the Federal Power Commission has authority to bring into federal court. But the term "corporation" is defined in 15 U. S. C. § 717a (2) to specifically exclude "municipalities as hereinafter defined." Turning to subsection 3, which defines "municipality," one finds that the term means "a city, county, or other political subdivision or agency of a State." Whatever else this chain of definitions may mean, it must mean that a state agency is *not* included within the definition of the term "corporation."

The District Court in this case conceded that the Oklahoma Corporation Commission was neither an individual nor a corporation within the meaning of the Act, but nevertheless concluded that it was a "person" who could be sued by the Federal Power Commission under § 717s. According to the District Court, the verb "includes" as used in the definition of the word "person" is a verb of "enlargement" and not a verb of "limitation."<sup>12</sup> Therefore, the court reasoned: "Whether the defendant Oklahoma Corporation Commission is a non-

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<sup>12</sup> 362 F. Supp. 522, 544.

individual 'person' against which the [Federal Power Commission] may proceed, is to be determined by the 'legislative environment.'"<sup>13</sup>

I do not think the convoluted statutory construction of the District Court withstands analysis. The Federal Power Commission is given statutory authority to sue any "person," defined in the Act to include an "individual" or a "corporation." While use of the word "include" would in some circumstances permit suits against "persons" who could not fairly be classified as either "individuals" or "corporations," the term hardly can be said to cover an agency with corporate characteristics which is nevertheless specifically excluded from the definition of "corporation." Yet this is exactly the result reached by the District Court here: Though the statute excludes "municipalities as hereinafter defined" from the term "corporation," and defines them to mean, *inter alia*, an "agency of a state," the careful process of exclusion and inclusion pursued by Congress is rendered nugatory by the District Court's conclusion that the Oklahoma Commission is a "non-individual 'person.'"<sup>14</sup>

<sup>13</sup> *Ibid.*

<sup>14</sup> Additional arguments to support the conclusion that state regulatory agencies were not intended to fall within the definition of "person" in the Natural Gas Act can be found by examination of that term's use in other portions of the Act. For example, the very section in which the definition of "person" is found, 15 U. S. C. § 717a, contains an additional definition of "state commission." Furthermore, in the same section, "natural-gas company" is defined to mean a "person engaged in the transportation of natural gas in interstate commerce, or the sale in interstate commerce of such gas for resale." (Emphasis added.) Obviously, inclusion of a state regulatory body within the definition of "person" in that section would be meaningless.

Section 717r provides that "[a]ny person, State, municipality, or State commission aggrieved by an order issued by the Commission" may apply to the Commission for a rehearing. If the term "person"

The "legislative environment" to which the District Court purported to look in reaching its conclusion not only fails to support the court's interpretation but points in precisely the opposite direction.<sup>15</sup> As indicated earlier in this opinion, the Act was passed in an atmosphere of cooperation between the existing state regulatory agencies and the newly created federal regulatory agency, and was unanimously endorsed by the state regulatory agencies. There is nothing in this environment, and nothing indicated by the District Court, which suggests that the state agencies, by their approval, were consenting to be sued by the FPC in federal courts.

The cases cited by the District Court for its holding with respect to the "legislative environment" of the Natural Gas Act arose out of statutes taxing sales of intoxicating liquors and prohibiting conspiracies and restraint of trade, respectively. In *Ohio v. Helvering*, 292 U. S. 360 (1934), the Court held that, under a statute taxing "persons" selling intoxicating liquor, federal tax policy would support a tax on the State acting in a "proprietary" capacity. In *Georgia v. Evans*, 316 U. S. 159 (1942), the Court held that a State was included in the definition of "person" for purposes of suing for treble damages under § 7 of the Sherman Act. These cases

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included state regulatory bodies as a matter of course, the duplicate use of "person" and "municipality" or "State commission" would be purely superfluous. Also, 15 U. S. C. § 717t provides that "[a]ny person" who willfully or knowingly violates the provisions of the Natural Gas Act shall be subject to fine or imprisonment. Certainly the word "person" in this subsection would not be held to apply to state regulatory bodies.

<sup>15</sup> Although the District Court stated that the "legislative environment" would be persuasive, it should be noted that the court made no study of the environment of the Natural Gas Act. The only environment examined related to the two acts discussed in the text, *infra*.

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are scarcely authority for the proposition that the term "person" in one congressional enactment necessarily means the same thing in another. Neither the Liquor Taxing Act of 1934, § 10 (e), 48 Stat. 315, nor the Sherman Act, § 8, 26 Stat. 210, 15 U. S. C. § 7, defined "person" to include a term such as "corporation" which was then additionally defined to *exclude* the entity sought to be brought within the statute's definition.

My reading of the Natural Gas Act and attendant legislative history affords no basis for the belief that the Federal Power Commission was authorized to bring state commissions into federal court whenever it suspected that state regulatory orders interfered with its own statutory mission. The Federal Power Commission is given full authority to establish rates, to disapprove rates which are considered unreasonable or unjust, and to bring before it alleged violators of the Act. To go further, at least on arguments as tenuous as those offered in support of the result reached by the District Court, and to conclude that Congress intended the Commission to hale state regulatory agencies into federal court whenever it felt their policies were inconsistent with its own, is not only unnecessary to the effectuation of the federal agency's responsibilities, but seriously undermines established notions of comity between state and federal bodies. While there may be many questions of statutory construction which are resolved by three-judge courts which are of no great import to any large segment of the public, this assuredly is not one of them.

No. 73-1080. HOLT ET AL. *v.* YONCE, CHAIRMAN, SOUTH CAROLINA PUBLIC SERVICE COMMISSION, ET AL. Affirmed on appeal from D. C. S. C. MR. JUSTICE DOUGLAS dissents from the summary affirmance. Reported below: 370 F. Supp. 374.

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No. 73-5972. RAMIREZ ET AL. *v.* WEINBERGER, SECRETARY OF HEALTH, EDUCATION, AND WELFARE, ET AL. Affirmed on appeal from D. C. N. D. Ill. MR. JUSTICE DOUGLAS would note probable jurisdiction and set case for oral argument. Reported below: 363 F. Supp. 105.

*Appeals Dismissed*

No. 73-586. McMULLAN ET AL. *v.* WOHLGEMUTH, SECRETARY OF WELFARE OF PENNSYLVANIA, ET AL. Appeal from Sup. Ct. Pa. dismissed for want of substantial federal question. Reported below: 453 Pa. 147, 308 A. 2d 888.

No. 73-1114. WINCHESTER *v.* CALIFORNIA. Appeal from App. Dept., Super. Ct. Cal., County of San Diego, dismissed for want of substantial federal question.

No. 73-1140. KYSER *v.* BOARD OF ELECTIONS OF CUYAHOGA COUNTY ET AL. Appeal from Sup. Ct. Ohio dismissed for want of substantial federal question. Reported below: 36 Ohio St. 2d 17, 303 N. E. 2d 77.

No. 73-6161. MARTINEZ *v.* TEXAS. Appeal from Ct. Crim. App. Tex. dismissed for want of substantial federal question. Reported below: 501 S. W. 2d 130.

No. 73-6133. CLAYTON *v.* WALTER L. COUSE CO. ET AL. Appeal from Sup. Ct. Mich. dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied.

*Certiorari Granted—Vacated and Remanded.* (See also

No. 73-5684, *ante*, p. 449.)

