

ORDERS FROM END OF OCTOBER TERM, 1973
THROUGH JANUARY 20, 1975

CASES DISMISSED IN VACATION

No. 73-1779. *THEVIS v. UNITED STATES*. C. A. 5th Cir. Certiorari dismissed August 16, 1974, under this Court's Rule 60. Reported below: 490 F. 2d 73.

No. 73-1796. *THEVIS v. UNITED STATES*. C. A. 5th Cir. Certiorari dismissed August 16, 1974, under this Court's Rule 60. Reported below: 490 F. 2d 76.

No. 73-6766. *STRICKLAND v. UNITED STATES*. C. A. 5th Cir. Certiorari dismissed August 16, 1974, under this Court's Rule 60. Reported below: 493 F. 2d 182.

No. 74-153. *LOUGHRAN v. NEW JERSEY*. Super. Ct. N. J. Certiorari dismissed September 16, 1974, under this Court's Rule 60. Reported below: 127 N. J. Super. 370, 317 A. 2d 414.

No. 73-6592. *DEL VALLE v. UNITED STATES*. C. A. 9th Cir. Certiorari dismissed September 24, 1974, under this Court's Rule 60.

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Probable Jurisdiction Noted

No. 74-165. *BLANCHETTE ET AL., TRUSTEES OF PROPERTY OF PENN CENTRAL TRANSPORTATION CO. v. CONNECTICUT GENERAL INSURANCE CORP. ET AL.*;

No. 74-166. *SMITH, TRUSTEE OF PROPERTY OF NEW YORK, NEW HAVEN & HARTFORD RAILROAD CO. v. UNITED STATES ET AL.*;

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No. 74-167. UNITED STATES RAILWAY ASSN. *v.* CONNECTICUT GENERAL INSURANCE CORP. ET AL.; and

No. 74-168. UNITED STATES ET AL. *v.* CONNECTICUT GENERAL INSURANCE CORP. ET AL. Appeals from D. C. E. D. Pa. Motions of Brock Adams et al. and National Industrial Traffic League for leave to file briefs as *amici curiae* granted. Probable jurisdiction noted. Cases consolidated and a total of three hours allotted for oral argument. Motion to expedite granted and cases set for oral argument on Wednesday, October 23, 1974. Reported below: 383 F. Supp. 510.

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Miscellaneous Orders

No. A-232. MINNESOTA ET AL. *v.* RESERVE MINING CO. ET AL.; and

No. A-262. UNITED STATES *v.* RESERVE MINING CO. ET AL. Respective applications for an order vacating or modifying stay order of the United States Court of Appeals for the Eighth Circuit, presented to MR. JUSTICE BLACKMUN, and by him referred to the Court, are both denied. Four Justices, however, state explicitly that these denials are without prejudice to applicants' renewal of their applications to vacate if the litigation has not been finally decided by the Court of Appeals by January 31, 1975. Reported below: 498 F. 2d 1073.

MR. JUSTICE DOUGLAS, dissenting.

I would vacate the stay issued by the Court of Appeals.

District Judge Lord made detailed findings, 380 F. Supp. 11, 16 (Minn. 1974), as to the health hazard of respondent Reserve Mining Co.'s discharges into the air and into the waters of Lake Superior, findings which I attach as an Appendix to this opinion. The Court of Appeals disagreed with Judge Lord's conclusion

but it stopped short of holding that his findings were "clearly erroneous" within the meaning of Fed. Rule Civ. Proc. 52 (a). Even in its view, the issue, however, was close or rather neatly balanced.¹ It therefore decided that being "a court of law" it was "governed by rules of proof" and that "unknowns may not be substituted for proof of a demonstrable hazard to the public health."²

That position, however, with all respect, makes "maximizing profits" the measure of the public good, not health of human beings or life itself. Property is, of course, protected under the Due Process Clause of the Fifth Amendment against federal intrusion. But so are life and liberty. Where the scales are so evenly divided, we cannot say that the findings on health were "clearly erroneous" nor am I able to discover how "maximizing profits" becomes a governing principle overriding the health hazards. If equal justice is the federal standard, we should be as alert to protect people and their rights

¹ The Solicitor General, at 2-3 of the brief he filed with us in No. A-262, states:

"In all of this the court of appeals has proceeded on an admittedly preliminary assessment, based on limited exposure to the voluminous record, of the question whether the continued daily discharge of some 67,000 tons of suspended solid waste into Lake Superior and some 100 tons of particulate matter into the air constitutes a significant threat to public health. While we believe that the court of appeals' conclusion in this regard rests upon crucial assumptions that are refuted by the substantial evidence of record here, we do not think it appropriate to attempt to argue such evidentiary issues to this Court on an even more limited record. Suffice it to say that there is no serious dispute that the amphibole discharges in question are widely believed to entail a risk of asbestosis, cancer, and other adverse health consequences, and the only real dispute concerns the quantitative assessment of the likelihood of such consequences—an assessment that is particularly difficult here because of the apparently long-term and cumulative results of exposure to such materials."

² 498 F. 2d 1073, 1084.

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as the Court of Appeals was to protect "maximizing profits." If, as the Court of Appeals indicates, there is doubt, it should be resolved in favor of humanity, lest in the end our judicial system be part and parcel of a regime that makes people, the sovereign power in this Nation, the victims of the great god Progress which is behind the stay permitting this vast pollution of Lake Superior and its environs. I am not aware of a constitutional principle that allows either private or public enterprises to despoil any part of the domain that belongs to all of the people. Our guiding principle should be Mr. Justice Holmes' dictum that our waterways, great and small, are treasures,³ not garbage dumps or cesspools.

APPENDIX TO OPINION OF DOUGLAS, J., DISSENTING

(3) The particles when deposited into the water are dispersed throughout Lake Superior and into Wisconsin and Michigan.

(4) The currents in the lake, which are largely influenced by the discharge, carry many of the fibers in a southwesterly direction toward Duluth and are found in substantial quantities in the Duluth drinking water.

(5) Many of these fibers are morphologically and chemically identical to amosite asbestos and an even larger number are similar to amosite asbestos.

(6) Exposure to these fibers can produce asbestosis, mesothelioma, and cancer of the lung, gastrointestinal tract and larynx.

(7) Most of the studies dealing with this problem are concerned with the inhalation of fibers; however, the available evidence indicates that the fibers pose a risk when ingested as well as when inhaled.

³ *New Jersey v. New York*, 283 U. S. 336, 342 (1931).

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(8) The fibers emitted by the defendant into Lake Superior have the potential for causing great harm to the health of those exposed to them.

(9) The discharge into the air substantially endangers the health of the people of Silver Bay and surrounding communities as far away as the eastern shore in Wisconsin.

(10) The discharge into the water substantially endangers the health of the people who procure their drinking water from the western arm of Lake Superior including the communities of Beaver Bay, Two Harbors, Cloquet, Duluth, and Superior, Wisconsin.

(11) The present and future industrial standard for a safe level of asbestos fibers in the air is based on the experience related to asbestosis and not to cancer. In addition its formulation was influenced more by technological limitations than health considerations.

(12) The exposure of a non-worker populace cannot be equated with industrial exposure if for no other reason than the environmental exposure, as contrasted to a working exposure, is for every hour of every day.

(13) While there is a dose-response relationship associated with the adverse effects of asbestos exposure and may be therefore a threshold exposure value below which no increase in cancer would be found, this exposure threshold is not now known.

No. A-256. HILL, ATTORNEY GENERAL OF TEXAS, ET AL. *v.* PRINTING INDUSTRIES OF THE GULF COAST ET AL. Application for stay of judgment of the United States District Court for the Southern District of Texas presented to MR. JUSTICE POWELL, and by him referred to the Court, granted pending timely docketing of an appeal and final disposition thereon. MR. JUSTICE DOUGLAS would deny the application. Reported below: 382 F. Supp. 801.

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Affirmed on Appeal

No. 73-1495. CAHILL ET AL. *v.* CEDAR COUNTY, IOWA, ET AL. Affirmed on appeal from D. C. N. D. Iowa. Reported below: 367 F. Supp. 39.

No. 73-1675. BEAME, MAYOR OF NEW YORK CITY, ET AL. *v.* LAVINE, COMMISSIONER OF SOCIAL SERVICES OF NEW YORK. Affirmed on appeal from D. C. S. D. N. Y.

No. 73-1760. BUSH, DBA BUSH DISTRIBUTING Co. *v.* TEXAS HIGHWAY DEPARTMENT ET AL. Affirmed on appeal from D. C. N. D. Tex.

No. 73-1777. IOWA BEEF PROCESSORS, INC. *v.* UNITED STATES. Affirmed on appeal from D. C. N. D. Iowa.

No. 73-1829. BUD BROWN ENTERPRISES, INC. *v.* MORTON, SECRETARY OF THE INTERIOR, ET AL. Affirmed on appeal from D. C. D. C.

No. 73-1835. DEBROW *v.* BOSWELL, COMMISSIONER OF REVENUE. Affirmed on appeal from D. C. M. D. Ala.

No. 73-1956. YELLOW CAB OF BOCA RATON, INC. *v.* UNITED STATES ET AL. Affirmed on appeal from D. C. S. D. Fla.

No. 73-1964. JONES ET AL. *v.* BUTZ, SECRETARY OF AGRICULTURE, ET AL. Affirmed on appeal from D. C. S. D. N. Y. Reported below: 374 F. Supp. 1284.

No. 73-6914. ALMEIDA *v.* LUCEY. Affirmed on appeal from D. C. Mass. Reported below: 372 F. Supp. 109.

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No. 73-7082. OWENS ET AL. v. I. F. P. CORP., DBA OLSHINE'S CREDIT CLOTHING Co., ET AL. Affirmed on appeal from D. C. W. D. Ky. Reported below: 374 F. Supp. 1032.

No. 73-1473. ANN ARBOR RAILROAD CO. ET AL. v. UNITED STATES ET AL.;

No. 73-1490. KANSAS CITY SOUTHERN RAILWAY CO. ET AL. v. UNITED STATES ET AL.; and

No. 73-1670. UNITED STATES v. INTERSTATE COMMERCE COMMISSION. Affirmed on appeals from D. C. E. D. Pa. MR. JUSTICE DOUGLAS would remand No. 73-1670 to the Interstate Commerce Commission for a finding on the reasonableness of the prescribed rate. MR. JUSTICE POWELL took no part in the consideration or decision of these appeals. Reported below: 368 F. Supp. 101.

No. 73-1831. SCOTT PAPER CO. ET AL. v. UNITED STATES ET AL. Affirmed on appeal from D. C. E. D. Pa. MR. JUSTICE POWELL took no part in the consideration or decision of this appeal. Reported below: 372 F. Supp. 721.

Appeals Dismissed

No. 73-1370. PHELPS v. MORGAN, U. S. DISTRICT JUDGE, ET AL. Appeal from C. A. 7th Cir. dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied.

No. 73-1615. CALDERON v. BOARD OF EDUCATION OF EL MONTE SCHOOL DISTRICT OF LOS ANGELES COUNTY. Appeal from Ct. App. Cal., 2d App. Dist., dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied. Reported below: 35 Cal. App. 3d 490, 110 Cal. Rptr. 916.

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No. 73-1729. *JOHNSON v. LARAMIE COUNTY SCHOOL DISTRICT No. 1*. Appeal from Sup. Ct. Wyo. dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied.

No. 73-1817. *BROTHERS, DBA A-ADVANCED PRODUCTS Co. ET AL. v. CALIFORNIA*. Appeal from Ct. App. Cal., 4th App. Dist., dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied.

No. 73-1928. *PUBLIC UTILITY DISTRICT No. 1 OF DOUGLAS COUNTY ET AL. v. MADDEN ET AL.* Appeal from Sup. Ct. Wash. dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied. Reported below: 83 Wash. 2d 219, 517 P. 2d 585.

No. 73-1965. *SHEPHERD v. ARKANSAS*. Appeal from Sup. Ct. Ark. dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied. Reported below: 256 Ark. 134, 506 S. W. 2d 553.

No. 73-6591. *SMITH v. CALIFORNIA*. Appeal from App. Dept., Super. Ct. Cal., County of Alameda, dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied.

No. 73-6704. *SAFFIOTI v. UNITED STATES*. Appeal from C. A. 2d Cir. dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied.

No. 73-6957. *BORUSKI v. UNITED STATES ET AL.* Appeal from C. A. 2d Cir. dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a

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petition for writ of certiorari, certiorari denied. Reported below: 493 F. 2d 301.

No. 73-6965. *FALKNER ET UX. v. GOODHART, JUDGE, ET AL.* Appeal from Sup. Ct. Fla. dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied. Reported below: 298 So. 2d 161.

No. 74-43. *BARNES v. BELL ET AL.* Appeal from Ct. App. Ohio, Wyandot County, dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied.

No. 73-1400. *UPPER MISSOURI RIVER CORP. v. BOARD OF REVIEW, WOODBURY COUNTY.* Appeal from Sup. Ct. Iowa dismissed for want of substantial federal question. MR. JUSTICE DOUGLAS would note probable jurisdiction and set case for oral argument. Reported below: 210 N. W. 2d 828.

No. 73-6933. *DUCHÉIN v. MAYOR OF NEW YORK CITY ET AL.* Appeal from Ct. App. N. Y. dismissed for want of substantial federal question. MR. JUSTICE DOUGLAS would note probable jurisdiction and set case for oral argument. Reported below: 34 N. Y. 2d 636, 311 N. E. 2d 508.

No. 73-7096. *EPPS ET AL. v. MARYLAND.* Appeal from Ct. App. Md. dismissed for want of substantial federal question. MR. JUSTICE DOUGLAS would note probable jurisdiction and set case for oral argument. Reported below: 272 Md. 85, 321 A. 2d 516.

No. 73-1504. *CONSOLIDATED DISTILLED PRODUCTS, INC., ET AL. v. MAHIN, DIRECTOR, DEPARTMENT OF REVENUE, ET AL.* Appeal from Sup. Ct. Ill. dismissed for want of substantial federal question. Reported below: 56 Ill. 2d 110, 306 N. E. 2d 465.

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No. 73-1589. *PIATAK v. OHIO*. Appeal from Ct. App. Ohio, Franklin County, dismissed for want of substantial federal question.

No. 73-1692. *STRECKFUS v. CITY OF ST. LOUIS*. Appeal from Sup. Ct. Mo. dismissed for want of substantial federal question. Reported below: 505 S. W. 2d 70.

No. 73-1738. *SOUTHERN PACIFIC TRANSPORTATION Co. v. LOUISIANA PUBLIC SERVICE COMMISSION*. Appeal from Sup. Ct. La. dismissed for want of substantial federal question. Reported below: 290 So. 2d 816.

No. 73-1814. *INTERNATIONAL DEVELOPMENT, INC. v. UTAH-LOUISIANA INVESTMENT Co. ET AL.* Appeal from Ct. App. La., 1st Cir., dismissed for want of substantial federal question. Reported below: 289 So. 2d 264.

No. 73-1826. *PETTITT ET UX. v. CITY OF FRESNO ET AL.* Appeal from Ct. App. Cal., 5th App. Dist., dismissed for want of substantial federal question. Reported below: 34 Cal. App. 3d 813, 110 Cal. Rptr. 262.

No. 73-1953. *CANNON v. OVIATT*. Appeal from Sup. Ct. Utah dismissed for want of substantial federal question. Reported below: 520 P. 2d 883.

No. 74-33. *WOODSIDE SAVINGS & LOAN ASSN. v. GALLMAN ET AL.* Appeal from Ct. App. N. Y. dismissed for want of substantial federal question. Reported below: 34 N. Y. 2d 674, 312 N. E. 2d 180.

No. 74-112. *MANDARELLI v. CITY OF AUBURN*. Appeal from Sup. Jud. Ct. Me. dismissed for want of substantial federal question. Reported below: 320 A. 2d 22.

No. 74-120. *GORMLEY v. COMMITTEE ON EXAMINATIONS AND ADMISSIONS OF THE SUPREME COURT OF ARIZONA*. Appeal from Sup. Ct. Ariz. dismissed for want of substantial federal question.

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No. 73-1555. MITSUBISHI ELECTRIC CORP. *v.* UNITED STATES. Appeal from D. C. N. D. Cal. dismissed for want of jurisdiction.

No. 73-1579. MITSUBISHI ELECTRIC CORP. ET AL. *v.* UNITED STATES. Appeal from D. C. N. D. Cal. dismissed for want of jurisdiction.

No. 73-1907. SUMPTER *v.* INDIANA. Appeal from Sup. Ct. Ind. dismissed for want of jurisdiction. Reported below: 261 Ind. 471, 306 N. E. 2d 95.

No. 73-6918. SMITH *v.* PROJECT CONSTRUCTION Co. Appeal from Sup. Ct. Okla. dismissed for want of jurisdiction.

No. 73-6693. GARGALLO *v.* PRESIDING JUDGE, FRANKLIN COUNTY COMMON PLEAS COURT, ET AL. Appeal from Ct. App. Ohio, Franklin County. Motion to defer consideration denied. Appeal dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied.

No. 74-420. BATES ET AL. *v.* EDWARDS, GOVERNOR OF LOUISIANA, ET AL. Appeal from Sup. Ct. La. Motion of appellees to docket and dismiss appeal pursuant to this Court's Rule 14 (3) granted. Reported below: 294 So. 2d 532.

Vacated and Remanded on Appeal

No. 73-1669. CONGRESS OF RAILWAY UNIONS *v.* UNITED STATES ET AL. Appeal from D. C. D. C. Judgment vacated and case remanded with directions to dismiss case as moot. Reported below: See 373 F. Supp. 1339.

No. 73-1758. WEINBERGER, SECRETARY OF HEALTH, EDUCATION, AND WELFARE *v.* JOBST. Appeal from D. C.

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W. D. Mo. Motion of appellee for leave to proceed *in forma pauperis* granted. Judgment vacated and case remanded for reconsideration in light of the Social Security Amendments of 1972, § 301 *et seq.*, 86 Stat. 1465, 42 U. S. C. § 1381 *et seq.* (1970 ed., Supp. II). Reported below: 368 F. Supp. 909.

No. 73-1998. DRISKELL ET AL. *v.* EDWARDS, GOVERNOR OF LOUISIANA, ET AL. Appeal from D. C. W. D. La. Judgment vacated and case remanded with directions to enter a fresh decree from which a timely appeal may be taken to the Court of Appeals. See *Wilson v. City of Port Lavaca*, 391 U. S. 352 (1968). Reported below: 374 F. Supp. 1.

Certiorari Granted—Vacated and Remanded

No. 73-1392. RANDOM HOUSE, INC. *v.* GORDON. C. A. 3d Cir. Motions of Association of American Publishers, Inc., and Philadelphia Newspapers, Inc., for leave to file briefs as *amici curiae* granted. Certiorari granted, judgment vacated, and case remanded for further consideration in light of *Gertz v. Robert Welch, Inc.*, 418 U. S. 323 (1974). MR. JUSTICE DOUGLAS took no part in the consideration or decision of this case. Reported below: 486 F. 2d 1356.

No. 73-1926. HOUSING AUTHORITY OF LOUISVILLE ET AL. *v.* FLETCHER; and

No. 73-1934. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT ET AL. *v.* FLETCHER. C. A. 6th Cir. Motion of respondent in both cases for leave to proceed *in forma pauperis* granted. Certiorari granted, judgment vacated, and cases remanded for further consideration in light of § 201 of the Housing and Community Development Act of 1974, 88 Stat. 653, 42 U. S. C. §§ 1437-1437j (1970 ed., Supp. IV). Reported below: 491 F. 2d 793.

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No. 73-1972. CANNON, WARDEN, ET AL. *v.* THOMAS ET AL. C. A. 7th Cir. Motion of respondents for leave to proceed *in forma pauperis* and certiorari granted. Judgment vacated and case remanded for further consideration in light of *Wolff v. McDonnell*, 418 U. S. 539 (1974). Reported below: 493 F. 2d 151.

No. 73-6255. TERRELL *v.* UNITED STATES. C. A. 6th Cir. Motion for leave to proceed *in forma pauperis* and certiorari granted. Judgment vacated and case remanded to the United States Court of Appeals for the Sixth Circuit for further proceedings, including re-entry of its judgment affirming petitioner's conviction and consideration of appointment of counsel for petitioner in connection with seeking review in this Court of the judgment of the Court of Appeals. *Schreiner v. United States*, 404 U. S. 67 (1971).

No. 73-6349. ANALLA *v.* UNITED STATES. C. A. 10th Cir. Motion for leave to proceed *in forma pauperis* and certiorari granted. Upon representation of the Solicitor General set forth in his brief for the United States filed July 26, 1974, judgment vacated and case remanded for further consideration in light of the position presently asserted by the Government. Reported below: 490 F. 2d 1204.

Miscellaneous Orders

No. A-151. DOE *v.* MUNDY, DIRECTOR, INSTITUTIONS AND DEPARTMENTS OF MILWAUKEE COUNTY, ET AL. D. C. E. D. Wis. Application for stay presented to Mr. JUSTICE WHITE, and by him referred to the Court, denied.

No. A-196. SAVE CRYSTAL BEACH ASSN. ET AL. *v.* CAL-LAWAY, SECRETARY OF THE ARMY, ET AL. C. A. 5th Cir. Application for further extension of temporary restraining order, presented to Mr. JUSTICE DOUGLAS, and by him

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referred to the Court, denied. MR. JUSTICE DOUGLAS would grant the application pending timely filing and disposition of a petition for writ of certiorari.

No. 9, Orig. UNITED STATES *v.* LOUISIANA ET AL. (LOUISIANA BOUNDARY CASE). Report of Special Master received and ordered filed. Exceptions, if any, with supporting briefs to the Report may be filed by the parties within 45 days. Reply briefs, if any, to such exceptions may be filed within 30 days. MR. JUSTICE MARSHALL took no part in the consideration or decision of this order. [For earlier orders herein, see, *e. g.*, 409 U. S. 17 and 909.]

No. 31, Orig. UTAH *v.* UNITED STATES. Exceptions to the Report of the Special Master set for oral argument in due course. MR. JUSTICE MARSHALL took no part in the consideration or decision of this order. [For earlier orders herein, see, *e. g.*, 416 U. S. 932.]

No. 35, Orig. UNITED STATES *v.* MAINE ET AL. Report of Special Master received and ordered filed. Exceptions, if any, with supporting briefs to the Report may be filed by the parties within 45 days. Reply briefs, if any, to such exceptions may be filed within 30 days. [For earlier orders herein, see, *e. g.*, 408 U. S. 917.]

No. 48, Orig. MISSISSIPPI *v.* ARKANSAS, 415 U. S. 302. Parties are directed to submit a proposed amended decree which has the approval of the Special Master.

No. 52, Orig. UNITED STATES *v.* FLORIDA. Exceptions to the Report of the Special Master set for oral argument in due course. [For earlier orders herein, see, *e. g.*, 415 U. S. 905.]

No. 64, Orig. NEW HAMPSHIRE *v.* MAINE. Motion of New Hampshire Commercial Fishermen's Assn. et al. for

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leave to intervene referred to Special Master. [For earlier orders herein, see, *e. g.*, 414 U. S. 996.]

No. 73-203. *EISEN v. CARLISLE & JACQUELIN ET AL.*, 417 U. S. 156. Motion of petitioner to assess costs denied.

No. 73-477. *GERSTEIN v. PUGH*. C. A. 5th Cir. [Restored to calendar for reargument, 416 U. S. 933.] Motion of the Solicitor General for leave to participate in oral argument as *amicus curiae* granted.

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.*, 418 U. S. 717. Motion of respondents to require each party to bear its own costs denied. MR. JUSTICE DOUGLAS, MR. JUSTICE BRENNAN, MR. JUSTICE WHITE, and MR. JUSTICE MARSHALL would grant the motion.

No. 73-628. *ALLENBERG COTTON CO., INC. v. PITTMAN*. Appeal from Sup. Ct. Miss. [Probable jurisdiction postponed, 415 U. S. 988.] Motion to strike all or certain portions of brief filed by American Cotton Shippers Assn. as *amicus curiae* denied.

No. 73-690. *AIR POLLUTION VARIANCE BOARD OF COLORADO v. WESTERN ALFALFA CORP.*, 416 U. S. 861. Motion of respondent to reassess costs denied.

No. 73-711. *CRYAN, SHERIFF, ET AL. v. HAMAR THEATRES, INC., ET AL.* Appeal from D. C. N. J. [Probable jurisdiction noted, 416 U. S. 954.] Motion of appellees for divided argument granted; however, no additional time granted.

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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, 415 U. S. 913.] Motion of the Solicitor General for additional time for oral argument granted and 15 additional minutes are allotted for that purpose. Respondents also allotted 15 additional minutes for oral argument. Motion of National Retail Merchants Assn., Inc., for leave to file a brief as *amicus curiae* granted.

No. 73-748. AMERICAN RADIO ASSN., AFL-CIO, ET AL. *v.* MOBILE STEAMSHIP ASSN., INC., ET AL. Sup. Ct. Ala. [Certiorari granted, 415 U. S. 947.] Motion of respondents for divided argument granted.

No. 73-759. EDWARDS, GOVERNOR OF LOUISIANA, ET AL. *v.* HEALY ET AL. Appeal from D. C. E. D. La. [Probable jurisdiction noted, 415 U. S. 911.] Consideration of appellants' suggestion of mootness deferred to hearing of case on the merits.

No. 73-765. INTERNATIONAL LADIES' GARMENT WORKERS' UNION, UPPER SOUTH DEPARTMENT, AFL-CIO *v.* QUALITY MANUFACTURING CO. ET AL. C. A. 4th Cir. [Certiorari granted, 416 U. S. 968.] Motion of Chamber of Commerce of the United States for leave to file a brief as *amicus curiae* granted.

No. 73-822. FRY ET AL. *v.* UNITED STATES. Temp. Emerg. Ct. App. [Certiorari granted, 415 U. S. 912.] Motion of Coalition of American Public Employees for leave to file a brief as *amicus curiae* granted.

No. 73-848. FUSARI, COMMISSIONER OF LABOR *v.* STEINBERG ET AL. Appeal from D. C. Conn. [Probable

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jurisdiction noted, 415 U. S. 912.] Motion of Ellenmae Crow et al. for leave to file a brief as *amici curiae* granted.

No. 73-1015. CROW ET AL. *v.* CALIFORNIA DEPARTMENT OF HUMAN RESOURCES DEVELOPMENT ET AL. C. A. 9th Cir. Motion of petitioners to expedite consideration to permit consolidation with No. 73-848 [immediately *supra*] for oral argument 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. [Probable jurisdiction noted, 417 U. S. 943.] Motion of Pacific Legal Foundation for leave to file a brief as *amicus curiae* granted.

No. 73-1106. COUSINS ET AL. *v.* WIGODA ET AL. App. Ct. Ill., 1st Dist. [Certiorari granted, 415 U. S. 956.] Motion of petitioners for additional time for oral argument denied.

No. 73-1162. UNITED STATES *v.* WILSON ET AL. C. A. 2d Cir. [Certiorari granted, 416 U. S. 981.] Motion of respondents for divided argument granted; however, no additional time granted.

No. 73-1231. LINDEN LUMBER DIVISION, SUMMER & Co. *v.* NATIONAL LABOR RELATIONS BOARD ET AL.; and

No. 73-1234. NATIONAL LABOR RELATIONS BOARD *v.* TRUCK DRIVERS UNION LOCAL NO. 413 ET AL. C. A. D. C. Cir. [Certiorari granted, 416 U. S. 955.] Motion of the Solicitor General for additional time for oral argument granted and 15 additional minutes allotted for that purpose. Respondents in No. 73-1234 also allotted 15 additional minutes for oral argument. Motion of Chamber of Commerce of the United States for leave to file a brief as *amicus curiae* granted.

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No. 73-1256. CONNELL CONSTRUCTION Co., INC. *v.* PLUMBERS & STEAMFITTERS LOCAL UNION No. 100, UNITED ASSOCIATION OF JOURNEYMEN & APPRENTICES OF THE PLUMBING & PIPEFITTING INDUSTRY OF THE UNITED STATES AND CANADA, AFL-CIO. C. A. 5th Cir. [Certiorari granted, 416 U. S. 981.] Motion of petitioner for additional time for oral argument denied.

No. 73-1313. INTERNATIONAL TELEPHONE & TELEGRAPH CORP., COMMUNICATIONS EQUIPMENT & SYSTEMS DIVISION *v.* LOCAL 134, INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS, AFL-CIO. C. A. 7th Cir. [Certiorari granted, 416 U. S. 981.] Motion of the Solicitor General for additional time for oral argument denied without prejudice to a divided argument.

No. 73-1346. McLUCAS, SECRETARY OF THE AIR FORCE, ET AL. *v.* DECHAMPLAIN. Appeal from D. C. D. C. [Probable jurisdiction postponed, 418 U. S. 904.] Motion of appellee to dismiss for failure of appellants to prosecute appeal in a timely manner denied. MR. JUSTICE DOUGLAS would grant motion to dismiss.

No. 73-1377. TRAIN, ADMINISTRATOR, ENVIRONMENTAL PROTECTION AGENCY *v.* CITY OF NEW YORK ET AL. C. A. D. C. Cir.; and

No. 73-1378. TRAIN, ADMINISTRATOR, ENVIRONMENTAL PROTECTION AGENCY *v.* CAMPAIGN CLEAN WATER, INC. C. A. 4th Cir. [Certiorari granted, 416 U. S. 969.] Motion of the State of Michigan for leave to participate in oral argument as *amicus curiae* denied.

No. 73-1475. HARRIS COUNTY COMMISSIONERS COURT ET AL. *v.* MOORE ET AL. Appeal from D. C. S. D. Tex. [Probable jurisdiction noted, 417 U. S. 928.] Motion of appellees for divided argument granted; however, no additional time granted.

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No. 73-1446. ROE ET AL. *v.* DOE. Ct. App. N. Y. [Certiorari granted, 417 U. S. 907.] Motion to seal record and appendix granted.

No. 73-1595. COLONIAL PIPELINE CO. *v.* TRAIGLE, COLLECTOR OF REVENUE OF LOUISIANA. Appeal from Sup. Ct. La. [Probable jurisdiction noted, 417 U. S. 966.] Motion of Chapman L. Sanford to permit Whit M. Cook II, Esquire, to argue *pro hac vice* on behalf of appellee granted.

No. 73-1750. PITT COUNTY TRANSPORTATION CO. *v.* CAROLINA FREIGHT CARRIERS CORP., FOR USE AND BENEFIT OF LIBERTY MUTUAL INSURANCE CO., ET AL. C. A. 4th Cir. The Solicitor General is invited to file a brief in this case expressing the views of the United States.

No. 73-2006. COLORADO MAGNETICS, INC., DBA SOUND VALUES, INC., ET AL. *v.* EDWARD B. MARKS MUSIC CORP. C. A. 10th Cir. The Solicitor General is invited to file a brief in this case expressing the views of the United States.

No. 73-6935. YOUAKIM ET AL. *v.* MILLER, DIRECTOR, DEPARTMENT OF CHILDREN AND FAMILY SERVICES, ET AL. Appeal from D. C. N. D. Ill. The Solicitor General is invited to file a brief in this case expressing the views of the United States.

No. 74-54. TRANSAMERICAN FREIGHT LINES, INC. *v.* BRADA MILLER FREIGHT SYSTEMS, INC., ET AL. C. A. 7th Cir. The Solicitor General is invited to file a brief in this case expressing the views of the United States.

No. 73-5677. SCHICK *v.* REED, CHAIRMAN, UNITED STATES BOARD OF PAROLE, ET AL. C. A. D. C. Cir. [Certiorari granted, 416 U. S. 955.] Motion of Robert N. Sayler to permit Homer E. Moyer Jr., Esquire, to argue *pro hac vice* on behalf of petitioner granted.

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No. 73-6033. ROE ET AL. v. NORTON, COMMISSIONER OF WELFARE. Appeal from D. C. Conn. [Probable jurisdiction noted, 415 U. S. 912.] Motion of American Academy of Child Psychiatry et al. for leave to file a brief as *amici curiae* granted.

No. A-175 (74-339). WOLMAN ET AL. v. ESSEX ET AL. Appeal from D. C. S. D. Ohio. Application for an injunction presented to MR. JUSTICE DOUGLAS, and by him referred to the Court, denied. MR. JUSTICE DOUGLAS would grant the injunction to enjoin Ohio's state aid to parochial schools. See *Marburger v. Public Funds for Public Schools of New Jersey*, 417 U. S. 961. MR. JUSTICE BRENNAN, MR. JUSTICE MARSHALL, and MR. JUSTICE BLACKMUN would grant application.

No. 73-6867. BERKLEY v. WARDEN, U. S. PENITENTIARY, TERRE HAUTE, INDIANA, ET AL.;

No. 73-6893. KURTH v. WARDEN, MARYLAND PENITENTIARY;

No. 73-6922. SCOTT v. UNITED STATES;

No. 73-6953. PHILLIPS v. WARDEN, NEVADA STATE PRISON;

No. 73-7013. SOUDER v. MCGUIRE, HOSPITAL SUPERINTENDENT, ET AL.;

No. 73-7091. TAYLOR v. ESTELLE, CORRECTIONS DIRECTOR;

No. 73-7117. DORROUGH v. HOGAN, WARDEN;

No. 74-5018. RANDO v. ESTELLE, CORRECTIONS DIRECTOR;

No. 74-5085. MERRILL v. MATTHES, CHIEF JUDGE, U. S. COURT OF APPEALS, ET AL.;

No. 74-5164. IN RE MCGHEE; and

No. 74-5172. WILLIAMS v. PROCUNIER, CORRECTIONS DIRECTOR. Motions for leave to file petitions for writs of habeas corpus denied.

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No. 74-5188. *ANDERSON v. ILLINOIS*; and

No. 74-5230. *DAVIS v. NEW YORK*. Motions for leave to file petitions for writs of habeas corpus denied.

No. 73-1625. *WILLIAMSON ET UX. v. UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS*;

No. 73-1690. *PHELPS v. UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT ET AL.*;

No. 73-1957. *BEARDEN ET AL. v. FULTON, CHIEF JUDGE, U. S. DISTRICT COURT*;

No. 73-6588. *ANDERSON v. UNITED STATES*;

No. 73-6660. *MITCHELL v. NEW HAMPSHIRE*;

No. 73-6862. *CARTER v. RAYBURN, JUDGE*;

No. 73-6952. *HOUSE v. MARYLAND ET AL.*;

No. 73-6954. *ROSS v. LARKINS, U. S. DISTRICT JUDGE*;

No. 73-7027. *HARRELSON v. UNITED STATES ET AL.*;

No. 73-7029. *RANSOM v. FLORIDA*;

No. 73-7111. *DOLLAR v. NELSON, WARDEN*;

No. 74-12. *REA ET AL. v. UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT*; and

No. 74-5084. *FEATHERINGHAM v. OHIO ET AL.* Motions for leave to file petitions for writs of mandamus denied.

No. 73-1822. *PHELPS v. UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT ET AL.*;

No. 73-1976. *TALLANT ET AL. v. MOYE, U. S. DISTRICT JUDGE*; and

No. 73-6740. *PEARSON v. UNITED STATES COURT OF APPEALS FOR THE TENTH CIRCUIT ET AL.* Motions for leave to file petitions for writs of mandamus and/or prohibition denied.

No. 73-6817. *KIMBLE v. HAMILTON, JUDGE, ET AL.* Motion for leave to file petition for writ of mandamus and/or prohibition and other relief denied.

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Probable Jurisdiction Noted

No. 73-1701. UNITED STATES *v.* NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC., ET AL. Appeal from D. C. D. C. Probable jurisdiction noted. Reported below: 374 F. Supp. 95.

No. 73-1723. HILL, ATTORNEY GENERAL OF TEXAS *v.* STONE ET AL. Appeal from D. C. N. D. Tex. Probable jurisdiction noted. Reported below: 377 F. Supp. 1016.

No. 73-1765. MEEK ET AL. *v.* PITTENGER, SECRETARY OF EDUCATION, ET AL. Appeal from D. C. E. D. Pa. Probable jurisdiction noted. Reported below: 374 F. Supp. 639.

No. 73-1869. BEER ET AL. *v.* UNITED STATES ET AL. Appeal from D. C. D. C. Probable jurisdiction noted. Reported below: 374 F. Supp. 363.

No. 73-1892. WEINBERGER, SECRETARY OF HEALTH, EDUCATION, AND WELFARE *v.* WIESENFELD. Appeal from D. C. N. J. Probable jurisdiction noted. Reported below: 367 F. Supp. 981.

No. 73-1942. ERZNOZNIK *v.* CITY OF JACKSONVILLE. Appeal from Dist. Ct. App. Fla., 1st Dist. Probable jurisdiction noted. Reported below: 288 So. 2d 260.

No. 73-2060. AUSTIN ET AL. *v.* NEW HAMPSHIRE ET AL. Appeal from Sup. Ct. N. H. Probable jurisdiction noted. Reported below: 114 N. H. 137, 316 A. 2d 165.

No. 73-1966. ABERDEEN & ROCKFISH RAILROAD CO. ET AL. *v.* STUDENTS CHALLENGING REGULATORY AGENCY PROCEDURES (SCRAP) ET AL.; and

No. 73-1971. UNITED STATES ET AL. *v.* STUDENTS CHALLENGING REGULATORY AGENCY PROCEDURES (SCRAP) ET AL. Appeals from D. C. D. C. Probable jurisdiction noted. Cases consolidated and a total of one hour allotted for oral argument. MR. JUSTICE

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POWELL took no part in the consideration or decision of this order. Reported below: 371 F. Supp. 1291.

Certiorari Granted

No. 73-1452. OREGON *v.* HASS. Sup. Ct. Ore. Certiorari granted. Reported below: 267 Ore. 489, 517 P. 2d 671.

No. 73-1541. REID ET UX. *v.* IMMIGRATION AND NATURALIZATION SERVICE. C. A. 2d Cir. Certiorari granted. Reported below: 492 F. 2d 251.

No. 73-1742. TRAIN, ADMINISTRATOR, ENVIRONMENTAL PROTECTION AGENCY, ET AL. *v.* NATURAL RESOURCES DEFENSE COUNCIL, INC., ET AL. C. A. 5th Cir. Certiorari granted. Reported below: 489 F. 2d 390.

No. 73-1773. FOSTER *v.* DRAVO CORP. C. A. 3d Cir. Certiorari granted. Reported below: 490 F. 2d 55.

No. 73-1923. EASTLAND ET AL. *v.* UNITED STATES SERVICEMEN'S FUND ET AL. C. A. D. C. Cir. Certiorari granted. Reported below: 159 U. S. App. D. C. 352, 488 F. 2d 1252.

No. 73-1977. ALYESKA PIPELINE SERVICE Co. *v.* WILDERNESS SOCIETY ET AL. C. A. D. C. Cir. Certiorari granted. Reported below: 161 U. S. App. D. C. 446, 495 F. 2d 1026.

No. 73-2024. WARTH ET AL. *v.* SELDIN ET AL. C. A. 2d Cir. Certiorari granted. Reported below: 495 F. 2d 1187.

No. 74-13. MULLANEY ET AL. *v.* WILBUR. C. A. 1st Cir. Certiorari granted. Reported below: 496 F. 2d 1303.

No. 73-1708. BURNS, COMMISSIONER, DEPARTMENT OF SOCIAL SERVICES OF IOWA, ET AL. *v.* ALCALA ET AL. C. A. 8th Cir. Motions of respondents Doe et al. for leave to

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proceed *in forma pauperis* and certiorari granted. Reported below: 494 F. 2d 743.

No. 73-1808. LAING *v.* UNITED STATES ET AL. C. A. 2d Cir. Certiorari granted and case set for oral argument with No. 74-75, immediately *infra*. Reported below: 496 F. 2d 853.

No. 74-75. UNITED STATES ET AL. *v.* HALL. C. A. 6th Cir. Certiorari granted and case set for oral argument with No. 73-1808, immediately *supra*. Reported below: 493 F. 2d 1211.

No. 73-2050. UNITED STATES *v.* ORTIZ. C. A. 9th Cir. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari granted and case set for oral argument with Nos. 73-6848 and 74-114, immediately *infra*.

No. 73-6848. BOWEN *v.* UNITED STATES. C. A. 9th Cir. Motion of petitioner for leave to proceed *in forma pauperis* granted. Certiorari granted and case set for oral argument with No. 73-2050, immediately *supra*, and No. 74-114, immediately *infra*. Reported below: 500 F. 2d 960.

No. 74-114. UNITED STATES *v.* BRIGNONI-PONCE. C. A. 9th Cir. Certiorari granted and case set for oral argument with Nos. 73-2050 and 73-6848, immediately *supra*. Reported below: 499 F. 2d 1109.

No. 73-6336. ROGERS *v.* UNITED STATES. C. A. 5th Cir. Motion for leave to proceed *in forma pauperis* and certiorari granted. Reported below: 488 F. 2d 512.

No. 74-5140. CASSIUS *v.* ARIZONA. Sup. Ct. Ariz. Motion for leave to proceed *in forma pauperis* and certiorari granted. Reported below: 110 Ariz. 485, 520 P. 2d 1109.

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Certiorari Denied. (See also Nos. 73-1370, 73-1615, 73-1729, 73-1817, 73-1928, 73-1965, 73-6591, 73-6693, 73-6704, 73-6957, 73-6965, and 74-43, *supra*.)

No. 73-1291. *BRUCE v. UNITED STATES*; and

No. 73-1558. *WALKER v. UNITED STATES*. C. A. 5th Cir. *Certiorari denied*. Reported below: 488 F. 2d 1224.

No. 73-1379. *FORKERT v. CALIFORNIA*. App. Dept., Super. Ct. Cal., County of Los Angeles. *Certiorari denied*.

No. 73-1387. *FITHIAN v. FITHIAN*. Sup. Ct. Cal. *Certiorari denied*. Reported below: 10 Cal. 3d 592, 517 P. 2d 449.

No. 73-1418. *JOHNSON v. UNITED STATES*. C. A. 5th Cir. *Certiorari denied*. Reported below: 487 F. 2d 1318.

No. 73-1420. *DELLACROCE v. UNITED STATES*; and

No. 73-1547. *CATALANO v. UNITED STATES*. C. A. 2d Cir. *Certiorari denied*. Reported below: 491 F. 2d 268.

No. 73-1447. *WAGNER v. WAGNER*. Sup. Ct. Wis. *Certiorari denied*.

No. 73-1448. *PRESTA ET AL. v. UNITED STATES*. C. A. 7th Cir. *Certiorari denied*.

No. 73-1454. *THOMPSON ET AL. v. UNITED STATES*. C. A. 8th Cir. *Certiorari denied*. Reported below: 491 F. 2d 780.

No. 73-1459. *MAHONEY ET AL. v. LAUNDRY, DRY CLEANING & DYE HOUSE WORKERS INTERNATIONAL UNION, LOCAL 93, OF SPRINGFIELD, MISSOURI*. C. A. 8th Cir. *Certiorari denied*. Reported below: 491 F. 2d 1029.

No. 73-1468. *TEXEIRA ET AL. v. UNITED STATES*. C. A. 2d Cir. *Certiorari denied*.

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No. 73-1488. *PACELLI v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 491 F.2d 1108.

No. 73-1494. *MAHER v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 493 F.2d 1399.

No. 73-1496. *GONZALEZ v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 492 F.2d 1237.

No. 73-1509. *ABRAMO v. UNITED STATES*; and

No. 73-1527. *D'AMATO ET AL. v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 493 F.2d 359.

No. 73-1511. *MILLER, COMMISSIONER, DEPARTMENT OF MENTAL HYGIENE OF NEW YORK, ET AL. v. DALE*; and

No. 73-6673. *DALE v. MILLER, COMMISSIONER, DEPARTMENT OF MENTAL HYGIENE OF NEW YORK, ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 486 F.2d 76.

No. 73-1520. *THOMAS v. MISSISSIPPI*. Sup. Ct. Miss. Certiorari denied. Reported below: 285 So. 2d 148.

No. 73-1522. *MARQUEZ v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 490 F.2d 1383.

No. 73-1523. *HEMPT BROS., INC. v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 490 F.2d 1172.

No. 73-1530. *MALNIK v. UNITED STATES ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 489 F.2d 682.

No. 73-1538. *RAFTER v. COMMISSIONER OF INTERNAL REVENUE*. C. A. 2d Cir. Certiorari denied. Reported below: 489 F.2d 752.

No. 73-1540. *SECHREST ET UX. v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 490 F.2d 102.

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No. 73-1549. *SCAPPATONE v. UNITED STATES*. C. A. 2d Cir. Certiorari denied.

No. 73-1552. *RURAL FOODS, INC., T/A SHOP & SAVE SUPER MARKETS v. UNITED STATES DEPARTMENT OF AGRICULTURE*. C. A. 4th Cir. Certiorari denied. Reported below: 489 F. 2d 754.

No. 73-1553. *GREEN ET AL. v. UNITED STATES*. Ct. App. D. C. Certiorari denied. Reported below: 312 A. 2d 788.

No. 73-1557. *CASAMENTO v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 493 F. 2d 1398.

No. 73-1559. *FAIRVIEW NURSING HOME v. NATIONAL LABOR RELATIONS BOARD*. C. A. 5th Cir. Certiorari denied. Reported below: 486 F. 2d 1400.

No. 73-1561. *MARIHART ET AL. v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 492 F. 2d 897.

No. 73-1574. *ARROYO v. UNITED STATES*;

No. 73-6610. *PEREZ v. UNITED STATES*;

No. 73-6913. *GONZALEZ v. UNITED STATES*; and

No. 73-6986. *SANCHEZ v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 494 F. 2d 1316.

No. 73-1577. *DOLLOFF INDUSTRIES, INC. v. LAMBROS, U. S. DISTRICT JUDGE, ET AL.* C. A. 6th Cir. Certiorari denied.

No. 73-1582. *CONTRACTING PLUMBERS COOPERATIVE RESTORATION CORP. v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 488 F. 2d 684.

No. 73-1588. *ANDERSON ET AL. v. UNITED STATES*. Ct. Cl. Certiorari denied. Reported below: 203 Ct. Cl. 412, 490 F. 2d 921.

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No. 73-1593. *PROVISION HOUSE WORKERS UNION LOCAL 274, AFL-CIO v. NATIONAL LABOR RELATIONS BOARD ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 493 F. 2d 1249.

No. 73-1594. *CEMENT TRANSPORT, INC. v. NATIONAL LABOR RELATIONS BOARD.* C. A. 6th Cir. Certiorari denied. Reported below: 490 F. 2d 1024.

No. 73-1599. *KIRTLEY ET AL. v. BICKERSTAFF, DISTRICT DIRECTOR OF INTERNAL REVENUE, ET AL.* C. A. 10th Cir. Certiorari denied. Reported below: 488 F. 2d 768.

No. 73-1603. *BORGMAN, AKA MILLER, ET AL. v. UNITED STATES;*

No. 73-1674. *FRANK v. UNITED STATES;*

No. 73-1849. *HEMLOCK v. UNITED STATES;* and

No. 73-1850. *HOFFER v. UNITED STATES.* C. A. 2d Cir. Certiorari denied. Reported below: 494 F. 2d 145.

No. 73-1611. *CAMPBELL v. UNITED STATES.* C. A. 4th Cir. Certiorari denied. Reported below: 490 F. 2d 1407.

No. 73-1613. *LAM MAN CHUNG v. UNITED STATES.* C. A. 2d Cir. Certiorari denied.

No. 73-1614. *WOLDER ET UX. v. COMMISSIONER OF INTERNAL REVENUE;* and

No. 73-1752. *COMMISSIONER OF INTERNAL REVENUE v. ESTATE OF BOYCE ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 493 F. 2d 608.

No. 73-1616. *MADDEN v. UNITED STATES.* C. A. 9th Cir. Certiorari denied.

No. 73-1617. *SHROUT ET UX. v. COMMISSIONER OF INTERNAL REVENUE.* C. A. 8th Cir. Certiorari denied.

No. 73-1619. *PETERSON v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. Reported below: 488 F. 2d 645.

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No. 73-1631. *OSTRER v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 492 F. 2d 70.

No. 73-1633. *O'CONNELL v. CITY OF CINCINNATI*. Ct. App. Ohio, Hamilton County. Certiorari denied.

No. 73-1636. *SOKOLSKY ET AL. v. CLE-WARE INDUSTRIES, INC., ET AL.*; and

No. 73-1762. *WHALEN ET AL. v. CLE-WARE INDUSTRIES, INC., ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 493 F. 2d 863.

No. 73-1641. *KNAPP-SHERRILL CO. v. NATIONAL LABOR RELATIONS BOARD*. C. A. 5th Cir. Certiorari denied. Reported below: 488 F. 2d 655.

No. 73-1645. *DONAHOE ET AL. v. BEECH AIRCRAFT CO.* C. A. 9th Cir. Certiorari denied.

No. 73-1646. *ATCHISON, TOPEKA & SANTA FE RAILWAY CO. v. BEARD*. Ct. App. Cal., 2d App. Dist. Certiorari denied.

No. 73-1649. *EYRAUD v. UNITED STATES*. C. A. 9th Cir. Certiorari denied.

No. 73-1652. *YOUR HOST, INC., ET AL. v. COMMISSIONER OF INTERNAL REVENUE*; and

No. 73-1687. *COMMISSIONER OF INTERNAL REVENUE v. CHEF FOODS, INC., ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 489 F. 2d 957.

No. 73-1654. *LEONA LEE CORP. ET AL. v. INTERNATIONAL ASSOCIATION OF HEAT & FROST INSULATORS & ASBESTOS WORKERS, LOCAL 66, AFL-CIO*. C. A. 5th Cir. Certiorari denied. Reported below: 489 F. 2d 1032.

No. 73-1656. *SIMMONS v. TEXAS*. Ct. Crim. App. Tex. Certiorari denied. Reported below: 504 S. W. 2d 465.

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No. 73-1659. *ZANFARDINO v. UNITED STATES*; and
No. 73-6864. *BORIA v. UNITED STATES*. C. A. 2d Cir.
Certiorari denied. Reported below: 496 F. 2d 887.

No. 73-1660. *SHADLETSKY, AKA SHAD v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 491 F. 2d 677.

No. 73-1661. *KOVASH v. OKLAHOMA*. Ct. Crim. App. Okla. Certiorari denied. Reported below: 519 P. 2d 517.

No. 73-1662. *TIBBITTS ET UX. v. CUSSEN, TRUSTEE IN BANKRUPTCY*. C. A. 9th Cir. Certiorari denied.

No. 73-1664. *BAILEY v. IOWA BEEF PROCESSORS, INC.* Sup. Ct. Iowa. Certiorari denied. Reported below: 213 N. W. 2d 642.

No. 73-1665. *CARIBTOW CORP. v. OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION*. C. A. 1st Cir. Certiorari denied. Reported below: 493 F. 2d 1064.

No. 73-1677. *BORG-WARNER CORP. v. KING-SEELEY THERMOS Co.* C. A. 7th Cir. Certiorari denied.

No. 73-1678. *DONALDSON v. CITY COUNCIL, CITY OF PLANTATION*. Sup. Ct. Fla. Certiorari denied. Reported below: 287 So. 2d 92.

No. 73-1681. *GEORGE STEINBERG & SON, INC. v. BUTZ, SECRETARY OF AGRICULTURE, ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 491 F. 2d 988.

No. 73-1684. *GARNER v. LOUISIANA STATE BOARD OF EDUCATION ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 489 F. 2d 91.

No. 73-1685. *ARBER ET AL. v. ESSEX WIRE CORP. ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 490 F. 2d 414.

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No. 73-1691. *PARIS, DBA GENERAL SECURITY SERVICES, INC. v. WEDREN, DIRECTOR, DEPARTMENT OF COMMERCE, ET AL.* Ct. App. Ohio, Franklin County. Certiorari denied.

No. 73-1694. *BRENNER v. UNITED STATES.* Ct. Cl. Certiorari denied. Reported below: 202 Ct. Cl. 678.

No. 73-1695. *ROSENBERG v. LAFFAL ET AL.* C. A. D. C. Cir. Certiorari denied. Reported below: 160 U.S. App. D. C. 148, 489 F. 2d 1272.

No. 73-1696. *STAMATAKOS v. HUNTER SHIPPING CO., S. A.* C. A. 3d Cir. Certiorari denied.

No. 73-1698. *JACKSON v. NEW YORK CITY TRANSIT AUTHORITY.* Ct. App. N. Y. Certiorari denied.

No. 73-1699. *TRAVELERS INSURANCE CO. v. SHERIS.* C. A. 4th Cir. Certiorari denied. Reported below: 491 F. 2d 603.

No. 73-1703. *BOATEL, INC. v. NATIONAL LABOR RELATIONS BOARD ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 490 F. 2d 990.

No. 73-1704. *PETERSON v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. Reported below: 490 F. 2d 666.

No. 73-1706. *PITT RIVER TRIBE v. UNITED STATES.* Ct. Cl. Certiorari denied. Reported below: 202 Ct. Cl. 988, 485 F. 2d 660.

No. 73-1707. *COLLIER v. UNITED STATES.* C. A. 6th Cir. Certiorari denied. Reported below: 493 F. 2d 327.

No. 73-1712. *LOCAL 445, INTERNATIONAL UNION OF ELECTRICAL, RADIO & MACHINE WORKERS, AFL-CIO v. SPERRY SYSTEMS MANAGEMENT DIVISION, SPERRY RAND CORP., ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 492 F. 2d 63.

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No. 73-1709. *SNEIDERS v. HENRY*. C. A. 9th Cir. Certiorari denied. Reported below: 490 F. 2d 315.

No. 73-1713. *SMYZER v. KENTUCKY*. Ct. App. Ky. Certiorari denied.

No. 73-1714. *BARDAHL MANUFACTURING CORP. ET AL. v. UNITED STATES ET AL.* C. A. 9th Cir. Certiorari denied.

No. 73-1715. *WALDROP ET AL. v. HITE ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 491 F. 2d 1406.

No. 73-1716. *LAING v. MINNESOTA VIKINGS FOOTBALL CLUB, INC., ET AL.* C. A. 8th Cir. Certiorari denied. Reported below: 492 F. 2d 1381.

No. 73-1717. *FRITZ ET UX. v. TOWN OF CLERMONT*. Ct. App. Ind. Certiorari denied. Reported below: — Ind. App. —, 292 N. E. 2d 258.

No. 73-1719. *PONZIO v. UNITED STATES*;

No. 73-1759. *SOMERS v. UNITED STATES*; and

No. 73-6628. *LA SANE v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 496 F. 2d 723.

No. 73-1720. *IMPSON v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 490 F. 2d 1372.

No. 73-1721. *ABETTA ELECTRIC SERVICE CORP. v. LEVINE, INDUSTRIAL COMMISSIONER OF NEW YORK*. App. Div., Sup. Ct. N. Y., 1st Jud. Dept. Certiorari denied. Reported below: 42 App. Div. 2d 1050, 348 N. Y. S. 2d 955.

No. 73-1725. *IRVING BERLIN MUSIC CORP. v. UNITED STATES*. Ct. Cl. Certiorari denied. Reported below: 203 Ct. Cl. 1, 487 F. 2d 540.

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No. 73-1730. *ROSE ET UX. v. COMMISSIONER OF INTERNAL REVENUE*. C. A. 5th Cir. Certiorari denied. Reported below: 485 F. 2d 581.

No. 73-1731. *DAVIDSON ET AL. v. MILLER, AN INFANT BY LEGGETT, ET AL.* Super. Ct. Baltimore City, Md. Certiorari denied.

No. 73-1732. *CITY OF CHATTANOOGA v. COX*. Ct. App. Tenn. Certiorari denied.

No. 73-1733. *KIMBELL ET UX. v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 490 F. 2d 203.

No. 73-1735. *GORDEN v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 495 F. 2d 308.

No. 73-1736. *WEISS ET AL. v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 491 F. 2d 460.

No. 73-1743. *GOLDMAN v. NEW YORK*. Ct. App. N. Y. Certiorari denied. Reported below: 34 N. Y. 2d 539, 309 N. E. 2d 872.

No. 73-1744. *FOSTER v. AMERICAN MACHINE & FOUNDRY Co. ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 492 F. 2d 1317.

No. 73-1748. *BISHOP ET AL. v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 492 F. 2d 1361.

No. 73-1749. *WALTERS v. ARKANSAS*. Sup. Ct. Ark. Certiorari denied. Reported below: 255 Ark. 904, 503 S. W. 2d 895.

No. 73-1751. *RINGSBY TRUCK LINES, INC., ET AL. v. NATIONAL SMALL SHIPMENTS TRAFFIC CONFERENCE, INC., ET AL.* C. A. 10th Cir. Certiorari denied. Reported below: 490 F. 2d 620.

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No. 73-1754. *INTERNATIONAL SHOE MACHINE CORP. v. UNITED STATES*. C. A. 1st Cir. Certiorari denied. Reported below: 491 F. 2d 157.

No. 73-1756. *BIDDLE, ADMINISTRATRIX v. BOWSER*. Ct. App. Ohio, Montgomery County. Certiorari denied.

No. 73-1761. *DISTRIGAS CORP. ET AL. v. FEDERAL POWER COMMISSION ET AL.* C. A. D. C. Cir. Certiorari denied. Reported below: 162 U. S. App. D. C. 1, 495 F. 2d 1057.

No. 73-1769. *THOMPSON v. UNITED STATES*; and

No. 73-6622. *TERESI v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 493 F. 2d 305.

No. 73-1771. *SPRINGER ET AL. v. UNITED STATES ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 491 F. 2d 239.

No. 73-1775. *BRADFORD v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 493 F. 2d 1282.

No. 73-1778. *RODGERS v. FEDERAL TRADE COMMISSION*. C. A. 9th Cir. Certiorari denied. Reported below: 492 F. 2d 228.

No. 73-1781. *NICKEY CHEVROLET SALES, INC. v. NATIONAL LABOR RELATIONS BOARD*. C. A. 7th Cir. Certiorari denied. Reported below: 493 F. 2d 103.

No. 73-1784. *GONZALES ET VIR v. CHECKER CABS, INC., ET AL.* Sup. Ct. La. Certiorari denied. Reported below: 290 So. 2d 333.

No. 73-1785. *WELLMAN INDUSTRIES, INC. v. NATIONAL LABOR RELATIONS BOARD ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 490 F. 2d 427.

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No. 73-1786. DUCKSTEIN *v.* GENERAL DYNAMICS CORP., FORT WORTH DIVISION. Ct. Civ. App. Tex., 2d Sup. Jud. Dist. Certiorari denied. Reported below: 499 S. W. 2d 907.

No. 73-1787. OHIO HOLDING CO. *v.* MASHETER, DIRECTOR OF HIGHWAYS. Ct. App. Ohio, Franklin County. Certiorari denied. Reported below: 38 Ohio App. 2d 49, 313 N. E. 2d 413.

No. 73-1788. LOCAL UNION No. 2188, INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS, AFL-CIO, ET AL. *v.* NATIONAL LABOR RELATIONS BOARD. C. A. D. C. Cir. Certiorari denied. Reported below: 161 U. S. App. D. C. 168, 494 F. 2d 1087.

No. 73-1792. WILLIAMS *v.* SOUTH CAROLINA. Sup. Ct. S. C. Certiorari denied. Reported below: 262 S. C. 186, 203 S. E. 2d 436.

No. 73-1793. MARKS *v.* FLOURNOY, CONTROLLER OF CALIFORNIA, ET AL. C. A. 9th Cir. Certiorari denied.

No. 73-1794. KLEE *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 494 F. 2d 394.

No. 73-1797. MILAM *v.* UNITED STATES ET AL. C. A. 9th Cir. Certiorari denied.

No. 73-1803. MURTAGH ET AL. *v.* UNIVERSITY COMPUTING Co. C. A. 5th Cir. Certiorari denied. Reported below: 490 F. 2d 810.

No. 73-1806. SMITH *v.* MORTON, SECRETARY OF THE INTERIOR. C. A. 9th Cir. Certiorari denied. Reported below: 489 F. 2d 1275.

No. 73-1807. PAPIERZ ET AL. *v.* RAUTH. App. Ct. Ill., 1st Dist. Certiorari denied. Reported below: 16 Ill. App. 3d 574, 306 N. E. 2d 532.

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No. 73-1810. *SMITH ET AL. v. INDIANA STATE BOARD OF HEALTH ET AL.* Ct. App. Ind. Certiorari denied. Reported below: — Ind. App. —, 303 N. E. 2d 50.

No. 73-1815. *NORTHWAY COIN-CLEAN, INC. v. BORG-WARNER CORP.* C. A. 3d Cir. Certiorari denied. Reported below: 487 F. 2d 1395.

No. 73-1816. *PERRY ET UX. v. DISTRICT OF COLUMBIA.* Ct. App. D. C. Certiorari denied. Reported below: 314 A. 2d 766.

No. 73-1821. *GORDON ET AL. v. LABORERS' INTERNATIONAL UNION OF NORTH AMERICA, LOCAL 612, ET AL.* C. A. 10th Cir. Certiorari denied. Reported below: 490 F. 2d 133.

No. 73-1833. *RACHAL v. UNITED STATES BUREAU OF PRISONS.* C. A. 5th Cir. Certiorari denied. Reported below: 493 F. 2d 1404.

No. 73-1839. *WEST INDIA CARRIERS, INC. v. TWENTY GRAND OFFSHORE, INC.* C. A. 5th Cir. Certiorari denied. Reported below: 492 F. 2d 679.

No. 73-1840. *MERCK & Co., INC. v. MCGARVEY.* C. A. 3d Cir. Certiorari denied. Reported below: 493 F. 2d 1401.

No. 73-1841. *MORNING PIONEER, INC. v. BISMARCK TRIBUNE Co.* C. A. 8th Cir. Certiorari denied. Reported below: 493 F. 2d 383.

No. 73-1843. *ACANFORA v. BOARD OF EDUCATION OF MONTGOMERY COUNTY ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 491 F. 2d 498.

No. 73-1844. *PHELPS v. UNITED STATES.* C. A. 9th Cir. Certiorari denied. Reported below: 490 F. 2d 644.

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No. 73-1845. *BROWN ET AL. v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 493 F. 2d 1397.

No. 73-1847. *BURGESS ET UX. v. FABRIZI ET UX*. C. A. 2d Cir. Certiorari denied. Reported below: 490 F. 2d 1406.

No. 73-1848. *BOND ET AL. v. BENEFICIAL FINANCE COMPANY OF NEW YORK, INC., ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 494 F. 2d 302.

No. 73-1851. *R. E. HUNTLEY COTTON CO. ET AL. v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 492 F. 2d 1241.

No. 73-1852. *SAYRE, TRUSTEE IN BANKRUPTCY v. CITY OF CLEVELAND*. C. A. 6th Cir. Certiorari denied. Reported below: 493 F. 2d 64.

No. 73-1853. *GRIFFIN v. GRIFFIN*. Ct. App. Ohio, Summit County. Certiorari denied.

No. 73-1854. *ROGERS v. ROGERS ET AL.* Sup. Ct. Miss. Certiorari denied. Reported below: 290 So. 2d 631.

No. 73-1857. *WHITNEY v. NEW YORK STOCK EXCHANGE ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 493 F. 2d 1399.

No. 73-1858. *MON VALLEY TERMINAL, INC., ET AL. v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 493 F. 2d 1401.

No. 73-1860. *MAKAH DEVELOPMENT CORP. ET AL. v. STANLEY T. SCOTT & Co., INC.* C. A. 9th Cir. Certiorari denied. Reported below: 496 F. 2d 525.

No. 73-1861. *SOUTH GWINNETT VENTURE ET AL. v. PRUITT ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 491 F. 2d 5.

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No. 73-1862. *LAVINE, COMMISSIONER, DEPARTMENT OF SOCIAL SERVICES OF NEW YORK v. ALBANY WELFARE RIGHTS ORGANIZATION ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 493 F. 2d 1319.

No. 73-1863. *ZIM'S FOODLINER, INC., DBA ZIM'S IGA FOODLINER, ET AL. v. NATIONAL LABOR RELATIONS BOARD.* C. A. 7th Cir. Certiorari denied. Reported below: 495 F. 2d 1131.

No. 73-1864. *BROWN v. GEORGIA POWER CO. ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 491 F. 2d 117.

No. 73-1865. *SHAWNEE PLASTICS, INC. v. NATIONAL LABOR RELATIONS BOARD.* C. A. 6th Cir. Certiorari denied. Reported below: 492 F. 2d 869.

No. 73-1866. *TURETSKY v. NEW YORK.* App. Div., Sup. Ct. N. Y., 1st Jud. Dept. Certiorari denied.

No. 73-1867. *SCHEIN ET AL. v. CAESAR'S WORLD, INC., ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 491 F. 2d 17.

No. 73-1871. *NOGA ET AL. v. UNITED STATES.* C. A. 6th Cir. Certiorari denied. Reported below: 497 F. 2d 925.

No. 73-1872. *PARKER v. McKEITHEN, GOVERNOR OF LOUISIANA, ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 488 F. 2d 553.

No. 73-1873. *HAWK v. UNITED STATES.* C. A. 9th Cir. Certiorari denied. Reported below: 497 F. 2d 365.

No. 73-1874. *ROSSI ET AL. v. UNITED STATES.* C. A. 3d Cir. Certiorari denied. Reported below: 495 F. 2d 1369.

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No. 73-1875. *H & M CAKE BOX, INC. v. BAKERY & CONFECTIONERY WORKERS INTERNATIONAL UNION OF AMERICA, LOCAL No. 45.* C. A. 1st Cir. Certiorari denied. Reported below: 493 F. 2d 1226.

No. 73-1876. *BREWINGTON v. UNITED STATES.* C. A. 2d Cir. Certiorari denied. Reported below: 486 F. 2d 1396.

No. 73-1877. *GLATSTEIN v. WALSH.* C. A. 2d Cir. Certiorari denied. Reported below: 493 F. 2d 1397.

No. 73-1879. *HUMPHREY v. GEORGIA.* Sup. Ct. Ga. Certiorari denied. Reported below: 231 Ga. 855, 204 S. E. 2d 603.

No. 73-1880. *CHICAGO PATROLMEN'S ASSN. ET AL. v. CITY OF CHICAGO ET AL.* Sup. Ct. Ill. Certiorari denied. Reported below: 56 Ill. 2d 503, 309 N. E. 2d 3.

No. 73-1881. *ERNEST RENDA CONTRACTING CO., INC. v. MALE, COMMISSIONER, DEPARTMENT OF LABOR AND INDUSTRY, ET AL.* Sup. Ct. N. J. Certiorari denied. Reported below: 64 N. J. 199, 314 A. 2d 361.

No. 73-1883. *LAKE TRANSPORT, INC. v. RAILROAD COMMISSION OF TEXAS ET AL.* Sup. Ct. Tex. Certiorari denied. Reported below: 505 S. W. 2d 781.

No. 73-1885. *UNITED TRANSPORTATION UNION GENERAL COMMITTEE OF ADJUSTMENT v. BAKER ET AL., TRUSTEES OF PROPERTY OF PENN CENTRAL TRANSPORTATION Co.* C. A. 7th Cir. Certiorari denied. Reported below: 499 F. 2d 727.

No. 73-1886. *GESSER ET AL. v. DANN, COMMISSIONER OF PATENTS.* C. C. P. A. Certiorari denied.

No. 73-1889. *WHITLOCK, EXECUTRIX v. COMMISSIONER OF INTERNAL REVENUE.* C. A. 10th Cir. Certiorari denied. Reported below: 494 F. 2d 1297.

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No. 73-1891. *SEA-LAND SERVICE, INC. v. UNITED STATES*. Ct. Cl. Certiorari denied. Reported below: 204 Ct. Cl. 57, 493 F. 2d 1357.

No. 73-1893. *BLOHM & VOSS AG v. PRUDENTIAL-GRACE LINES, INC.* C. A. 4th Cir. Certiorari denied. Reported below: 489 F. 2d 231.

No. 73-1895. *TEXAS ET AL. v. TRAIN, ADMINISTRATOR, ENVIRONMENTAL PROTECTION AGENCY*. C. A. 5th Cir. Certiorari denied.

No. 73-1898. *MICHIGAN NATIONAL BANK v. GRIGG ET AL.* Ct. App. Mich. Certiorari denied.

No. 73-1899. *MARTAIN v. UNITED STATES*. C. A. 7th Cir. Certiorari denied.

No. 73-1900. *TWILLEY ET AL. v. GOVERNOR OF MARYLAND*. Ct. App. Md. Certiorari denied. Reported below: 271 Md. 320, 317 A. 2d 477.

No. 73-1904. *DIGILAB, INC., ET AL. v. SECRETARY OF LABOR ET AL.* C. A. 1st Cir. Certiorari denied. Reported below: 495 F. 2d 323.

No. 73-1905. *DOLLAR GENERAL CORP. v. NATIONAL LABOR RELATIONS BOARD*. C. A. 6th Cir. Certiorari denied. Reported below: 493 F. 2d 1230.

No. 73-1909. *ALFIN v. INTERNATIONAL LADIES' GARMENT WORKERS UNION, AFL-CIO*. C. A. 5th Cir. Certiorari denied. Reported below: 488 F. 2d 641.

No. 73-1910. *RADIOCALL PAGING SERVICE v. CORPORATION COMMISSION OF OKLAHOMA ET AL.* Sup. Ct. Okla. Certiorari denied. Reported below: 519 P. 2d 1360.

No. 73-1911. *CHASE v. TEXAS*. Ct. Crim. App. Tex. Certiorari denied. Reported below: 508 S. W. 2d 605.

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No. 73-1912. *CARVER v. TEXAS*. Ct. Crim. App. Tex. Certiorari denied. Reported below: 510 S. W. 2d 349.

No. 73-1913. *BRAY ET AL. v. ELISON ET AL.* C. A. 10th Cir. Certiorari denied.

No. 73-1916. *BLANKS v. REGISTER ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 493 F. 2d 697.

No. 73-1918. *PEREZ-LOPEZ ET AL. v. IMMIGRATION AND NATURALIZATION SERVICE*. C. A. 9th Cir. Certiorari denied.

No. 73-1920. *RUGGIERO v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 492 F. 2d 1239.

No. 73-1921. *WELLCO CHEMICAL PRODUCTS Co. v. CASCADE CHEMICAL COATINGS, INC.* App. Ct. Ill., 1st Dist. Certiorari denied. Reported below: 15 Ill. App. 3d 1056, 305 N. E. 2d 595.

No. 73-1927. *FREUDMANN v. BLANKSTEIN, TRUSTEE IN BANKRUPTCY*. C. A. 2d Cir. Certiorari denied. Reported below: 495 F. 2d 816.

No. 73-1936. *SECRETARY OF SOCIAL AND REHABILITATION SERVICES OF KANSAS v. SENECA NURSING HOME ET AL.* C. A. 10th Cir. Certiorari denied. Reported below: 490 F. 2d 1324.

No. 73-1937. *BRANDYS v. ILLINOIS*. App. Ct. Ill., 4th Dist. Certiorari denied. Reported below: 15 Ill. App. 3d 379, 304 N. E. 2d 471.

No. 73-1938. *EFFLER v. TENNESSEE*. Ct. Crim. App. Tenn. Certiorari denied. Reported below: 508 S. W. 2d 809.

No. 73-1939. *GILLIGAN ET AL. v. KORZEN ET AL.* Sup. Ct. Ill. Certiorari denied. Reported below: 56 Ill. 2d 387, 308 N. E. 2d 613.

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No. 73-1940. *ALTSMAN ET AL. v. TEXAS*. Ct. Crim. App. Tex. Certiorari denied.

No. 73-1941. *COASTAL PETROLEUM CO. v. TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND OF FLORIDA*. C. A. 5th Cir. Certiorari denied. Reported below: 491 F. 2d 973.

No. 73-1945. *DeMOON v. ILLINOIS*. App. Ct. Ill., 1st Dist. Certiorari denied. Reported below: 16 Ill. App. 3d 510, 306 N. E. 2d 618.

No. 73-1948. *PERRY v. MAS ET UX*. C. A. 5th Cir. Certiorari denied. Reported below: 489 F. 2d 1396.

No. 73-1949. *NIXON HOTEL, INC. v. REDEVELOPMENT AUTHORITY OF THE CITY OF BUTLER*. Pa. Commw. Ct. Certiorari denied. Reported below: 11 Pa. Commw. 519, 315 A. 2d 366.

No. 73-1954. *ALPHA DISTRIBUTING COMPANY OF CALIFORNIA, INC. v. JACK DANIEL DISTILLERY ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 493 F. 2d 1355.

No. 73-1958. *MOHASCO INDUSTRIES, INC., ET AL. v. ACME FAST FREIGHT, INC., ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 491 F. 2d 1082.

No. 73-1959. *ADEY v. UNITED ACTION FOR ANIMALS, INC., ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 493 F. 2d 1397.

No. 73-1961. *LOPEZ v. RIVERA, JUDGE*. Super. Ct. P. R. Certiorari denied. Reported below: — P. R. R. —.

No. 73-1962. *BERMAN v. GROUP HEALTH ASSN., INC.* Ct. App. D. C. Certiorari denied. Reported below: 316 A. 2d 863.

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No. 73-1963. *PORDUM v. BOARD OF REGENTS OF NEW YORK ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 491 F. 2d 1281.

No. 73-1968. *GROSS ET AL. v. NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC., ET AL.* C. A. D. C. Cir. Certiorari denied.

No. 73-1969. *WINKLE v. TEXAS.* Ct. Crim. App. Tex. Certiorari denied. Reported below: 506 S. W. 2d 891.

No. 73-1970. *DEBLASIS v. COUNTY OF SAN BERNARDINO ET AL.* Ct. App. Cal., 4th App. Dist. Certiorari denied.

No. 73-1974. *HOME INSURANCE CO. ET AL. v. GARCY CORP.* C. A. 7th Cir. Certiorari denied. Reported below: 496 F. 2d 479.

No. 73-1981. *GLIMCO v. UNITED STATES.* C. A. 7th Cir. Certiorari denied.

No. 73-1986. *INDUSTRO MOTIVE CORP. ET AL. v. MONOGRAM MODELS, INC.* C. A. 6th Cir. Certiorari denied. Reported below: 492 F. 2d 1281.