No. 73-752. MILES *v.* UNITED STATES. C. A. 8th Cir. Certiorari granted, judgment vacated, and case remanded for further consideration in light of *United States v. Maze*, 414 U. S. 395 (1974). MR. CHIEF JUSTICE BURGER, MR. JUSTICE WHITE, and MR. JUSTICE BLACKMUN would affirm the judgment. Reported below: 483 F. 2d 1372.

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No. 73-5595. RICHARDSON *v.* UNITED STATES. C. A. 9th Cir. Motion for leave to proceed *in forma pauperis* and certiorari granted. Judgment vacated and case remanded to the United States District Court for the Central District of California so that the judgment of conviction may be vacated as suggested by the Government in the memorandum filed February 25, 1974. Reported below: 484 F. 2d 1046.

No. 73-5717. REESE *v.* U. S. BOARD OF PAROLE ET AL. C. A. D. C. Cir. Motion for leave to proceed *in forma pauperis* and certiorari granted. Upon representation of the Solicitor General set forth in his memorandum for the United States filed February 20, 1974, judgment vacated and case remanded for further consideration in light of the position presently asserted by the Government.

No. 73-5761. OSHER *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 *United States v. Maze*, 414 U. S. 395 (1974). Reported below: 485 F. 2d 573.

*Miscellaneous Orders\**

No. A-746. SMITH *v.* UNITED STATES. C. A. 10th Cir. Application for bail presented to MR. JUSTICE DOUGLAS, and by him referred to the Court, denied.

No. A-820 (73-6388). McDONALD *v.* TENNESSEE ET AL. C. A. 6th Cir. Application for stay presented to MR. JUSTICE DOUGLAS, and by him referred to the Court, denied.

No. A-843 (73-6142). RADUE *v.* UNITED STATES. C. A. 5th Cir. Application for stay and bail presented to

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\*For Court's orders prescribing Bankruptcy Rules and Official Bankruptcy Forms, and amendments thereto, and amendments to the Federal Rules of Criminal Procedure, see *post*, pp. 1005-1006.

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MR. JUSTICE DOUGLAS, and by him referred to the Court, denied. Reported below: 486 F. 2d 220.

No. A-847. *PERSICO v. UNITED STATES*. C. A. 2d Cir. Application for bail presented to MR. JUSTICE DOUGLAS, and by him referred to the Court, denied.

No. D-23. *IN RE DISBARMENT OF LEE*. It is ordered that Clifford Taylor Lee of Washington, D. C., be suspended from the practice of law in this Court and that a rule issue, returnable within 40 days, requiring him to show cause why he should not be disbarred from the practice of law in this Court.

No. 92, October Term, 1970. *WHITCOMB, GOVERNOR OF INDIANA v. CHAVIS ET AL.*, 403 U. S. 124. Motions for modification of costs and to retax costs denied. MR. JUSTICE DOUGLAS would grant the motion to retax costs.

No. 73-29. *CORNING GLASS WORKS v. BRENNAN, SECRETARY OF LABOR*. C. A. 2d Cir.; and

No. 73-695. *BRENNAN, SECRETARY OF LABOR v. CORNING GLASS WORKS*. C. A. 3d Cir. [Certiorari granted, 414 U. S. 1110.] Motion of American Civil Liberties Union et al. for leave to file a brief as *amici curiae* granted.

No. 73-38. *UNITED STATES v. MARINE BANCORPORATION, INC., ET AL.* Appeal from D. C. W. D. Wash. [Probable jurisdiction noted, 414 U. S. 907.] Motion of the Solicitor General for additional time for oral argument granted and 15 additional minutes allotted for that purpose. Motion of the Comptroller of the Currency for additional time for oral argument granted and appellees allotted 15 additional minutes for that purpose.

No. 73-362. *MORTON, SECRETARY OF THE INTERIOR, ET AL. v. MANCARI ET AL.*; and

No. 73-364. *AMERIND v. MANCARI ET AL.* Appeals from D. C. N. M. [Probable jurisdiction noted, 414 U. S.

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1142, and *ante*, p. 946.] Motion of Montana Inter-Tribal Policy Board et al. for leave to file a brief as *amici curiae* granted.

No. 73-370. NATIONAL LABOR RELATIONS BOARD *v.* FOOD STORE EMPLOYEES UNION, LOCAL 347, AMALGAMATED MEAT CUTTERS & BUTCHER WORKMEN OF NORTH AMERICA, AFL-CIO. C. A. D. C. Cir. [Certiorari granted, 414 U. S. 1062.] Motion of Chamber of Commerce of the United States for leave to file a brief as *amicus curiae* in support of Heck's, Inc., denied. Motion of Heck's, Inc., for additional time for oral argument, or in the alternative for divided argument, denied.

No. 73-507. HAMLING ET AL. *v.* UNITED STATES. C. A. 9th Cir. [Certiorari granted, 414 U. S. 1143.] Renewed motion of petitioners for additional time for oral argument denied. Alternative request for divided argument granted.

No. 73-556. FLORIDA POWER & LIGHT Co. *v.* INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS, LOCAL 641, ET AL.; and

No. 73-795. NATIONAL LABOR RELATIONS BOARD *v.* INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS, AFL-CIO, ET AL. C. A. D. C. Cir. [Certiorari granted, 414 U. S. 1156.] Motion of the Solicitor General for additional time for oral argument granted and petitioners allotted 15 additional minutes for that purpose. Respondents also allotted 15 additional minutes for oral argument.

No. 73-640. GEDULDIG, DIRECTOR, DEPARTMENT OF HUMAN RESOURCES DEVELOPMENT *v.* AIELLO ET AL. Appeal from D. C. N. D. Cal. [Probable jurisdiction noted, 414 U. S. 1110.] Motion of Physicians Forum for leave to file a brief as *amicus curiae* granted.

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No. 73-679. WOLFF, WARDEN, ET AL. *v.* McDONNELL. C. A. 8th Cir. [Certiorari granted, 414 U. S. 1156.] Motion of respondent for appointment of counsel granted. It is ordered that Douglas F. Duchek, Esquire, of Lincoln, Nebraska, be, and he is hereby, appointed to serve as counsel for respondent in this case. Motion of respondent that said Douglas F. Duchek be granted leave to present oral argument *pro hac vice* granted.

No. 73-767. UNITED STATES *v.* CONNECTICUT NATIONAL BANK ET AL. Appeal from D. C. Conn. [Probable jurisdiction noted, 414 U. S. 1127.] Motion of the Solicitor General for additional time for oral argument granted and 15 additional minutes allotted for that purpose. Motion of the Comptroller of the Currency for additional time for oral argument granted and appellees allotted 15 additional minutes for that purpose.

No. 73-841. HOLDER, U. S. DISTRICT JUDGE *v.* BANKS. C. A. 7th Cir. [Certiorari granted, 414 U. S. 1156.] Motion of respondent to supplement record and to defer oral argument denied. MR. JUSTICE POWELL took no part in the consideration or decision of this motion.

No. 73-5280. FULLER *v.* OREGON. Ct. App. Ore. [Certiorari granted, 414 U. S. 1111.] Motion of National Legal Aid & Defender Assn. for leave to dispense with printing its *amicus curiae* brief denied.

No. 73-6240. HOWARD *v.* WAINWRIGHT, CORRECTIONS DIRECTOR, ET AL. Motion for leave to file petition for writ of habeas corpus denied.