No. 73-1989. *SIMON ET AL. v. ESTATE OF ALLEN ET AL.* Ct. Civ. App. Tex., 10th Sup. Jud. Dist. Certiorari denied. Reported below: 497 S. W. 2d 800.

No. 73-1991. *CITY OF NAPLES v. PREPAKT CONCRETE CO. ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 490 F. 2d 182 and 494 F. 2d 511.

No. 73-1993. *SIGNAL MOUNTAIN PORTLAND CEMENT, DIVISION OF GENERAL PORTLAND CEMENT CO. v. COOLIDGE ET UX.* C. A. 6th Cir. Certiorari denied. Reported below: 495 F. 2d 1373.

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No. 73-2002. PHILADELPHIA HOUSING AUTHORITY ET AL. *v.* ALDERMAN ET AL. C. A. 3d Cir. Certiorari denied. Reported below: 496 F. 2d 164.

No. 73-2012. SEATTLE TRUST & SAVINGS BANK ET AL. *v.* BANK OF CALIFORNIA, N. A., ET AL.; and

No. 73-2037. HART, SUPERVISOR, DIVISION OF BANKING *v.* BANK OF CALIFORNIA, N. A., ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 492 F. 2d 48.

No. 73-2016. ARANDA *v.* COMMITTEE ON EXAMINATIONS AND ADMISSIONS FOR STATE BAR OF ARIZONA. Sup. Ct. Ariz. Certiorari denied.

No. 73-2017. BROCK & BLEVINS Co., INC., ET AL. *v.* BRYAN. C. A. 5th Cir. Certiorari denied. Reported below: 490 F. 2d 563.

No. 73-2019. MAILMAN DEVELOPMENT CORP. ET AL. *v.* CITY OF HOLLYWOOD. Dist. Ct. App. Fla., 4th Dist. Certiorari denied. Reported below: 286 So. 2d 614.

No. 73-2020. LEWIS *v.* HUDSON WATERWAYS CORP. C. A. 2d Cir. Certiorari denied. Reported below: 495 F. 2d 604.

No. 73-2021. OUTLAW ET AL. *v.* UNITED STATES. Ct. Cl. Certiorari denied. Reported below: 204 Ct. Cl. 152, 494 F. 2d 1376.

No. 73-2026. HERNANDEZ *v.* TRAVELERS INSURANCE Co. C. A. 5th Cir. Certiorari denied. Reported below: 489 F. 2d 721.

No. 73-2031. TOLEDO, PEORIA & WESTERN RAILROAD Co. *v.* WASSON, DBA WASSON TOWING Co., ET AL.; and

No. 73-2035. WASSON, DBA WASSON TOWING Co., ET AL. *v.* TOLEDO, PEORIA & WESTERN RAILROAD Co. C. A. 7th Cir. Certiorari denied. Reported below: 495 F. 2d 571.

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No. 73-1996. *McNEAL v. CALIFORNIA*. Sup. Ct. Cal. Certiorari denied.

No. 73-2033. *KUKLEVICH ET UX. v. UNION LOCAL SCHOOL DISTRICT*. Ct. App. Ohio, Belmont County. Certiorari denied.

No. 73-2034. *WILSON v. ALABAMA*. Ct. Crim. App. Ala. Certiorari denied. Reported below: 52 Ala. App. 680, 296 So. 2d 774.

No. 73-2041. *SEWELL ET AL. v. PENN CENTRAL TRANSPORTATION CO. ET AL.* C. A. 7th Cir. Certiorari denied.

No. 73-2044. *KARP, EXECUTRIX, ET AL. v. COOLEY ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 493 F. 2d 408.

No. 73-2049. *STRAUB ET AL. v. WOODAHL, ATTORNEY GENERAL OF MONTANA, ET AL.* Sup. Ct. Mont. Certiorari denied. Reported below: 164 Mont. 141, 520 P. 2d 776.

No. 73-2052. *POPE ET UX. v. TEXAS ET AL.* Ct. Civ. App. Tex., 14th Sup. Jud. Dist. Certiorari denied.

No. 73-2059. *BROGE ET AL. v. FLORIDA*. Dist. Ct. App. Fla., 4th Dist. Certiorari denied. Reported below: 288 So. 2d 280.

No. 73-6215. *COMCOWICH v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 486 F. 2d 1397.

No. 73-6280. *KELLEY v. UNITED STATES*;

No. 73-6407. *ALONSO ET AL. v. UNITED STATES*; and

No. 73-6413. *ZIRUOLO v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 491 F. 2d 748, 749, 750, and 752.

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No. 73-6348. *JERROLD v. UNITED STATES*. C. A. 1st Cir. Certiorari denied. Reported below: 490 F. 2d 199.

No. 73-6358. *GUTIERREZ v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 485 F. 2d 1378.

No. 73-6375. *WEST v. NEW YORK*. App. Div., Sup. Ct. N. Y., 2d Jud. Dept. Certiorari denied.

No. 73-6435. *GANOS v. UNITED STATES*. C. A. 9th Cir. Certiorari denied.

No. 73-6458. *MACIAS-GONZALEZ ET AL. v. IMMIGRATION AND NATURALIZATION SERVICE*. C. A. 9th Cir. Certiorari denied.

No. 73-6462. *ADAMS v. NEW JERSEY*. Sup. Ct. N. J. Certiorari denied.

No. 73-6463. *COOK v. SAXBE, ATTORNEY GENERAL*. C. A. 5th Cir. Certiorari denied. Reported below: 488 F. 2d 667.

No. 73-6466. *CARTER v. CALIFORNIA*. Ct. App. Cal., 2d App. Dist. Certiorari denied. Reported below: 34 Cal. App. 3d 748, 110 Cal. Rptr. 324.

No. 73-6467. *GOODWIN v. IOWA*. Sup. Ct. Iowa. Certiorari denied. Reported below: 212 N. W. 2d 399.

No. 73-6488. *ROGERS v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 490 F. 2d 990.

No. 73-6490. *PATTERSON v. UNITED STATES*; and
No. 73-6594. *LANE v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 492 F. 2d 995.

No. 73-6492. *FULFORD v. LOUISIANA*. Sup. Ct. La. Certiorari denied.

No. 73-6501. *SMITH v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 487 F. 2d 175.

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No. 73-6507. *GILKERSON v. CURRY*, REGISTRAR, BUREAU OF MOTOR VEHICLES. Ct. App. Ohio, Franklin County. Certiorari denied.

No. 73-6510. *JAMISON v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 493 F. 2d 823.

No. 73-6517. *GROVE v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 492 F. 2d 1240.

No. 73-6521. *BAD HORSE v. BAD HORSE*. Sup. Ct. Mont. Certiorari denied. Reported below: 163 Mont. 445, 517 P. 2d 893.

No. 73-6527. *MEFFORD v. WARDEN, MARYLAND PENITENTIARY*. C. A. 4th Cir. Certiorari denied.

No. 73-6536. *BECTON v. TENNESSEE*. Sup. Ct. Tenn. Certiorari denied. Reported below: 506 S. W. 2d 137.

No. 73-6541. *WALLACE v. MISSOURI*. Sup. Ct. Mo. Certiorari denied. Reported below: 504 S. W. 2d 67.

No. 73-6544. *HIGHTOWER v. UNITED STATES*. C. A. D. C. Cir. Certiorari denied.

No. 73-6548. *PHILLIPS v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 482 F. 2d 1355.

No. 73-6549. *SEAY ET AL. v. FLORIDA*. Sup. Ct. Fla. Certiorari denied. Reported below: 286 So. 2d 532.

No. 73-6550. *CHRISCO ET AL. v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 493 F. 2d 232.

No. 73-6551. *TARLTON v. DILL ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 488 F. 2d 973.

No. 73-6554. *CAREW, AKA CARUSE v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 493 F. 2d 1397.

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No. 73-6555. *McCLURE v. UNITED STATES*. C. A. 8th Cir. Certiorari denied.

No. 73-6556. *BUSH v. NEW YORK*. Ct. App. N. Y. Certiorari denied. Reported below: 33 N. Y. 2d 921, 308 N. E. 2d 451.

No. 73-6561. *GREGG v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 493 F. 2d 1401.

No. 73-6563. *FARMER v. UNITED STATES*. C. A. 9th Cir. Certiorari denied.

No. 73-6564. *DOE (DYMAN) v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 493 F. 2d 1398.

No. 73-6567. *HARBOLT v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 491 F. 2d 78.

No. 73-6568. *STEPHENS v. ESTELLE, CORRECTIONS DIRECTOR*. C. A. 5th Cir. Certiorari denied. Reported below: 491 F. 2d 1406.

No. 73-6569. *THOMPSON v. UNITED STATES*. C. A. 5th Cir. Certiorari denied.

No. 73-6571. *LEWIS v. HENDERSON, WARDEN*. C. A. 5th Cir. Certiorari denied.

No. 73-6572. *QUIGG v. WARDEN, MONTANA STATE PRISON, ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 492 F. 2d 343.

No. 73-6576. *MASON v. UNITED STATES*; and

No. 73-6581. *TAYLOR v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 492 F. 2d 1240.

No. 73-6577. *ROSE v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 493 F. 2d 1401.

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No. 73-6578. *GRANT v. WASHINGTON*. Ct. App. Wash. Certiorari denied. Reported below: 9 Wash. App. 260, 511 P. 2d 1013.

No. 73-6583. *CAMPBELL v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 491 F. 2d 1406.

No. 73-6586. *JAMES v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 493 F. 2d 323.

No. 73-6593. *GRANT v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 494 F. 2d 120.

No. 73-6595. *MCCALL v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 489 F. 2d 359.

No. 73-6596. *FELICIA v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 495 F. 2d 353.

No. 73-6599. *BOEHM v. UNITED STATES*. C. A. 9th Cir. Certiorari denied.

No. 73-6600. *FARMER v. ILLINOIS*. App. Ct. Ill., 1st Dist. Certiorari denied. Reported below: 14 Ill. App. 3d 1073, 303 N. E. 2d 162.

No. 73-6604. *SCHELLENBERG v. UNITED STATES*. C. A. 4th Cir. Certiorari denied.

No. 73-6605. *FOLKS v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 489 F. 2d 1311.

No. 73-6606. *BARTHOLOMEW, DBA ECOLOGISTICS INSTITUTE v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 491 F. 2d 728.

No. 73-6607. *GULLEDGE v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 491 F. 2d 679.

No. 73-6611. *HEARD v. UNITED STATES*. C. A. 6th Cir. Certiorari denied.

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No. 73-6612. *ROSA v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 493 F. 2d 1191.

No. 73-6616. *ANGEL v. COINER, WARDEN*. C. A. 4th Cir. Certiorari denied.

No. 73-6624. *BROWN v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 493 F. 2d 1398.

No. 73-6625. *COULTER v. UNITED STATES*. Ct. Cl. Certiorari denied.

No. 73-6632. *RIMKA v. UNITED STATES*. C. A. 6th Cir. Certiorari denied.

No. 73-6634. *CONLON ET AL. v. UNITED STATES*. Ct. Cl. Certiorari denied.

No. 73-6635. *THOMPSON v. UNITED STATES*. C. A. 9th Cir. Certiorari denied.

No. 73-6638. *MITCHELL v. OHIO*. Ct. App. Ohio, Hamilton County. Certiorari denied.

No. 73-6640. *WEAVER v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 491 F. 2d 1406.

No. 73-6643. *MCNELLIS v. UNITED STATES*; and

No. 73-6887. *MILLETTE v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 493 F. 2d 1399.

No. 73-6648. *ERVIN v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 490 F. 2d 990.

No. 73-6651. *SIMS v. UNITED STATES*; and

No. 73-6731. *SEALS v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 492 F. 2d 1240.

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No. 73-6656. *WILFORD v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 493 F. 2d 730.

No. 73-6657. *FOREMAN v. TEXAS*. Ct. Crim. App. Tex. Certiorari denied. Reported below: 505 S. W. 2d 564.

No. 73-6658. *ALLISON v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 474 F. 2d 286.

No. 73-6661. *LYLES v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 488 F. 2d 290.

No. 73-6662. *CLARK v. HOPPER, WARDEN*. C. A. 5th Cir. Certiorari denied. Reported below: 491 F. 2d 1389.

No. 73-6664. *GAINES v. ALABAMA*. Ct. Crim. App. Ala. Certiorari denied. Reported below: 52 Ala. App. 29, 288 So. 2d 810.

No. 73-6665. *MADDOX ET AL. v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 492 F. 2d 104.

No. 73-6667. *POLLARD v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 491 F. 2d 1387.

No. 73-6668. *WILLIAMS v. COURT OF APPEAL OF CALIFORNIA, THIRD APPELLATE DISTRICT*. Sup. Ct. Cal. Certiorari denied.

No. 73-6669. *ROJAS v. FLORIDA*. Sup. Ct. Fla. Certiorari denied. Reported below: 288 So. 2d 234.

No. 73-6671. *TRAPNELL v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 495 F. 2d 22.

No. 73-6672. *HERSHIPS v. CALIFORNIA*. Ct. App. Cal., 2d App. Dist. Certiorari denied.

No. 73-6674. *MYERS, DBA ROMYCO STEREO v. AMPEX, INC., ET AL.* C. A. 10th Cir. Certiorari denied.

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No. 73-6675. *SMITH v. UNITED STATES*. C. A. D. C. Cir. Certiorari denied. Reported below: 160 U. S. App. D. C. 384, 492 F. 2d 650.

No. 73-6676. *STEPHENS v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 492 F. 2d 1367.

No. 73-6677. *MORALES v. CALIFORNIA*. Ct. App. Cal., 2d App. Dist. Certiorari denied.

No. 73-6678. *CURTIS v. ALABAMA*. C. A. 5th Cir. Certiorari denied.

No. 73-6679. *FARRIS v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 493 F. 2d 1400.

No. 73-6681. *LILES v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 494 F. 2d 1216.

No. 73-6683. *CRANDALL v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 493 F. 2d 1401.

No. 73-6685. *HOOD ET UX. v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 493 F. 2d 677.

No. 73-6686. *STAFFORD v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 495 F. 2d 1374.

No. 73-6687. *SQUIRES ET AL. v. PROCUNIER, CORRECTIONS DIRECTOR, ET AL.* C. A. 9th Cir. Certiorari denied.

No. 73-6689. *WILLIAMS v. UNITED STATES*. C. A. 8th Cir. Certiorari denied.

No. 73-6690. *BIBBS v. MISSOURI*. Ct. App. Mo., St. Louis Dist. Certiorari denied. Reported below: 504 S. W. 2d 319.

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No. 73-6691. *LOGAN v. BUTLER, CORRECTIONAL SUPERINTENDENT*. C. A. 2d Cir. Certiorari denied.

No. 73-6692. *LEWIS v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 495 F. 2d 1375.

No. 73-6694. *JOHNSON v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 495 F. 2d 377.

No. 73-6695. *JORDAN v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 495 F. 2d 1374.

No. 73-6697. *OVERSHON v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 494 F. 2d 894.

No. 73-6698. *BROWN v. UNITED STATES ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 492 F. 2d 1241.

No. 73-6699. *CHATTERTON v. CALIFORNIA*. Ct. App. Cal., 2d App. Dist. Certiorari denied.

No. 73-6701. *CAMPBELL v. CALIFORNIA ET AL.* App. Dept., Super. Ct. Cal., County of Los Angeles. Certiorari denied.

No. 73-6702. *SULLIVAN v. UNITED STATES*. C. A. 10th Cir. Certiorari denied.

No. 73-6703. *OLIVER v. UNITED STATES*. C. A. 4th Cir. Certiorari denied.

No. 73-6705. *HOLLAND v. CARDWELL, WARDEN*. C. A. 6th Cir. Certiorari denied. Reported below: 492 F. 2d 1243.

No. 73-6706. *MORROW v. ALABAMA*. Ct. Crim. App. Ala. Certiorari denied. Reported below: 52 Ala. App. 145, 290 So. 2d 209.

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No. 73-6707. *GUBINS v. CALIFORNIA*. Ct. App. Cal., 2d App. Dist. Certiorari denied.

No. 73-6709. *HARMON v. FALGOUST ET VIR*. Sup. Ct. La. Certiorari denied. Reported below: 289 So. 2d 161.

No. 73-6710. *ZAUN ET UX. v. FANN, SHERIFF, ET AL.* C. A. 8th Cir. Certiorari denied.

No. 73-6711. *LANDAW v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 492 F. 2d 1246.

No. 73-6712. *EMERINE v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 495 F. 2d 1374.

No. 73-6713. *FRANKENBERRY v. FLORIDA*. Sup. Ct. Fla. Certiorari denied.

No. 73-6714. *STEBBINS v. KEYSTONE INSURANCE CO. ET AL.* C. A. D. C. Cir. Certiorari denied.

No. 73-6715. *DAWSON v. WEINBERGER, SECRETARY OF HEALTH, EDUCATION, AND WELFARE*. C. A. 4th Cir. Certiorari denied. Reported below: 490 F. 2d 1407.

No. 73-6716. *ROBERTS v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 492 F. 2d 178.

No. 73-6717. *HICKS v. GARRISON, WARDEN, ET AL.* C. A. 4th Cir. Certiorari denied.

No. 73-6718. *HACKETT ET AL. v. HUNT ET AL.* Ct. App. Cal., 2d App. Dist. Certiorari denied. Reported below: 36 Cal. App. 3d 134, 111 Cal. Rptr. 456.

No. 73-6720. *POLITE v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 489 F. 2d 679.

No. 73-6722. *JOHNSON v. COWAN, PENITENTIARY SUPERINTENDENT*. C. A. 6th Cir. Certiorari denied. Reported below: 489 F. 2d 756.

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No. 73-6723. *PEREZ ET AL. v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 492 F. 2d 1241.

No. 73-6724. *DUNN v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 494 F. 2d 1280.

No. 73-6725. *COLEMAN v. UNITED STATES*; and

No. 73-6728. *COLEMAN v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 495 F. 2d 1374.

No. 73-6726. *CHANNEY v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 495 F. 2d 1370.

No. 73-6727. *KNIGHT v. UNITED STATES*. C. A. 1st Cir. Certiorari denied. Reported below: 502 F. 2d 1160.

No. 73-6729. *VESSI v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 486 F. 2d 1402.

No. 73-6730. *WITT ET AL. v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 489 F. 2d 1311.

No. 73-6734. *YOUNG ET AL. v. WAINWRIGHT, CORRECTIONS DIRECTOR, ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 490 F. 2d 96.

No. 73-6736. *D'ANDREA v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 495 F. 2d 1170.

No. 73-6737. *HYSELL v. CALIFORNIA*. Ct. App. Cal., 4th App. Dist. Certiorari denied.

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No. 73-6738. *SMITH v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 493 F. 2d 24.

No. 73-6741. *HICKSON v. MASSACHUSETTS*. Ct. App. Mass. Certiorari denied.

No. 73-6742. *FRUGE v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 492 F. 2d 1163.

No. 73-6744. *HILLIARD v. MCCARTHY*. C. A. 9th Cir. Certiorari denied.

No. 73-6745. *KELTON v. UNITED STATES*. C. A. 8th Cir. Certiorari denied.

No. 73-6746. *GONZALES v. TEXAS*. Ct. Crim. App. Tex. Certiorari denied. Reported below: 505 S. W. 2d 267.

No. 73-6747. *BROWN v. WAINWRIGHT, CORRECTIONS DIRECTOR*. C. A. 5th Cir. Certiorari denied. Reported below: 489 F. 2d 731.

No. 73-6748. *JOHNSON v. VIRGINIA*. Sup. Ct. Va. Certiorari denied.

No. 73-6749. *THOMAS v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 492 F. 2d 1240.

No. 73-6750. *DIXON v. UNITED STATES*; and

No. 73-6803. *BLAND v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 495 F. 2d 1370.

No. 73-6751. *LEFEBRE v. SCHMIDT, SECRETARY, DEPARTMENT OF HEALTH AND SOCIAL SERVICES, ET AL.* C. A. 7th Cir. Certiorari denied. Reported below: 492 F. 2d 1245.

No. 73-6753. *OLLIS v. PADERICK, PENITENTIARY SUPERINTENDENT*. C. A. 4th Cir. Certiorari denied.

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No. 73-6755. *SHIPP v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 495 F. 2d 1374.

No. 73-6756. *CAMPBELL v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 490 F. 2d 991.

No. 73-6757. *COLLINS v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 491 F. 2d 1050.

No. 73-6762. *STEBBINS v. INSURANCE COMPANY OF NORTH AMERICA ET AL.* C. A. D. C. Cir. Certiorari denied.

No. 73-6763. *SMITH v. UNITED STATES*. Ct. App. D. C. Certiorari denied.

No. 73-6764. *WELCH v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 496 F. 2d 861.

No. 73-6765. *DAVIS v. NORTH CAROLINA*. Sup. Ct. N. C. Certiorari denied. Reported below: 284 N. C. 701, 202 S. E. 2d 770.

No. 73-6768. *KOPAS ET AL. v. UNITED STATES ET AL.*; and

No. 73-6775. *KOPAS ET AL. v. UNITED STATES TAX COURT ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 492 F. 2d 1243.

No. 73-6771. *TORBERT v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 496 F. 2d 154.

No. 73-6772. *BOWSER v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 497 F. 2d 1017.

No. 73-6773. *YATES v. UNITED STATES*. C. A. 9th Cir. Certiorari denied.

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No. 73-6777. *ST. LAWRENCE v. UNITED STATES*. C. A. D. C. Cir. Certiorari denied.

No. 73-6778. *EGGLESTON v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 495 F. 2d 1370.

No. 73-6779. *HALL v. WITZENFELD, SHERIFF, ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 486 F. 2d 1400.

No. 73-6780. *BAILEY v. MICHIGAN*. C. A. 6th Cir. Certiorari denied. Reported below: 493 F. 2d 1218.

No. 73-6782. *WILSON ET AL. v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 492 F. 2d 1160.

No. 73-6783. *KING v. NEW YORK*. Ct. App. N. Y. Certiorari denied. Reported below: 33 N. Y. 2d 917, 308 N. E. 2d 451.

No. 73-6784. *LOMBERA v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 491 F. 2d 167.

No. 73-6785. *RODRIGUEZ v. GOVERNMENT OF THE VIRGIN ISLANDS*. C. A. 3d Cir. Certiorari denied. Reported below: 493 F. 2d 1400.

No. 73-6786. *AULT ET AL. v. PURCELL, SHERIFF*. Ct. App. Ore. Certiorari denied. Reported below: 16 Ore. App. 664, 519 P. 2d 1285.

No. 73-6787. *WILLIAMS v. UNITED STATES*. C. A. 2d Cir. Certiorari denied.

No. 73-6788. *SALINAS v. ESTELLE, CORRECTIONS DIRECTOR*. C. A. 5th Cir. Certiorari denied.

No. 73-6789. *ROE v. UNITED STATES*. C. A. 10th Cir. Certiorari denied. Reported below: 495 F. 2d 600.

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No. 73-6790. *MIRIN v. CLARK COUNTY TAXICAB AUTHORITY ET AL.* Sup. Ct. Nev. Certiorari denied. Reported below: 90 Nev. 46, 518 P. 2d 597.

No. 73-6792. *HURST, AKA SHULTZ v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. Reported below: 491 F. 2d 1388.

No. 73-6793. *MONTGOMERY v. UNITED STATES.* C. A. 7th Cir. Certiorari denied. Reported below: 495 F. 2d 1375.

No. 73-6794. *COOPER v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. Reported below: 493 F. 2d 473.

No. 73-6796. *BAILEY v. UNITED STATES.* C. A. 9th Cir. Certiorari denied.

No. 73-6797. *SINGLETON v. ATKINS, ACTING WARDEN.* C. A. 10th Cir. Certiorari denied.

No. 73-6798. *REED v. CARLYLE & MARTIN, INC., ET AL.* Sup. Ct. Va. Certiorari denied. Reported below: 214 Va. 592, 202 S. E. 2d 874.

No. 73-6799. *HOLDEN v. NEW YORK.* App. Div., Sup. Ct. N. Y., 1st Jud. Dept. Certiorari denied.

No. 73-6801. *HUBBARD v. UNITED STATES.* C. A. 9th Cir. Certiorari denied.

No. 73-6802. *VARACALLI v. NEW YORK.* App. Div., Sup. Ct. N. Y., 2d Jud. Dept. Certiorari denied.

No. 73-6806. *SOTELO ET UX. v. IMMIGRATION AND NATURALIZATION SERVICE.* C. A. 6th Cir. Certiorari denied. Reported below: 492 F. 2d 1244.

No. 73-6808. *ALVAREZ v. NEW YORK.* App. Div., Sup. Ct. N. Y., 1st Jud. Dept. Certiorari denied. Reported below: 42 App. Div. 2d 1051, 348 N. Y. S. 2d 960.

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No. 73-6811. *PATRIZZI v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 496 F. 2d 510.

No. 73-6812. *JONES v. OHIO*. Ct. App. Ohio, Cuyahoga County. Certiorari denied.

No. 73-6813. *JOHNSON v. WAINWRIGHT, CORRECTIONS DIRECTOR*. C. A. 5th Cir. Certiorari denied. Reported below: 491 F. 2d 1405.

No. 73-6814. *SHIRD v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 492 F. 2d 1240.

No. 73-6815. *FERGUSON v. DISTRICT OF COLUMBIA*. Ct. App. D. C. Certiorari denied.

No. 73-6816. *HERNANDEZ v. SECRETARY OF HEALTH, EDUCATION, AND WELFARE*. C. A. 1st Cir. Certiorari denied. Reported below: 502 F. 2d 1160.

No. 73-6818. *WEEMS v. UNITED STATES*. C. A. 4th Cir. Certiorari denied.

No. 73-6819. *STROUPE v. TIDWELL, COMMISSIONER OF REVENUE*. Sup. Ct. Tenn. Certiorari denied. Reported below: 510 S. W. 2d 77.

No. 73-6820. *COOPER v. UNITED STATES*. C. A. 8th Cir. Certiorari denied.

No. 73-6821. *MOUNCE v. ROSS ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 491 F. 2d 1271.

No. 73-6822. *BOYD v. NORTH CAROLINA*. Sup. Ct. N. C. Certiorari denied. Reported below: 285 N. C. 86, 203 S. E. 2d 59.

No. 73-6823. *JOHNSON ET AL. v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 495 F. 2d 378.

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No. 73-6824. *LITTLE v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 490 F. 2d 686.

No. 73-6825. *ERBER v. NEW JERSEY*. Super. Ct. N. J. Certiorari denied.

No. 73-6827. *KREAGER v. GENERAL ELECTRIC CO. ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 497 F. 2d 468.

No. 73-6829. *KINNELL v. GAFFNEY, WARDEN*. C. A. 10th Cir. Certiorari denied.

No. 73-6831. *DIGGS v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 497 F. 2d 391.

No. 73-6832. *SIMMONS v. WAINWRIGHT, CORRECTIONS DIRECTOR*. C. A. 5th Cir. Certiorari denied. Reported below: 493 F. 2d 1404.

No. 73-6833. *COTHRUM v. OKLAHOMA COUNTY DISTRICT COURT ET AL.* Ct. Crim. App. Okla. Certiorari denied.

No. 73-6834. *TURMAN v. UNITED STATES*. C. A. 10th Cir. Certiorari denied.

No. 73-6836. *HOLLEY v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 493 F. 2d 581.

No. 73-6837. *BORUSKI v. UNITED STATES*. Ct. Cl. Certiorari denied.

No. 73-6838. *TERRELL v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 491 F. 2d 1406.

No. 73-6839. *GRIFFITH ET AL. v. EDWARDS, SHERIFF*. C. A. 8th Cir. Certiorari denied. Reported below: 493 F. 2d 495.

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No. 73-6843. *RICH v. UNITED STATES*; and

No. 73-6858. *RICH v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 495 F. 2d 1374.

No. 73-6844. *CRAWFORD v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 491 F. 2d 942.

No. 73-6845. *MILLER v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 493 F. 2d 1402.

No. 73-6850. *CAMPBELL v. GEORGIA ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 491 F. 2d 1405.

No. 73-6854. *CARRATELLO v. UNITED STATES*. C. A. 9th Cir. Certiorari denied.

No. 73-6855. *LONIS v. CAMPBELL*. C. A. 6th Cir. Certiorari denied. Reported below: 493 F. 2d 1406.

No. 73-6856. *ROBINSON v. JEFFERSON COUNTY BOARD OF EDUCATION ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 485 F. 2d 1381.

No. 73-6857. *McWILLIAMS v. UNITED STATES*. C. A. 8th Cir. Certiorari denied.

No. 73-6859. *UNTIEDT v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 493 F. 2d 1056.

No. 73-6860. *CRUZ-GUERRA v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 494 F. 2d 1295.

No. 73-6863. *BACA v. UNITED STATES*. C. A. 10th Cir. Certiorari denied.

No. 73-6865. *GRAYSON v. ALABAMA*. C. A. 5th Cir. Certiorari denied.

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No. 73-6866. *MULHALL v. INMONT CORP.* C. A. 6th Cir. Certiorari denied. Reported below: 497 F. 2d 924.

No. 73-6869. *HARDY v. CALIFORNIA.* Ct. App. Cal., 1st App. Dist. Certiorari denied.

No. 73-6870. *HAYES v. UNITED STATES.* C. A. 10th Cir. Certiorari denied.

No. 73-6871. *SAPPINGTON v. UNITED STATES.* C. A. 6th Cir. Certiorari denied. Reported below: 495 F. 2d 1374.

No. 73-6872. *OHMERT v. YOUNG.* Ct. App. Cal., 2d App. Dist. Certiorari denied.

No. 73-6873. *BONNER ET AL. v. MARKS ET AL.* C. A. 8th Cir. Certiorari denied.

No. 73-6880. *MARTLEY v. OKLAHOMA.* Ct. Crim. App. Okla. Certiorari denied. Reported below: 519 P. 2d 544.

No. 73-6881. *NEAL v. SMITH, WARDEN, ET AL.* C. A. 5th Cir. Certiorari denied.

No. 73-6882. *MURPHREE v. UNITED STATES.* C. A. 9th Cir. Certiorari denied. Reported below: 497 F. 2d 395.

No. 73-6883. *WILLIAMS v. CALIFORNIA.* Sup. Ct. Cal. Certiorari denied.

No. 73-6886. *O'QUINN v. ESTELLE, CORRECTIONS DIRECTOR.* C. A. 5th Cir. Certiorari denied. Reported below: 491 F. 2d 1272.

No. 73-6888. *GIOVINE v. MACK TRUCKS ET AL.* Super. Ct. N. J. Certiorari denied.

No. 73-6889. *SCHMIDT v. UNITED STATES.* C. A. 10th Cir. Certiorari denied.

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No. 73-6892. *BEASLEY v. CALIFORNIA*. Ct. App. Cal., 4th App. Dist. Certiorari denied.

No. 73-6897. *LANSBERRY ET AL. v. PITTSBURGH NATIONAL BANK*. Sup. Ct. Pa. Certiorari denied.

No. 73-6898. *MAYO v. LAVALLEE, CORRECTIONAL SUPERINTENDENT*. C. A. 2d Cir. Certiorari denied. Reported below: 493 F. 2d 1399.

No. 73-6900. *WILSON v. JERRY MILLER, INC.* Sup. Ct. Ind. Certiorari denied.

No. 73-6904. *WARD v. TEXAS*. Ct. Crim. App. Tex. Certiorari denied. Reported below: 505 S. W. 2d 832.

No. 73-6905. *DEVOTI v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 493 F. 2d 1398.

No. 73-6910. *MATLOCK v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 491 F. 2d 504.

No. 73-6912. *LEE v. ALABAMA*. C. A. 5th Cir. Certiorari denied.

No. 73-6915. *HURD v. SUPREME COURT OF CALIFORNIA*. Sup. Ct. Cal. Certiorari denied.

No. 73-6916. *CANTONI v. NEW JERSEY*. Sup. Ct. N. J. Certiorari denied.

No. 73-6928. *CHANNEY v. MCINTOSH ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 490 F. 2d 990.

No. 73-6929. *FONGONE v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 464 F. 2d 1280.

No. 73-6930. *HUCKABAY v. CALIFORNIA*. Ct. App. Cal., 2d App. Dist. Certiorari denied.

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No. 73-6932. *WEBB ET AL. v. UNITED STATES*. C. A. 10th Cir. Certiorari denied.

No. 73-6937. *INGLE v. MICHIGAN*. Sup. Ct. Mich. Certiorari denied.

No. 73-6939. *BROWN v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 493 F. 2d 485.

No. 73-6944. *JOHNSON v. ILLINOIS*. App. Ct. Ill., 4th Jud. Dist. Certiorari denied. Reported below: 13 Ill. App. 3d 1020, 304 N. E. 2d 681.

No. 73-6946. *CORDOVA v. ESTELLE, CORRECTIONS DIRECTOR*. C. A. 5th Cir. Certiorari denied.

No. 73-6949. *JONES v. NELSON, WARDEN*. C. A. 9th Cir. Certiorari denied.

No. 73-6951. *KANE, DBA KANE'S DIESEL & TRUCK REPAIR v. THE LEDA ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 491 F. 2d 899.

No. 73-6955. *CARTER v. MONEY TREE Co.* Ct. Civ. App. Tex., 14th Sup. Jud. Dist. Certiorari denied.

No. 73-6964. *OLENZ v. TELETYPE CORP. ET AL.* C. A. 7th Cir. Certiorari denied.

No. 73-6966. *PARKER v. ILLINOIS*. App. Ct. Ill., 1st Dist. Certiorari denied. Reported below: 15 Ill. App. 3d 774, 305 N. E. 2d 228.

No. 73-6972. *ALLEN v. ILLINOIS*. Sup. Ct. Ill. Certiorari denied. Reported below: 56 Ill. 2d 536, 309 N. E. 2d 544.

No. 73-6982. *SMITH v. OKLAHOMA*. Ct. Crim. App. Okla. Certiorari denied. Reported below: 521 P. 2d 832.

No. 73-6985. *JORDAN v. WAINWRIGHT, CORRECTIONS DIRECTOR*. C. A. 5th Cir. Certiorari denied.

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No. 73-6988. *SANTANA v. NEW YORK ET AL.* C. A. 2d Cir. Certiorari denied.

No. 73-6989. *BRYANT v. HENDERSON, CORRECTIONAL SUPERINTENDENT.* C. A. 2d Cir. Certiorari denied.

No. 73-6995. *HERSHIPS v. YOUNG, JUDGE, ET AL.* C. A. 9th Cir. Certiorari denied.

No. 73-6998. *COLLINS v. MICHIGAN.* Sup. Ct. Mich. Certiorari denied. Reported below: 391 Mich. 798.

No. 73-7001. *STEJSKAL v. UNITED STATES.* C. A. 9th Cir. Certiorari denied.

No. 73-7004. *CAMM ET VIR v. FLORIDA.* Sup. Ct. Fla. Certiorari denied. Reported below: 294 So. 2d 318.

No. 73-7005. *POWELL v. UNITED STATES.* C. A. 9th Cir. Certiorari denied. Reported below: 498 F. 2d 890.

No. 73-7008. *BROWN v. GROOMES, PRISON SUPERINTENDENT.* C. A. 3d Cir. Certiorari denied.

No. 73-7012. *HERNANDEZ v. CRAVEN, WARDEN.* C. A. 9th Cir. Certiorari denied.

No. 73-7015. *BLONDELL v. JURAS, ADMINISTRATOR, PUBLIC WELFARE DIVISION.* Ct. App. Ore. Certiorari denied. Reported below: 15 Ore. App. 321, 515 P. 2d 727.

No. 73-7018. *GUSICK v. CARDWELL, WARDEN.* C. A. 9th Cir. Certiorari denied.

No. 73-7020. *GANCI v. HENDERSON, CORRECTIONAL SUPERINTENDENT.* C. A. 2d Cir. Certiorari denied.

No. 73-7024. *CAESAR v. HENDERSON, WARDEN.* C. A. 5th Cir. Certiorari denied. Reported below: 493 F. 2d 1404.

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No. 73-7025. *JOHNSON v. HUNT*, CORRECTIONS DIRECTOR. C. A. 5th Cir. Certiorari denied.

No. 73-7030. *POLK v. MISSISSIPPI*. Sup. Ct. Miss. Certiorari denied. Reported below: 288 So. 2d 452.

No. 73-7035. *THOMPSON v. NORTH CAROLINA*. Sup. Ct. N. C. Certiorari denied. Reported below: 285 N. C. 181, 203 S. E. 2d 781.

No. 73-7038. *CHRISTOFORA v. NEW YORK*. App. Div., Sup. Ct. N. Y., 3d Jud. Dept. Certiorari denied. Reported below: 43 App. Div. 2d 766, 350 N. Y. S. 2d 772.

No. 73-7041. *CRONIN v. WILSON*, GOVERNOR OF NEW YORK, ET AL. C. A. 2d Cir. Certiorari denied.

No. 73-7042. *PARKER v. PRUDENTIAL INSURANCE COMPANY OF AMERICA ET AL.* Super. Ct. Pa. Certiorari denied.

No. 73-7046. *WIENER v. CHANCE ET AL.* C. A. 2d Cir. Certiorari denied.

No. 73-7047. *PAGEL v. OREGON*. Ct. App. Ore. Certiorari denied. Reported below: 16 Ore. App. 412, 518 P. 2d 1037.

No. 73-7060. *HERNON v. REVERE COPPER & BRASS, INC.* C. A. 8th Cir. Certiorari denied. Reported below: 494 F. 2d 705.

No. 73-7063. *SHIFLETT v. ALABAMA*. Ct. Crim. App. Ala. Certiorari denied. Reported below: 52 Ala. App. 476, 294 So. 2d 444.

No. 73-7064. *GRANT v. GRANT*. Ct. Civ. App. Ala. Certiorari denied. Reported below: 52 Ala. App. 365, 292 So. 2d 660.

No. 73-7070. *WHITE v. EYMAN*, WARDEN. C. A. 9th Cir. Certiorari denied.

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No. 73-7086. *MARTIN v. ESTELLE, CORRECTIONS DIRECTOR*. C. A. 5th Cir. Certiorari denied. Reported below: 492 F.2d 1120.

No. 73-7087. *TRUDEAU v. MICHIGAN*. Ct. App. Mich. Certiorari denied. Reported below: 51 Mich. App. 766, 216 N. W. 2d 450.

No. 73-7092. *WHISNANT v. LUTTRELL, CORRECTIONS COMMISSIONER, ET AL.* C. A. 6th Cir. Certiorari denied.

No. 73-7095. *BROWN v. GROOMES, PRISON SUPERINTENDENT*. C. A. 3d Cir. Certiorari denied.

No. 73-7098. *GONZALES v. ALASKA*. Sup. Ct. Alaska. Certiorari denied. Reported below: 521 P. 2d 512.

No. 73-7116. *EVANS v. KENTUCKY*. Ct. App. Ky. Certiorari denied.

No. 74-1. *CARDIN v. KENTUCKY*. Ct. App. Ky. Certiorari denied.

No. 74-2. *BILL SWAD CHRYSLER-PLYMOUTH Co. v. 565 EAST BROAD, INC.* Ct. App. Ohio, Franklin County. Certiorari denied.

No. 74-5. *REA ET AL. v. FORD MOTOR Co.* C. A. 3d Cir. Certiorari denied. Reported below: 497 F. 2d 577.

No. 74-6. *ANCHOR MOTOR FREIGHT, INC. v. SCOTT*. C. A. 6th Cir. Certiorari denied. Reported below: 496 F. 2d 276.

No. 74-16. *CHERAMIE v. TUCKER, JUDGE, ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 493 F. 2d 586.

No. 74-20. *JACOBS v. GROMATSKY, DISTRICT DIRECTOR OF INTERNAL REVENUE, ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 494 F. 2d 513.

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No. 74-24. *ENGLAND, TRUSTEE IN BANKRUPTCY v. CHRYSLER CORP. ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 493 F.2d 269.

No. 74-35. *OLDEN v. FOSS ET AL.* Ct. App. Cal., 2d App. Dist. Certiorari denied.

No. 74-39. *KLEBS v. INDIANA.* Ct. App. Ind. Certiorari denied. Reported below: — Ind. App. —, 305 N. E. 2d 781.

No. 74-47. *FIBREBOARD PAPER PRODUCTS CORP. ET AL. v. BOREL.* C. A. 5th Cir. Certiorari denied. Reported below: 493 F.2d 1076.

No. 74-48. *LOCAL 391, INTERNATIONAL BROTHERHOOD OF TEAMSTERS, CHAUFFEURS, WAREHOUSEMEN & HELPERS OF AMERICA, ET AL. v. PILOT FREIGHT CARRIERS, INC.* C. A. 4th Cir. Certiorari denied. Reported below: 497 F.2d 311.

No. 74-52. *LEE ET AL. v. CITY OF CHATTANOOGA ET AL.* Ct. App. Tenn. Certiorari denied. Reported below: 500 S. W. 2d 917.

No. 74-53. *DEVITA v. BURLINGTON NORTHERN, INC.* C. A. 9th Cir. Certiorari denied. Reported below: 494 F.2d 347.

No. 74-56. *CAREY v. DAVIS ET AL.* C. A. D. C. Cir. Certiorari denied. Reported below: 162 U. S. App. D. C. 247, 498 F.2d 789.

No. 74-59. *STOCKMEN'S INSURANCE AGENCY, INC. v. GUARANTEE RESERVE LIFE INSURANCE COMPANY OF HAMMOND, INDIANA.* Sup. Ct. N. D. Certiorari denied. Reported below: 217 N. W. 2d 455.

No. 74-61. *NILES SAND & GRAVEL Co., INC., ET AL. v. ALAMEDA COUNTY WATER DISTRICT.* Ct. App. Cal., 1st

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App. Dist. Certiorari denied. Reported below: 37 Cal. App. 3d 924, 112 Cal. Rptr. 846.

No. 74-66. HETTLEMAN ET AL. *v.* CHICAGO LAW INSTITUTE ET AL. App. Ct. Ill., 1st Dist. Certiorari denied.

No. 74-68. CLARION CORP. *v.* AMERICAN HOME PRODUCTS CORP. ET AL. C. A. 7th Cir. Certiorari denied. Reported below: 494 F. 2d 860.

No. 74-73. KANSAS CITY STAR CO., FLAMBEAU PAPER COMPANY DIVISION *v.* DEPARTMENT OF INDUSTRY, LABOR, AND HUMAN RELATIONS ET AL. Sup. Ct. Wis. Certiorari denied. Reported below: 60 Wis. 2d 591, 211 N. W. 2d 488, and 62 Wis. 2d 783, 217 N. W. 2d 666.

No. 74-74. RONSON CORP. *v.* LIQUIFIN AG ET AL. C. A. 3d Cir. Certiorari denied. Reported below: 497 F. 2d 394.

No. 74-84. MILES ET AL *v.* PULLMAN CO. ET AL. C. A. 7th Cir. Certiorari denied. Reported below: 497 F. 2d 926.

No. 74-87. MIHALOPOULOS *v.* IDEAL CEMENT CO. C. A. 9th Cir. Certiorari denied.

No. 74-91. MOULTON ET UX. *v.* FORD MOTOR CO. ET AL. Sup. Ct. Tenn. Certiorari denied. Reported below: 511 S. W. 2d 690.

No. 74-103. WILLIAMSON MARINE TRANSPORT, INC., ET AL. *v.* LOUISIANA TAX COMMISSION. Sup. Ct. La. Certiorari denied. Reported below: 294 So. 2d 839.

No. 74-147. AAACON AUTO TRANSPORT, INC. *v.* LASKER, U. S. DISTRICT JUDGE. C. A. 2d Cir. Certiorari denied.

No. 74-245. HUTTER ET AL. *v.* CITY OF CHICAGO. App. Ct. Ill., 1st Dist. Certiorari denied.

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No. 74-5001. CLARK *v.* CARBERRY. C. A. 9th Cir. Certiorari denied.

No. 74-5002. COPPOLA *v.* GRIGGS, WARDEN. Sup. Ct. Cal. Certiorari denied.

No. 74-5007. PATTERSON *v.* ESTELLE, CORRECTIONS DIRECTOR. C. A. 5th Cir. Certiorari denied. Reported below: 494 F. 2d 37.

No. 74-5009. HARRISON *v.* KENTUCKY. Ct. App. Ky. Certiorari denied.

No. 74-5019. HYMES *v.* OHIO. Ct. App. Ohio, Franklin County. Certiorari denied.

No. 74-5031. MOORE ET AL. *v.* ARIZONA. Sup. Ct. Ariz. Certiorari denied. Reported below: 110 Ariz. 404, 519 P. 2d 1145.

No. 74-5080. NICHOLS *v.* FULLER. C. A. 1st Cir. Certiorari denied.

No. 74-5099. CURRY *v.* OHIO. Ct. App. Ohio, Cuyahoga County. Certiorari denied.

No. 74-5139. DILLINGHAM *v.* FLORIDA. Dist. Ct. App. Fla., 4th Dist. Certiorari denied. Reported below: 291 So. 2d 128.

No. 74-5154. L'AQUARIUS, AKA LEWELLEN *v.* ANDERSON, WARDEN. C. A. 10th Cir. Certiorari denied.

No. 74-5155. DAVIS *v.* NEW YORK. App. Div., Sup. Ct. N. Y., 1st Jud. Dept. Certiorari denied.

No. 73-1281. TONASKET ET AL. *v.* THOMPSON ET AL. C. A. 9th Cir. Motion of Hoopa Valley Tribe of Indians for leave to file a brief as *amicus curiae* granted. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari. Reported below: 487 F. 2d 315 and 316.

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No. 73-1308. *WHITE v. UNITED STATES ET AL.* C. A. 5th Cir. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari. Reported below: 487 F. 2d 1335.

No. 73-1390. *DORNAU v. UNITED STATES.* C. A. 2d Cir. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari. Reported below: 491 F. 2d 473.

No. 73-1407. *YSRAEL v. GUAM FEDERATION OF TEACHERS, LOCAL 1581, AMERICAN FEDERATION OF TEACHERS, ET AL.* C. A. 9th Cir. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari. Reported below: 492 F. 2d 438.

No. 73-1486. *SOTOMURA ET UX. v. COUNTY OF HAWAII ET AL.* Sup. Ct. Hawaii. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari. Reported below: 55 Haw. 176, 517 P. 2d 57.

No. 73-1501. *BRAMBLETT v. DESOBRY ET AL.* C. A. 6th Cir. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari. Reported below: 490 F. 2d 405.

No. 73-1512. *KRISTOVICH v. CALIFORNIA.* Ct. App. Cal., 4th App. Dist. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari.

No. 73-1521. *LOSCHIAVO v. UNITED STATES.* C. A. 2d Cir. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari. Reported below: 493 F. 2d 1399.

No. 73-1544. *WINGATE v. UNITED STATES.* C. A. 6th Cir. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari. Reported below: 493 F. 2d 1407.

No. 73-1560. *MARION v. UNITED STATES.* C. A. 2d Cir. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari. Reported below: 493 F. 2d 1399.

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No. 73-1604. *NIEZEK v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari. Reported below: 489 F. 2d 703.

No. 73-1621. *DIOGUARDI v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari. Reported below: 492 F. 2d 70.

No. 73-1624. *ANDREA DUMON, INC., ET AL. v. CLAIROL, INC.* App. Ct. Ill., 1st Dist. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari. Reported below: 14 Ill. App. 3d 641, 303 N. E. 2d 177.

No. 73-1632. *SMITH ET AL. v. STEWART ET AL.* App. Ct. Ill., 1st Dist. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari. Reported below: 14 Ill. App. 3d 1039, 304 N. E. 2d 3.

No. 73-1638. *GOLD ON BEHALF OF SUSQUEHANNA CORP. v. SCURLOCK ET AL.* C. A. 4th Cir. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari. Reported below: 486 F. 2d 340.

No. 73-1658. *PACIFIC FAR EAST LINE, INC. v. HARTFORD FIRE INSURANCE Co.* C. A. 9th Cir. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari. Reported below: 491 F. 2d 960.

No. 73-1668. *BARBOUR v. DISTRICT DIRECTOR, IMMIGRATION AND NATURALIZATION SERVICE*. C. A. 5th Cir. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari. Reported below: 491 F. 2d 573.

No. 73-1671. *SMALLWOOD v. PEARL BREWING CO. ET AL.* C. A. 5th Cir. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari. Reported below: 489 F. 2d 579.

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No. 73-1676. *WAHBA v. NEW YORK UNIVERSITY ET AL.* C. A. 2d Cir. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari. Reported below: 492 F. 2d 96.

No. 73-1700. *NATIONAL NUTRITIONAL FOODS ASSN. ET AL. v. SCHMIDT, COMMISSIONER OF FOOD AND DRUGS DIVISION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE, ET AL.* C. A. 2d Cir. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari. Reported below: 491 F. 2d 1141.

No. 73-1705. *WOODRUFF & SONS, INC., ET AL. v. LASER ALIGNMENT, INC., ET AL.* C. A. 7th Cir. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari. Reported below: 491 F. 2d 866.

No. 73-1710. *KAN KAM LIN ET AL. v. RINALDI, DISTRICT DIRECTOR, IMMIGRATION AND NATURALIZATION SERVICE, ET AL.* C. A. 3d Cir. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari. Reported below: 493 F. 2d 1229.

No. 73-1747. *COORS PORCELAIN CO. v. COLORADO ET AL.* Sup. Ct. Colo. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari. Reported below: 183 Colo. 325, 517 P. 2d 838.

No. 73-1757. *FEDERAL ELECTRIC CORP. v. UNITED STATES.* Ct. Cl. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari. Reported below: 202 Ct. Cl. 1028, 486 F. 2d 1377.

No. 73-1767. *BURCHETT v. CARDWELL, WARDEN.* C. A. 9th Cir. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari. Reported below: 493 F. 2d 492.

No. 73-1770. *SILVERMAN ET AL. v. UNITED STATES.* C. A. 6th Cir. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari. Reported below: 492 F. 2d 1367.

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No. 73-1774. *ANDERSON ET UX. v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari.

No. 73-1782. *HOWARD v. CITY OF CINCINNATI*. Ct. App. Ohio, Hamilton County. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari.

No. 73-1812. *WILLIS ET AL. v. CALIFORNIA*. Ct. App. Cal., 1st App. Dist. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari.

No. 73-1819. *CRAMER ET AL. v. VIRGINIA*. Sup. Ct. Va. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari. Reported below: 214 Va. 561, 202 S. E. 2d 911.

No. 73-1828. *HOCHFELDER ET AL. v. MIDWEST STOCK EXCHANGE ET AL.* C. A. 7th Cir. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari. Reported below: 503 F. 2d 364.

No. 73-1836. *LIMBACK v. WEINBERGER, SECRETARY OF HEALTH, EDUCATION, AND WELFARE*. C. A. 6th Cir. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari. Reported below: 493 F. 2d 1406.

No. 73-1868. *TERRACIANO v. SMITH, CORRECTIONAL SUPERINTENDENT, ET AL.* C. A. 2d Cir. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari. Reported below: 493 F. 2d 682.

No. 73-1914. *WESTERMAYER ET AL. v. PULLMAN CO. ET AL.* C. A. 7th Cir. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari.

No. 73-1935. *PAYNE, A MINOR, BY PAYNE v. CITY OF FORT LAUDERDALE ET AL.* Dist. Ct. App. Fla., 4th Dist. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari.

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No. 73-1944. *FORD WHOLESALE Co., INC. v. FIBREBOARD PAPER PRODUCTS CORP.* C. A. 9th Cir. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari. Reported below: 493 F. 2d 1204.

No. 73-6302. *RECHTMAN v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari. Reported below: 486 F. 2d 1402.

No. 73-6365. *PAYNE v. UNITED STATES.* C. A. 4th Cir. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari. Reported below: 492 F. 2d 449.

No. 73-6379. *LEGO v. UNITED STATES.* C. A. 9th Cir. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari.

No. 73-6414. *BURNS v. UNITED STATES.* C. A. 2d Cir. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari. Reported below: 492 F. 2d 319.

No. 73-6425. *CHAMBERS v. DELANEY ET AL.* Ct. App. Okla. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari.

No. 73-6428. *WHITFIELD v. WARDEN, MARYLAND HOUSE OF CORRECTION.* C. A. 4th Cir. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari. Reported below: 486 F. 2d 1118.

No. 73-6445. *CUNNINGHAM v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari. Reported below: 493 F. 2d 664.

No. 73-6545. *PAYNE v. UNITED STATES.* C. A. 4th Cir. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari. Reported below: 492 F. 2d 449.

No. 73-6552. *PATTERSON v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari. Reported below: 487 F. 2d 1300.

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No. 73-6609. *TAYLOR v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari. Reported below: 492 F. 2d 1240.

No. 73-6614. *CLANTON v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari. Reported below: 488 F. 2d 1069.

No. 73-6663. *COLLINS v. BRIERLEY, CORRECTIONAL SUPERINTENDENT*. C. A. 3d Cir. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari. Reported below: 492 F. 2d 735.

No. 73-6680. *JONES v. VINCENT, CORRECTIONAL SUPERINTENDENT*. C. A. 2d Cir. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari. Reported below: 491 F. 2d 1275.

No. 73-6684. *MAUPIN v. ESTELLE, CORRECTIONS DIRECTOR*. C. A. 5th Cir. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari.

No. 73-6696. *CAULEY v. GEORGIA*. Ct. App. Ga. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari. Reported below: 130 Ga. App. 278, 203 S. E. 2d 239.

No. 73-6700. *MATTHEWS v. UNITED STATES*. C. A. D. C. Cir. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari. Reported below: 161 U. S. App. D. C. 238, 494 F. 2d 1157.

No. 73-6733. *ROBINSON v. TENNESSEE*. Sup. Ct. Tenn. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari. Reported below: 505 S. W. 2d 237.

No. 73-6735. *TAGGART v. OREGON*. Ct. App. Ore. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari. Reported below: 14 Ore. App. 408, 512 P. 2d 1359.

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No. 73-6743. *NEVAREZ-ALCANTAR, AKA MARTINEZ v. UNITED STATES*. C. A. 10th Cir. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari. Reported below: 495 F. 2d 678.

No. 73-6752. *LEFEBRE v. CADY, WARDEN*. C. A. 7th Cir. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari. Reported below: 492 F. 2d 1245.

No. 73-6758. *MORA-CHAVEZ v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari. Reported below: 496 F. 2d 1181.

No. 73-6769. *LORD v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari. Reported below: 475 F. 2d 763.

No. 73-6776. *DURKIN v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari. Reported below: 493 F. 2d 1398.

No. 73-6781. *ARTIERI v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari. Reported below: 491 F. 2d 440.

No. 73-6791. *OVERSHON v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari. Reported below: 494 F. 2d 894.

No. 73-6804. *BRINLEE v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari. Reported below: 496 F. 2d 351.

No. 73-6852. *MCBRIDE v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari. Reported below: 503 F. 2d 1337.

No. 73-6911. *DAVIS v. JOHNSON, CORRECTIONAL SUPERINTENDENT, ET AL.* C. A. 3d Cir. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari. Reported below: 495 F. 2d 335.

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No. 73-6925. *ESTRADA v. CALIFORNIA*. Ct. App. Cal., 5th App. Dist. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari.

No. 73-6941. *CAMPBELL v. UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA*. C. A. 9th Cir. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari. Reported below: 501 F. 2d 196.

No. 73-6948. *THOMAS v. CANNON, WARDEN, ET AL.* C. A. 7th Cir. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari. Reported below: 493 F. 2d 151.

No. 73-6958. *LIEBSCH v. LIEBSCH*. Ct. Sp. App. Md. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari.

No. 73-6961. *WILEY v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari. Reported below: 478 F. 2d 415.

No. 73-7073. *PRATT v. CALIFORNIA*. Ct. App. Cal., 2d App. Dist. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari.

No. 73-7077. *RANDALL v. GOLDMARK, SECRETARY, EXECUTIVE OFFICE OF HUMAN RESOURCES OF MASSACHUSETTS, ET AL.* C. A. 1st Cir. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari. Reported below: 495 F. 2d 356.

No. 73-7085. *LEPAGE ET AL. v. PICARD, CORRECTIONAL SUPERINTENDENT*. C. A. 1st Cir. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari. Reported below: 495 F. 2d 26.

No. 74-34. *INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS, LOCAL 336, AFL-CIO v. ILLINOIS BELL TELEPHONE CO.* C. A. 7th Cir. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari. Reported below: 496 F. 2d 1.

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No. 74-5023. *EVERETT v. ARIZONA*. Sup. Ct. Ariz. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari. Reported below: 110 Ariz. 429, 520 P. 2d 301.

No. 74-5034. *RICE v. VINCENT, CORRECTIONAL SUPERINTENDENT*. C. A. 2d Cir. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari. Reported below: 491 F. 2d 1326.

No. 74-5163. *PICKENS v. TEXAS*. C. A. 5th Cir. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari. Reported below: 497 F. 2d 981.

No. 73-1329. *PENNSYLVANIA v. WOODS*. Sup. Ct. Pa. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 455 Pa. 1, 312 A. 2d 357.

No. 73-1536. *HENDERSON, WARDEN v. BARKSDALE*. C. A. 5th Cir. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied.

No. 73-1653. *ENSLow, SHERIFF v. WATSON*. Sup. Ct. Colo. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 183 Colo. 435, 517 P. 2d 1346.

No. 73-1726. *UNITED STATES v. HAMILTON*. C. A. 9th Cir. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 490 F. 2d 598.

No. 73-1783. *MONTICELLO v. MONTICELLO*. Ct. App. Md. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 271 Md. 168, 315 A. 2d 520.

No. 74-90. *KELLER, SECRETARY, DEPARTMENT OF HEALTH AND REHABILITATIVE SERVICES OF FLORIDA, ET AL. v. MIXON, A MINOR, BY CARTER, ET AL.* Certiorari before

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judgment to C. A. 5th Cir. Motion of respondents for leave to proceed *in forma pauperis* granted. Certiorari denied.

No. 73-1348. J. M. FIELDS, INC. *v.* BRENNAN, SECRETARY OF LABOR. C. A. 5th Cir. Motion of Chamber of Commerce of the United States for leave to file a brief as *amicus curiae* granted. Certiorari denied. Reported below: 488 F. 2d 443.

No. 73-1414. MINNESOTA *v.* ANDREWS. Sup. Ct. Minn. Certiorari denied, it appearing that judgment below rests upon adequate state grounds. Reported below: 297 Minn. 260, 212 N. W. 2d 863.

No. 73-1576. DISHEROON *v.* OKLAHOMA. Ct. Crim. App. Okla. Certiorari denied. MR. JUSTICE DOUGLAS and MR. JUSTICE BLACKMUN would grant certiorari. Reported below: 518 P. 2d 892.

No. 73-1642. INTERNATIONAL ASSOCIATION OF MACHINISTS & AEROSPACE WORKERS, AFL-CIO *v.* NATIONAL LABOR RELATIONS BOARD. C. A. 9th Cir. Certiorari denied. MR. JUSTICE DOUGLAS, MR. JUSTICE BRENNAN, and MR. JUSTICE WHITE would grant certiorari. Reported below: 491 F. 2d 367.

No. 73-1644. ARENDS *v.* ARENDS. Sup. Ct. Utah. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari. Reported below: 30 Utah 2d 328, 517 P. 2d 1019.

No. 73-1648. IVANOV *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied. MR. JUSTICE DOUGLAS, MR. JUSTICE BRENNAN, and MR. JUSTICE STEWART would grant certiorari. MR. JUSTICE MARSHALL took no part in the consideration or decision of this petition. Reported below: 494 F. 2d 593.

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No. 73-1655. *RUHM v. TURNER, SHERIFF, ET AL.* C. A. 10th Cir. Application for bail presented to Mr. JUSTICE WHITE, and by him referred to the Court, denied. Certiorari denied. See *Molinaro v. New Jersey*, 396 U. S. 365 (1970).

No. 73-1657. *ESTATE OF MEADE ET AL. v. COMMISSIONER OF INTERNAL REVENUE.* C. A. 5th Cir. Certiorari denied. Mr. JUSTICE DOUGLAS, Mr. JUSTICE STEWART, and Mr. JUSTICE WHITE would grant certiorari. Reported below: 489 F. 2d 161.

No. 73-1688. *CRONRATH v. JOHNSON.* C. A. 3d Cir. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Mr. JUSTICE DOUGLAS and Mr. JUSTICE BLACKMUN would grant certiorari. Reported below: 488 F. 2d 820.

No. 73-1693. *COMMISSIONER OF INTERNAL REVENUE v. MUTUAL BENEFIT LIFE INSURANCE CO.* C. A. 3d Cir. Certiorari denied. Mr. JUSTICE WHITE took no part in the consideration or decision of this petition. Reported below: 488 F. 2d 1101.

No. 73-1753. *IN RE ESTATE OF CASSIDY ET AL.* Sup. Jud. Ct. Me. Certiorari and other relief denied. Reported below: 313 A. 2d 435.

No. 73-1772. *SOUTHERN CALIFORNIA GAS CO. v. FEDERAL POWER COMMISSION;*

No. 73-1776. *PACIFIC GAS & ELECTRIC CO. v. FEDERAL POWER COMMISSION;*

No. 73-1790. *SAN DIEGO GAS & ELECTRIC CO. v. FEDERAL POWER COMMISSION;* and

No. 73-1825. *CITY OF WILLCOX ET AL. v. FEDERAL POWER COMMISSION.* C. A. D. C. Cir. Certiorari denied. Mr. JUSTICE POWELL took no part in the consideration or decision of these petitions. Reported below: 161 U. S. App. D. C. 6, 494 F. 2d 925.

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No. 73-1672. UNITED STATES *v.* BANKERS TRUST CO. ET AL., TRUSTEES. C. A. 3d Cir. Motion to substitute Bank of New York et al. in place of Morgan Guaranty Trust Company of New York as parties respondent granted. Certiorari denied. Reported below: 494 F. 2d 270.

No. 73-1805. AMERICAN DAIRY OF EVANSVILLE, INC. *v.* KRAFTCO CORP. C. C. P. A. Certiorari denied. MR. JUSTICE POWELL took no part in the consideration or decision of this petition. Reported below: 487 F. 2d 1407.

No. 73-1846. PERRY *v.* COLUMBIA BROADCASTING SYSTEM, INC., ET AL. C. A. 7th Cir. Certiorari denied. MR. JUSTICE POWELL took no part in the consideration or decision of this petition. Reported below: 499 F. 2d 797.

No. 73-1789. MR. STEAK, INC., ET AL. *v.* EDINA STATE BANK. C. A. 10th Cir. Motion of Stock Transfer Assn., Inc., for leave to file a brief as *amicus curiae* granted. Certiorari denied. Reported below: 487 F. 2d 640.

No. 73-1887. TRIANO *v.* NEW JERSEY. Super. Ct. N. J. Certiorari denied. MR. JUSTICE BRENNAN and MR. JUSTICE STEWART would grant certiorari.

No. 73-1925. DELPHI COMMUNITY SCHOOL BUILDING CORP. *v.* NORTHEASTERN INSURANCE COMPANY OF HARTFORD ET AL. C. A. 7th Cir. Motion of Fred A. Mauck, Director of Insurance of Illinois, as Liquidator of Home Owners Insurance Co., for leave to file a brief as *amicus curiae* granted. Certiorari denied. Reported below: 492 F. 2d 268.

No. 73-2014. MISSOURI PORTLAND CEMENT Co. *v.* CARGILL, INC. C. A. 2d Cir. Certiorari denied. MR. JUSTICE DOUGLAS and MR. JUSTICE BRENNAN would grant certiorari. MR. JUSTICE BLACKMUN took no part in the

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consideration or decision of this petition. Reported below: 498 F. 2d 851.

No. 73-2038. CHURCHILL AREA SCHOOL DISTRICT ET AL. *v.* HOOTS ET AL. C. A. 3d Cir. Motion of respondents Knight et al. for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 495 F. 2d 1095.

No. 73-6601. WILLIAMS *v.* CALIFORNIA. Ct. App. Cal., 2d App. Dist. Certiorari denied. MR. JUSTICE DOUGLAS and MR. JUSTICE BRENNAN would grant certiorari.

No. 73-6636. ANDREWS *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. MR. JUSTICE STEWART would grant certiorari.

No. 73-6805. GEARIN *v.* WEYERHAEUSER LINE. C. A. 9th Cir. Motion of Apostleship of the Sea for leave to file a brief as *amicus curiae* granted. Certiorari denied.

No. 73-7079. HARDAWAY *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied as untimely filed. MR. JUSTICE DOUGLAS and MR. JUSTICE STEWART would grant certiorari.

No. 74-10. NESTLER ET AL. *v.* RICHEY, U. S. DISTRICT JUDGE. C. A. D. C. Cir. Certiorari denied as untimely filed.

No. 74-27. LONG ISLAND RAIL ROAD CO. *v.* INTERSTATE COMMERCE COMMISSION ET AL. C. A. 2d Cir. Motion to consolidate with No. 74-360 [*Long Island Rail Road Co. v. United States*] and certiorari denied. Reported below: 487 F. 2d 179.

No. 74-50. HENDERSON ET AL. *v.* MOYE. C. A. 8th Cir. Certiorari denied. MR. JUSTICE POWELL would grant certiorari. Reported below: 496 F. 2d 973.

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No. 74-89. SWANK, DIRECTOR, DEPARTMENT OF PUBLIC AID OF ILLINOIS *v.* RODRIGUEZ ET AL. C. A. 7th Cir. Motion of respondent Rodriguez for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 496 F. 2d 1110.

No. 74-97. DIAMOND ET AL. *v.* BLAND, SHERIFF, ET AL. Sup. Ct. Cal. Certiorari denied. MR. JUSTICE DOUGLAS and MR. JUSTICE STEWART would grant certiorari. Reported below: 11 Cal. 3d 331, 521 P. 2d 460.

No. 74-102. KATZ *v.* CARTE BLANCHE CORP. C. A. 3d Cir. Certiorari denied. MR. JUSTICE DOUGLAS took no part in the consideration or decision of this petition. Reported below: 496 F. 2d 747.

No. 74-129. TAUB, HUMMEL & SCHNALL, INC. *v.* I. C. HERMAN & Co., INC. C. A. 2d Cir. Certiorari denied. THE CHIEF JUSTICE, MR. JUSTICE STEWART, and MR. JUSTICE BLACKMUN would grant certiorari. Reported below: 497 F. 2d 1301.

Rehearing Denied

No. 72-863. FIORELLA ET AL. *v.* UNITED STATES, 417 U. S. 917;

No. 72-1713. SECRETARY OF THE NAVY *v.* AVRECH, 418 U. S. 676;

No. 72-5278. COX ET AL. *v.* UNITED STATES, 417 U. S. 918;

No. 73-507. HAMLING ET AL. *v.* UNITED STATES, 418 U. S. 87;

No. 73-781. SCHERK *v.* ALBERTO-CULVER Co., 417 U. S. 506;

No. 73-788. BROWN *v.* UNITED STATES, 418 U. S. 928;

No. 73-905. TALBERT *v.* UNITED STATES, 416 U. S. 982; and

No. 73-908. COTE *v.* UNITED STATES, 418 U. S. 954. Petitions for rehearing denied.

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No. 73-933. *PARSONS ET AL. v. KNOPP ET UX.*, 417 U. S. 908;

No. 73-1003. *NATIONAL INDIAN YOUTH COUNCIL ET AL. v. BRUCE ET AL.*, 417 U. S. 920;

No. 73-1075. *THEVIS v. UNITED STATES*, 418 U. S. 932;

No. 73-1145. *TECHNICAL DEVELOPMENT CORP. ET AL. v. UNITED STATES*, 416 U. S. 983;

No. 73-1222. *TIDEWATER OIL CO. v. UNITED STATES ET AL.*, 418 U. S. 906;

No. 73-1224. *PHILLIPS PETROLEUM CO. v. UNITED STATES ET AL.*, 418 U. S. 906;

No. 73-1284. *MERVIN v. FEDERAL TRADE COMMISSION*, 417 U. S. 930;

No. 73-1355. *KUNTZWEILER v. UNITED STATES*, 417 U. S. 910;

No. 73-1361. *BALDRIDGE ET AL. v. HADLEY ET AL.*, 417 U. S. 910;

No. 73-1429. *LOWE ET AL. v. UNION OIL CO. OF CALIFORNIA ET AL.*, 417 U. S. 931;

No. 73-1463. *KONIGSBERG ET AL. v. NIXON*, 417 U. S. 931;

No. 73-1480. *UMPHREY ET AL. v. MCGRAW-EDISON CO.*, 417 U. S. 912;

No. 73-1482. *MANZARDO ET AL. v. PULLMAN CO. ET AL.*, 417 U. S. 912;

No. 73-1487. *DEMICHELE ET UX. v. COMMISSIONER OF INTERNAL REVENUE*, 417 U. S. 968;

No. 73-1529. *GENERAL TIRE & RUBBER CO. v. FIRESTONE TIRE & RUBBER CO.*, 417 U. S. 932;

No. 73-5265. *KOKOSZKA v. BELFORD, TRUSTEE IN BANKRUPTCY*, 417 U. S. 642;

No. 73-5547. *HUGUEZ v. CALIFORNIA*, 418 U. S. 905;
and

No. 73-6298. *FRAZIER v. COMMISSIONER OF INTERNAL REVENUE*, 416 U. S. 990. Petitions for rehearing denied.

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- No. 73-6305. O'BRIEN *v.* CALIFORNIA, 417 U. S. 936;
No. 73-6328. O'KELLY *v.* IOWA, 417 U. S. 936;
No. 73-6397. SIMS *v.* UTAH, 417 U. S. 970;
No. 73-6447. MCKERNIE *v.* UNITED STATES. 417 U. S.
934;
No. 73-6518. CRANDALL *v.* TEXAS, 417 U. S. 902;
No. 73-6519. WINKFIELD *v.* OHIO, 417 U. S. 902;
No. 73-6525. MENDES *v.* RAILWAY EXPRESS AGENCY,
INC., ET AL., 417 U. S. 916;
No. 73-6570. HALL *v.* ALABAMA, 417 U. S. 917;
No. 73-6597. CARTER *v.* ESTELLE, CORRECTIONS DI-
RECTOR, ET AL., 417 U. S. 966;
No. 73-6615. LANE *v.* KERN, SHERIFF, 417 U. S. 972;
No. 73-6619. HUNTER *v.* APPELLATE COURT OF ILLI-
NOIS, FIRST DISTRICT, FOURTH DIVISION, ET AL., 417 U. S.
966;
No. 73-6653. BARTOS *v.* BRIGHAM YOUNG UNIVERSITY
ET AL., 417 U. S. 973;
No. 73-6654. SANGSTER *v.* UNITED STATES, 417 U. S.
950; and
No. 73-6688. KAPLAN *v.* ASSOCIATED-EAST MORTGAGE
Co., 417 U. S. 950. Petitions for rehearing denied.

No. 73-740. CHICAGO & SUBURBAN REFUSE DISPOSAL
ASSN. ET AL. *v.* A. CHERNEY DISPOSAL Co. ET AL., 414
U. S. 1131;
No. 73-1091. PEACHTREE NEWS Co., INC. *v.* UNITED
STATES, 418 U. S. 932;
No. 73-1161. PARIS ADULT THEATRE I ET AL. *v.*
SLATON, DISTRICT ATTORNEY, ET AL., 418 U. S. 939;
No. 73-1388. MEAD ET AL. *v.* HORVITZ PUBLISHING
Co. ET AL., 416 U. S. 985; and
No. 73-5150. O'BRIEN *v.* CALIFORNIA, 414 U. S. 1006.
Motions for leave to file petitions for rehearing denied.

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No. 73-5863. *VALLEY v. UNITED STATES*, 416 U. S. 936; 417 U. S. 927; and

No. 73-6195. *SAYLES v. GESELL*, U. S. DISTRICT JUDGE, 416 U. S. 934; 417 U. S. 937. Motions for leave to file second petitions for rehearing denied.

No. 73-6589. *SAYLES v. SIRICA*, U. S. DISTRICT JUDGE, ET AL., 417 U. S. 943. Petition for rehearing and other relief denied.

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Affirmed on Appeal

No. 73-1371. *NEW YORK ON BEHALF OF NEW YORK COUNTY ET AL. v. UNITED STATES ET AL.*; and

No. 73-1740. *NEW YORK ON BEHALF OF NEW YORK COUNTY ET AL. v. UNITED STATES ET AL.* Affirmed on appeals from D. C. D. C.

No. 74-183. *KOPLIN ET AL. v. VILLAGE OF HINSDALE ET AL.* Affirmed on appeal from D. C. N. D. Ill.

No. 74-194. *WALL ET AL. v. HARDWICK ET AL.*; and

No. 74-196. *HARDWICK ET AL. v. WALL ET AL.* Affirmed on appeals from D. C. N. D. Ga. Reported below: 379 F. Supp. 175.

No. 73-1612. *LUETKEMEYER ET AL. v. KAUFMANN ET AL.* Affirmed on appeal from D. C. W. D. Mo. Reported below: 364 F. Supp. 376.

MR. JUSTICE WHITE, joined by THE CHIEF JUSTICE, dissenting.

Missouri provides bus transportation to school for public school children, but not for private school children, living specified distances from their schools. Mo. Rev. Stat. §§ 167.231, 167.251, 163.161 (1969). Appellant Urban Luetkemeyer, a Missouri taxpayer, sends his children, in accordance with his religious conscience, to

a school related to the Roman Catholic Church. He brought this lawsuit claiming that that the denial of bus transportation to parochial school children violates his and his children's due process, equal protection, and free exercise rights. The District Court, Judge Gibson dissenting, ruled in favor of appellees, and this Court now summarily affirms.

In *Everson v. Board of Education*, 330 U. S. 1 (1947), the Court upheld a state statute authorizing local school districts to provide bus transportation to school for parochial school children. This case presents the question whether in some circumstances a State may be constitutionally compelled to provide such transportation. This Court has never ruled on this question. Cf. *Norwood v. Harrison*, 413 U. S. 455, 462 (1973); *Everson v. Board of Education*, *supra*, at 16.