*Probable Jurisdiction Noted*

No. 73-296. HUFFMAN ET AL. *v.* PURSUE, LTD. Appeal from D. C. N. D. Ohio. Probable jurisdiction noted and case set for oral argument with No. 73-1119 [immediately *infra*].

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No. 73-1119. MTM, INC., ET AL. *v.* BAXLEY, ATTORNEY GENERAL OF ALABAMA, ET AL. Appeal from D. C. N. D. Ala. Probable jurisdiction noted and case set for oral argument with No. 73-296 [immediately *supra*]. Reported below: 365 F. Supp. 1182.

*Certiorari Granted*

No. 73-5772. FARETTA *v.* CALIFORNIA. Ct. App. Cal., 2d App. Dist. Motion for leave to proceed *in forma pauperis* and certiorari granted.

*Certiorari Denied.* (See also No. 73-6133, *supra*.)

No. 73-547. GUERRA *v.* TEXAS. Ct. Crim. App. Tex. Certiorari denied. Reported below: 496 S. W. 2d 92.

No. 73-702. BURGER *v.* MARYLAND. Ct. Sp. App. Md. Certiorari denied.

No. 73-723. ADAMS COUNTY BOARD OF SUPERVISORS ET AL. *v.* HOWARD ET AL.; and

No. 73-770. HOWARD ET AL. *v.* ADAMS COUNTY BOARD OF SUPERVISORS ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 480 F. 2d 978.

No. 73-732. SUTTER *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 484 F. 2d 118.

No. 73-746. LASKER, U. S. DISTRICT JUDGE *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. Reported below: 481 F. 2d 229.

No. 73-747. AUSTIN *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied.

No. 73-757. LEVINE *v.* UNITED STATES; and

No. 73-761. CHIPPAS *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 475 F. 2d 1403.

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No. 73-837. *SHELTON v. NORTH CAROLINA*. Ct. App. N. C. Certiorari denied. Reported below: 18 N. C. App. 616, 197 S. E. 2d 588.

No. 73-842. *BAILEY v. NORTH CAROLINA*. Ct. App. N. C. Certiorari denied. Reported below: 18 N. C. App. 313, 196 S. E. 2d 556.

No. 73-855. *SANTIAGO ET AL. v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 485 F. 2d 483.

No. 73-869. *OLYMPIA BREWING CO. v. DEPARTMENT OF REVENUE OF OREGON*. Sup. Ct. Ore. Certiorari denied. Reported below: 266 Ore. 309, 511 P. 2d 837.

No. 73-875. *FORGIONE v. UNITED STATES*. C. A. 1st Cir. Certiorari denied. Reported below: 487 F. 2d 364.

No. 73-881. *LINCOLN v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 487 F. 2d 222.

No. 73-885. *LUNA v. OKLAHOMA*. Ct. Crim. App. Okla. Certiorari denied. Reported below: 513 P. 2d 1399.

No. 73-894. *PENNSYLVANIA ET AL. v. NASH ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 485 F. 2d 679.

No. 73-924. *SHELTON v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: See 482 F. 2d 848.

No. 73-991. *SUNNYSIDE SCHOOL DISTRICT No. 12 v. UNITED STATES*. C. A. 9th Cir. Certiorari denied.

No. 73-995. *SHERMAN v. UNITED STATES*. C. A. 6th Cir. Certiorari denied.

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No. 73-997. CANDELLA ET AL. *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. Reported below: 487 F. 2d 1223.

No. 73-1023. EVERETT STEAMSHIP CORP., S/A *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 486 F. 2d 462.

No. 73-1068. JONES *v.* NOR-TEX AGENCIES, INC., ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 482 F. 2d 1093.

No. 73-1073. WARIN *v.* DIRECTOR, ALCOHOL, TOBACCO AND FIREARMS DIVISION, INTERNAL REVENUE SERVICE. C. A. 6th Cir. Certiorari denied.

No. 73-1089. OSEREDZUK *v.* WARNER Co. C. A. 3d Cir. Certiorari denied. Reported below: 485 F. 2d 680.

No. 73-1099. BASS *v.* TEXAS. Ct. Crim. App. Tex. Certiorari denied. Reported below: 501 S. W. 2d 643.

No. 73-1107. ROSEN, EXECUTIVE DIRECTOR, U. S. CIVIL SERVICE COMMISSION, ET AL. *v.* VAUGHN ET AL. C. A. D. C. Cir. Certiorari denied. Reported below: 157 U. S. App. D. C. 340 and 368, 484 F. 2d 820 and 1086.

No. 73-1110. STAVOLA *v.* NEW JERSEY. Super. Ct. N. J. Certiorari denied.

No. 73-1141. WHIPPLE *v.* ALABAMA. Ct. Crim. App. Ala. Certiorari denied. Reported below: 51 Ala. App. 377, 286 So. 2d 52.

No. 73-1151. ROSIN ET AL. *v.* NEW YORK STOCK EXCHANGE, INC., ET AL. C. A. 7th Cir. Certiorari denied. Reported below: 484 F. 2d 179.

No. 73-1158. FLEMING *v.* STATE PERSONNEL BOARD ET AL. Sup. Ct. Colo. Certiorari denied. Reported below: — Colo. —, 514 P. 2d 1135.

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No. 73-1160. *TRICO MANUFACTURING Co., INC. v. WALKER*. C. A. 7th Cir. Certiorari denied. Reported below: 487 F. 2d 595.

No. 73-1164. *DEERING MILLIKEN RESEARCH CORP. v. DUPLAN CORP. ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 487 F. 2d 459.

No. 73-1182. *FRANCHISE TAX BOARD OF CALIFORNIA v. DANNING*. C. A. 9th Cir. Certiorari denied. Reported below: 487 F. 2d 84.

No. 73-1183. *WEEMS v. TENNESSEE*. Ct. Crim. App. Tenn. Certiorari denied.

No. 73-5457. *DUKE ET AL. v. TEXAS ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 477 F. 2d 244.

No. 73-5529. *JOHNSON v. UNITED STATES*. C. A. D. C. Cir. Certiorari denied.

No. 73-5631. *HENG AWKAK ROMAN ET AL. v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 484 F. 2d 1271.

No. 73-5643. *SAWYER v. UNITED STATES*. C. A. 10th Cir. Certiorari denied. Reported below: 485 F. 2d 195.

No. 73-5657. *DANIELS v. UNITED STATES*. C. A. 9th Cir. Certiorari denied.

No. 73-5669. *McNALLY v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 485 F. 2d 398.

No. 73-5678. *SMITH v. UNITED STATES*. C. A. 10th Cir. Certiorari denied. Reported below: 484 F. 2d 8.

No. 73-5692. *ALVER ET AL. v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 485 F. 2d 684.

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No. 73-5711. *WOODS v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 484 F. 2d 127.

No. 73-5713. *CARTHENS v. NORTH CAROLINA*. Sup. Ct. N. C. Certiorari denied. Reported below: 284 N. C. 111, 199 S. E. 2d 456.

No. 73-5716. *LIBERTI v. UNITED STATES*. C. A. 2d Cir. Certiorari denied.

No. 73-5719. *THERIAULT v. BARTELS ET AL.* C. A. 10th Cir. Certiorari denied.

No. 73-5723. *GARRISON v. UNITED STATES*. C. A. 3d Cir. Certiorari denied.