In *Everson* the Court noted that persons could not be excluded by a State "because of their faith, or lack of it, from receiving the benefits of public welfare legislation." *Ibid.* (emphasis in original). The Court found that the New Jersey statute in question "does no more than provide a general program to help parents get their children, regardless of their religion, safely and expeditiously to and from accredited schools." *Id.*, at 18. Clearly this Court viewed the program of bus transportation as a service "so separate and so indisputably marked off from the religious function . . ." that it could not be considered aid to religious schools in violation of the Establishment Clause. *Ibid.* See also *Committee for Public Education & Religious Liberty v. Nyquist*, 413 U. S. 756, 781-782 (1973); *Board of Education v. Allen*, 392 U. S. 236, 242 (1968).

The District Court in this case rejected appellants' equal protection claim on the ground that the Missouri program, in excluding private school children from the bus service, was in pursuit of a valid state interest in

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"maintaining a very high wall between church and state." 364 F. Supp. 376, 383 (WD Mo. 1973). The enforcement of church-state separation could in many instances be a valid state interest, but after *Everson* it would be difficult to assert that refusal to extend busing to parochial school children, without more, furthers a legitimate state interest in avoiding church-state entanglements. On the contrary, the "benefits of public welfare legislation"—here a "general program to help parents get their children . . . safely and expeditiously to and from accredited schools," *Everson, supra*, at 16, 18—seem to be denied because certain students are seeking religious training. Without a valid interest supporting the different treatment accorded public school and parochial school students, that classification would violate federal equal protection principles. Moreover, the arbitrariness of the denial of a general public service raises the question whether the State has not become the "adversary" of the religion and has placed burdens on appellants' free exercise rights.

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

No. 73-1718. FRANCHISE TAX BOARD OF CALIFORNIA ET AL. v. UNITED AMERICANS FOR PUBLIC SCHOOLS ET AL. Affirmed on appeal from D. C. N. D. Cal.

MR. JUSTICE WHITE, joined by THE CHIEF JUSTICE and MR. JUSTICE REHNQUIST, dissenting.

The District Court struck down the California statute providing state income-tax reductions for taxpayers sending their children to nonpublic schools. The Court summarily affirms this judgment. For the reasons stated in my dissent in *Committee for Public Education & Religious Liberty v. Nyquist*, 413 U. S. 756, 813-824 (1973), I disagree and respectfully dissent.

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No. 74-377. *KANAPAUX v. ELLISOR, DIRECTOR, SOUTH CAROLINA STATE ELECTION COMMISSION, ET AL.* Appeal from D. C. S. C. Motions of John C. West et al. and Charles D. Ravenel for leave to file briefs as *amici curiae* granted. Judgment affirmed.

Appeals Dismissed

No. 73-7028. *BULGREN v. CALIFORNIA.* Appeal from Sup. Ct. Cal. dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied.

No. 74-143. *CAMP ET AL. v. STRAUGHN, DIRECTOR, DEPARTMENT OF REVENUE, ET AL.* Appeal from Sup. Ct. Fla. dismissed for want of substantial federal question. Reported below: 293 So. 2d 689.

No. 74-148. *SOUTHERN HAULERS, INC. v. DEPARTMENT OF PUBLIC SAFETY ET AL.* Appeal from Sup. Ct. Ala. dismissed for want of substantial federal question. Reported below: 292 Ala. 380, 295 So. 2d 242.

No. 74-192. *CITY OF VIRGINIA, MINNESOTA, ET AL. v. NYBERG ET AL.* Appeal from C. A. 8th Cir. dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied. MR. JUSTICE WHITE would postpone question of jurisdiction to hearing of case on the merits. Reported below: 495 F. 2d 1342.

Certiorari Granted—Vacated and Remanded

No. 73-2047. *BUCK ET AL. v. IMPEACH NIXON COMMITTEE ET AL.* C. A. 7th Cir. Certiorari granted, judgment vacated, and case remanded to ascertain whether a case or controversy still exists, and, if so, for reconsideration in light of *Lehman v. City of Shaker Heights*, 418 U. S. 298 (1974). Reported below: 498 F. 2d 37.

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No. 73-6795. *HAYLES v. UNITED STATES*. C. A. 5th Cir. Motion for leave to proceed *in forma pauperis* and certiorari granted. Upon representation of the Solicitor General set forth in his brief for the United States filed September 19, 1974, judgment of the United States Court of Appeals for the Fifth Circuit vacated and case remanded to the United States District Court for the Southern District of Texas to permit the Government to dismiss the charges against petitioner. THE CHIEF JUSTICE, MR. JUSTICE WHITE, and MR. JUSTICE REHNQUIST dissent. Reported below: 492 F. 2d 125.

Miscellaneous Orders

No. 73-296. *HUFFMAN ET AL. v. PURSUE, LTD.* Appeal from D. C. N. D. Ohio. [Probable jurisdiction noted, 415 U. S. 974.] Brief for appellants does not comply with this Court's Rules 39 and 40 with respect to conciseness, statement of questions without unnecessary detail, and printing of appendices thereto. Accordingly, as provided in paragraph 5 of Rule 40, brief of appellants is hereby stricken. Counsel for appellants may file a brief complying with the Rules within 20 days of the date of this order. Oral argument will be allowed only by counsel who have filed briefs that conform to the Rules. MR. JUSTICE DOUGLAS dissents.

No. 73-1004. *SOUTHEASTERN PROMOTIONS, LTD. v. CONRAD ET AL.* C. A. 6th Cir. [Certiorari granted, 415 U. S. 912.] Motion of Charles H. Keating, Jr., for leave to file a brief as *amicus curiae* denied.

No. 73-1446. *ROE ET AL. v. DOE*. Ct. App. N. Y. [Certiorari granted, 417 U. S. 907.] Motion of American Civil Liberties Union et al. for leave to file a brief as *amici curiae* denied. Motions of Association of American Publishers, Inc., and American Psychiatric Assn. et al. for leave to file briefs as *amici curiae* granted.

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No. 73-6033. ROE ET AL. v. NORTON, COMMISSIONER OF WELFARE. Appeal from D. C. Conn. [Probable jurisdiction noted, 415 U. S. 912.] Motion of children of appellants for divided argument with appellants and for additional time for oral argument granted, and 10 additional minutes allotted for that purpose. Appellee also allotted 10 additional minutes for oral argument.

No. 74-167. UNITED STATES RAILWAY ASSN. v. CONNECTICUT GENERAL INSURANCE CORP. ET AL. Appeal from D. C. E. D. Pa. [Probable jurisdiction noted, *ante*, p. 802.] Motion of Trustees of Reading Co. for leave to file a brief as *amicus curiae* granted.

Probable Jurisdiction Noted or Postponed

No. 73-1461. STANTON v. STANTON. Appeal from Sup. Ct. Utah. Probable jurisdiction noted. Reported below: 30 Utah 2d 315, 517 P. 2d 1010.

No. 73-1933. UNITED STATES v. CITIZENS & SOUTHERN NATIONAL BANK ET AL. Appeal from D. C. N. D. Ga. Probable jurisdiction noted. Reported below: 372 F. Supp. 616.

No. 73-6587. HERRING v. NEW YORK. Appeal from App. Div., Sup. Ct. N. Y., 2d Jud. Dept. Motion of appellant for leave to proceed *in forma pauperis* granted. Probable jurisdiction noted. Reported below: 43 App. Div. 2d 816, 351 N. Y. S. 2d 368.

No. 73-6739. COSTARELLI v. MASSACHUSETTS. Appeal from Municipal Ct. of Boston. Motion for leave to proceed *in forma pauperis* granted. Further consideration of question of jurisdiction postponed to hearing of case on the merits.

Certiorari Granted

No. 73-1531. JOHNSON ET AL. v. MISSISSIPPI ET AL. C. A. 5th Cir. Certiorari granted. Reported below: 488 F. 2d 284.

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No. 74-8. O'CONNOR *v.* DONALDSON. C. A. 5th Cir. Certiorari granted. Reported below: 493 F. 2d 507.

No. 73-1994. VELLA *v.* FORD MOTOR Co. C. A. 6th Cir. Certiorari granted limited to Question 1 presented by the petition which reads as follows: "Is a disabled seaman who contracted by trauma a permanent disease while in the service of a vessel entitled to maintenance and cure payments during the interim between the period the incident occurred and the time the disease was medically diagnosed and proclaimed incurable?" Reported below: 495 F. 2d 1374.

No. 73-1995. BREED, DIRECTOR, CALIFORNIA YOUTH AUTHORITY *v.* JONES. C. A. 9th Cir. Motion of respondent for leave to proceed *in forma pauperis* and certiorari granted. Reported below: 497 F. 2d 1160.

No. 73-2055. SECURITIES INVESTOR PROTECTION CORP. *v.* BARBOUR ET AL. C. A. 6th Cir. Certiorari granted limited to the following questions:

1. Whether customers of a Member have an implied private right of action to compel SIPC to meet its alleged obligations to them under the Act, despite § 7 (b) thereof which grants that right only to the Securities and Exchange Commission?

2. If such a right of action can be implied, whether a receiver of a Member has standing to maintain it?

Reported below: 496 F. 2d 145.

No. 73-6650. BROWN *v.* ILLINOIS. Sup. Ct. Ill. Motion for leave to proceed *in forma pauperis* and certiorari granted. Reported below: 56 Ill. 2d 312, 307 N. E. 2d 356.

No. 74-107. PREISER, COMMISSIONER OF CORRECTIONAL SERVICES OF NEW YORK, ET AL. *v.* NEWKIRK. C. A. 2d Cir. Motion of respondent for leave to proceed *in forma*

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pauperis and certiorari granted. In addition to question presented by the petition, parties are directed to brief and argue question of mootness. Reported below: 499 F. 2d 1214.

No. 74-175. MIDDENDORF, SECRETARY OF THE NAVY, ET AL. *v.* HENRY ET AL.; and

No. 74-5176. HENRY ET AL. *v.* MIDDENDORF, SECRETARY OF THE NAVY, ET AL. C. A. 9th Cir. Motion of petitioner in No. 74-5176 for leave to proceed *in forma pauperis* granted. Certiorari granted, cases consolidated, and a total of one hour allotted for oral argument. Reported below: 493 F. 2d 1231.

Certiorari Denied. (See also Nos. 73-7028 and 74-192, *supra.*)

No. 73-1578. IVELI *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. Reported below: 492 F. 2d 1237.

No. 73-1663. GARDNER *v.* UNITED STATES; and

No. 73-6631. SANO *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. Reported below: 493 F. 2d 1399.

No. 73-1809. UNITED STATES *v.* BRADSHAW. C. A. 4th Cir. Certiorari denied. Reported below: 490 F. 2d 1097.

No. 73-1838. CRISLER, COMMISSIONER OF PUBLIC SAFETY OF MISSISSIPPI, ET AL. *v.* MORROW ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 491 F. 2d 1053.

No. 73-1878. ZANE ET AL. *v.* UNITED STATES; and

No. 73-1901. PERSKY *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. Reported below: 495 F. 2d 683.

No. 73-1922. FIRST PRESBYTERIAN CHURCH OF FOREST PARK ET AL. *v.* LOWE ET AL. Sup. Ct. Ill. Certiorari denied. Reported below: 56 Ill. 2d 404, 308 N. E. 2d 801.

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No. 73-1930. *JEFFRIES v. UNITED STATES*. Ct. App. D. C. Certiorari denied. Reported below: 315 A. 2d 163.

No. 73-1952. *TOSINI v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 495 F. 2d 1371.

No. 73-1955. *AMOS v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 496 F. 2d 1269.

No. 73-1960. *ANGIULO v. UNITED STATES*. C. A. 1st Cir. Certiorari denied. Reported below: 497 F. 2d 440.

No. 73-1975. *FERRARO v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 497 F. 2d 922.

No. 73-1988. *TEXAS CITY DIKE & MARINA, INC. v. BRENNAN, SECRETARY OF LABOR*. C. A. 5th Cir. Certiorari denied. Reported below: 492 F. 2d 1115.

No. 73-2003. *SPIEGEL, INC. v. FEDERAL TRADE COMMISSION*. C. A. 7th Cir. Certiorari denied. Reported below: 494 F. 2d 59.

No. 73-2009. *SAVARD v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 493 F. 2d 490.

No. 73-2032. *LOCAL 399, INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS, AFL-CIO v. NATIONAL LABOR RELATIONS BOARD*. C. A. 7th Cir. Certiorari denied. Reported below: 499 F. 2d 56.

No. 73-2036. *INQUIPCO, INC., DBA INDUSTRIAL EQUIPMENT Co., ET AL. v. COMMERCE UNION BANK*. Ct. App. Tenn. Certiorari denied. Reported below: 515 S. W. 2d 651.

No. 73-2046. *FIVE SMITHS, INC. v. HOLLAWAY ET AL.* Temp. Emerg. Ct. App. Certiorari denied. Reported below: 499 F. 2d 1321.

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No. 73-2054. HUDSON BERLIND CORP. *v.* NATIONAL LABOR RELATIONS BOARD. C. A. 2d Cir. Certiorari denied. Reported below: 494 F. 2d 1200.

No. 73-2067. SIMPSON *v.* SIMPSON. C. A. 5th Cir. Certiorari denied. Reported below: 490 F. 2d 803.

No. 73-6682. MARTINEZ-MIRAMONTES *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 494 F. 2d 808.

No. 73-6774. EPHRAIM *v.* ESTELLE, CORRECTIONS DIRECTOR. C. A. 5th Cir. Certiorari denied. Reported below: 491 F. 2d 1405.

No. 73-6807. BOWDEN *v.* UNITED STATES;

No. 73-6842. ADAMS *v.* UNITED STATES; and

No. 73-6906. JENKINS *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied.

No. 73-6841. ROSOTO ET AL. *v.* CALIFORNIA. Sup. Ct. Cal. Certiorari denied. Reported below: 10 Cal. 3d 939, 519 P. 2d 1065.

No. 73-6846. PENICK *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied. Reported below: 496 F. 2d 1105.

No. 73-6885. DOWNEN ET AL. *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. Reported below: 496 F. 2d 314.

No. 73-6901. HODGE *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. Reported below: 493 F. 2d 1399.

No. 73-6924. GARCIA *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. Reported below: 492 F. 2d 395.

No. 73-6927. MITCHELL *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 493 F. 2d 9.

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No. 73-6960. *WYNN v. UNITED STATES*. C. A. 10th Cir. Certiorari denied.

No. 73-6962. *HILL v. UNITED STATES*. C. A. 9th Cir. Certiorari denied.

No. 73-6967. *VILLONE v. UNITED STATES*; and

No. 73-7002. *PALMERI v. UNITED STATES*. C. A. 9th Cir. Certiorari denied.

No. 73-6970. *CAULTON v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 498 F. 2d 412.

No. 73-6974. *TORRES v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 489 F. 2d 753.

No. 73-6976. *RODRIGUEZ-GONZALEZ v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 495 F. 2d 1371.

No. 73-6977. *BROOKS v. BLACKLEDGE, WARDEN*. C. A. 4th Cir. Certiorari denied.

No. 73-6979. *BROOKS v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 495 F. 2d 1371.

No. 73-6984. *WHITTINGTON v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 493 F. 2d 460.

No. 73-7000. *HUNTLEY v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 495 F. 2d 1370.

No. 73-7009. *KILGARIFF v. CALIFORNIA*. Ct. App. Cal., 2d App. Dist. Certiorari denied.

No. 73-7011. *WEEMS v. UNITED STATES*. C. A. 4th Cir. Certiorari denied.

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No. 73-7016. *VIERA v. UNITED STATES*. C. A. 9th Cir. Certiorari denied.

No. 73-7021. *HOWARD v. UNITED STATES ET AL.* C. A. 10th Cir. Certiorari denied.

No. 73-7023. *WEST v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 494 F. 2d 1314.

No. 73-7034. *CLARK v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 501 F. 2d 492.

No. 73-7043. *RUIZ v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 494 F. 2d 1.

No. 73-7044. *DORROUGH v. CONGRESS OF THE UNITED STATES*. C. A. D. C. Cir. Certiorari denied.

No. 73-7048. *JAMES v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 495 F. 2d 434.

No. 73-7052. *WARD v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 497 F. 2d 922.

No. 73-7053. *BAILLEY v. UNITED STATES*. C. A. D. C. Cir. Certiorari denied. Reported below: 162 U. S. App. D. C. 19, 495 F. 2d 1075.

No. 73-7056. *MARSHALL v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 495 F. 2d 1375.

No. 73-7057. *DISHER ET AL. v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 497 F. 2d 1265.

No. 73-7062. *KOPP v. UNITED STATES*. C. A. 5th Cir. Certiorari denied.

No. 73-7065. *BODEY v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 495 F. 2d 1370.

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No. 73-7068. *BOWDACH v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 494 F. 2d 1172.

No. 73-7072. *CROWDER v. WHITEHEAD ET AL.* C. A. 9th Cir. Certiorari denied.

No. 73-7078. *GISHER v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 498 F. 2d 1403.

No. 73-7083. *FERGUSON v. UNITED STATES*. C. A. D. C. Cir. Certiorari denied. Reported below: 162 U. S. App. D. C. 268, 498 F. 2d 1001.

No. 73-7100. *SMITH v. UNITED STATES*. C. A. 4th Cir. Certiorari denied.

No. 74-38. *YOKOZEKI v. STATE BAR OF CALIFORNIA*. Sup. Ct. Cal. Certiorari denied. Reported below: 11 Cal. 3d 436, 521 P. 2d 858.

No. 74-42. *CUBIC CORP. v. UNITED STATES*. C. A. 9th Cir. Certiorari denied.

No. 74-46. *EQUITY SECURITIES CORP. ET AL. v. EL KHADEM*. C. A. 9th Cir. Certiorari denied. Reported below: 494 F. 2d 1224.

No. 74-60. *TILLEM v. NEW JERSEY*. Super. Ct. N. J. Certiorari denied. Reported below: 127 N. J. Super. 421, 317 A. 2d 738.

No. 74-64. *ABATE ET AL. v. PITTSBURGH PLATE GLASS Co. ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 494 F. 2d 799.

No. 74-72. *FLETCHER v. AMERICAN SECURITY & TRUST Co., TRUSTEE*. C. A. 4th Cir. Certiorari denied. Reported below: 490 F. 2d 481.

No. 74-79. *HOWARD v. PENNSYLVANIA*. Super. Ct. Pa. Certiorari denied. Reported below: 226 Pa. Super. 22, 312 A. 2d 54.

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No. 74-82. *KITTYHAWK, LTD., ET AL. v. CITY OF MIDDLETOWN, OHIO, ET AL.* Sup. Ct. Ohio. Certiorari denied.

No. 74-86. *LEONARD v. STRAUSS.* App. Term, Sup. Ct. N. Y., 1st Jud. Dept. Certiorari denied.

No. 74-113. *KEYS v. SAWYER.* C. A. 5th Cir. Certiorari denied. Reported below: 496 F. 2d 876.

No. 74-130. *MOTORISTS MUTUAL INSURANCE Co. v. SIMPSON, ADMINISTRATRIX, ET AL.* C. A. 7th Cir. Certiorari denied. Reported below: 494 F. 2d 850.

No. 74-134. *HOLSAPPLE, A MINOR, BY HOLSAPPLE v. WOODS, SUPERINTENDENT, ODIN COMMUNITY UNIT SCHOOL DISTRICT No. 700, ET AL.* C. A. 7th Cir. Certiorari denied. Reported below: 500 F. 2d 49.

No. 72-1727. *VALEN v. UNITED STATES.* C. A. 3d Cir. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari. Reported below: 479 F. 2d 467.

No. 73-1950. *WALLIS v. O'KIER.* C. A. 10th Cir. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari. Reported below: 491 F. 2d 1323.

No. 73-2062. *THREE AFFILIATED TRIBES OF THE FORT BERTHOLD RESERVATION v. UNITED STATES.* Ct. Cl. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari.

No. 73-6760. *ROBINSON v. NEW JERSEY.* Sup. Ct. N. J. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari. Reported below: 65 N. J. 273, 321 A. 2d 234.

No. 73-6909. *WHITE v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari. Reported below: 493 F. 2d 3.

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No. 73-7022. *CORBIN v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari. Reported below: 498 F. 2d 1398.

No. 74-106. *ALBERTO-CULVER CO. ET AL. v. LAMAU, INC.* C. A. 8th Cir. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari. Reported below: 496 F. 2d 618.

No. 74-5058. *BAKER v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari. Reported below: 495 F. 2d 1370.

No. 73-1477. *PRICE v. VIRGINIA*. Sup. Ct. Va. Certiorari denied. MR. JUSTICE DOUGLAS, being of the view that any state or federal ban on, or regulation of, obscenity is prohibited by the Constitution, *Miller v. California*, 413 U. S. 15, 42-47 (DOUGLAS, J., dissenting); *Paris Adult Theatre I v. Slaton*, 413 U. S. 49, 70-73 (DOUGLAS, J., dissenting), would grant certiorari in this case and summarily reverse the judgment. Reported below: 214 Va. 490, 201 S. E. 2d 798.

MR. JUSTICE BRENNAN, with whom MR. JUSTICE STEWART and MR. JUSTICE MARSHALL join, dissenting.

Petitioner, the manager of a movie theater, was convicted in the Corporation Court of the city of Danville, Va., of exhibiting an allegedly obscene motion picture entitled "Anomalies." The statute under which he was convicted, Va. Code Ann. § 18.1-230 (Supp. 1973), provides in pertinent part:

"Every person who knowingly . . . [p]roduces, promotes, prepares, presents, manages, directs, carries on or participates in, any obscene exhibitions or performances, including the exhibition or performance of any obscene motion picture . . . shall be guilty of a misdemeanor."

As used in that section:

"The word 'obscene' . . . shall mean that which considered as a whole has as its dominant theme or purpose an appeal to prurient interest, that is, a shameful or morbid interest in nudity, sex or excretion, and if it goes substantially beyond customary limits of candor in description or representation of such matters." § 18.1-227 (1960).

The Virginia Supreme Court affirmed the conviction. This Court granted certiorari, vacated the judgment, and remanded the case to the Virginia Supreme Court for further consideration in light of *Miller v. California*, 413 U. S. 15 (1973), and companion cases. 413 U. S. 912. On remand, the Virginia Supreme Court again affirmed the conviction.

It is my view that "at least in the absence of distribution to juveniles or obtrusive exposure to unconsenting adults, the First and Fourteenth Amendments prohibit the State and Federal Governments from attempting wholly to suppress sexually oriented materials on the basis of their allegedly 'obscene' contents." *Paris Adult Theatre I v. Slaton*, 413 U. S. 49, 113 (1973) (BRENNAN, J., dissenting). It is clear that, tested by that constitutional standard, § 18.1-230, as it incorporates the definition of "obscene" in § 18.1-227, is constitutionally overbroad and therefore invalid on its face. For the reasons stated in my dissent in *Miller v. California*, *supra*, at 47, and because the judgment of the Virginia Supreme Court was rendered after *Miller*, I would reverse.* In that circumstance, I have no occasion to consider whether the other questions presented merit plenary review. See

*Although four of us would grant certiorari and reverse the judgment, the Justices who join this opinion do not insist that the case be decided on the merits.

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Heller v. New York, 413 U. S. 483, 494 (1973) (BRENNAN, J., dissenting).

Finally, it does not appear from the petition and response that the obscenity of the disputed material was adjudged by applying local community standards. Based on my dissent in *Hamling v. United States*, 418 U. S. 87, 141 (1974), I believe that, consistent with the Due Process Clause, petitioner must be given an opportunity to have his case decided on, and to introduce evidence relevant to, the legal standard upon which his conviction has ultimately come to depend. Thus, even on its own terms, the Court should vacate the judgment below and remand for a determination whether petitioner should be afforded a new trial under local community standards.

No. 73-1526. CANGIANO *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. MR. JUSTICE DOUGLAS, being of the view that any state or federal ban on, or regulation of, obscenity is prohibited by the Constitution, *Miller v. California*, 413 U. S. 15, 42-47 (DOUGLAS, J., dissenting); *Paris Adult Theatre I v. Slaton*, 413 U. S. 49, 70-73 (DOUGLAS, J., dissenting), would grant certiorari in this case and summarily reverse the judgment. Reported below: 491 F. 2d 906.

MR. JUSTICE BRENNAN, with whom MR. JUSTICE STEWART and MR. JUSTICE MARSHALL join, dissenting.

Petitioner was convicted in the United States District Court for the Eastern District of New York of transporting allegedly obscene materials in interstate commerce for the purpose of sale in violation of 18 U. S. C. § 1465, which provides in pertinent part as follows:

"Whoever knowingly transports in interstate or foreign commerce for the purpose of sale or distribution any obscene, lewd, lascivious, or filthy book, pamphlet, picture, film, paper, letter, writing, print,

silhouette, drawing, figure, image, cast, phonograph recording, electrical transcription or other article capable of producing sound or any other matter of indecent or immoral character, shall be fined not more than \$5,000 or imprisoned not more than five years, or both."

The Court of Appeals for the Second Circuit affirmed, 491 F. 2d 906 (1974).

I adhere to my dissent in *United States v. Orito*, 413 U. S. 139, 147 (1973), in which, speaking of 18 U. S. C. § 1462, which is similar in scope to § 1465, I expressed the view that "[w]hatever the extent of the Federal Government's power to bar the distribution of allegedly obscene material to juveniles or the offensive exposure of such material to unconsenting adults, the statute before us is clearly overbroad and unconstitutional on its face." 413 U. S., at 147-148. For the reasons stated in my dissent in *Miller v. California*, 413 U. S. 15, 47 (1973), I would therefore grant certiorari, and, since the judgment of the Court of Appeals for the Second Circuit was rendered after *Orito*, reverse.* In that circumstance, I have no occasion to consider whether the other questions presented merit plenary review. See *Heller v. New York*, 413 U. S. 483, 494 (1973) (BRENNAN, J., dissenting).

Finally, it does not appear from the petition and response that the obscenity of the disputed materials was adjudged by applying local community standards. Based on my dissent in *Hamling v. United States*, 418 U. S. 87, 141 (1974), I believe that, consistent with the Due Process Clause, petitioner must be given an opportunity to have his case decided on, and to introduce evidence relevant to, the legal standard upon which his con-

*Although four of us would grant certiorari and reverse the judgment, the Justices who join this opinion do not insist that the case be decided on the merits.

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viction has ultimately come to depend. Thus, even on its own terms, the Court should vacate the judgment below and remand for a determination whether petitioner should be afforded a new trial under local community standards.

No. 73-1548. *WINSLOW v. VIRGINIA*. Sup. Ct. Va. Certiorari denied. MR. JUSTICE DOUGLAS, being of the view that any state or federal ban on, or regulation of, obscenity is prohibited by the Constitution, *Miller v. California*, 413 U. S. 15, 42-47 (DOUGLAS, J., dissenting); *Paris Adult Theatre I v. Slaton*, 413 U. S. 49, 70-73 (DOUGLAS, J., dissenting), would grant certiorari in this case and summarily reverse the judgment.

MR. JUSTICE BRENNAN, with whom MR. JUSTICE STEWART and MR. JUSTICE MARSHALL join, dissenting.

Petitioner was convicted in the Corporation Court of the city of Norfolk, Virginia, of selling and distributing an allegedly obscene movie and an allegedly obscene magazine. The statute under which he was convicted, Va. Code Ann. § 18.1-228 (Supp. 1973), provides in pertinent part:

"Every person who knowingly . . . [p]ublishes, sells, rents, lends, transports in intrastate commerce, or distributes or exhibits any obscene item . . . shall be guilty of a misdemeanor."

As used in that section:

"The word 'obscene' . . . shall mean that which considered as a whole has as its dominant theme or purpose an appeal to prurient interest, that is, a shameful or morbid interest in nudity, sex or excretion, and if it goes substantially beyond customary limits of candor in description or representation of such matters." § 18.1-227 (1960).

The Supreme Court of Virginia affirmed by order on

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October 17, 1972. This Court granted certiorari, vacated the judgment of the Supreme Court of Virginia, and remanded the case for further consideration in light of *Miller v. California*, 413 U. S. 15 (1973), and companion cases. 413 U. S. 913. The Supreme Court of Virginia again affirmed the conviction.

It is my view that "at least in the absence of distribution to juveniles or obtrusive exposure to unconsenting adults, the First and Fourteenth Amendments prohibit the State and Federal Governments from attempting wholly to suppress sexually oriented materials on the basis of their allegedly 'obscene' contents." *Paris Adult Theatre I v. Slaton*, 413 U. S. 49, 113 (1973) (BRENNAN, J., dissenting). It is clear that, tested by that constitutional standard, § 18.1-228, as it incorporates the definition of "obscene" in § 18.1-227, is constitutionally overbroad and therefore invalid on its face. For the reasons stated in my dissent in *Miller v. California*, *supra*, at 47, and because the judgment of the Supreme Court of Virginia was rendered after *Miller*, I would reverse.* In that circumstance, I have no occasion to consider whether the other questions presented merit plenary review. See *Heller v. New York*, 413 U. S. 483, 494 (1973) (BRENNAN, J., dissenting).

No. 73-1562. *JONES v. UNITED STATES ET AL.* C. A. 9th Cir. Certiorari denied.

MR. JUSTICE DOUGLAS, dissenting.

Petitioner, a lieutenant in the Air Force, was convicted by court-martial under Arts. 92 (failure to obey order or regulation), 10 U. S. C. § 892, and 134 (general article), 10 U. S. C. § 934, of the Uniform Code of Military Justice.

*Although four of us would grant certiorari and reverse the judgment, the Justices who join this opinion do not insist that the case be decided on the merits.

His offense was "failure to do monitor duty." Petitioner's punishment was a fine of \$1,500, to be paid in six monthly installments to be deducted from his paycheck.¹ After exhausting his appeals, petitioner sought a writ of habeas corpus from the District Court, 28 U. S. C. § 2241, on the ground that Art. 92 is unconstitutionally vague. The writ was denied below on the sole ground that petitioner was not in "custody" as required by § 2241.

In my view, the District Court should have treated petitioner's complaint as either one seeking a declaration that his punishment was not lawfully imposed, 28 U. S. C. § 2201, or one to compel expunction of his conviction, 28 U. S. C. § 1361, and reached the merits. Several Courts of Appeals have entertained actions to remove penalties imposed by military tribunals where the aggrieved plaintiffs were not confined, but presented constitutional challenges to the imposition of punishment. See *Kauffman v. Secretary of the Air Force*, 135 U. S. App. D. C. 1, 415 F. 2d 991 (1969) (suit protesting discharge and forfeiture of all pay and allowances); *Ashe v. McNamara*, 355 F. 2d 277 (CA1 1965) (suit to compel correction of dishonorable discharge); *Smith v. McNamara*, 395 F. 2d 896 (CA10 1968) (dishonorable discharge); *Mindes v. Seaman*, 453 F. 2d 197 (CA5 1971) (protesting involuntary transfer to reserve status). See also *Ragoni v. United States*, 424 F. 2d 261 (CA3 1970) (bad-conduct discharge).²

¹ The fine had not been fully paid when he filed the application for habeas corpus.

² In addition, the Court of Claims has reviewed alleged constitutional defects in a court-martial conviction in adjudicating claims for backpay, 28 U. S. C. § 1346; *Augenblick v. United States*, 180 Ct. Cl. 131, 377 F. 2d 586 (1967), rev'd on other grounds, 393 U. S. 348 (1969). In the two Courts of Appeals decisions to reject nonhabeas review, it did not appear that the complainant was under a continuing disability as a result of disciplinary action. In *Davies v. Clifford*,

Petitioner's lawsuit represents an effort to have his constitutional challenges to his conviction considered by an Art. III court. A determination of these claims by a federal court is an indispensable safeguard of the constitutional rights of an accused subject to military process. While the military tribunals have responded to some constitutional claims of criminal defendants—self-incrimination for example³—they have been less sensitive to others. We noted in *O'Callahan v. Parker*, 395 U. S. 258, 265–266 (1969), that the military justice system has been ill-equipped to deal with claims of overbreadth and vagueness. The Uniform Code of Military Justice itself is fraught with opportunity for conflict between military authority and individual liberties. Articles 88 (contempt toward officials), 10 U. S. C. § 888, 133 (conduct unbecoming an officer and a gentleman), 10 U. S. C. § 933, and 134 (general article), 10 U. S. C. § 934, permit military authority to overbear protected individual expression. When this occurs, it is not surprising that military tribunals, reared in a setting where obedience and conformity are the watchwords, should tend to come down on the side of authority.

Servicemen may challenge their confinement by habeas corpus to insure that constitutional objections to their

393 F. 2d 496 (CA1 1968), the court dismissed a suit to set aside a military conviction, but the dishonorable discharge it had produced had already been changed to an honorable one, and the plaintiff alleged no continuing penalty. In *United States v. Carney*, 406 F. 2d 1328 (CA2 1969), the court dismissed a similar suit without mentioning the penalty.

³ A privilege against self-incrimination is codified in Art. 31 of the Uniform Code of Military Justice, 10 U. S. C. § 831. By interpretation it has been expanded to include the requirements of *Miranda v. Arizona*, 384 U. S. 436 (1966), by the Court of Military Appeals. See *United States v. Tempia*, 16 U. S. C. M. A. 629, 37 C. M. R. 249 (1967).

convictions received "fair consideration" before the military tribunals. *Burns v. Wilson*, 346 U. S. 137, 144 (1953). To withhold the same opportunity from servicemen subjected to nonconfinement penalties raises a substantial federal question of a denial of equal protection. The absence of confinement does not render the punishment trivial. Penalties not involving imprisonment—discharges, forfeitures, demotions—are frequently employed by military authorities, often with devastating effect upon the life and livelihood of the affected serviceman. Judge Edgerton, writing for the Court of Appeals in *Kauffman v. Secretary of the Air Force*, *supra*, stated the need for an alternative mechanism of review:

"To hold that collateral review is contingent on confinement in every case would arbitrarily condition the serviceman's access to civilian review of constitutional errors upon a factor unrelated to the gravity of the offense, the punishment, and the violations of the serviceman's rights." 135 U. S. App. D. C., at 6, 415 F. 2d, at 996.

Moreover, refusal to entertain petitioner's lawsuit gives rise to the substantial constitutional question posed by denial of access to the federal courts. Whether the Constitution permits Congress to forbid an Art. III court to review constitutional challenge to administrative penalties is a question the Court has not addressed explicitly. Instead the Court has construed statutory review provisions to permit a limited scrutiny to assure fair proceedings, *Estep v. United States*, 327 U. S. 114 (1946); *Kessler v. Strecker*, 307 U. S. 22 (1939), and, on occasion, *de novo* determination of facts bearing upon constitutional claims, see *Ng Fung Ho v. White*, 259 U. S. 276 (1922); *St. Joseph Stock Yards Co. v. United States*, 298 U. S. 38 (1936); *Crowell v. Benson*, 285 U. S. 22 (1932).

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See also 4 K. Davis, *Administrative Law Treatise* § 28.18 (1958). To hold that petitioner here is not entitled to a judicial determination of the constitutional objection is to impute to Congress a deliberate exclusion of review for a class of convictions, a course fraught with constitutional dangers which Congress has heretofore eschewed.

I would grant certiorari.

No. 73-1639. *SULAIMAN ET AL. v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. MR. JUSTICE DOUGLAS, being of the view that any state or federal ban on, or regulation of, obscenity is prohibited by the Constitution, *Miller v. California*, 413 U. S. 15, 42-47 (DOUGLAS, J., dissenting); *Paris Adult Theatre I v. Slaton*, 413 U. S. 49, 70-73 (DOUGLAS, J., dissenting), would grant certiorari in this case and summarily reverse the judgment. Reported below: 490 F. 2d 78.

MR. JUSTICE BRENNAN, with whom MR. JUSTICE STEWART and MR. JUSTICE MARSHALL join, dissenting.

Petitioners were convicted in the United States District Court for the Southern District of Florida of using the mails to distribute allegedly obscene materials in violation of 18 U. S. C. § 1461, which provides in pertinent part as follows:

"Every obscene, lewd, lascivious, indecent, filthy or vile article, matter, thing, device, or substance; and—

"Every written or printed card, letter, circular, book, pamphlet, advertisement, or notice of any kind giving information, directly or indirectly, where, or how, or from whom, or by what means any of such mentioned matters, articles, or things may be obtained or made . . .

"Is declared to be nonmailable matter and shall not be conveyed in the mails or delivered from any post office or by any letter carrier.

"Whoever knowingly uses the mails for the mailing . . . of anything declared by this section . . . to be nonmailable . . . shall be fined not more than \$5,000 or imprisoned not more than five years, or both"

The Court of Appeals for the Fifth Circuit affirmed, 490 F. 2d 78 (1974).

I adhere to my dissent in *United States v. Orito*, 413 U. S. 139, 147 (1973), in which, speaking of 18 U. S. C. § 1462, which is similar in scope to § 1461, I expressed the view that "[w]hatever the extent of the Federal Government's power to bar the distribution of allegedly obscene material to juveniles or the offensive exposure of such material to unconsenting adults, the statute before us is clearly overbroad and unconstitutional on its face." 413 U. S., at 147-148. For the reasons stated in my dissent in *Miller v. California*, 413 U. S. 15, 47 (1973), I would therefore grant certiorari, and, since the judgment of the Court of Appeals for the Fifth Circuit was rendered after *Orito*, reverse.* In that circumstance, I have no occasion to consider whether the other questions presented merit plenary review. See *Heller v. New York*, 413 U. S. 483, 494 (1973) (BRENNAN, J., dissenting).

Finally, it does not appear from the petition and response that the obscenity of the disputed materials was adjudged by applying local community standards. Based on my dissent in *Hamling v. United States*, 418 U. S. 87, 141 (1974), I believe that, consistent with the Due Process Clause, petitioners must be given an opportunity to have

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their cases decided on, and to introduce evidence relevant to, the legal standard upon which their convictions have ultimately come to depend. Thus, even on its own terms, the Court should vacate the judgment below and remand for a determination whether petitioners should be afforded a new trial under local community standards.

No. 73-1682. *BLANK v. CALIFORNIA*. App. Dept., Super. Ct. Cal., County of Los Angeles. Certiorari denied. MR. JUSTICE DOUGLAS, being of the view that any state or federal ban on, or regulation of, obscenity is prohibited by the Constitution, *Miller v. California*, 413 U. S. 15, 42-47 (DOUGLAS, J., dissenting); *Paris Adult Theatre I v. Slaton*, 413 U. S. 49, 70-73 (DOUGLAS, J., dissenting), would grant certiorari in this case and summarily reverse the judgment.

MR. JUSTICE BRENNAN, with whom MR. JUSTICE STEWART and MR. JUSTICE MARSHALL join, dissenting.

Petitioner was convicted in the Municipal Court of Los Angeles of exhibiting an allegedly obscene motion picture in violation of Cal. Penal Code § 311.2 (a) (1970), which provides in pertinent part as follows:

“Every person who knowingly . . . exhibits to others, any obscene matter is guilty of a misdemeanor.”

As used in § 311.2:

“‘Obscene matter’ means matter, taken as a whole, the predominant appeal of which to the average person, applying contemporary standards, is to prurient interest, i. e., a shameful or morbid interest in nudity, sex, or excretion; and is matter which taken as a whole goes substantially beyond customary limits of candor in description or representation of such matters; and is matter which taken as a whole is utterly without redeeming social importance.” § 311 (a).

On appeal to the Appellate Department of the Superior Court of California for the County of Los Angeles, the case was held to await this Court's decisions in *Kaplan v. California*, 413 U. S. 115 (1973), and related cases. The Appellate Department then affirmed the conviction, and certification to the Court of Appeal was denied.

It is my view that "at least in the absence of distribution to juveniles or obtrusive exposure to unconsenting adults, the First and Fourteenth Amendments prohibit the State and Federal Governments from attempting wholly to suppress sexually oriented materials on the basis of their allegedly 'obscene' contents." *Paris Adult Theatre I v. Slaton*, 413 U. S. 49, 113 (1973) (BRENNAN, J., dissenting). It is clear that, tested by that constitutional standard, § 311.2, as it incorporates the definition of "obscene matter" in § 311 (a), is constitutionally overbroad and therefore invalid on its face. For the reasons stated in my dissent in *Miller v. California*, 413 U. S. 15, 47 (1973), I would therefore grant certiorari and, since the judgment of the Appellate Department was rendered after *Miller*, reverse.* In that circumstance, I have no occasion to consider whether the other questions presented merit plenary review. See *Heller v. New York*, 413 U. S. 483, 494 (1974) (BRENNAN, J., dissenting).

Further, it does not appear from the petition and response that the obscenity of the disputed materials was adjudged by applying local community standards. Based on my dissent in *Hamling v. United States*, 418 U. S. 87, 141 (1974), I believe that, consistent with the Due Process Clause, petitioner must be given an opportunity to have his case decided on, and to introduce evidence relevant to, the legal standard upon which his conviction has ulti-

*Although four of us would grant certiorari and reverse the judgment, the Justices who join this opinion do not insist that the case be decided on the merits.

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mately come to depend. Thus, even on its own terms, the Court should vacate the judgment below and remand for a determination whether petitioner should be afforded a new trial under local community standards.

No. 73-1722. KAPLAN *v.* CALIFORNIA. App. Dept., Super Ct. Cal., County of Los Angeles. Certiorari denied. MR. JUSTICE DOUGLAS, being of the view that any state or federal ban on, or regulation of, obscenity is prohibited by the Constitution, *Miller v. California*, 413 U. S. 15, 42-47 (DOUGLAS, J., dissenting); *Paris Adult Theatre I v. Slaton*, 413 U. S. 49, 70-73 (DOUGLAS, J., dissenting), would grant certiorari in this case and summarily reverse the judgment.

MR. JUSTICE BRENNAN, with whom MR. JUSTICE STEWART and MR. JUSTICE MARSHALL join, dissenting.

Petitioner was convicted in the Municipal Court of Los Angeles of selling an allegedly obscene book in violation of Cal. Penal Code § 311.2 (a) (1970), which provided in pertinent part at the time of the alleged offense as follows:

"Every person who knowingly . . . prepares, publishes, or prints, . . . offers to distribute, distributes, or exhibits . . . any obscene matter is guilty of a misdemeanor."

As used in § 311.2, "obscene" means:

"taken as a whole, the predominant appeal of [the matter] to the average person, applying contemporary standards, is to prurient interest, i. e., a shameful or morbid interest in nudity, sex, or excretion; and is matter which taken as a whole goes substantially beyond customary limits of candor in description or representation of such matters; and is matter which taken as a whole is utterly without redeeming social importance." § 311 (a).

On appeal, the Appellate Department of the Superior Court of California for the County of Los Angeles affirmed the conviction. Certification to the Court of Appeal was sought and denied. This Court then granted certiorari, vacated the judgment of the Appellate Department, and remanded for consideration in light of *Miller v. California*, 413 U. S. 15 (1973), and companion cases. 413 U. S. 115 (1973). On remand, the Appellate Department again affirmed the conviction.

It is my view that "at least in the absence of distribution to juveniles or obtrusive exposure to unconsenting adults, the First and Fourteenth Amendments prohibit the State and Federal Governments from attempting wholly to suppress sexually oriented materials on the basis of their allegedly 'obscene' contents." *Paris Adult Theatre I v. Slaton*, 413 U. S. 49, 113 (1973) (BRENNAN, J., dissenting). It is clear that, tested by that constitutional standard, § 311.2, as it incorporated the definition of "obscene" in § 311 (a), was constitutionally overbroad and therefore invalid on its face. For the reasons stated in my dissent in *Miller v. California*, *supra*, at 47, I would therefore grant certiorari and, since the judgment of the Appellate Department was rendered after *Miller*, reverse.* In that circumstance, I have no occasion to consider whether the other questions presented merit plenary review. See *Heller v. New York*, 413 U. S. 483, 494 (1973) (BRENNAN, J., dissenting).

Further, it does not appear from the petition and response that the obscenity of the disputed materials was adjudged by applying local community standards. Based on my dissent in *Hamling v. United States*, 418 U. S. 87, 141 (1974), I believe that, consistent with the Due Process

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Clause, petitioner must be given an opportunity to have his case decided on, and to introduce evidence relevant to, the legal standard upon which his conviction has ultimately come to depend. Thus, even on its own terms, the Court should vacate the judgment below and remand for a determination whether petitioner should be afforded a new trial under local community standards.

No. 73-1727. CIOFFI *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. Reported below: 493 F. 2d 1111.

MR. JUSTICE DOUGLAS, with whom MR. JUSTICE BRENNAN concurs, dissenting.

Petitioner was convicted of obstruction of justice and conspiracy to obstruct justice by threatening, intimidating, or otherwise endeavoring to influence a grand jury witness. The witness, one Perry Scheer, had been a principal in a collapsed brokerage house whose activities were under investigation by the SEC and the FBI; there was strong evidence that Scheer had been involved in at least seven illegal securities transactions. Petitioner, who was allegedly in league with various persons who could have been harmed by Scheer's testimony before a grand jury investigating the affairs of the brokerage house, met with Scheer on several occasions and sought to secure Scheer's silence through veiled threats and suggestions that Scheer "take the Fifth" (or, in more contemporary parlance, "stonewall it"). Unbeknownst to petitioner, Scheer by this time was cooperating fully with federal authorities, and had been fitted out with a recording device on which he recorded several of his conversations with petitioner; these recordings were introduced at trial to corroborate and supplement Scheer's own testimony, and were played several times for the jury. I am unable to agree that the use of recordings made under

such circumstances is consistent with constitutional guarantees.

In a series of decisions beginning with *On Lee v. United States*, 343 U. S. 747 (1952), this Court has held that electronic interception or recording of conversations with the consent of one party does not violate Fourth Amendment standards.¹ With one notable exception, however, these decisions were handed down prior to *Katz v. United States*, 389 U. S. 347 (1967), in which we formally interred much of their conceptual underpinning by holding that Fourth Amendment protections rest upon reasonable expectations of privacy rather than upon common-law property principles. That exception came in *United States v. White*, 401 U. S. 745 (1971), where four Members of the Court held that *On Lee* remained good law after *Katz*, four others Members maintained with equal adamancy that it did not, and Mr. Justice Black (adhering to his dissent in *Katz*) found it unnecessary to reach the issue.

At a bare minimum, *Katz* must be read to require that monitoring of this sort be conducted only pursuant to a warrant: "Over and again this Court has emphasized that the mandate of the [Fourth] Amendment requires adherence to judicial processes,' *United States v. Jeffers*, 342 U. S. 48, 51, and that searches conducted outside the judicial process, without prior approval by judge or magistrate, are *per se* unreasonable under the Fourth Amendment—subject only to a few specifically established and well-delineated exceptions." 389 U. S., at 357 (footnotes omitted). In the absence of such judicial supervision, there is no effective safeguard against the possibility of an uncontrolled electronic police state.²

¹ See, e. g., *Lopez v. United States*, 373 U. S. 427 (1963); *Osborn v. United States*, 385 U. S. 323 (1966); *United States v. White*, 401 U. S. 745 (1971).

² See *United States v. White*, *supra*, at 760 (DOUGLAS, J., dissenting); *id.*, at 755-756 (BRENNAN, J., concurring in the result). In

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In my view the Executive Branch acts unlawfully when it invades an individual's privacy through trickery or fraud. See, *e. g.*, *Lewis v. United States*, 385 U. S. 206, 344-347 (1966) (DOUGLAS, J., dissenting); *Hoffa v. United States*, 385 U. S. 293, 347-348 (1966) (separate opinion of DOUGLAS, J.). The dangers posed by such invasions become particularly acute, however, when they are achieved through or accompanied by electronic monitoring of the sort presented here.³

I would grant certiorari.

No. 73-1728. *DUNN v. IMMIGRATION AND NATURALIZATION SERVICE*. C. A. 9th Cir. Certiorari denied.

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

Petitioner seeks review of the Service's order deporting him to Canada, his nation of citizenship. The Ninth Circuit noted that the Service's "discretion . . . might have been exercised with greater compassion," but none-

Osborn v. United States, *supra*, the Court upheld the use of a recording of a face-to-face conversation where there had been prior judicial authorization for the recording. 385 U. S., at 329-330. In my dissent in *Osborn* and elsewhere, I have set forth my view that even prior judicial approval cannot validate intrusions into constitutionally protected zones of privacy for the seizure of mere evidentiary material; the need for this protection is particularly acute when the items to be seized are an individual's own words, thoughts, papers and personal effects, even if no Fifth Amendment problem is squarely presented. *Id.*, at 349-354 (DOUGLAS, J., dissenting); *Warden v. Hayden*, 387 U. S. 294, 319-325 (1967) (DOUGLAS, J., dissenting); *Couch v. United States*, 409 U. S. 322, 343 (1973) (DOUGLAS, J., dissenting). In light of the absence of any attempt to secure judicial authorization in the present case, I see no need to press that view further at this time.

³ See, *e. g.*, *Osborn v. United States*, *supra*, at 352-354 (DOUGLAS, J., dissenting); *United States v. White*, *supra*, at 762-765 (DOUGLAS, J., dissenting); *Lopez v. United States*, *supra*, at 463-471 (BRENNAN, J., dissenting).

theless upheld the order on the theory that "the scope of . . . review in this area is extremely narrow."

The facts are peculiar; or, more accurately, the Service's action is peculiar in light of the facts. Moving to this country with his parents in 1953 (at age 9), petitioner acquired permanent resident alien status. As such, he was subject to the draft, 62 Stat. 605, as amended, 65 Stat. 76, 50 U. S. C. App. § 454 (a), and he duly registered on his 18th birthday. In August 1966, he was ordered to report for induction on September 28, 1966. Possessing strong views against war and conscription, petitioner decided to go to Canada, rather than serve. At the border, he turned in his Alien Immigration Card but expressly refused to sign a formal renunciation of his permanent resident status. Very quickly, he thought better of his decision to leave. On September 28, his induction date, petitioner telephoned his draft board to announce that he was returning to the United States to surrender to a United States Attorney and to accept the legal penalty for refusing induction. On October 3, 1966, petitioner flew to Chicago and turned himself in to the United States Attorney. The Government took no action for 21 months, during which time petitioner studied at an American university.

Finally, in July 1968, petitioner was indicted under 62 Stat. 622, 50 U. S. C. App. § 462 (a), for "evad[ing] or refus[ing] . . . service in the armed forces." He pleaded guilty and was sentenced to six months' imprisonment and 18 months' probation, the latter conditioned on his doing civilian work of national importance. Petitioner served this sentence in full.

Two years later, the Service moved to deport him, on grounds that he had fled the country to evade the draft, 66 Stat. 184, 8 U. S. C. § 1182 (a) (22), and abandoned his immigrant status in the process, 66 Stat. 183, as amended,

79 Stat. 918, 8 U. S. C. § 1182 (a)(20). This was a surprise, for petitioner thought that the books on this matter had been balanced by his voluntary return to the United States, surrender to authorities, guilty plea, and service of sentence. The Service found that no Government official ever promised petitioner that such would be the case. Still, the reasonableness of petitioner's impression is clear enough. Prevailing law afforded aliens an exemption from Selective Service liability if they were willing to forfeit permanent resident status and any chance at eventual citizenship, 62 Stat. 606, 50 U. S. C. App. § 454 (a) (1964 ed.). Exercising this option meant an almost certain loss of an alien's right to remain in this country. Rather than exercise this option, petitioner accepted draft law liability, and the Government solemnized his choice with prosecution, conviction, and punishment under the draft laws. Now the same Government, in the guise of the Immigration Service, wishes to disregard his earlier choice, and the burdens imposed incident to it, and to deport petitioner as if none of this had happened. In my view, the two legal grounds asserted to support deportation do not overcome the obvious injustice of the order.

First: The Service found petitioner deportable for having re-entered the country, after his flight to Canada, "not in possession of a valid unexpired immigrant visa." 8 U. S. C. § 1182 (a)(20).

The theory is that petitioner abandoned permanent resident status, and thus his visa, when he turned in his alien card at the border. Standing alone, this theory would not be unreasonable. But I cannot square it with the fact the Government prosecuted petitioner for breaching an induction order premised on his status as a permanent resident. At the time, nonresident aliens were also subject to the draft, but only after remaining "in the United

States in a status other than that of a permanent resident for a period exceeding one year." 50 U. S. C. App. § 454 (a) (1964 ed.). If petitioner lost his permanent resident status at the border, his return would not have made him "liable for training and service in the Armed Forces" under § 454 (a) until a year later, and certainly that new liability would have required a new induction order.

By submitting his case promptly and in orderly fashion to the United States Attorney, petitioner rightfully expected a responsible examination of his case by the Government. In my judgment, the decision to prosecute, nearly two years later, implied Government adherence to the view, held by petitioner then as now, that his permanent resident status, and thus the legal premise of the induction order, had not been undermined by his brief *dé-marche* in Canada. Having led petitioner through the rigors of indictment, conviction, and punishment on this theory, the Government should now be precluded from changing its mind. Cf. *Raley v. Ohio*, 360 U. S. 423 (1959); *Cox v. Louisiana*, 379 U. S. 559 (1965).

Second: The Service also found petitioner deportable for having

"departed from or . . . remained outside the United States to avoid or evade training or service in the armed forces in time of war or a period . . . [of] national emergency." 8 U. S. C. § 1182 (a)(22).

The obvious purpose of § 1182 (a)(22) is to deny admission to the United States to aliens who have used foreign asylum to escape their liabilities under the draft law. It would appear that the provision reads in the disjunctive—"departed from or . . . remained outside"—so as to reach not only those who leave the country when faced with induction orders and fail to return to comply with them in time, but also those who receive their orders while already abroad and refuse to make timely return.

The Service reads the provision more broadly, so as to apply to any alien who departs with evasive motives, regardless of his subsequent conduct. This reading is implausible: It would prevent return of such an alien for the express purpose of reporting for induction on time. I cannot believe Congress intended the provision to apply to an alien who flirted with the idea of asylum but then made prompt return to face the music. It is true that petitioner's actual return occurred five days after his induction date. But he phoned the draft board on that date, announcing his intent to re-enter and turn himself in, an intention he carried out promptly. On these facts, I could not find that his purpose in "remain[ing] outside the United States" for those five days was "to avoid or evade training or service."

Finally, it has been suggested that petitioner is nonetheless deportable as a convicted felon. But the Service did not base the deportation order on this ground, and I doubt that it could. Under 66 Stat. 204, 8 U. S. C. § 1251 (a)(4), an alien is deportable if

"convicted of a crime involving moral turpitude within five years after entry and either sentenced to confinement or confined therefor in a prison or corrective institution, for a year or more."

It is far from clear that refusing induction is a "crime involving moral turpitude." Cf. *Chaunt v. United States*, 364 U. S. 350, 353 (1960) (breach of peace not such a crime because "fraudulent conduct" not involved). To be eligible, the statutory crime must necessarily "involv[e] moral turpitude." E. g., *Ablett v. Brownell*, 240 F. 2d 625; *United States ex rel. Giglio v. Neelly*, 208 F. 2d 337; *United States ex rel. Guarino v. Uhl*, 107 F. 2d 399. It is feasible, and hardly uncommon, for induction to be refused on grounds which, while legally insufficient, demonstrate no moral fault. Moreover, it is unclear, at least

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on the record before us, that petitioner's crime was committed within five years of an "entry" into the United States. Brief trips abroad by permanent resident aliens do not always result in a new statutory "entry." See *Rosenberg v. Fleuti*, 374 U. S. 449 (1963); *Vargas-Banuelos v. INS*, 466 F. 2d 1371. As noted above, the Service is hardly in a position to find an abandonment of permanent resident status by petitioner during his brief stay in Canada.

Because the factual setting of this case is unusual, the legal questions raised are unlikely often to recur. While this is normally a sound reason to deny review, the judgment before us is grossly unjust. The Service has noted that petitioner has a "penchant for botching up his life." Perhaps so, but the Government's botching up of this case has served to complete the wreckage.

I would grant certiorari and summarily reverse the judgment.

No. 73-1741. *PERSICO ET AL. v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari as to Persico alone. Reported below: 491 F. 2d 1156.

No. 73-1746. *JOHNSON v. OHIO*. Ct. App. Ohio, Clark County. Certiorari denied.

MR. JUSTICE DOUGLAS, with whom MR. JUSTICE BRENNAN and MR. JUSTICE MARSHALL concur, dissenting.

Approximately one month after pleading guilty, petitioner sought to vacate her plea on the ground that she had not been adequately advised of the rights thereby waived. The record shows that before accepting petitioner's plea the trial judge advised her of her right to be tried by a jury and to confront witnesses against her. Petitioner's motion was denied by the trial court and the Ohio Court of Appeals affirmed.

In *Boykin v. Alabama*, 395 U. S. 238, 243 (1969), we emphasized that a guilty plea is a waiver of important constitutional rights designed to protect the fairness of a trial:

"Several federal constitutional rights are involved in a waiver that takes place when a plea of guilty is entered in a state criminal trial. First, is the privilege against compulsory self-incrimination guaranteed by the Fifth Amendment and applicable to the States by reason of the Fourteenth. *Malloy v. Hogan*, 378 U. S. 1. Second, is the right to trial by jury. *Duncan v. Louisiana*, 391 U. S. 145. Third, is the right to confront one's accusers. *Pointer v. Texas*, 380 U. S. 400. We cannot presume a waiver of these three important federal rights from a silent record."

Waiver of such rights as these can be accomplished only by "an intentional relinquishment or abandonment of a known right or privilege," *Johnson v. Zerbst*, 304 U. S. 458, 464 (1938). Only recently we reaffirmed the stringent standard for demonstrating the waiver of rights designed to safeguard the accused at trial, *Schneckloth v. Bustamonte*, 412 U. S. 218, 236-237 (1973).

The accused can waive only a *known* right, *Johnson v. Zerbst*, *supra*, and the State has the burden of demonstrating a knowing waiver. To repeat what we said in *Boykin*, "[w]e cannot presume a waiver . . . from a silent record." *Boykin* established that the State must demonstrate the defendant's knowing waiver of the three constitutional rights there enumerated. Two States have so interpreted *Boykin* as a constitutional minimum. *People v. Jaworski*, 387 Mich. 21, 194 N. W. 2d 868 (1972); *In re Tahl*, 1 Cal. 3d 122, 460 P. 2d 449 (1969). The record here fails to satisfy even this minimum standard, for the

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trial judge failed to advert to the privilege against self-incrimination.

The *Boykin* enumeration was illustrative, not exhaustive. The necessity that one be found guilty beyond a reasonable doubt (*In re Winship*, 397 U. S. 358 (1970)) and the right to a speedy trial (*Barker v. Wingo*, 407 U. S. 514 (1972)) are likewise involved. Ohio seems to recognize the need to accommodate constitutional rights other than the three mentioned in *Boykin*, since its own Supreme Court has held that a trial judge must advise the defendant of his right to be proved guilty beyond a reasonable doubt before accepting a guilty plea. *State v. Griffey*, 35 Ohio St. 2d 101, 298 N. E. 2d 603 (1973). Yet the record here fails even to meet this standard.

Since the Court has now held that a guilty plea forecloses constitutional challenge to the process that brought the defendant to the bar, *Tollett v. Henderson*, 411 U. S. 258 (1973), strict scrutiny over the standards for acceptance of the plea becomes all the more imperative. I would grant certiorari.

No. 73-1764. *TOBALINA v. CALIFORNIA*. App. Dept., Super. Ct. Cal., County of Los Angeles. Certiorari denied. MR. JUSTICE DOUGLAS, being of the view that any state or federal ban on, or regulation of, obscenity is prohibited by the Constitution, *Roth v. United States*, 354 U. S. 476, 508 (DOUGLAS, J., dissenting); *Miller v. California*, 413 U. S. 15, 42-47 (DOUGLAS, J., dissenting); *Paris Adult Theatre I v. Slaton*, 413 U. S. 49, 70-73 (DOUGLAS, J., dissenting), would grant certiorari and summarily reverse the judgment.

MR. JUSTICE BRENNAN, with whom MR. JUSTICE STEWART and MR. JUSTICE MARSHALL join, dissenting.

Petitioner was convicted in the Municipal Court of Los Angeles of exhibiting an allegedly obscene motion picture

in violation of Cal. Penal Code § 311.2 (a) (1970) which provides in pertinent part as follows:

“Every person who knowingly . . . exhibits to others, any obscene matter is guilty of a misdemeanor.”

As used in § 311.2:

“ ‘Obscene matter’ means matter, taken as a whole, the predominant appeal of which to the average person, applying contemporary standards, is to prurient interest, i. e., a shameful or morbid interest in nudity, sex, or excretion; and is matter which taken as a whole goes substantially beyond customary limits of candor in description or representation of such matters; and is matter which taken as a whole is utterly without redeeming social importance.” § 311 (a).

On appeal, the Appellate Department of the Superior Court of California for the County of Los Angeles affirmed the conviction. Certification to the Court of Appeal was sought and denied. This Court then granted certiorari, vacated the judgment of the Appellate Department, and remanded for consideration in light of *Miller v. California*, 413 U. S. 15 (1973), and companion cases. 413 U.S. 912. On remand, the Appellate Department again affirmed the conviction.

It is my view that “at least in the absence of distribution to juveniles or obtrusive exposure to unconsenting adults, the First and Fourteenth Amendments prohibit the State and Federal Governments from attempting wholly to suppress sexually oriented materials on the basis of their allegedly ‘obscene’ contents.” *Paris Adult Theatre I v. Slaton*, 413 U. S. 49, 113 (1973) (BRENNAN, J., dissenting). It is clear that, tested by that constitutional standard, § 311.2, as it incorporates the definition of “obscene matter” in § 311 (a), is constitutionally over-

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broad and therefore invalid on its face. For the reasons stated in my dissent in *Miller v. California*, *supra*, at 47, I would therefore grant certiorari and, since the judgment of the Appellate Department was rendered after *Miller*, reverse.* In that circumstance, I have no occasion to consider whether the other questions presented merit plenary review. See *Heller v. New York*, 413 U. S. 483, 494 (1973) (BRENNAN, J., dissenting).

Further, it does not appear from the petition and response that the obscenity of the disputed materials was adjudged by applying local community standards. Based on my dissent in *Hamling v. United States*, 418 U. S. 87, 141 (1974), I believe that, consistent with the Due Process Clause, petitioner must be given an opportunity to have his case decided on, and to introduce evidence relevant to, the legal standard upon which his conviction has ultimately come to depend. Thus, even on its own terms, the Court should vacate the judgment below and remand for a determination whether petitioner should be afforded a new trial under local community standards.

No. 73-1801. *GOLDSTEIN v. VIRGINIA*. Sup. Ct. Va. Certiorari denied. MR. JUSTICE DOUGLAS, being of the view that any state or federal ban on, or regulation of, obscenity is prohibited by the Constitution, *Miller v. California*, 413 U. S. 15, 42-47 (DOUGLAS, J., dissenting); *Paris Adult Theatre I v. Slaton*, 413 U. S. 49, 70-73 (DOUGLAS, J., dissenting), would grant certiorari in this case and summarily reverse the judgment.

MR. JUSTICE BRENNAN, with whom MR. JUSTICE STEWART and MR. JUSTICE MARSHALL join, dissenting.

Petitioner was convicted after a jury trial in the Corporation Court of the city of Norfolk, Virginia, of selling

*Although four of us would grant certiorari and reverse the judgment, the Justices who join this opinion do not insist that the case be decided on the merits.

obscene items. The statute under which he was convicted, Va. Code Ann. § 18.1-228 (Supp. 1973), provides in pertinent part:

"Every person who knowingly . . . [p]ublishes, sells, rents, lends, transports in intrastate commerce, or distributes or exhibits any obscene item . . . shall be guilty of a misdemeanor."

As used in that section:

"The word 'obscene' . . . shall mean that which considered as a whole has as its dominant theme or purpose an appeal to prurient interest, that is, a shameful or morbid interest in nudity, sex or excretion, and if it goes substantially beyond customary limits of candor in description or representation of such matters." § 18.1-227 (1960).

The Supreme Court of Virginia affirmed by order on July 11, 1972. This Court granted certiorari, vacated the judgment of the Supreme Court of Virginia, and remanded the case for further consideration in light of *Miller v. California*, 413 U. S. 15 (1973), and companion cases. 413 U. S. 912. The Supreme Court of Virginia again affirmed the conviction.

It is my view that "at least in the absence of distribution to juveniles or obtrusive exposure to unconsenting adults, the First and Fourteenth Amendments prohibit the State and Federal Governments from attempting wholly to suppress sexually oriented materials on the basis of their allegedly 'obscene' contents." *Paris Adult Theatre I v. Slaton*, 413 U. S. 49, 113 (1973) (BRENNAN, J., dissenting). It is clear that, tested by that constitutional standard, § 18.1-228, as it incorporates the definition of "obscene" in § 18.1-227, is constitutionally overbroad and therefore invalid on its face. For the reasons stated in my dissent in *Miller v. California*, *supra*,

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at 47, and because the judgment of the Supreme Court of Virginia was rendered after *Miller*, I would reverse.* In that circumstance, I have no occasion to consider whether the other questions presented merit plenary review. See *Heller v. New York*, 413 U. S. 483, 494 (1973) (BRENNAN, J., dissenting).

No. 73-1804. SHULTZ, DBA WALT SHULTZ EQUIPMENT Co., ET AL. v. MOORE. C. A. 10th Cir. Certiorari denied. Reported below: 491 F. 2d 294.

MR. JUSTICE DOUGLAS, dissenting.

This is an action for an injunction and damages for the infringement of a patent held by respondent Moore. Petitioner Shultz defended on the ground that the patent was invalid. The patented product is a "pants topper," used in the dry cleaning business for finishing and pressing men's trousers. Moore obtained his patent in 1955. At the trial there was evidence that patents on devices having functions similar to Moore's had issued prior to his patent; not all of these prior patents had been brought to the attention of the examiner who recommended that Moore be granted a patent. A jury verdict in Moore's favor was set aside by the trial court on the ground that the subject matter was "obvious . . . to a person having ordinary skill in the art," 35 U. S. C. § 103. The Court of Appeals reversed, holding that the patent carries a presumption of validity overcome only by clear and convincing evidence, and that obviousness is a factual question on which the trial judge should not override the jury. With all respect, that holding permits the standard of patentability to be diluted and haphazardly applied.

It bears repeating that patents derive from the specific constitutional authorization of Congress "[t]o promote

*Although four of us would grant certiorari and reverse the judgment, the Justices who join this opinion do not insist that the case be decided on the merits.

the Progress of . . . useful Arts, by securing for limited Times to . . . Inventors the exclusive Right to their . . . Discoveries." Art. I, § 8, cl. 8. Writing against the back-drop of abuses by the Crown in granting monopolies, the Framers did not intend these "exclusive rights" to be granted freely. To justify the toll exacted by exclusivity, the invention had to make a distinctive contribution to the advancement of scientific knowledge. Besides novelty and utility, a distinctive contribution expanding the frontiers of scientific and industrial knowledge was demanded. This constitutional restraint on the dispensation of patents was once mirrored in our cases under the standard of "invention." See *Reckendorfer v. Faber*, 92 U. S. 347 (1876); *Smith v. Whitman Saddle Co.*, 148 U. S. 674 (1893); *Potts v. Creager*, 155 U. S. 597 (1895); *Concrete Appliances Co. v. Gomery*, 269 U. S. 177 (1925); *Mantle Lamp Co. v. Aluminum Products Co.*, 301 U. S. 544 (1937). The standard is now embodied in 35 U. S. C. § 103, which requires a "non-obvious subject matter." *Graham v. John Deere Co.*, 383 U. S. 1, 17 (1966).

Though the label has changed, the standard of patentability is at root a constitutional standard. In determining patent validity under the statute, a court simultaneously holds the statute true to its constitutional source. This is but a specific application of the principle that statutes are construed to avoid any overreaching of constitutional limitations. *E. g.*, *Screws v. United States*, 325 U. S. 91, 98 (1945); *United States v. Rumely*, 345 U. S. 41, 47 (1953); *Ashwander v. TVA*, 297 U. S. 288, 348 (1936) (Brandeis, J., concurring); *United States v. Seeger*, 380 U. S. 163, 188 (1965) (concurring opinion).

In every patent infringement suit a court is called upon to oversee obedience to the constitutional standard. It cannot be delegated to the jury on the supposition that only a question of fact is involved. Factual assessments are, of course, part of the process of judging validity.

The prior art must be ascertained and the unique features of the patentee's contribution identified. But the determination whether the patentee's distinctive contribution is of such a character as to justify the 17-year monopoly is one that demands reasoned elaboration and, therefore, treatment as a question of law. See *Great Atlantic & Pacific Tea Co. v. Supermarket Equipment Co.*, 340 U. S. 147, 155 (1950) (concurring opinion). Findings that identify the unique features of the patented device and explain why they advance the art are essential to permit appellate review to insure that constitutional limitations have not been exceeded. The responsibility belongs to the courts. It will not do to leave such matters to unarticulated resolution by the jury.

Nor can the courts rely upon the Patent Office always to apply the standard faithfully. The proceedings on an application are not adversary. No representative of the public appears to contest unwarranted claims; the examiner alone must face the persistent applicant. A disappointed applicant may appeal an adverse administrative decision, but no corresponding check is available to overturn an erroneous finding of patentability. It does not impugn the good faith of examiners to observe that errors on the side of patentability slip through such a process. Litigation of patent validity in infringement suits presents the only opportunity for judicial correction of the errors of generosity.

The decision below holding patentability a question of fact for the jury represents an abdication which is likely to produce haphazard application of the statutory and constitutional standard. Happily, two other circuits have not adopted this approach. See *Swofford v. B&W, Inc.*, 395 F. 2d 362 (CA5 1968); *Hensley Equipment Co. v. Esco Corp.*, 375 F. 2d 432 (CA9 1967). I would grant certiorari.

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No. 73-6472. *ISOLA v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. MR. JUSTICE DOUGLAS, being of the view that any state or federal ban on, or regulation of, obscenity is prohibited by the Constitution, *Miller v. California*, 413 U. S. 15, 42-47 (DOUGLAS, J., dissenting); *Paris Adult Theatre I v. Slaton*, 413 U. S. 49, 70-73 (DOUGLAS, J., dissenting), would grant certiorari in this case and summarily reverse the judgment. Reported below: 491 F. 2d 906.

MR. JUSTICE BRENNAN, with whom MR. JUSTICE STEWART and MR. JUSTICE MARSHALL join, dissenting.

Petitioner was convicted in the United States District Court for the Eastern District of New York of transporting allegedly obscene materials in interstate commerce for the purpose of sale in violation of 18 U. S. C. § 1465, which provides in pertinent part as follows:

"Whoever knowingly transports in interstate or foreign commerce for the purpose of sale or distribution any obscene, lewd, lascivious, or filthy book, pamphlet, picture, film, paper, letter, writing, print, silhouette, drawing, figure, image, cast, phonograph recording, electrical transcription or other article capable of producing sound or any other matter of indecent or immoral character, shall be fined not more than \$5,000 or imprisoned not more than five years, or both."

The Court of Appeals for the Second Circuit affirmed, *sub nom. Cangiano v. United States*, 491 F. 2d 906 (1974).

I adhere to my dissent in *United States v. Orito*, 413 U. S. 139, 147 (1973), in which, speaking of 18 U. S. C. § 1462, which is similar in scope to § 1465, I expressed the view that "[w]hatever the extent of the Federal Government's power to bar the distribution of allegedly obscene

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material to juveniles or the offensive exposure of such material to unconsenting adults, the statute before us is clearly overbroad and unconstitutional on its face." 413 U. S., at 147-148. For the reasons stated in my dissent in *Miller v. California*, 413 U. S. 15, 47 (1973), I would therefore grant certiorari, and, since the judgment of the Court of Appeals for the Second Circuit was rendered after *Orito*, reverse.* In that circumstance, I have no occasion to consider whether the other questions presented merit plenary review. See *Heller v. New York*, 413 U. S. 483, 494 (1973) (BRENNAN, J., dissenting).

Finally, it does not appear from the petition and response that the obscenity of the disputed materials was adjudged by applying local community standards. Based on my dissent in *Hamling v. United States*, 418 U. S. 87, 141 (1974), I believe that, consistent with the Due Process Clause, petitioner must be given an opportunity to have his case decided on, and to introduce evidence relevant to, the legal standard upon which his conviction has ultimately come to depend. Thus, even on its own terms, the Court should vacate the judgment below and remand for a determination whether petitioner should be afforded a new trial under local community standards.

No. 73-6522. *SUNDSTROM v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 489 F. 2d 859.

MR. JUSTICE DOUGLAS, dissenting.

Ordered by his local Selective Service board to report for a pre-induction physical examination in May 1970, petitioner arrived at the examining place attired in a black robe and wearing facial makeup, in a representation

*Although four of us would grant certiorari and reverse the judgment, the Justices who join this opinion do not insist that the case be decided on the merits.

of the symbol of death. Because of his appearance, petitioner was ejected from the examining station without undergoing a physical. The local board ordered petitioner to appear for a second physical examination in August 1970, but the notice failed to reach the petitioner, who at the time was traveling without a forwarding address.¹ Upon learning that the petitioner had failed to appear for the second scheduled examination, the local board, acting pursuant to a new Selective Service regulation then less than two months old, ordered the petitioner to report for immediate induction. Under former practice, an induction order could not issue until the registrant had been found physically qualified for military service and had received notice to that effect. The superseding regulation² authorized local boards to order for induction and simultaneous examination any registrant whose lottery number had been reached but who had failed to appear for a physical examination.

In September 1970, one week before his scheduled induction, petitioner returned to the board the induction order that had been mailed to him in August, stating in an accompanying letter his belief that the induction forms were "mailed in error" since he had not yet completed a physical examination and been found acceptable for military service. Although the board made no response to petitioner's letter, it did report him to the Department of Justice as a violator when it learned of his failure to report for induction. Apparently at the urging of the Justice Department, the board sent a second induction order to petitioner on December 2, 1970, directing him to

¹ A count that charged petitioner with violating 50 U. S. C. App. § 462 by failing to appear for the second physical examination was dismissed by the trial judge on the ground that the evidence did not support a "knowing" violation.

² Executive Order No. 11537, 3 CFR 936 (1966-1970 Comp.), revising 32 CFR § 1631.7 (1970).

appear for induction on the 15th. Again petitioner returned the order to the board, citing his belief that "an induction order cannot be served unless a pre-induction physical has been consummated and an acceptability statement [sent].'" The board did not respond to this letter. Petitioner's prosecution and conviction for failure to report for induction, 62 Stat. 622, 50 U. S. C. App. § 462 (a), followed.