No. 73-5725. *DAULTON v. UNITED STATES*. C. A. 6th Cir. Certiorari denied.

No. 73-5729. *TYSON v. UNITED STATES*. C. A. 6th Cir. Certiorari denied.

No. 73-5731. *MINNAY v. UNITED STATES*. C. A. 3d Cir. Certiorari denied.

No. 73-5736. *HENDERSON v. UNITED STATES*. C. A. 10th Cir. Certiorari denied.

No. 73-5742. *LEGGETT v. UNITED STATES*. C. A. 3d Cir. Certiorari denied.

No. 73-5745. *RYAN v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 485 F. 2d 295.

No. 73-5750. *HARMON v. UNITED STATES*. C. A. 10th Cir. Certiorari denied. Reported below: 486 F. 2d 363.

No. 73-5753. *LINDSEY ET AL. v. UNITED STATES*. C. A. 6th Cir. Certiorari denied.

No. 73-5754. *DAVIS v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 486 F. 2d 725.

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No. 73-5756. *LEWIS v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 485 F. 2d 236.

No. 73-5763. *DUKES v. UNITED STATES*. C. A. 3d Cir. Certiorari denied.

No. 73-5764. *IN RE SPOTT*. Sup. Ct. Ohio. Certiorari denied. Reported below: 34 Ohio St. 2d 241, 298 N. E. 2d 148.

No. 73-5766. *STAMPER, AKA STAFFORD v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 485 F. 2d 684.

No. 73-5771. *WHITE v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 486 F. 2d 204.

No. 73-5783. *CLEMENTS v. FLORIDA*. Sup. Ct. Fla. Certiorari denied.

No. 73-5790. *COZAD v. UNITED STATES*. C. A. 9th Cir. Certiorari denied.

No. 73-5791. *LENZE v. UNITED STATES*; and

No. 73-5799. *BUSBY v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 484 F. 2d 994.

No. 73-5801. *MARZETTE v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 485 F. 2d 207.

No. 73-5830. *DEMARRIAS v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 487 F. 2d 19.

No. 73-5831. *FARRIES v. UNITED STATES*. C. A. 3d Cir. Certiorari denied.

No. 73-5840. *SMITH v. UNITED STATES*. C. A. 9th Cir. Certiorari denied.

No. 73-5851. *SUMMERS v. UNITED STATES*. C. A. 6th Cir. Certiorari denied.

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No. 73-5864. *SIERRA v. UNITED STATES*. C. A. 9th Cir. Certiorari denied.

No. 73-5871. *POMEROY v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 485 F. 2d 272.

No. 73-5892. *HAVERTY v. BURDMAN, ACTING SECRETARY, DEPARTMENT OF SOCIAL AND HEALTH SERVICES*. Sup. Ct. Wash. Certiorari denied.

No. 73-5897. *SUAREZ v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 487 F. 2d 236.

No. 73-5901. *PAULDINO v. UNITED STATES*. C. A. 10th Cir. Certiorari denied. Reported below: 487 F. 2d 127.

No. 73-5902. *JOHNSON v. ESTELLE, CORRECTIONS DIRECTOR*. C. A. 5th Cir. Certiorari denied. Reported below: 486 F. 2d 1400.

No. 73-5912. *BONAPARTE v. CALDWELL, WARDEN*. C. A. 5th Cir. Certiorari denied. Reported below: 484 F. 2d 956.

No. 73-5919. *BRYANT v. CALDWELL, WARDEN*. C. A. 5th Cir. Certiorari denied. Reported below: 484 F. 2d 65.

No. 73-5926. *SAGER, AKA McCLINTOCK v. ULIBARRI*. C. A. 7th Cir. Certiorari denied. Reported below: 486 F. 2d 1406.

No. 73-5928. *DAVIS v. UNITED STATES*; and

No. 73-5959. *FLETCHER v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: See 486 F. 2d 1403.

No. 73-5947. *HARRIS v. UNITED STATES*. C. A. 10th Cir. Certiorari denied.

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No. 73-5965. *REDDICK v. ILLINOIS*. App. Ct. Ill., 1st Dist. Certiorari denied. Reported below: 11 Ill. App. 3d 492, 297 N. E. 2d 360.

No. 73-5966. *JONES v. UNITED STATES*. C. A. 5th Cir. Certiorari denied.

No. 73-5999. *ISAACS v. UNITED STATES*. C. A. 9th Cir. Certiorari denied.

No. 73-6000. *DEBENEDICTUS v. UNITED STATES*. C. A. 3d Cir. Certiorari denied.

No. 73-6001. *WALKER v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 489 F. 2d 1353.

No. 73-6123. *GRIFFIN v. VINCENT, CORRECTIONAL SUPERINTENDENT*. C. A. 2d Cir. Certiorari denied.

No. 73-6136. *DAPPER v. RICHARDS ET AL.* C. A. 9th Cir. Certiorari denied.

No. 73-6138. *BROWN v. HOPPER, WARDEN*. C. A. 5th Cir. Certiorari denied.

No. 73-6140. *HANNAN v. PENNSYLVANIA*. Sup. Ct. Pa. Certiorari denied.

No. 73-6143. *SULLIVAN v. TWOMEY, WARDEN*. Sup. Ct. Ill. Certiorari denied.

No. 73-6146. *BONNETT v. MARYLAND*. Ct. Sp. App. Md. Certiorari denied.

No. 73-6147. *JACKSON v. ULRICH MANUFACTURING CO. ET AL.* C. A. 3d Cir. Certiorari denied.

No. 73-6153. *COLLINS v. NEW HAMPSHIRE*. Sup. Ct. N. H. Certiorari denied. Reported below: 112 N. H. 449, 298 A. 2d 742.

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No. 73-6178. *LEGUM v. NEW YORK*. App. Term, Sup. Ct. N. Y., 9th & 10th Jud. Dists. Certiorari denied.

No. 73-6202. *BILLINGS v. NEW YORK*. App. Div., Sup. Ct. N. Y., 1st Jud. Dist. Certiorari denied.

No. 73-6206. *BRANTLEY v. CITY OF DALLAS*. Ct. Civ. App. Tex., 11th Sup. Jud. Dist. Certiorari denied. Reported below: 498 S. W. 2d 452.

No. 72-1437. *LYNCH ET AL. v. SNEPP ET AL.* C. A. 4th Cir. Certiorari denied. MR. JUSTICE MARSHALL took no part in the consideration or decision of this petition. Reported below: 472 F. 2d 769.

No. 73-425. *NEW YORK v. SUTTON ET AL.* Ct. App. N. Y. Motion of respondent Peltzman for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 32 N. Y. 2d 923, 300 N. E. 2d 726.

MR. CHIEF JUSTICE BURGER, with whom MR. JUSTICE BLACKMUN joins, dissenting.

I dissent because I cannot agree that this case does not merit oral argument. Nor do I agree that if this is the kind of narcotics law enforcement New York wants, that is up to New York. Here the New York Court of Appeals has rested its decision on federal constitutional grounds. Absent full oral argument, I would grant the writ and reverse the judgment of that court essentially for the reasons stated by the three dissenting judges of that court.

No. 73-739. *COINER, WARDEN v. HART*. C. A. 4th Cir. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. MR. CHIEF JUSTICE BURGER and MR. JUSTICE WHITE would grant certiorari. Reported below: 483 F. 2d 136.

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No. 73-810. PENNSYLVANIA *v.* FELTON. Super. Ct. Pa. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied.

No. 73-1221. CONTINENTAL CASUALTY CO. *v.* WARD. Sup. Ct. Ohio. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 36 Ohio St. 2d 38, 303 N. E. 2d 861.

No. 73-983. WAI KWON YIP ET AL. *v.* UNITED STATES; No. 73-5430. PUI LEUNG LAM *v.* UNITED STATES; and No. 73-5714. PUI KAN LAM *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari. Reported below: 483 F. 2d 1202.

No. 73-1132. ARNOLD ET AL. *v.* TIFFANY ET AL. C. A. 9th Cir. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari. Reported below: 487 F. 2d 216.

No. 73-5734. DUPART *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari. Reported below: 483 F. 2d 1393.

No. 73-5788. RAWLINSON *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari. Reported below: 487 F. 2d 5.

No. 73-5815. REID *v.* SLAYTON, PENITENTIARY SUPERINTENDENT; and

No. 73-5821. VISCHIO *v.* SLAYTON, PENITENTIARY SUPERINTENDENT. C. A. 4th Cir. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari. Reported below: 483 F. 2d 1401.

No. 73-1122. BUXTON *v.* INTERNATIONAL BUSINESS MACHINES ET AL. C. A. 2d Cir. Certiorari denied. MR. JUSTICE BLACKMUN and MR. JUSTICE POWELL took no part in the consideration or decision of this petition.

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No. 73-5835. SALAZAR *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari. Reported below: 485 F. 2d 1272.

No. 73-5878. GREEN *v.* LOUISIANA. Sup. Ct. La. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari. Reported below: 282 So. 2d 461.

No. 73-5908. BURGE *v.* MISSISSIPPI. Sup. Ct. Miss. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari. Reported below: 282 So. 2d 223.

No. 73-988. CARLSON *v.* CALIFORNIA. Ct. App. Cal., 2d App. Dist. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari and reverse.

No. 73-1125. ADMIRAL-MERCHANTS MOTOR FREIGHT, INC., ET AL. *v.* CONTAINER CORPORATION OF AMERICA ET AL. C. A. 7th Cir. Motion to defer consideration and certiorari denied. Reported below: 489 F. 2d 825.

No. 73-1159. DUN & BRADSTREET, INC. *v.* HOOD. C. A. 5th Cir. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari in light of important First and Fourteenth Amendment questions that are raised. See 486 F. 2d 25, 28-30, with which views MR. JUSTICE DOUGLAS disagrees. Reported below: 486 F. 2d 25.

No. 73-5828. PERNELL *v.* ROSE, WARDEN, ET AL. C. A. 6th Cir. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari, vacate the judgment, and remand the case on grounds of mootness. Reported below: 486 F. 2d 301.

No. 73-6124. MCKINLEY *v.* REVIEW BOARD OF THE INDIANA EMPLOYMENT SECURITY DIVISION ET AL. App. Ct. Ind. Certiorari denied. MR. JUSTICE DOUGLAS would deny certiorari because petition was filed out of time. Reported below: — Ind. App. —, 290 N. E. 2d 108.

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*Rehearing Denied*

No. 72-1019. SEA-LAND SERVICES, INC. *v.* GAUDET, ADMINISTRATRIX, 414 U. S. 573;

No. 73-843. LYKES BROTHERS STEAMSHIP CO., INC. *v.* BROWN, 414 U. S. 1158;

No. 73-5484. HOOKS *v.* ROBERTS, WARDEN, 414 U. S. 1163;

No. 73-5624. HAZZARD *v.* SOCIAL SECURITY ADMINISTRATION ET AL., 414 U. S. 1134;

No. 73-5881. TILLEY *v.* NORTH CAROLINA, *ante*, p. 926; and

No. 73-5915. KAPLAN *v.* CONTINENTAL CAN CO., INC., *ante*, p. 927. Petitions for rehearing denied.

No. 72-6891. SHINDER *v.* ESMIOL, 414 U. S. 848. Motion for leave to file petition for rehearing denied.

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*Appeals Dismissed*

No. 73-949. MCILVAINE *v.* PENNSYLVANIA. Appeal from Sup. Ct. Pa. dismissed for want of substantial federal question. MR. JUSTICE BLACKMUN would note probable jurisdiction and set case for oral argument. Reported below: 454 Pa. 129, 309 A. 2d 801.

No. 73-1139. FRANKS *v.* WILSON, JUDGE, ET AL. Appeal from D. C. Colo. dismissed for want of jurisdiction. MR. JUSTICE DOUGLAS dissents from dismissal of the appeal.

No. 73-6031. KAPLAN *v.* KAPLAN. Appeal from App. Div., Sup. Ct. N. Y., 2d Jud. Dept., dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied.

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*Certiorari Granted—Reversed and Remanded.* (See No. 73-5925, *ante*, p. 697.)

*Miscellaneous Orders*

No. 72-5847. *ALEXANDER v. GARDNER-DENVER CO.*, *ante*, p. 36. Motion of petitioner for attorneys' fees as part of taxable costs denied as not appropriate for consideration by this Court. MR. JUSTICE DOUGLAS would refer motion to the District Court for hearing on retaxing costs.

No. 73-191. *VILLAGE OF BELLE TERRE ET AL. v. BORAAS ET AL.* Appeal from C. A. 2d Cir. [Probable jurisdiction noted, 414 U. S. 907.] Motion of New Communities, Inc., for leave to file a brief as *amicus curiae* after argument denied.

No. 73-437. *MOBIL OIL CORP. v. FEDERAL POWER COMMISSION ET AL.*;

No. 73-457. *PUBLIC SERVICE COMMISSION OF NEW YORK v. FEDERAL POWER COMMISSION ET AL.*; and

No. 73-464. *MUNICIPAL DISTRIBUTORS GROUP v. FEDERAL POWER COMMISSION ET AL.* C. A. 5th Cir. [Certiorari granted, 414 U. S. 1142.] Motion of the Solicitor General for divided argument granted. MR. JUSTICE POWELL took no part in the consideration or decision of this motion.

No. 73-482. *MICHIGAN v. TUCKER.* C. A. 6th Cir. [Certiorari granted, 414 U. S. 1062.] Motion of Women Lawyers Association of Michigan for leave to file a brief as *amicus curiae* denied.

No. 73-781. *SCHERK v. ALBERTO-CULVER CO.* C. A. 7th Cir. [Certiorari granted, 414 U. S. 1156.] Motion of American Arbitration Assn. for leave to file a brief as *amicus curiae* granted.

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No. 73-5936. *JEFFERS v. WAINWRIGHT, CORRECTIONS DIRECTOR*; and

No. 73-6308. *HUNTER v. NEW YORK DEPARTMENT OF CORRECTIONAL SERVICES ET AL.* Motions for leave to file petitions for writs of habeas corpus denied.

No. 73-6119. *SAYLES v. SIRICA, U. S. DISTRICT JUDGE.* Motion for leave to file petition for writ of mandamus denied.

*Probable Jurisdiction Postponed*

No. 73-628. *ALLENBERG COTTON CO., INC. v. PITTMAN.* Appeal from Sup. Ct. Miss. Further consideration of question of jurisdiction postponed to hearing of case on the merits. Reported below: 276 So. 2d 678.