The statute makes it a crime "*knowingly* [to] fail or neglect to perform [any] duty" required by the Selective Service laws. I do not see how petitioner can be deemed to have committed a knowing violation when the record demonstrates that the local board made absolutely no effort to correct the petitioner's erroneous belief, based upon a recently superseded regulation, that the board lacked power to summon him for induction.

Due process forbids the Government from actively misleading a citizen as to the law's commands. *Cox v. Louisiana*, 379 U. S. 559 (1965); *Raley v. Ohio*, 360 U. S. 423 (1959). A citizen may be misled as much by failure to correct an erroneous impression as by incorrect advice, affirmatively conveyed. Especially in Selective Service matters where registrants deal with the Government apparatus unaided by counsel, the Government has a duty to make reasonable efforts to keep the citizen from pursuing an inaccurate interpretation of law to his detriment. See *Simmons v. United States*, 348 U. S. 397, 404 n. 5 (1955).³ The petitioner here advised the board on two occasions of his erroneous belief. On neither occasion

³ The failure of a local board to correct a registrant's erroneous impression that he does not have a valid claim to an exemption as a conscientious objector has been held to vitiate a subsequent prosecution for failure to report for induction. See *United States v. Sanders*, 470 F. 2d 937, 939 (CA9 1972) ("[m]isleading conduct may consist of failure to correct an evident misunderstanding as well as to affirmatively convey incorrect information").

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did the board respond, although a form letter or a copy of the new regulation would have dispelled petitioner's mistaken belief as to his status. Under these circumstances I would place upon the Government a duty to inform, and hold that failure to do so bars prosecution.

The new regulation was, to be sure, published. But the fiction that all men know the law, indulged in to provide a healthy incentive for men to learn the law's command,⁴ need not be pressed so far as to impute knowledge of the labyrinthine passages of the Federal Register, when there is compelling evidence to the contrary. The salutary policy of the fiction will not be weakened if the rule is not absolute.⁵ Notice by publication is not sufficient where it may reasonably be anticipated that the notice will not reach those it is intended to address. See *Lambert v. California*, 355 U. S. 225 (1957); *Mullane v. Central Hanover Bank & Trust Co.*, 339 U. S. 306 (1950). Here the petitioner's letters to the board unmistakably demonstrated that published notice was insufficient. Arguably, fairness, as well as efficiency, is served by placing the burden on the Government to advise petitioner of the change in regulations.⁶

I would grant certiorari.

No. 73-6623. CLAY ET AL. v. UNITED STATES. C. A. 7th Cir. Certiorari denied. MR. JUSTICE STEWART would grant certiorari. Reported below: 495 F. 2d 700.

⁴ O. Holmes, *The Common Law* 40-41 (Howe ed. 1963).

⁵ The Model Penal Code, for example, adopts a posture of moderation in providing for ignorance of law as a defense. § 2.04 Proposed Official Draft, 1962.

⁶ In May 1972, the Director of Selective Service promulgated the Registrants Processing Manual, which provides that when a local board determines that a registrant has failed to appear for a scheduled physical examination it shall by letter so advise the registrant of this fact and that the registrant may be issued an order for induction and subsequent physical examination if his lottery number is reached. See 37 Fed. Reg. 10763 (May 27, 1972).

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No. 73-6655. WINDSOR v. UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 488 F. 2d 1364.

MR. JUSTICE DOUGLAS, dissenting.

The petitioner, convicted of failure to report for induction, 62 Stat. 622, 50 U. S. C. App. § 462 (a), challenges the induction order on the ground that he was improperly denied exemption from Selective Service as a conscientious objector. Petitioner completed high school under a student deferment in 1969. In January 1970, he was reclassified I-A and was ordered to report for a preinduction physical examination the following October. In January 1971, petitioner filed an application for reclassification as a conscientious objector. His local Selective Service board rejected this claim, advising petitioner by letter:

"Your claim as a conscientious objector was considered by the Board on February 12, 1971, and in their opinion your professed belief in opposition to war is not a compelling or controlling force in your life, but is simply [an] expedient to avoid military service at this time and that you are not sincere in your professed belief."

Petitioner appealed to an appeal board, which affirmed without opinion the local board's denial of exemption.

The Court of Appeals, applying a rule announced in *United States v. Stetter*, 445 F. 2d 472 (CA5 1971), that when an applicant makes a prima facie case for exemption as a conscientious objector the board must give a statement of reasons for rejection of the application, construed the local board's letter to petitioner as a finding of insincerity of petitioner's asserted beliefs. The court then concluded that a finding of insincerity could be based upon the fact that petitioner waited for more than a year after his reclassification as I-A to file his application for exemption and did so only after passing

his preinduction physical examination. Accordingly, the court found that the board's "reason" had a basis in the record and affirmed petitioner's conviction.

Elsewhere I have expressed my view that an applicant for exemption as a conscientious objector is entitled, under the Due Process Clause of the Fifth Amendment, to a hearing before a local board on his claim. *Fein v. Selective Service System*, 405 U. S. 365, 382 (1972) (dissenting opinion). A statement of reasons accompanying a decision adverse to the applicant is no less a requirement of due process. Without a statement of reasons there is simply no way to ascertain whether the board has acted within its powers as prescribed by law.¹ See *Goldberg v. Kelly*, 397 U. S. 254, 271 (1970); *Joseph v. United States*, 405 U. S. 1006 (1972) (dissenting opinion). The only statement afforded petitioner is contained in the local board's February 1973 letter, a document insufficient in two respects to sustain the board's denial of exemption.

First, the board's statement that petitioner's belief "is not a compelling or controlling force in your life" gives little confidence that the board applied the correct legal standard for exemption under 62 Stat. 612, as amended, 50 U. S. C. App. § 456 (j). The statute authorizes exemption for any person "who, by reason of religious training and belief, is conscientiously opposed to participation in war in any form." In *Clay v. United States*, 403 U. S. 698, 700 (1971), we said:

"In order to qualify for classification as a conscientious objector, a registrant must satisfy three

¹ A statement of reasons accompanying an adverse decision by a local or appeal board is now required by the Military Selective Service Act, 85 Stat. 353, 50 U. S. C. App. § 471a (b)(4) (1970 ed., Supp. II), but this provision of the statute is inapplicable to petitioner's case because of its effective date.

basic tests. He must show that he is conscientiously opposed to war in any form. *Gillette v. United States*, 401 U. S. 437. He must show that this opposition is based upon religious training and belief, as the term has been construed in our decisions. *United States v. Seeger*, 380 U. S. 163; *Welsh v. United States*, 398 U. S. 333. And he must show that this objection is sincere. *Witmer v. United States*, 348 U. S. 375. In applying these tests, the Selective Service System must be concerned with the registrant as an individual, not with its own interpretation of the dogma of the religious sect, if any, to which he may belong. *United States v. Seeger, supra*; *Gillette v. United States, supra*; *Williams v. United States*, 216 F. 2d 350, 352."

The board's cryptic "compelling and controlling force" language in this case may have reflected a conclusion that although petitioner met the three tests above he did not qualify for an exemption because his belief was not lifelong. Such a decision would have been entirely improper, since, assuming a sincere belief, the length of time petitioner had held it would be irrelevant. *Schuman v. United States*, 208 F. 2d 801 (CA9 1953); *Taylor v. Chafee*, 327 F. Supp. 1131 (CD Cal. 1971). Or the board might have concluded, equally erroneously, that petitioner did not qualify for exemption because his belief had not heretofore "compelled" him to express it in some organized activity.

To be sure, the board's decision might have been based on a wholly proper application of the legal standard. The difficulty is that we cannot tell from the "statement" the board has given. It is a "simple but fundamental rule of administrative law . . . [that if] the administrative action is to be tested by the basis upon which it purports to rest, that basis must be set forth with

such clarity as to be understandable. It will not do for a court to be compelled to guess at the theory underlying the agency's action." *SEC v. Chenery Corp.*, 332 U. S. 194, 196-197 (1947). The Court of Appeals viewed the board's statement as a denial of the exemption because of insincerity. But the "compelling and controlling force" language appeared in addition to the statement that petitioner was not sincere, with no indication whether the former contributed to the rejection or served merely as a restatement of the latter ground. The board's decision cannot be sustained on the basis of the sincerity finding alone unless it is clear from the record that the board intended it to be a wholly independent ground of decision. Cf. *Sicurella v. United States*, 348 U. S. 385 (1955).

Even if the board's statement is viewed solely as a rejection of petitioner's application because of insincerity, it will not support the board's action because it contains no reasons but merely the board's conclusion. Applicants for exemption as conscientious objectors may be found insincere where the belief claimed is inconsistent with prior statements or conduct of the applicant, or where the applicant's demeanor in an appearance before the board deprives him of credibility. *Witmer v. United States*, 348 U. S. 375 (1955). Typically, reviewing courts have perused the record in order to discover evidence that would furnish a "basis in fact" for a denial of exemption because of insincerity. See, e. g., *United States v. Abbott*, 425 F. 2d 910 (CA8 1970); *United States v. Weaver*, 423 F. 2d 1126 (CA9 1970). It is time to demand more of the local board: a statement that identifies the evidence supporting the conclusion that the applicant is not sincere. A statement of such specificity is indispensable to assure that the board has reasoned from

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the evidence.² Such a statement will facilitate review; and requiring the familiarity with the record necessary to its preparation will enhance the decisionmaking process at the administrative level. Without such a statement, a board may too easily shield inattentiveness or misapplication of the law from judicial review behind the screen of a conclusory finding of insincerity.³ This danger is especially real where, as here, the finding of insincerity is merely tacked onto other language that betrays possible confusion about the legal standard.

I would grant certiorari to consider the adequacy of the administrative action.

No. 73-6666. *MURRAY v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 492 F. 2d 178.

MR. JUSTICE DOUGLAS, dissenting.

Acting upon information received from the Los Angeles Police Department that a man of a specified description would arrive on a certain airplane carrying heroin inside a garment bag, a San Francisco sheriff's deputy observed petitioner arriving on the designated flight, matching the description given and carrying a garment bag. The

² Such a requirement, advocated by several commentators, see Note, Administrative Findings in Selective Service Litigation, 57 Va. L. Rev. 477, 485 (1971); Hansen, The Basis-in-Fact Test in Judicial Review of Selective Service Classifications: A Critical Analysis, 37 Brooklyn L. Rev. 453 (1971), has recently gained approval of two Courts of Appeals. See *United States v. Stetter*, 445 F. 2d 472, 485 (CA5 1971); *United States ex rel. Hemes v. McNulty*, 432 F. 2d 1182, 1187 (CA7 1970).

³ Instances of board members' lack of familiarity with all the facts relevant to a classification decision are, regrettably, amply documented. See *United States v. Thompson*, 431 F. 2d 1265 (CA3 1970); *United States v. Ford*, 431 F. 2d 1310 (CA1 1970). See also In Pursuit of Equity: Who Serves When Not All Serve?, Report of the National Advisory Commission on Selective Service 20-21 (1967).

deputy stopped petitioner, searched the bag, and discovered heroin that was used to secure petitioner's conviction for importing heroin into the United States. Petitioner appealed the conviction on the ground that the heroin should have been suppressed as the fruit of an unlawful search. The court below held that the report received from the Los Angeles police, as "corroborated" by petitioner's appearance on the flight designated and matching the description, furnished probable cause for the forcible inspection of petitioner's garment bag.

Because the court below failed to inquire into the origin of the information furnished by the Los Angeles police, it cannot be said that probable cause for the search has been established. Had the information been based upon the observations of a Los Angeles police officer, a proper assessment of probable cause would have necessitated examination of the observations on which he relied, to see whether they would have justified belief by a "man of reasonable caution" that petitioner was carrying contraband, *Carroll v. United States*, 267 U. S. 132, 162 (1925). Had the police report been based upon a tip received by the Los Angeles police from an informer, somewhat greater scrutiny would have been necessary to apply the requirements of *Aguilar v. Texas*, 378 U. S. 108 (1964), and *Spinelli v. United States*, 393 U. S. 410 (1969). These cases held that to furnish probable cause a tip must disclose the informer's observations upon which any conclusion is based and must be accompanied by information supporting the informer's credibility.* Neither kind

*These requirements were held satisfied in *United States v. Harris*, 403 U. S. 573 (1971), where the affiant alleged receiving "personal information" from a "prudent person" that the defendant had recently sold illicit liquor. However one may view *Harris*, it plainly furnishes no support for the search here. The Court relied on the fact that the unidentified informer made admissions against penal interest as well as certain assertions of "personal knowledge"—fac-

of inquiry occurred here, for the court below failed to go beyond the fact that the information came from the Los Angeles police. But the transmission of the information in the form of a Los Angeles "police report" is of no immediate analytical significance; the Los Angeles Department merely served as a conduit between the searching officer and a still undisclosed source. The fact that the searching officer received his information from another police officer does not alter the usual Fourth Amendment inquiry. On this point the holding of *Whiteley v. Warden*, 401 U. S. 560 (1971), is dispositive; the conclusions embodied in a police bulletin are not shielded from judicial scrutiny.

The court below viewed petitioner's arrival on the designated flight and his physical appearance as corroborative of the "tip" received from the Los Angeles police and relied upon *Draper v. United States*, 358 U. S. 307 (1959), in upholding the search. In *Draper* an informer predicted that the defendant would arrive on a certain train wearing certain clothing and carrying heroin that was recently purchased. The informer, whom the police viewed as reliable from prior dealings, had a few days earlier given information that the defendant was dealing in heroin. The Court held that when the defendant arrived on the designated train attired as the informer had predicted, the police had probable cause to make the search of his person that resulted in the discovery of heroin. *Draper* does not support the result here; it involved a known informer, having a reputation for reliability, who had given information previously. It is impossible to say that any of these factors were present here. The "corroboration" only established that someone was well acquainted with petitioner's travel plans.

tors necessarily absent here on the present record because the origin of the observations was not explored.

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As in *Whiteley v. Warden, supra*, nothing in petitioner's appearance when the police first met him tended to confirm the allegation of criminal conduct.

The decision below arguably represents a failure to follow the Fourth Amendment principles enunciated in our decisions. Accordingly I would grant certiorari.

No. 73-6719. *DORMAN v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 496 F. 2d 438.

MR. JUSTICE DOUGLAS, dissenting.

In 1973 Frank Dorman was sentenced by the District Court to a term of three years for violating the travel restrictions of his bond and to two concurrent seven-year terms for the interstate transportation of forged checks. In imposing sentence, the trial judge emphasized the "very, very substantial" record of Dorman's prior convictions. The trial judge learned of these state convictions from a presentence report, which had incorporated the convictions listed in an FBI summary. None of these documents revealed, and it has not been ascertained, whether Dorman had the assistance of counsel at the time these convictions were obtained. On appeal, Dorman sought to have his case remanded for a determination whether he lacked counsel at the time of the prior convictions, and if so for imposition of a new sentence. The Court of Appeals held that Dorman had waived any objection to the trial court's use of the prior convictions by his failure to object after disclosure of the presentence report.

Since the landmark case of *Gideon v. Wainwright*, 372 U. S. 335 (1963), we have held that convictions obtained without the provision of counsel for the accused may not be used to enhance punishment under a recidivist statute, *Burgett v. Texas*, 389 U. S. 109 (1967), nor to influence the determination of a discretionary sentence, *United States v. Tucker*, 404 U. S. 443 (1972), nor to impeach

the credibility of a defendant at trial, *Loper v. Beto*, 405 U. S. 473 (1972). The guiding principle was stated in *Burgett v. Texas*:

"To permit a conviction obtained in violation of *Gideon v. Wainwright* to be used against a person either to support guilt or enhance punishment for another offense . . . is to erode the principle of that case. Worse yet, since the defect in the prior conviction was denial of the right to counsel, the accused in effect suffers anew from the deprivation of that . . . right." 389 U. S., at 115.

The Court of Appeals permits the defendant's sentence to stand, with ample demonstration that the sentencing judge relied heavily on prior convictions, and no demonstration in the record that he had counsel during the prosecutions involved. The decision below remits the defendant to collateral challenge to his sentence. Under Fourth Circuit practice, the defendant must apparently now challenge each state conviction through independent proceedings and, if successful, move to vacate the federal sentence now in issue under 28 U. S. C. § 2255. See *Brown v. United States*, 483 F. 2d 116 (CA4 1973). This result is consonant neither with sound judicial administration nor with fairness to the accused. The determination whether a defendant had counsel at the time of prior convictions should ordinarily be ascertainable from an examination of the records of conviction. I would place the burden of that examination, which surely would add only a small increment to the task of preparation for trial or sentencing, upon the Government. This procedure would centralize in one proceeding all inquiry relevant to the use of prior convictions and would give positive assurance in the record that *Gideon* was not undercut through impermissible collateral uses of uncounseled convictions.

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In this case the sentencing occurred nearly a year after our decision in *United States v. Tucker, supra*, time enough for the Government to have assumed the burden of demonstrating the constitutional validity of each conviction used against the accused. I would grant certiorari and reverse the judgment below.

No. 73-6754. *SEDILLO v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 496 F. 2d 151.

MR. JUSTICE DOUGLAS, with whom MR. JUSTICE BRENNAN and MR. JUSTICE MARSHALL concur, dissenting.

Petitioner was walking up a freeway on-ramp when he was stopped by an officer. Petitioner gave the officer his name but was unable to produce any identification. The officer noticed an envelope in petitioner's shirt pocket and saw through a window in the envelope that it was addressed to someone other than petitioner. He thought that the envelope contained a Treasury check, and he pulled it out of petitioner's pocket. The officer removed the check from the envelope and saw that it had been endorsed. Petitioner was arrested, and after further investigation was tried and convicted of forgery.

The Court of Appeals affirmed the conviction on the ground that the officer had probable cause to seize the check from petitioner's person and that the absence of a warrant is excused by the plain-view doctrine. 496 F. 2d 151, 152 (CA9 1974). Judge Hufstedler wrote a dissent in which she pointed out that the incriminating aspects of the item in petitioner's pocket simply were not in plain view. The check itself and in particular the endorsement were not visible until the envelope had been removed from petitioner's pocket and opened. "Nothing in the record of this case supports a conclusion that [the officer] at the time of the seizure had probable cause to believe that the envelope seen in Sedillo's pocket was

contraband, or that it contained contraband, or that it was evidence relevant to a crime that [the officer] had probable cause to believe had been committed. Accordingly, the plain-view doctrine cannot justify the seizure of the envelope and check." *Id.*, at 153 (footnote omitted).

In *Coolidge v. New Hampshire*, 403 U. S. 443, 466 (1971), the Court pointed out that the plain-view doctrine is applicable only "where it is immediately apparent to the police that they have evidence before them; the 'plain view' doctrine may not be used to extend a general exploratory search from one object to another until something incriminating at last emerges." To use the plain-view rationale in this case is to ignore the limitations on that exception to the warrant requirement which are explained by *Coolidge*.

It appears to me that the conviction here results from police conduct which violated the Fourth Amendment. The plain-view doctrine is not applicable, and I do not see how any other exceptions to the warrant requirement would justify the conduct of the police.* I would therefore grant certiorari and set this case for argument.

*Obviously the search and seizure were not incident to arrest, since the arrest did not occur until after the envelope had been removed from petitioner's pocket and opened. I dissented in *Terry v. Ohio*, 392 U. S. 1 (1968), but even the majority position in that case would not justify the officer's conduct here. *Terry* permitted a "reasonable search for weapons for the protection of the police officer, where he has reason to believe that he is dealing with an armed and dangerous individual, regardless of whether he has probable cause to arrest the individual for a crime." *Id.*, at 27. But that doctrine clearly has no applicability here. As Judge Hufstедler put it: "No one contends in this case that [the officer's] seizure of the envelope from Sedillo's pocket or the examination of the envelope's contents was necessary to protect the officer's person." 496 F. 2d 151, 153.

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No. 73-6943. *JOHNSON v. NEBRASKA*. Sup. Ct. Neb. Certiorari denied. Reported below: 191 Neb. 535, 216 N. W. 2d 517.

MR. JUSTICE DOUGLAS, dissenting.

Petitioner was convicted of violating a city gambling ordinance, carrying a maximum penalty of six months' imprisonment and a \$500 fine. Following a trial before a municipal judge, petitioner was convicted and sentenced to 100 days in jail and fined \$500. Under Nebraska law, trial by jury is unavailable in a prosecution in municipal court for violation of a city ordinance. The Nebraska courts rejected petitioner's assertion of a right to a jury trial under the Sixth Amendment, on the ground that no such right applies to prosecutions for offenses carrying a maximum penalty of imprisonment for six months or less.

The Constitution provides for trial by jury in two places. Article III, § 2, provides that "[t]he Trial of all Crimes, except in Cases of Impeachment, shall be by Jury" And the Sixth Amendment provides in pertinent part:

"In *all* criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed" (Emphasis added.)

Despite these specific references to a jury in the trial of "all crimes" and in "all criminal prosecutions" the Court has held that the accused enjoys no right to demand trial by jury in prosecutions for "petty offenses."

The notion of a class of "petty offenses" for which prosecution would carry no right to jury trial first surfaced in this Court in the dicta of *Callan v. Wilson*, 127 U. S. 540, 555 (1888), which held that a conspiracy offense did not belong in the "petty" class. "Petty of-

fenses" were to be defined as those punishable by summary proceedings at common law prior to the adoption of the Constitution. The exclusion of petty-offense prosecutions from the jury trial guarantee was repeated in several later cases. *Natal v. Louisiana*, 139 U. S. 621 (1891), involved a Fourteenth Amendment challenge to a Louisiana ordinance regulating the location of private marketplaces. Prosecution for violation was before a magistrate only and was punishable by a \$25 fine or imprisonment for 30 days. In holding that the absence of jury trial did not vitiate conviction under the ordinance, the Court repeated the *Callan* dicta, but the decision came more than 70 years before we held the federal right to jury trial applicable in state proceedings, *Duncan v. Louisiana*, 391 U. S. 145 (1968). In *Schick v. United States*, 195 U. S. 65 (1904), the petty-offense exclusion was again repeated, but the holding of that case was that the defendant's waiver of jury trial in the District Court did not invalidate his conviction.

Not until *District of Columbia v. Clawans*, 300 U. S. 617 (1937), did the Court squarely rule that certain prosecutions are outside the constitutional guarantee. That case involved a prosecution in the District of Columbia for violation of a statute making it a crime, punishable by a fine of \$300 or less, or imprisonment of 90 days or less, to sell second-hand goods without a license. In holding that trial by jury was not required, the Court expanded the definition of "petty offenses" to embrace all those for which the authorized punishment failed to meet a requisite standard of severity. The degree of severity required to invoke the constitutional right was to be ascertained "by objective standards such as may be observed in the laws and practices of the community taken as a gauge of its social and ethical judgments." *Id.*, at 628. In the years since *Clawans*, the Court has struggled to achieve greater precision in drawing the line

that separates "petty" from "serious" crimes. See *Duncan v. Louisiana*, *supra*, at 160-162; *Dyke v. Taylor Implement Mfg. Co.*, 391 U. S. 216 (1968); *Frank v. United States*, 395 U. S. 147 (1969); *Baldwin v. New York*, 399 U. S. 66, 67-73 (1970). The Court's latest expression in this quest for certainty came last Term in *Codispoti v. Pennsylvania*, 418 U. S. 506 (1974). There it was said that "our decisions have established a fixed dividing line between petty and serious offenses: those crimes carrying a sentence of more than six months are serious crimes and those carrying a sentence of six months or less are petty crimes." *Id.*, at 512. What apparently began in *Callan* as a narrow exception to the jury trial guarantee based upon the nature of the offense¹ has become a rigid rule based upon the maximum authorized punishment.²

If the judgment were mine to make, I would entertain considerable doubt that petitioner's offense can be described as "petty." See *Frank v. United States*, *supra*, at 160 (Black, J., dissenting). Petitioner's offense carried a maximum penalty of six months' imprisonment and a \$500 fine. A literal reading of the "fixed dividing line" stated in *Codispoti* would place petitioner's offense in the "serious" category, for it carries "a sentence of more than six months." I recognize, however, that the Court has never expressly considered how the interaction of authorized imprisonment and fines affects the dividing line, although it has adverted to the provisions of 18 U. S. C. § 1, defining as "petty" a crime in which both

¹ Compare Mr. Justice Harlan's opinion for the Court in *Callan v. Wilson*, 127 U. S. 540 (1888), with his later dissenting opinion in *Schick v. United States*, 195 U. S. 65, 80-81 (1904).

² Special rules have been applied with respect to criminal contempts for which a maximum penalty is not specified. See *Dyke v. Taylor Implement Mfg. Co.*, 391 U. S. 216 (1968); *Frank v. United States*, 395 U. S. 147 (1969); *Taylor v. Hayes*, 418 U. S. 488 (1974).

six months' imprisonment and a \$500 fine are authorized. See *e. g.*, *Duncan v. Louisiana*, *supra*, at 161; *Frank v. United States*, *supra*, at 151. On the Court's own terms, certiorari should be granted to resolve the ambiguity.

For myself, I adhere to the views expressed by Mr. Justice Black, whom I joined, in *Baldwin v. New York*, *supra*, at 74-76, that the Constitution forbids the kind of line drawing in which the Court is now engaged. In making trial by jury applicable "in all criminal prosecutions," the Framers foreclosed any judicial freedom to decide that in certain prosecutions trial by jury is unwarranted. The point was forcefully made by Justices McReynolds and Butler in their separate opinion in *District of Columbia v. Clawans*, *supra*:

"In a suit at common law to recover above \$20.00, a jury trial is assured. And to us, it seems improbable that while providing for this protection in such a trifling matter the framers of the Constitution intended that it might be denied where imprisonment for a considerable time or liability for fifteen times \$20.00 confronts the accused." 300 U. S., at 633-634.

Until the language of the Constitution is amended, we are not free to impose our judgment as to what offenses are "petty." Since, in my view, the right to trial by jury in all criminal prosecutions is among the privileges and immunities of citizens of the United States the States are forbidden by the Fourteenth Amendment from abridging, see *Gideon v. Wainwright*, 372 U. S. 335, 345-347 (1963) (concurring opinion), I would apply the same rule in both state and federal prosecutions. See also *Duncan v. Louisiana*, *supra*, at 162-171 (Black, J., concurring). The judgment below might arguably be permitted to stand under a view that the federal guarantee of trial by jury is not fully applicable to the States. This was

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the view of Mr. Justice Harlan, expressed in, *e. g.*, *Duncan v. Louisiana*, *id.*, at 171-193, and *Williams v. Florida*, 399 U. S. 78, 117-138 (1970). I do not share that view, see *id.*, at 106-107, and in any event it has not commanded a majority of this Court.

Petitioner was denied a jury in what is unquestionably a criminal prosecution. I would grant certiorari to consider his Sixth Amendment claim.

No. 73-7019. BAILEY *v.* WEINBERGER, SECRETARY OF HEALTH, EDUCATION, AND WELFARE. C. A. 9th Cir. Certiorari denied.

MR. JUSTICE WHITE, joined by MR. JUSTICE DOUGLAS and MR. JUSTICE STEWART, dissenting.

The Court of Appeals for the Ninth Circuit, adhering to its previous decisions in *Stuckey v. Weinberger*, 488 F. 2d 904 (1973) (en banc), and *Wallace v. Weinberger*, 488 F. 2d 606 (1973) (en banc), cert. denied, 417 U. S. 913 (1974), held in this case that the decision of the Secretary of HEW on a request to reopen a previous denial on the merits of a claim for benefits is so far committed to agency discretion by the provisions of § 205 (h) of the Social Security Act, 49 Stat. 624, as amended, 53 Stat. 1371, 60 Stat. 1095, 67 Stat. 632, 42 U. S. C. § 405 (h), that review of that decision is not available pursuant to the Administrative Procedure Act. See 5 U. S. C. § 701 (a)(2). This holding is squarely in conflict with the holdings of three other Circuits in *Cappadora v. Celebrezze*, 356 F. 2d 1 (CA2 1966); *Davis v. Richardson*, 460 F. 2d 772 (CA3 1972); and *Maddox v. Richardson*, 464 F. 2d 617 (CA6 1972). It is a prime function of this Court's certiorari jurisdiction to resolve precisely the kind of conflict here presented. This Court's Rule 19 (1)(b). Perhaps the state of our docket will not permit us to resolve all disagreements between courts of appeals, or between federal and state courts, and perhaps we must tolerate the

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fact that in some instances enforcement of federal law in one area of the country differs from its enforcement in another. These situations, it is hoped, will be few and far between. I would grant certiorari in this case.

MR. JUSTICE DOUGLAS, dissenting.

While I have joined MR. JUSTICE WHITE's dissent, I should add that the number of cases we take to review on the merits is well below the tolerable limit and that this case presents one of the most pressing problems on the modern scene. For the extent to which the ever-growing federal bureaucracy uses "discretion" to mask irresponsible action that evades review seems to me to be eroding basic rights of the citizen.

No. 74-96. DAMON, REFORMATORY SUPERINTENDENT *v.* LEESON; and

No. 74-5405. LEESON *v.* DAMON, REFORMATORY SUPERINTENDENT. C. A. 2d Cir. Motion of respondent in No. 74-96 for leave to proceed *in forma pauperis* granted. Certiorari denied. MR. JUSTICE WHITE would grant certiorari in No. 74-96. Reported below: 496 F. 2d 718.

No. 74-126. SIGAL, AKA EDWARDS, ET AL. *v.* UNITED STATES. C. A. 10th Cir. Application to recall and stay mandate, presented to MR. JUSTICE WHITE and by him referred to the Court, denied. Certiorari denied. Reported below: 500 F. 2d 1118.

Rehearing Denied

No. 73-1191. HOURIHAN *v.* DAKIN ET AL., 416 U. S. 951. Motion for leave to file petition for rehearing denied.

Assignment Order

An order of THE CHIEF JUSTICE designating and assigning Mr. Justice Clark (retired) to perform judicial

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duties in the United States Court of Appeals for the Seventh Circuit during the week of November 18, 1974, and for such additional time in advance thereof to prepare for the trial of cases, or thereafter as may be required to complete unfinished business, pursuant to 28 U. S. C. § 294 (a), is ordered entered on the minutes of this Court, pursuant to 28 U. S. C. § 295.

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Dismissal Under Rule 60

No. 74-5294. WILLIAMS *v.* UNITED STATES. C. A. 9th Cir. Certiorari dismissed under this Court's Rule 60.

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Dismissal Under Rule 60

No. 50, Orig. VERMONT *v.* NEW YORK ET AL. Bill of complaint dismissed under this Court's Rule 60. [See 417 U.S. 270.]

Affirmed on Appeal

No. 73-1870. HUFFMAN *v.* MONTANA SUPREME COURT ET AL. Affirmed on appeal from D. C. Mont. Reported below: 372 F. Supp. 1175.

No. 74-32. VALLIS ET AL. *v.* LEFKOWITZ, ATTORNEY GENERAL OF NEW YORK, ET AL. Affirmed on appeal from D. C. S. D. N. Y.

No. 73-1902. NATIONAL INDEPENDENT COAL OPERATORS ASSN. ET AL. *v.* BRENNAN, SECRETARY OF LABOR. Affirmed on appeal from D. C. D. C. MR. JUSTICE WHITE and MR. JUSTICE REHNQUIST would note probable jurisdiction and set case for oral argument. Reported below: 372 F. Supp. 16.

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No. 73-2029. STAR ET AL. v. PRELLER ET AL. Affirmed on appeal from D. C. Md. Reported below: 375 F. Supp. 1093.

MR. JUSTICE DOUGLAS, dissenting.

Appellant Star owns several bookstores in Baltimore which contain, *inter alia*, coin-operated viewing machines showing portions of so-called "adult" motion pictures. After a number of raids in which these motion pictures were seized for lack of a proper license from the Maryland State Board of Censors, appellant sought injunctive relief against the enforcement of Maryland's film-licensing requirements on the ground that such requirements violate the freedoms protected by the First and Fourteenth Amendments. We held a predecessor Maryland statute unconstitutional in *Freedman v. Maryland*, 380 U. S. 51 (1965); the three-judge District Court, however, concluded that the defects identified in *Freedman* had been remedied by the present statute. 352 F. Supp. 530 (Md. 1972); 375 F. Supp. 1093 (Md. 1974).

The court below made much of the fact that the amended statute provides for a prompt judicial determination of obscenity after denial of a license by the Board, and that the Board must bear the burden of proof at all stages of the proceedings. I have previously set forth, at some length, my view that no form of censorship, no matter how speedy or efficient it may be, is constitutionally permissible. The cost and delay involved in contesting an adverse determination by the censor provide a very practical deterrent to free and open expression; the inevitable result is a reluctance even to attempt to disseminate ideas which, by virtue of their content, may attract the censor's attention or draw his wrath. Moreover, by imposing his sanctions in advance, the censor circumvents all the protections of the Bill of Rights which are called into play by a criminal prosecution after the

fact. The Maryland system has no place for the right of trial by jury, nor does it require proof beyond a reasonable doubt; step by step, by eroding these constitutional guarantees, the State facilitates its self-appointed task of imposing and ensuring conformity to an official standard of morality.

I adhere to the positions I have taken in *Freedman v. Maryland*, *supra*, at 61 (concurring opinion); *Times Film Corp. v. Chicago*, 365 U. S. 43, 78 (1961) (dissenting opinion); *Kingsley International Pictures Corp. v. Regents*, 360 U. S. 684, 697 (1959) (concurring opinion); and *Superior Films v. Department of Education*, 346 U. S. 587, 588 (1954) (concurring opinion). I would reverse the judgment below.

MR. JUSTICE BRENNAN, with whom MR. JUSTICE STEWART and MR. JUSTICE MARSHALL join, dissenting.

Appellants challenged the constitutionality of the Maryland motion picture censorship statute, Md. Ann. Code, Art. 66A, §§ 1-26 (1970), which requires that films be licensed before exhibition and forbids the licensing of obscene films. Pursuant to § 6(b) of the statute a film is "obscene" if, "when considered as a whole, its calculated purpose or dominant effect is substantially to arouse sexual desires, and if the probability of this effect is so great as to outweigh whatever other merits the film may possess." A three-judge court ruled adversely to appellant, and this Court vacated the judgment and remanded the case for further consideration in light of *Miller v. California*, 413 U. S. 15 (1973), and companion cases. 413 U. S. 905. The three-judge court again upheld the statute.

It is my view that "at least in the absence of distribution to juveniles or obtrusive exposure to unconsenting adults, the First and Fourteenth Amendments prohibit

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the State and Federal Governments from attempting wholly to suppress sexually oriented materials on the basis of their allegedly 'obscene' contents." *Paris Adult Theatre I v. Slaton*, 413 U. S. 49, 113 (1973) (BRENNAN, J., dissenting).

It is clear that, tested by that constitutional standard, the Maryland motion picture censorship statute, as it defines "obscene" in § 6 (b), is constitutionally overbroad and therefore invalid on its face. For the reasons stated in my dissent in *Miller v. California*, *supra*, at 47, and because the judgment of the three-judge court was rendered after *Miller*, I would therefore reverse. In that circumstance, I have no occasion to consider whether the other questions presented merit plenary review. See *Heller v. New York*, 413 U. S. 483, 494 (1973) (BRENNAN, J., dissenting).

Appeals Dismissed

No. 73-6968. *ENGLEFIELD v. ENGLEFIELD*. Appeal from Sup. Ct. Ohio dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied.

No. 74-37. *TOWN OF EAST HAVEN ET AL. v. UNITED STATES ET AL.* Appeal from C. A. 2d Cir. dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied. Reported below: 496 F. 2d 452.

No. 74-5145. *BUXTON v. BOARD OF DIRECTORS 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.

Affirmed for Absence of Quorum

No. 73-6732. *SLOAN v. NIXON, PRESIDENT OF THE UNITED STATES, ET AL.* C. A. 2d Cir. Four Members of

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the Court have disqualified themselves in this case. Because of this absence of a quorum, 28 U. S. C. § 1, and since a majority of the qualified Justices are of the opinion that the case cannot be heard and determined at the next Term of Court, the judgment is affirmed under 28 U. S. C. § 2109, which provides that under these circumstances "the court shall enter its order affirming the judgment of the court from which the case was brought for review with the same effect as upon affirmance by an equally divided court." Reported below: 493 F. 2d 1398.

Certiorari Granted—Vacated and Remanded

No. 74-5060. *LaRUFFA v. NEW YORK*. Ct. App. N. Y. Motion for leave to proceed *in forma pauperis* and certiorari granted. Judgment vacated and case remanded for further consideration in light of *Blackledge v. Perry*, 417 U. S. 21 (1974), and *Tollett v. Henderson*, 411 U. S. 258 (1973). Reported below: 34 N. Y. 2d 242, 313 N. E. 2d 332.

Miscellaneous Orders

No. —. *ELLIS v. HAWAII*; and

No. —. *ELLIS v. POWERS ET UX.* Sup. Ct. Hawaii. Motion to consolidate cases to permit filing of a single petition for writ of certiorari denied.