*Certiorari Granted*

No. 73-1012. *GULF OIL CORP. ET AL. v. COPP PAVING Co., INC., ET AL.* C. A. 9th Cir. Certiorari granted limited to Questions 1(a), (b), and (c) presented in the petition, which read as follows:

"1. With respect to a commodity which is not only made and sold in one state alone but is only salable and usable in that state, does the fact that it is used in an instrumentality of commerce such as a highway supply the necessary requirements, by itself and as a matter of law

"(a) Of the anti-discrimination clause of the Robinson-Patman Act that the discriminatory sale be by a 'person engaged in commerce, in the course of such commerce,' that 'either or any of the purchases involved . . . [be] in commerce,' and that the 'effect . . . may be substantially to lessen competition or tend to create a monopoly in any line of commerce'?

"(b) Of Section 3 of the Clayton Act that the tying conduct be that of a 'person engaged in commerce, in the

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course of such commerce' and that 'the effect . . . may be to substantially lessen competition or tend to create a monopoly in any line of commerce'?

"(c) Of Section 7 of the Clayton Act that the acquisition by a 'corporation engaged in commerce' be of a corporation 'engaged also in commerce,' and that 'the effect . . . may be substantially to lessen competition, or tend to create a monopoly,' where the acquired corporation sold nothing in commerce and the product it made did not enter commerce?"

Reported below: 487 F. 2d 202.

*Certiorari Denied.* (See also No. 73-6031, *supra.*)

No. 73-431. *BROCCOLINO, JUDGE v. MARYLAND COMMISSION ON JUDICIAL DISABILITIES ET AL.* Ct. App. Md. *Certiorari denied.* Reported below: 268 Md. 659, 304 A. 2d 587.

No. 73-779. *LEMONAKIS v. UNITED STATES;* and

No. 73-926. *ENTEN v. UNITED STATES.* C. A. D. C. Cir. *Certiorari denied.* Reported below: 158 U. S. App. D. C. 162, 485 F. 2d 941.

No. 73-832. *ROGERS v. UNITED STATES.* C. A. 6th Cir. *Certiorari denied.* Reported below: 486 F. 2d 1404.

No. 73-838. *KUGLER, ATTORNEY GENERAL OF NEW JERSEY v. YOUNG WOMEN'S CHRISTIAN ASSN. OF PRINCETON ET AL.* Petition for *certiorari* before judgment to C. A. 3d Cir. *denied.* Reported below: See 342 F. Supp. 1048.

No. 73-857. *MEDANSKY v. UNITED STATES.* C. A. 7th Cir. *Certiorari denied.* Reported below: 486 F. 2d 807.

No. 73-859. *PETERS v. SMITH ET UX.* C. A. 6th Cir. *Certiorari denied.* Reported below: 482 F. 2d 799.

No. 73-864. *CAHALANE v. UNITED STATES.* C. A. 3d Cir. *Certiorari denied.* Reported below: 485 F. 2d 679.

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No. 73-895. *LANDWEHR v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 485 F. 2d 74.

No. 73-902. *FLORIDA MINING & MATERIALS CORP., DBA McCORMICK CONCRETE CO. v. NATIONAL LABOR RELATIONS BOARD*. C. A. 5th Cir. Certiorari denied. Reported below: 481 F. 2d 65.

No. 73-914. *BAKER ET AL., TRUSTEES IN BANKRUPTCY v. INDIANA HARBOR BELT RAILROAD CO. ET AL.*; and

No. 73-1201. *CHICAGO & NORTH WESTERN TRANSPORTATION CO. ET AL. v. BAKER ET AL., TRUSTEES IN BANKRUPTCY*. C. A. 3d Cir. Certiorari denied. Reported below: 486 F. 2d 519.

No. 73-935. *DRESSEL ET AL. v. UNITED STATES*. C. A. 10th Cir. Certiorari denied.

No. 73-998. *PARKER ET AL. v. CALIFORNIA*. Ct. App. Cal., 2d App. Dist. Certiorari denied.

No. 73-1047. *BOYD v. UNITED STATES*. C. A. 7th Cir. Certiorari denied.

No. 73-1137. *AMERICAN FIDELITY FIRE INSURANCE CO. v. STATE BOARD OF EQUALIZATION OF CALIFORNIA*. Ct. App. Cal., 2d App. Dist. Certiorari denied. Reported below: 34 Cal. App. 3d 51, 109 Cal. Rptr. 545.

No. 73-1167. *KEN FOSTER Co., INC. v. CHRYSLER LEASING CORP. ET AL.* C. A. 9th Cir. Certiorari denied.

No. 73-1168. *KEITT ET AL. v. NORTH CAROLINA*. Ct. App. N. C. Certiorari denied. Reported below: 19 N. C. App. 414, 199 S. E. 2d 23.

No. 73-1171. *STANBACK v. NORTH CAROLINA*. Ct. App. N. C. Certiorari denied. Reported below: 19 N. C. App. 375, 198 S. E. 2d 759.

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No. 73-1194. *TOYAH INDEPENDENT SCHOOL DISTRICT ET AL. v. PECOS-BARSTOW CONSOLIDATED INDEPENDENT SCHOOL DISTRICT ET AL.* Ct. Civ. App. Tex., 8th Sup. Jud. Dist. Certiorari denied. Reported below: 497 S. W. 2d 455.

No. 73-1195. *SCHNEIDEMAN, DBA ADEPTCO v. RAILWAY EXPRESS AGENCY, INC., ET AL.* C. A. 9th Cir. Certiorari denied.

No. 73-1198. *CAIN ET AL. v. MARYLAND.* Ct. App. Md. Certiorari denied.

No. 73-1202. *WILSON ET AL. v. MIDWEST FOLDING PRODUCTS MANUFACTURING CORP. ET AL.* C. A. 7th Cir. Certiorari denied.

No. 73-1203. *HAWAIIAN AIRLINES, INC. v. KING, U. S. DISTRICT JUDGE.* C. A. 9th Cir. Certiorari denied.

No. 73-5727. *SANCHEZ v. UNITED STATES.* C. A. 2d Cir. Certiorari denied. Reported below: 483 F. 2d 1052.

No. 73-5746. *WILLIAMS v. UNITED STATES.* C. A. 4th Cir. Certiorari denied. Reported below: 486 F. 2d 222.

No. 73-5858. *MIRANDA-LOZANO v. UNITED STATES.* C. A. 9th Cir. Certiorari denied.

No. 73-5862. *BOWLES v. UNITED STATES.* C. A. D. C. Cir. Certiorari denied. Reported below: 159 U. S. App. D. C. 407, 488 F. 2d 1307.

No. 73-5875. *JUAREZ v. ESTELLE, CORRECTIONS DIRECTOR.* C. A. 5th Cir. Certiorari denied.

No. 73-5885. *CLEMENTS v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. Reported below: 484 F. 2d 928.

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No. 73-5904. THACKER *v.* BLACKLEDGE, PRISON ADMINISTRATOR. C. A. 4th Cir. Certiorari denied.

No. 73-5907. DOWDY *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 486 F. 2d 1042.

No. 73-5910. DAVIS *v.* AULT, WARDEN. Sup. Ct. Ga. Certiorari denied. Reported below: 231 Ga. 406, 202 S. E. 2d 53.

No. 73-5932. BRINKLEY *v.* CLANON, MEDICAL FACILITY SUPERINTENDENT. Sup. Ct. Cal. Certiorari denied.

No. 73-5953. MCGIFF *v.* WYOMING. Sup. Ct. Wyo. Certiorari denied. Reported below: 513 P. 2d 407 and 514 P. 2d 199.

No. 73-5957. WILKINS *v.* MARYLAND. Ct. App. Md. Certiorari denied. Reported below: 270 Md. 62, 310 A. 2d 39.

No. 73-5964. WHITE ET AL. *v.* WISCONSIN. Sup. Ct. Wis. Certiorari denied. Reported below: 59 Wis. 2d 354, 208 N. W. 2d 321.

No. 73-5967. McCLINDON *v.* ILLINOIS. Sup. Ct. Ill. Certiorari denied. Reported below: 54 Ill. 2d 546, 301 N. E. 2d 290.

No. 73-5980. DEMARIN *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied.

No. 73-6013. FORD *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied.

No. 73-6073. GERIK *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied.

No. 73-6085. BOOKER *v.* ESTELLE, CORRECTIONS DIRECTOR. C. A. 5th Cir. Certiorari denied.

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No. 73-6090. *HOWARD v. UNITED STATES*. C. A. 10th Cir. Certiorari denied.

No. 73-6104. *CASTELHUN v. NEW YORK*. App. Div., Sup. Ct. N. Y., 2d Jud. Dept. Certiorari denied.

No. 73-6139. *NICHOLSON v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 487 F. 2d 1399.

No. 73-6156. *OLSEN v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 487 F. 2d 77.

No. 73-6159. *HOBSON v. UNITED STATES*. C. A. 7th Cir. Certiorari denied.

No. 73-6174. *JONES v. ESTELLE, CORRECTIONS DIRECTOR*. C. A. 5th Cir. Certiorari denied.

No. 73-6184. *COULVERSON v. GRAY, CORRECTIONAL SUPERINTENDENT*. C. A. 6th Cir. Certiorari denied.

No. 73-6186. *SMILGUS v. KIMMEL ET AL.* C. A. 6th Cir. Certiorari denied.

No. 73-6189. *ASHTON v. ANDERSON, WARDEN*. C. A. 10th Cir. Certiorari denied.

No. 73-6190. *BERGER v. CALIFORNIA*. Sup. Ct. Cal. Certiorari denied.

No. 73-6191. *DURAN v. FLORIDA*. Dist. Ct. App. Fla., 4th Dist. Certiorari denied. Reported below: 276 So. 2d 254.

No. 73-6198. *WESTLAKE v. MICHIGAN ET AL.* C. A. 6th Cir. Certiorari denied.

No. 73-6208. *TROCODARO v. OHIO*. Ct. App. Ohio, Franklin County. Certiorari denied. Reported below: 36 Ohio App. 2d 1, 301 N. E. 2d 898.

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No. 73-6212. JONES *v.* NELSON, WARDEN. C. A. 9th Cir. Certiorari denied.

No. 73-6229. SCHLETTE *v.* CALIFORNIA ADULT AUTHORITY ET AL. Sup. Ct. Cal. Certiorari denied.

No. 73-6261. STOKES *v.* BLACK, REFORMATORY SUPERINTENDENT. C. A. 6th Cir. Certiorari denied.

No. 73-6269. PRUETT *v.* TENNESSEE. Sup. Ct. Tenn. Certiorari denied. Reported below: 510 S. W. 2d 807.

No. 73-665. VOLKSWAGENWERK AKTIENGESELLSCHAFT ET AL. *v.* PRASHAR ET UX. C. A. 8th Cir. Motion of respondents for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 480 F. 2d 947.

No. 73-809. ROSSI ET AL. *v.* UNITED STATES. C. A. 3d Cir. Motion to defer consideration and certiorari denied. Reported below: 485 F. 2d 260.

No. 73-916. MARRAPESE *v.* UNITED STATES; and

No. 73-917. ZINNI *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari. Reported below: 486 F. 2d 918.

No. 73-1034. KILLE *v.* MARYLAND. Ct. Sp. App. Md. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari.

No. 73-1082. CINCINNATI DISTRICT COUNCIL 51, AMERICAN FEDERATION OF STATE, COUNTY, MUNICIPAL EMPLOYEES, AFL-CIO, ET AL. *v.* CITY OF CINCINNATI ET AL. Sup. Ct. Ohio. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari. Reported below: 35 Ohio St. 2d 197, 299 N. E. 2d 686.

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No. 73-1084. RYNERSON *v.* UNITED STATES. Ct. Cl. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari.

No. 73-1267. MICHAEL S. *v.* CITY OF NEW YORK. App. Div., Sup. Ct. N. Y., 1st Jud. Dept. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari.

No. 73-1009. HAYDEN, STONE INC. ET AL. *v.* PIANTES ET AL. Sup. Ct. Utah. Certiorari denied as untimely filed. 28 U. S. C. § 2101 (c). Reported below: 30 Utah 2d 110, 514 P. 2d 529.

No. 73-6251. PRUETT *v.* FIRST NATIONAL BANK OF NEVADA. Sup. Ct. Nev. Certiorari denied as untimely filed. 28 U. S. C. § 2101 (c). Reported below: 89 Nev. 442, 514 P. 2d 1186.

No. 73-1169. FLAHERTY ET AL. *v.* ARKANSAS. Sup. Ct. Ark. Certiorari denied. Reported below: 255 Ark. 187, 500 S. W. 2d 87.

MR. JUSTICE DOUGLAS, with whom MR. JUSTICE BRENNAN and MR. JUSTICE MARSHALL concur, dissenting.

Petitioners have been convicted of operating a gambling house, in violation of Ark. Stat. Ann. § 41-2001 (1964). 255 Ark. 187, 500 S. W. 2d 87. They challenge the introduction into evidence of tape recordings of telephone conversations which they claim were seized in violation of Title III of the Omnibus Crime Control and Safe Streets Act of 1968, 18 U. S. C. § 2510 *et seq.*

A warrant was issued to search petitioner Flaherty's home. After being admitted to the home, state officers placed petitioners under arrest and without petitioners' consent monitored incoming phone calls placing bets for one hour. An officer attached a suction cup containing an induction coil to the telephone and, impersonating

petitioners,<sup>1</sup> recorded the calls being made to the telephone. It is undisputed that the search warrant did not authorize the search and seizure of such calls, and the petitioners did not consent to the seizure of the calls.<sup>2</sup> Petitioners argue that the police intent to record the calls without securing a search warrant is evidenced by the fact the police brought the induction coil and recording equipment with them when executing the warrant.

Petitioners claim that the seizures were made in violation of Title III of the Omnibus Crime Control and Safe Streets Act of 1968, a detailed scheme created by Congress to allow the use of electronic surveillance by the States to intercept wire and oral communications only under stringently defined circumstances, clearly not met here.<sup>3</sup> Under

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<sup>1</sup> Some callers asked to speak to petitioner Whipple and some asked to speak to petitioner Flaherty. The officer who monitored the phone admitted that on some occasions at least he "posed as" and was "impersonating" Flaherty. R. 235-236.

<sup>2</sup> Both the Arkansas Supreme Court and respondent note that when the officers appeared at Flaherty's home with the search warrant, petitioners "invited" them into the home. But there is no suggestion that petitioners, under arrest, consented to the warrantless interception of the telephone calls.

<sup>3</sup> Petitioners claim that the Fourth Amendment was violated when the police took over the phone and seized the incoming conversations without a warrant by impersonating petitioners. There is no dispute that the search warrant did not encompass the seizure of the incoming telephone calls, and the intention of the police to seize the calls when they entered the home is uncontested. There is, however, some question whether this argument was presented to the court below; respondent contends that "this exact argument" was not presented. In any event, the Fourth Amendment issue would necessarily be implicated in consideration of the Title III issue, properly raised by petitioners. See *infra*.

Indeed, Congress has ample power to provide protection for the privacy of telephonic communications more comprehensive than that provided by the Fourth and Fourteenth Amendments. This power reaches not only interstate but also intrastate telephonic communi-

Title III, there must be a judicial order to intercept conversations; the application for the order must have been authorized by the principal prosecuting attorney of the State or a political subdivision, 18 U. S. C. § 2516 (2); must contain carefully specified information, § 2518 (1); and the judge before issuing the order must make detailed findings of fact, § 2518 (3), and include certain information in the order, § 2518 (4).

The Arkansas Supreme Court suggested that the calls in this case were not "intercepted" within the meaning of the statute, since the police officer merely answered the telephone when it rang. The contention is without merit. Title III defines "intercept" broadly as the "aural acquisition of the contents of any wire or oral communication through the use of any electronic, mechanical, or other device." 18 U. S. C. § 2510 (4). The contents of the communications in this case were clearly acquired by use of electronic and mechanical devices—an induction coil was affixed to the telephone and the conversations thereby monitored were fed into a tape recorder.

That an "interception" can occur without overhearing a conversation being carried between two other persons is made clear by 18 U. S. C. § 2511 (2)(c). This section comprehends that a party to a communication can "intercept" it within the meaning of the statute; it provides, however, that such interception is not unlawful within the meaning of Title III:

"It shall not be unlawful under this chapter for a person acting under color of law to intercept a wire or oral communication, where such person is a party

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cations. See *Weiss v. United States*, 308 U. S. 321, 327. And it enables Congress to require suppression of evidence in both federal and state proceedings. See *Nardone v. United States*, 302 U. S. 379; *Lee v. Florida*, 392 U. S. 378.

to the communication or one of the parties to the communication has given prior consent to such interception.”<sup>4</sup> 18 U. S. C. § 2511 (2)(c).

In any event, the Arkansas Supreme Court did not rely on the “interception” concept in disposing of petitioners’ claim; it placed express reliance on the “party” exception contained in § 2511 (2)(c), *supra*. Noting that the section provides an exception to the ban on warrantless interceptions for a party to the communication, the court reasoned that the police officer, impersonating petitioners, was a party to the communications and thus could record them without a warrant.

We must, however, interpret § 2511 (2)(c) in light of existing constitutional standards. See S. Rep. No. 1097, 90th Cong., 2d Sess., 66 (1968). The party exception and the consent-of-a-party exception must have their justification in the decisions of this Court. “Bugged informer” cases have permitted the introduction of transmitted or recorded evidence, seized without a warrant, where the transmission or recording has been with the consent of a party to an oral communication. See, *e. g.*, *Lopez v. United States*, 373 U. S. 427; *United States v. White*, 401 U. S. 745. The Court has also permitted telephonic conversations to be overheard with the consent of a party to the conversation. See *Rathbun v. United States*, 355 U. S. 107 (no “interception” within meaning of § 605 of Federal Communications Act of 1934 when party to conversation allowed police to listen on extension telephone).

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<sup>4</sup> *United States v. Pasha*, 332 F. 2d 193, and *Rathbun v. United States*, 355 U. S. 107, involved “interceptions” under § 605 of the Federal Communications Act of 1934, which did not have the broad express definition contained in Title III. *State v. Vizzini*, 115 N. J. Super. 97, 278 A. 2d 235, also relied on by the Arkansas court, mistakenly interpreted Title III in light of § 605 precedent.

But these cases do not reach the instant case. The principle underlying them is that when one reveals information to an individual, one takes the risk that one's confidence in that individual might be misplaced.<sup>5</sup> The individual might be a government informer or agent, or might later reveal one's confidences to others. When he talks, it is only the trust placed in him that is breached. But here the callers were deceived as to the identities of the individuals with whom they were speaking. Trust was not misplaced in petitioner Flaherty, who then revealed information or allowed the police to listen in; trust was misplaced in the assumption that an individual identifying himself as Flaherty was in fact the person known to the callers as Flaherty.

Allowing the government to practice deception in this case carries the seeds of destroying a substantial part of the congressional plan in Title III and its constitutional underpinnings. By impersonation, the police could engage in conversations with unsuspecting callers, becoming technical "parties" to the conversations. In the instant case, a standard warrant to search a home for physical evidence was transmuted into the power to search and seize all incoming calls without any of the protections inherent in Title III's requirements. But the principle would seemingly extend beyond this situation, even to the situation where the police intercepted calls before they reached a recipient's telephone and mimicked the intended recipient's voice, inducing a conversation to which the police were "parties." It is unthinkable that a carefully drawn legislative plan can

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<sup>5</sup> See *United States v. White*, 401 U. S. 745, 752; *Lopez v. United States*, 373 U. S. 427, 438; *Rathbun v. United States*, *supra*, at 111. The risk is assumed when one speaks to a trusted acquaintance, cf. *Hoffa v. United States*, 385 U. S. 293, 302, and perhaps even more clearly when one knowingly and willingly confides in a stranger, cf. *Lewis v. United States*, 385 U. S. 206, 210.

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consistently with constitutional principles be frustrated in a manner leaving no legal protection for the privacy and security of telephone conversations as long as callers can be successfully deceived. We have not yet reached the point where the people must use secret passwords to establish their identities when communicating by telephone.

I would grant certiorari and reverse the judgment below.

No. 73-5920. *BOOTH v. MARYLAND*. Ct. App. Md. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari.

No. 73-5961. *ROSS v. ILLINOIS*. App. Ct. Ill., 1st Dist. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari. Reported below: 11 Ill. App. 3d 650, 297 N. E. 2d 328.

No. 73-5988. *KIMES v. WOLFF*. C. A. 8th Cir. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari.

No. 73-6200. *SCARBOROUGH v. ARIZONA*. Sup. Ct. Ariz. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari. Reported below: 110 Ariz. 1, 514 P. 2d 997.

No. 73-1196. *STATE OF MARYLAND COMMISSION ON HUMAN RELATIONS ET AL. v. UNITED PARCEL SERVICE*. Ct. App. Md. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari. MR. JUSTICE POWELL took no part in the consideration or decision of this petition. Reported below: 270 Md. 202, 311 A. 2d 220.

No. 73-6203. *FOSTER v. MONTANYE, CORRECTIONAL SUPERINTENDENT*. App. Div., Sup. Ct. N. Y., 4th Jud. Dept. Motion to defer consideration denied. Petition

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for writ of certiorari denied as untimely filed. 28 U. S. C. § 2101 (c). Reported below: 42 App. Div. 2d 691, 346 N. Y. S. 2d 787.

*Rehearing Denied*

No. 73-976. JOHNSON *v.* WILMER ET AL., *ante*, p. 911;  
and

No. 73-5942. BRONSON *v.* BRONSON, *ante*, p. 928.  
Petitions for rehearing denied.