No. A-177 (74-269). *BRIAN, SECRETARY, HUMAN RELATIONS AGENCY, ET AL. v. CALIFORNIA WELFARE RIGHTS ORGANIZATION ET AL.* Sup. Ct. Cal. Application for stay presented to MR. JUSTICE BLACKMUN, and by him referred to the Court, denied. Reported below: 11 Cal. 3d 237, 520 P. 2d 970.

No. A-190 (74-244). *BOOZE ET AL. v. FLORIDA*. Application for stays of mandates of the District Court of Appeal of Florida, Second District, presented to MR. JUS-

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TICE DOUGLAS, and by him referred to the Court, denied. Reported below: 291 So. 2d 262, and 293 So. 2d 107.

No. A-202 (74-312). SWOAP, DIRECTOR, DEPARTMENT OF BENEFIT PAYMENTS, ET AL. *v.* WAITS ET AL. Sup. Ct. Cal. Application to stay enforcement of injunction of Superior Court of California, County of Sacramento, presented to MR. JUSTICE BLACKMUN, and by him referred to the Court, denied. Reported below: 11 Cal. 3d 887, 524 P. 2d 117.

No. A-255. ALERS *v.* TOLEDO ET AL. C. A. 1st Cir. Application for stay presented to THE CHIEF JUSTICE, and by him referred to the Court, denied.

No. A-256 (74-456). HILL, ATTORNEY GENERAL OF TEXAS, ET AL. *v.* PRINTING INDUSTRIES OF THE GULF COAST ET AL. Appeal from D. C. S. D. Tex. Motion of appellees to vacate stay entered by this Court on October 11, 1974 [*ante*, p. 805], denied.

No. A-274. ECONOMIC CONSULTANTS, INC., DBA E-C TAPE SERVICE, INC., ET AL. *v.* MERCURY RECORD PRODUCTIONS, INC., ET AL. Application for stay of mandate of Supreme Court of Wisconsin, presented to MR. JUSTICE BLACKMUN, and by him referred to the Court, denied. Reported below: 64 Wis. 2d 163, 218 N. W. 2d 705.

No. A-284 (74-409). ROSE, WARDEN *v.* UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF TENNESSEE, WESTERN DIVISION, ET AL. Application to stay orders of Judge Robert M. McRae, entered August 22, 1974, presented to MR. JUSTICE STEWART, and by him referred to the Court, denied.

No. A-334. HURST ET AL. *v.* UNITED STATES. C. A. 6th Cir. Application for order to have court-appointed counsel relieved and other relief, presented to MR. JUSTICE STEWART, and by him referred to the Court, denied.

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No. 50, Orig. VERMONT *v.* NEW YORK ET AL. It is ordered by this Court that the Honorable R. Ammi Cutter be, and he is hereby, awarded the sum of \$50,000 as compensation for his services as Special Master in this case, and that his disbursements totaling \$5,150 be allowed. It is further ordered that the fee and disbursements be paid by the parties in the following amounts: \$20,000 by the State of Vermont and \$35,150 by the International Paper Co. It is further ordered that the Special Master is hereby discharged. [See 417 U. S. 270.]

No. 73-689. MANESS *v.* MEYERS, JUDGE. 169th Jud. Dist. Ct. Tex., Bell County. [Certiorari granted, 416 U. S. 934.] Motion of Texas Criminal Defense Lawyers Assn. for leave to file a brief as *amicus curiae* denied.

No. 73-820. UNITED STATES *v.* GUANA-SANCHEZ. C. A. 7th Cir. [Certiorari granted, 417 U. S. 967.] Motion for appointment of counsel granted. It is ordered that Joseph Beeler, Esquire, of Miami, Fla., a member of the Bar of this Court, be, and he is hereby, appointed to serve as counsel for respondent in this case.

No. 73-822. FRY ET AL. *v.* UNITED STATES. Temp. Emerg. Ct. App. [Certiorari granted, 415 U. S. 912.] Motions of the State of California and California State Employees' Assn. for leave to participate in oral argument as *amici curiae* denied.

No. 73-1012. GULF OIL CORP. ET AL. *v.* COPP PAVING Co., INC., ET AL. C. A. 9th Cir. [Certiorari granted, 415 U. S. 988.] Motion of American Building Maintenance Industries for leave to file a brief as *amicus curiae* denied.

No. 73-1018. UNITED STATES *v.* MAZURIE ET AL. C. A. 10th Cir. [Certiorari granted, 415 U. S. 947.] Motion

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of respondents to dismiss writ of certiorari denied. Motion of the State of Wyoming for leave to participate in oral argument as *amicus curiae* granted.

No. 73-1256. CONNELL CONSTRUCTION Co., INC. *v.* PLUMBERS & STEAMFITTERS LOCAL UNION No. 100, UNITED ASSOCIATION OF JOURNEYMEN & APPRENTICES OF THE PLUMBING & PIPEFITTING INDUSTRY OF THE UNITED STATES AND CANADA, AFL-CIO. C. A. 5th Cir. [Certiorari granted, 416 U. S. 981.] Motion of Associated General Contractors of America et al. for leave to participate in oral argument as *amici curiae* denied.

No. 73-1279. WILLIAMS & WILKINS Co. *v.* UNITED STATES. Ct. Cl. [Certiorari granted, 417 U. S. 907.] Motion of National Education Assn. for leave to participate in oral argument as *amicus curiae* denied. MR. JUSTICE BRENNAN and MR. JUSTICE BLACKMUN took no part in the consideration or decision of this motion.

No. 73-1380. CHEMEHUEVI TRIBE OF INDIANS ET AL. *v.* FEDERAL POWER COMMISSION ET AL.;

No. 73-1666. ARIZONA PUBLIC SERVICE Co. ET AL. *v.* CHEMEHUEVI TRIBE OF INDIANS ET AL.; and

No. 73-1667. FEDERAL POWER COMMISSION *v.* CHEMEHUEVI TRIBE OF INDIANS ET AL. C. A. D. C. Cir. [Certiorari granted, 417 U. S. 944.] Motion of Arizona Public Service Co. et al. for divided argument granted; however, no additional time for oral argument is allowed.

No. 73-1573. WITHROW ET AL. *v.* LARKIN. Appeal from D. C. E. D. Wis. [Probable jurisdiction noted, 417 U. S. 943.] Consideration of appellee's suggestion of mootness deferred to oral argument.

No. 74-125. ALAMO LAND & CATTLE Co., INC. *v.* ARIZONA. C. A. 9th Cir. The Solicitor General is invited to file a brief in this case expressing the views of the United States.

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Probable Jurisdiction Noted or Postponed

No. 73-1820. PHILBROOK, COMMISSIONER, DEPARTMENT OF SOCIAL WELFARE *v.* GLODGETT ET AL.; and

No. 74-132. WEINBERGER, SECRETARY OF HEALTH, EDUCATION, AND WELFARE *v.* GLODGETT ET AL. Appeals from D. C. Vt. Motion of appellees for leave to proceed *in forma pauperis* granted. In No. 73-1820, probable jurisdiction noted. In No. 74-132, further consideration of question of jurisdiction postponed to hearing of case on the merits. Cases consolidated and a total of one hour allotted for oral argument. Reported below: 368 F. Supp. 211.

Certiorari Granted

No. 73-7031. FOWLER *v.* NORTH CAROLINA. Sup. Ct. N. C. Motion for leave to proceed *in forma pauperis* and certiorari granted. Reported below: 285 N. C. 90, 203 S. E. 2d 803.

No. 74-70. GOLDFARB ET UX. *v.* VIRGINIA STATE BAR ET AL. C. A. 4th Cir. Motion of Clark C. Havighurst for leave to file a brief as *amicus curiae* granted. Certiorari granted. MR. JUSTICE POWELL took no part in the consideration or decision of this motion and petition. Reported below: 497 F. 2d 1.

Certiorari Denied. (See also Nos. 73-6968, 74-37, and 74-5145, *supra*.)

No. 73-1830. SZEKULA *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied. Reported below: 497 F. 2d 926.

No. 73-1903. ZLOTNICK ET AL. *v.* DISTRICT OF COLUMBIA REDEVELOPMENT LAND AGENCY ET AL. C. A. D. C. Cir. Certiorari denied. Reported below: 161 U. S. App. D. C. 238, 494 F. 2d 1157.

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No. 73-1906. *HERMAN INVESTMENT CO. ET AL. v. LOEFFLER, TRUSTEE, ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 492 F. 2d 793.

No. 73-1984. *NEW YORK SHIPPING ASSN., INC. v. FEDERAL MARITIME COMMISSION ET AL.*; and

No. 73-1990. *INTERNATIONAL LONGSHOREMEN'S ASSN., AFL-CIO v. FEDERAL MARITIME COMMISSION ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 495 F. 2d 1215.

No. 73-2018. *IN RE ROSEN.* Ct. App. D. C. Certiorari denied. Reported below: 315 A. 2d 151.

No. 73-2022. *ROLLINS TELECASTING, INC. v. NATIONAL LABOR RELATIONS BOARD.* C. A. 2d Cir. Certiorari denied. Reported below: 494 F. 2d 80.

No. 73-2048. *MATLOCK TRUCK BODY & TRAILER CORP. v. NATIONAL LABOR RELATIONS BOARD.* C. A. 6th Cir. Certiorari denied. Reported below: 495 F. 2d 671.

No. 73-2061. *SMITH v. UNITED STATES.* C. A. 10th Cir. Certiorari denied. Reported below: 496 F. 2d 185.

No. 73-6800. *BAXTER v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. Reported below: 493 F. 2d 1404.

No. 73-6895. *SOMERSET v. NORTH CAROLINA.* Ct. App. N. C. Certiorari denied.

No. 73-6907. *HOLMES v. UNITED STATES.* C. A. 7th Cir. Certiorari denied. Reported below: 495 F. 2d 1375.

No. 73-6908. *PETERSON v. UNITED STATES.* C. A. D. C. Cir. Certiorari denied. Reported below: 162 U. S. App. D. C. 20, 495 F. 2d 1076.

No. 73-6920. *MOODY v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. Reported below: 493 F. 2d 1405.

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No. 73-6921. *VALLEJO v. UNITED STATES*. C. A. 1st Cir. Certiorari denied. Reported below: 496 F. 2d 960.

No. 73-6940. *BROWN v. UNITED STATES*. C. A. 1st Cir. Certiorari denied. Reported below: 495 F. 2d 593.

No. 73-6942. *MILLER v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 491 F. 2d 1405.

No. 73-6945. *SHABAZZ v. CALIFORNIA*. Ct. App. Cal., 2d App. Dist. Certiorari denied.

No. 73-6947. *DUCKETT ET AL. v. ILLINOIS*. Sup. Ct. Ill. Certiorari denied. Reported below: 56 Ill. 2d 432, 308 N. E. 2d 590.

No. 73-6956. *JONES ET AL. v. UNITED STATES*. C. A. D. C. Cir. Certiorari denied. Reported below: 162 U. S. App. D. C. 20, 495 F. 2d 1076.

No. 73-6963. *KOHN v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 495 F. 2d 763.

No. 73-6971. *COMBS v. HENDERSON, WARDEN*. C. A. 5th Cir. Certiorari denied. Reported below: 492 F. 2d 1241.

No. 73-6978. *OWEN v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 492 F. 2d 1100.

No. 73-6981. *RICKETSON v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 498 F. 2d 367.

No. 73-6990. *KEARNS v. WEINBERGER, SECRETARY OF HEALTH, EDUCATION, AND WELFARE*. C. A. 9th Cir. Certiorari denied.

No. 73-6993. *RUCKER v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 496 F. 2d 1241.

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No. 73-6994. *MIRANDA v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 494 F. 2d 783.

No. 73-7007. *MARTINEZ v. UNITED STATES*. C. A. 10th Cir. Certiorari denied.

No. 73-7010. *BUSTER v. UNITED STATES*. C. A. 2d Cir. Certiorari denied.

No. 73-7017. *VALENTI v. UNITED STATES*. C. A. 10th Cir. Certiorari denied.

No. 73-7033. *WASHINGTON v. MCCARTHY, MEN'S COLONY SUPERINTENDENT*. C. A. 9th Cir. Certiorari denied.

No. 73-7036. *NOLAND v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 495 F. 2d 529.

No. 73-7071. *McCravy v. ROSE, WARDEN*. C. A. 6th Cir. Certiorari denied. Reported below: 497 F. 2d 924.

No. 73-7103. *PFISTER v. PHOENIX OF HARTFORD INSURANCE Co. ET AL.* Sup. Ct. La. Certiorari denied. Reported below: 293 So. 2d 187.

No. 73-7104. *MURRAY v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 497 F. 2d 922.

No. 73-7105. *BROWN v. VIRGINIA*. Sup. Ct. Va. Certiorari denied. Reported below: 214 Va. 755, 204 S. E. 2d 429.

No. 73-7106. *PEICHEV v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 500 F. 2d 917.

No. 73-7109. *BURKE v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 496 F. 2d 373.

No. 73-7110. *DAVIS v. UNITED STATES*. C. A. 8th Cir. Certiorari denied.

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No. 73-7113. *DiJOHN v. UNITED STATES*. C. A. 10th Cir. Certiorari denied.

No. 73-7114. *DUHART v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 496 F. 2d 941.

No. 74-41. *NALLS v. NEVADA*. Sup. Ct. Nev. Certiorari denied. Reported below: 520 P. 2d 611.

No. 74-44. *FAHRIG ET AL. v. LEDFORD, EXECUTOR*. Ct. App. Ohio, Montgomery County. Certiorari denied.

No. 74-135. *YAKIMA TRIBE OF INDIANS OF THE YAKIMA RESERVATION v. CONFEDERATED TRIBES OF THE COLVILLE RESERVATION*. Ct. Cl. Certiorari denied. Reported below: 204 Ct. Cl. 868.

No. 74-137. *WIEST ET AL. v. MT. LEBANON SCHOOL DISTRICT*. Sup. Ct. Pa. Certiorari denied. Reported below: 457 Pa. 166, 320 A. 2d 362.

No. 74-140. *RONWIN v. COMMITTEE ON EXAMINATIONS AND ADMISSIONS OF THE SUPREME COURT OF ARIZONA*. Sup. Ct. Ariz. Certiorari denied.

No. 74-149. *ALLIED SHEET METAL FABRICATORS, INC. v. PEOPLES NATIONAL BANK OF WASHINGTON*. Ct. App. Wash. Certiorari denied. Reported below: 10 Wash. App. 530, 518 P. 2d 734.

No. 74-151. *ZENITH VINYL FABRICS CORP. v. FORD MOTOR CO.* C. A. 6th Cir. Certiorari denied.

No. 74-162. *DILLINGER v. MAZZA*. Ct. App. Ohio, Hancock County. Certiorari denied.

No. 74-163. *BRUENN v. BRUENN*. Ct. App. Cal., 1st App. Dist. Certiorari denied.

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No. 74-164. *OHIO HOIST MANUFACTURING Co. v. LiROCCHI, DBA CABLE CLIMBER Co.* C. A. 9th Cir. Certiorari denied.

No. 74-173. *BLACKSHEAR v. BLACKSHEAR.* Sup. Ct. Ga. Certiorari denied. Reported below: 232 Ga. 312, 206 S. E. 2d 429.

No. 74-177. *PRUITT v. ILLINOIS.* App. Ct. Ill., 2d Dist. Certiorari denied. Reported below: 16 Ill. App. 3d 930, 307 N. E. 2d 142.

No. 74-178. *NASSAU COUNTY ASSOCIATION OF INSURANCE AGENTS, INC., ET AL. v. AETNA LIFE & CASUALTY Co. ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 497 F. 2d 1151.

No. 74-179. *JEFFERSON CHEMICAL Co., INC. v. GENERAL TIRE & RUBBER Co.* C. A. 2d Cir. Certiorari denied. Reported below: 497 F. 2d 1283.

No. 74-182. *GOODBODY & Co. ET AL. v. PALOMAR FINANCIAL CORP.* Sup. Ct. Cal. Certiorari denied.

No. 74-186. *GLINSEY ET AL. v. BALTIMORE & OHIO RAILROAD Co.* C. A. 6th Cir. Certiorari denied. Reported below: 495 F. 2d 565.

No. 74-5008. *PLUMMER v. UNITED STATES.* Ct. App. D. C. Certiorari denied.

No. 74-5010. *CUSHNIE v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. Reported below: 488 F. 2d 81.

No. 74-5013. *LISI v. UNITED STATES.* C. A. 2d Cir. Certiorari denied. Reported below: 498 F. 2d 1396.

No. 74-5033. *LEBRON v. UNITED STATES.* C. A. 1st Cir. Certiorari denied. Reported below: 502 F. 2d 1160.

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No. 74-5035. *HAWKINS v. UNITED STATES*. Ct. App. D. C. Certiorari denied. Reported below: 319 A. 2d 328.

No. 74-5036. *LEFLORE v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 497 F. 2d 925.

No. 74-5057. *VESSELS v. ESTELLE, CORRECTIONS DIRECTOR*. C. A. 5th Cir. Certiorari denied. Reported below: 494 F. 2d 1295.

No. 74-5142. *ROSS v. UNITED STATES*. C. A. 9th Cir. Certiorari denied.

No. 73-1583. *MARCELLO v. SAXBE, ATTORNEY GENERAL*. C. A. D. C. Cir. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari. Reported below: 161 U. S. App. D. C. 345, 495 F. 2d 171.

No. 73-1967. *LEE v. CALIFORNIA*. Ct. App. Cal., 1st App. Dist. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari.

No. 73-6670. *ROSE v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari.

No. 73-6902. *MARTINEZ v. TEXAS*. Ct. Crim. App. Tex. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari. Reported below: 507 S. W. 2d 223.

No. 73-6983. *CARTER v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari.

No. 74-9. *MAURO v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari. Reported below: 501 F. 2d 45.

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No. 74-5012. *SHOLARS v. MATTER ET AL.* C. A. 9th Cir. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari. Reported below: 491 F. 2d 279.

No. 74-5166. *HARRIS v. PROCUNIER, CORRECTIONS DIRECTOR.* C. A. 9th Cir. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari. Reported below: 498 F. 2d 576.

No. 73-1679. *LINDA POLLIN MEMORIAL HOUSING CORP. ET AL. v. MARSHALL ET AL.*; and

No. 73-1680. *TENANTS' COUNCIL OF TIBER ISLAND-CARROLLSBURG SQUARE ET AL. v. LYNN, SECRETARY OF HOUSING AND URBAN DEVELOPMENT, ET AL.* C. A. D. C. Cir. Motion of respondents Marshall et al. for leave to proceed *in forma pauperis* in No. 73-1679 granted. Certiorari denied. Reported below: No. 73-1679, 162 U. S. App. D. C. 56, 497 F. 2d 643; No. 73-1680, 162 U. S. App. D. C. 61, 497 F. 2d 648.

No. 73-1724. *MILLER ET AL. v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. Reported below: 491 F. 2d 638.

MR. JUSTICE BLACKMUN, with whom MR. JUSTICE DOUGLAS and MR. JUSTICE BRENNAN join, dissenting.

On August 25, 1972, a federal grand jury in the Southern District of Florida returned a 12-count indictment against the petitioners. In eight of the 12 counts petitioners were charged with income tax fraud, in violation of § 7206 (1) of the Internal Revenue Code of 1954, 26 U. S. C. § 7206 (1).¹ The indictment alleged that the

¹ "§ 7206. Fraud and False statements.

"Any person who—

"(1) Declaration under penalties of perjury.

"Willfully makes and subscribes any return, statement, or other document, which contains or is verified by a written declaration that

acts that were the subject of four of the fraud counts (counts II–V, inclusive) were committed on July 18 and 21, 1966, respectively.

Section 6531 of the Code, 26 U. S. C. § 6531,² provides a 6-year period of limitations for offenses under § 7206 (1). The indictment, obviously, was returned after the expiration of the 6-year period and, without more, would be subject to dismissal as out of time. See *Benes v. United States*, 276 F. 2d 99, 107–109 (CA6 1960).

Section 6531, however, has as its penultimate sentence the following:

“Where a complaint is instituted before a commissioner of the United States within the period above limited, the time shall be extended until the date which is 9 months after the date of the making of the complaint before the commissioner of the United States.”

With respect to the alleged offenses of July 18 and 21, 1966, a complaint was filed by the Government with a commissioner of the United States on July 17, 1972, just within the 6-year period. The record contains an

it is made under the penalties of perjury, and which he does not believe to be true and correct as to every material matter

“shall be guilty of a felony and, upon conviction thereof, shall be fined not more than \$5,000, or imprisoned not more than 3 years, or both, together with the costs of prosecution.”

² “§ 6531. Periods of limitation on criminal prosecutions.

“No person shall be prosecuted, tried, or punished for any of the various offenses arising under the internal revenue laws unless the indictment is found or the information instituted within 3 years next after the commission of the offense, except that the period of limitation shall be 6 years—

“(5) for offenses described in sections 7206 (1) and 7207 (relating to false statements and fraudulent documents).”

acknowledgment, and discloses, that the Government's case had been prepared a week or 10 days before the expiration of the 6-year period; that there was time for the prosecution to have presented the case to a grand jury within that period; that a grand jury had been empaneled in the district; that, in fact, a grand jury of the district had sat in July 1972, including, specifically, the 13th and 20th days of that month; and that the situation was not one where a grand jury of the district was not in session during the closing days of the limitation period.

A defense motion to dismiss the four counts was granted by the District Court. The Court of Appeals reversed. 491 F. 2d 638, 644-646 (CA5 1974).

In *Jaben v. United States*, 381 U. S. 214 (1965), § 6531 was construed to apply to a situation where the Government had developed its case within the time period prescribed by the statute of limitations, but was unable to obtain an indictment because a grand jury was not in session. Mr. Justice Harlan, in speaking for the Court, observed:

"More basically, the evident statutory purpose of the nine-month extension provision is to afford the Government an opportunity to indict criminal tax offenders in the event that a grand jury is not in session at the end of the normal limitation period. This is confirmed by the immediate precursor of the present section which provided for an extension 'until the discharge of the grand jury at its next session within the district.' I. R. C. 1939, § 3748 (a). Clearly the statute was not meant to grant the Government greater time in which to make its case (a result which could have been accomplished simply by making the normal period of limitation six years and nine months), but rather was intended to deal

with the situation in which the Government has its case made within the normal limitation period but cannot obtain an indictment because of the grand jury schedule." *Id.*, at 219-220. (Footnote omitted.)

Mr. Justice Goldberg, in a separate opinion, concurring in part and dissenting in part, and joined by Mr. Chief Justice Warren and MR. JUSTICE DOUGLAS, echoed this conclusion:

"I agree with the Court that the purpose of the tolling provision in the statute of limitations before us; as evidenced by its language and its legislative history, is to avoid penalizing the Government when a criminal defendant cannot be indicted merely because no grand jury is sitting at the time the limitation period expires. In keeping with this purpose, the Government ought to be allowed to present a case prepared before the expiration of the limitation period to the grand jury when it next convenes, but it ought not to be allowed to take advantage of a nine-month extension to prepare a case which was not ready for submission before the end of the statutory period." *Id.*, at 226.

This analysis of the purpose of the significant sentence of § 6531, although not determinative of the issues in *Jaben*, remains as this Court's primary interpretation of the statute.

The Government's position, however, as expressed in its memorandum in opposition to the petition for certiorari,³ is essentially that the 6-year limitation period for

³ "The statute simply permits the filing of a complaint prior to the end of the limitations period as a means of extending the time for the issuance of an indictment. . . . The purpose of the complaint procedure is to allow the government additional time to present the matter to the grand jury once its case is made." Memorandum for the United States in Opposition 3.

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an offense under § 7206 (1) is automatically extended and converted into a 6-year-and-9-month period, at the Government's option, by its mere filing of an appropriate complaint with a commissioner of the United States before the expiration of the 6-year period.

The Government, possibly, is right, but its position, under the circumstances of this case, appears to me to be not entirely consistent with what was said in the respective opinions in *Jaben* by Justices Harlan and Goldberg. I therefore would grant the petition for certiorari and test the Government's position only upon full briefing and argument.

No. 73-1780. *DITLOW ET AL. v. BRINEGAR, SECRETARY OF TRANSPORTATION, ET AL.* C. A. D. C. Cir. Motion to defer consideration and certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari. Reported below: 161 U. S. App. D. C. 154, 494 F. 2d 1073.

No. 73-1811. *BRYANT ET AL. v. NORTH CAROLINA*; and No. 73-1818. *HORN v. NORTH CAROLINA*. Sup. Ct. N. C. Certiorari denied. MR. JUSTICE DOUGLAS, being of the view that any state or federal ban on, or regulation of, obscenity is prohibited by the Constitution, *Roth v. United States*, 354 U. S. 476, 508 (DOUGLAS, J., dissenting); *Miller v. California*, 413 U. S. 15, 42-47 (DOUGLAS, J., dissenting); *Paris Adult Theatre I v. Slaton*, 413 U. S. 49, 70-73 (DOUGLAS, J., dissenting), would grant certiorari and summarily reverse the judgment. Reported below: No. 73-1811, 285 N. C. 27, 203 S. E. 2d 27; No. 73-1818, 285 N. C. 82, 203 N. E. 2d 36.

MR. JUSTICE BRENNAN, with whom MR. JUSTICE STEWART and MR. JUSTICE MARSHALL join, dissenting.

Petitioners Bryant and Floyd were convicted in the Superior Court of Mecklenburg County of exhibiting allegedly obscene motion pictures in violation of North

Carolina Gen. Stat. § 14-190.1 (Cum. Supp. 1971). Petitioner Horn was convicted in the Superior Court of New Hanover County of selling allegedly obscene magazines in violation of the same statute. Section 14-190.1 provided in pertinent part at the times of the alleged offenses as follows:

"(a) It shall be unlawful for any person, firm or corporation to intentionally disseminate obscenity in any public place. A person, firm or corporation disseminates obscenity within the meaning of this Article if he or it:

"(1) Sells . . . any obscene writing, picture, record or other representation or embodiment of the obscene; or

"(4) Exhibits . . . any obscene still or motion picture, film, filmstrip, . . . or any matter or material . . . which is a representation, embodiment, performance, or publication of the obscene.

"(b) For purposes of this Article any material is obscene if:

"(1) The dominant theme of the material taken as a whole appeals to the prurient interest in sex; and,

"(2) The material is patently offensive because it affronts contemporary national community standards relating to the description or representation of sexual matters; and,

"(3) The material is utterly without redeeming social value."

Petitioners Bryant and Floyd appealed their convictions to the Court of Appeals of North Carolina, which affirmed. The Supreme Court of North Carolina dismissed an appeal and denied a petition for writ of certiorari. This Court then granted certiorari, vacated the

judgment of the Court of Appeals, and remanded for further consideration in light of *Miller v. California*, 413 U. S. 15 (1973), and companion cases. 413 U. S. 913. On remand, the Court of Appeals and the Supreme Court of North Carolina both again affirmed the convictions.

Petitioner Horn's conviction was affirmed by the North Carolina Court of Appeals. The Supreme Court of North Carolina also affirmed, in an opinion rendered after *Miller* was decided.

It is my view that "at least in the absence of distribution to juveniles or obtrusive exposure to unconsenting adults, the First and Fourteenth Amendments prohibit the State and Federal Governments from attempting wholly to suppress sexually oriented materials on the basis of their allegedly 'obscene' contents." *Paris Adult Theatre I v. Slaton*, 413 U. S. 49, 113 (1973) (BRENNAN, J., dissenting). It is clear that, tested by that constitutional standard, § 14-190.1 was constitutionally overbroad and therefore invalid on its face. For the reasons stated in my dissent in *Miller v. California*, *supra*, at 47, I would therefore grant certiorari and, since the judgments of the Supreme Court of North Carolina were rendered after *Miller*, reverse.* In that circumstance, I have no occasion to consider whether the other questions presented merit plenary review. See *Heller v. New York*, 413 U. S. 483, 494 (1973) (BRENNAN, J., dissenting).

Further, it does not appear from the petition and response that the obscenity of the disputed materials in these cases was adjudged by applying local community standards. Based on my dissent in *Hamling v. United States*, 418 U. S. 87, 141 (1974), I believe that, consistent

*Although four of us would grant certiorari and reverse the judgments, the Justices who join this opinion do not insist that the cases be decided on the merits.

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with the Due Process Clause, petitioners must be given an opportunity to have their cases decided on, and to introduce evidence relevant to, the legal standard upon which their convictions have ultimately come to depend. Thus, even on its own terms, the Court should vacate the judgments below and remand for a determination whether petitioners should be afforded a new trial under local community standards.

No. 73-1992. HALL, CORRECTION COMMISSIONER *v.* INMATES OF THE SUFFOLK COUNTY JAIL ET AL. C. A. 1st Cir. Motion of respondents Lopez et al. for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 494 F. 2d 1196.

No. 73-6443. GREENE ET AL. *v.* UNITED STATES. C. A. D. C. Cir. Certiorari denied. MR. JUSTICE DOUGLAS, MR. JUSTICE BRENNAN, and MR. JUSTICE MARSHALL would grant certiorari. Reported below: 160 U. S. App. D. C. 21, 489 F. 2d 1145.

No. 73-6629. PRYOR *v.* UNITED STATES. C. A. D. C. Cir. Certiorari denied. MR. JUSTICE DOUGLAS, MR. JUSTICE BRENNAN, and MR. JUSTICE MARSHALL would grant certiorari. Reported below: 160 U. S. App. D. C. 404, 492 F. 2d 670.

No. 73-6936. HELMS *v.* NORTH CAROLINA. Sup. Ct. N. C. Certiorari denied. MR. JUSTICE DOUGLAS, MR. JUSTICE BRENNAN, and MR. JUSTICE MARSHALL would grant certiorari. Reported below: 284 N. C. 508, 201 S. E. 2d 850.

No. 73-6809. FALKNER *v.* BLANTON, JUDGE. C. A. 5th Cir. Motion to strike respondent's brief in opposi-

tion and certiorari denied. Reported below: 488 F. 2d 551.

MR. JUSTICE DOUGLAS, dissenting.

The petitioner brought this lawsuit under 42 U. S. C. § 1983, for damages, an injunction, and declaratory relief against a Florida probate judge, alleging that the latter had refused to award property clearly due the petitioner under a will. The District Court dismissed the complaint *sua sponte* on the ground that the judge was immune from suit. The Court of Appeals affirmed without opinion.

By its language, § 1983 applies to "every person" acting under color of state authority. In *Pierson v. Ray*, 386 U. S. 547 (1967), the Court placed a judicial gloss on that language when it held that Congress did not thereby create liability of judges for damages. *Pierson* should not control here, for equitable relief as well as damages were sought. I assume that subjecting judges to damage liability would discourage vigor and independence of the bench, yet there need be no fear that subjecting judges to equitable relief in § 1983 cases will inhibit desirable judicial behavior. Two Courts of Appeals have concluded that the reasons for immunity in damage actions are inapplicable when injunctions or declaratory judgments are sought and accordingly have distinguished *Pierson*. See *Littleton v. Berbling*, 468 F. 2d 389 (CA7 1972), rev'd on other grounds *sub nom. O'Shea v. Littleton*, 414 U. S. 488 (1974); *Koen v. Long*, 302 F. Supp. 1383 (ED Mo. 1969), aff'd *per curiam*, 428 F. 2d 876 (CA8 1970). See also *Erdmann v. Stevens*, 458 F. 2d 1205 (CA2 1972); *Law Students Civil Rights Research Council, Inc. v. Wadmond*, 299 F. Supp. 117 (SDNY 1969) (three-judge court) (Friendly, J.), aff'd on other grounds, 401 U. S. 154 (1971).

Nothing in our cases compels the result below. *City of Kenosha v. Bruno*, 412 U. S. 507 (1973), held that

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municipalities could not be sued under § 1983 even for equitable relief, but the holding was based on the inability to read "municipality" within the meaning of "person" as used in the statute. To read "every person" as including judges places no strain on the words; on the contrary, it is the judicial gloss *Pierson v. Ray* placed upon the plain language that causes mischief. Judicial narrowing of this broad remedial statute should proceed no further. I would grant certiorari and reverse the judgment below.

No. 73-6810. *GENTILE v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 493 F. 2d 1404.

MR. JUSTICE DOUGLAS, with whom MR. JUSTICE MARSHALL concurs, dissenting.

Petitioner was questioned by Texas police officers in connection with the burglary of a store. After receiving *Miranda* warnings, petitioner admitted participation in the robbery and disclosed that certain stolen articles could be found in his apartment. The police decided to search the apartment for the stolen goods. Instead of obtaining a warrant, however, the police officers presented petitioner with a "consent form," which he signed. By signing the form he authorized the police "to take from my premises and property, any letters, papers, materials or any other property or things which they desire as evidence for criminal prosecution in the case or cases under investigation."

The police then went to petitioner's apartment in search of four boxes of gum and a small radio, goods known to have been taken in the store burglary. In the course of searching for these items, one of the searching officers found a check lying on a bureau. The check was partly obscured by an article of clothing, but the officer testified that a protruding stub allowed him to determine that the payee was a person other than petitioner. The officers

seized the check, and subsequent investigation revealed that it had been stolen. The officer's discovery formed the basis for petitioner's prosecution in the District Court for mail theft, 18 U. S. C. § 1708. Prior to trial, petitioner unsuccessfully moved to suppress the stolen check as evidence, asserting that the seizure of it violated the Fourth Amendment. Petitioner's conviction followed and the denial of the motion to suppress was held proper on the ground that petitioner had consented to the search of his apartment.

Since there is no contention that the police could otherwise have searched petitioner's apartment without first obtaining a warrant, the lawfulness of their search turns on whether petitioner's signing of the consent form relieved the police of this obligation. If this consent form has any validity, seizure of the stolen check from petitioner's residence is outside its scope. The form signified consent to seizure of property "as evidence . . . in the case or cases under investigation." At the time petitioner signed the form he had been questioned and charged with the burglary of a particular store. Thus his reasonable expectations, which must govern construction of the document, were that he was authorizing the police to search his residence for evidence in connection with the only crime for which he was then a suspect.¹

¹ The Government argues that the seizure can nevertheless be justified under the "plain view" doctrine. But under our decisions, the "plain view" doctrine permits a seizure only where officers already searching under lawful authority make an unanticipated discovery of an object whose incriminating character is immediately apparent. See *Coolidge v. New Hampshire*, 403 U. S. 443, 464-471 (1971). These requirements are not met in this case. When the police entered petitioner's house they had no reason to believe that a piece of paper on his bureau, only partially in view, was the fruit of another crime. There was nothing incriminating about a slip of paper protruding from a piece of clothing on petitioner's bureau. The carefully confined "plain view" exception discussed in *Coolidge*, if extended to cover this case, would likewise validate the seizure

Wholly apart from the question of the scope of consent, I would grant certiorari to consider whether the record adequately demonstrates that petitioner gave an informed consent to search. Although petitioner had received *Miranda* warnings, the record is silent as to whether petitioner knew, prior to signing the consent form, that he had a right to refuse and require the police to obtain a warrant. Since in my view waiver of Fourth Amendment protections requires an "intentional relinquishment or abandonment of a known right or privilege," *Johnson v. Zerbst*, 304 U. S. 458, 464 (1938), I would require an affirmative showing in the record that petitioner knew he had a right to refuse. While I need not here decide whether a warning would be required in every case, I note that the surest method of demonstrating that the accused had waived a *known* right is a showing that the officers advised him of it by a statement patterned on the warning mandated by *Miranda v. Arizona*, 384 U. S. 436 (1966).

In *Schneckloth v. Bustamonte*, 412 U. S. 218 (1973), the Court held that the absence of a warning did not vitiate consent to a search in a noncustodial setting, specifically reserving the question of the significance of custodial conditions, *id.*, at 247 n. 36. The Court believed that warning the subject of his right to refuse would be "impractical" under the "informal and unstructured conditions" of a roadside search. *Id.*, at 231-232. Yet the circumstances under which an arrestee in police custody meets with his captors are hardly "unstructured." When a suspect is in custody the situation is in control of the police. The pace of events will not somehow deny them an opportunity to give a warning, as the Court apparently feared would happen in noncustodial settings. Moreover, the custodial setting will permit easy docu-

of a book, not covered by the warrant, but later determined to be obscene.

mentation of both the giving of a warning and the arrestee's response.

The giving of a warning does not, of course, rule out the possibility that coercive tactics may be used to secure consent. But an affirmative communication that a right to refuse consent will be respected may serve to fortify the accused against the coercion inherent in the custodial setting. See *Miranda v. Arizona*, *supra*, at 468. These considerations are especially compelling where, as here, the police procurement of consent is an outgrowth of custodial interrogation. Before signing the consent form the petitioner had been in custody seven hours, and subjected to interrogation that eventually resulted in a confession.

By proceeding on the basis of a "consent" form the police circumvent three important protections of the warrant procedure. First, they avoid submitting to a magistrate's independent assessment of probable cause. Second, they are spared the necessity of making a record, in the form of an affidavit sworn to prior to the search, that guards against the possibility that an *ex post facto* justification will be based upon what the search turns up. Finally, to the extent the police use, as they did here, a boilerplate consent form, they are relieved of the particularity requirement of the warrant.²

Efforts by the police to proceed outside the warrant procedure by procuring consent from persons in police custody should be viewed carefully and critically. I would grant certiorari.

² The Fourth Amendment provides in part that "no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized." In contrast to the requirement of particularity is the wording of the "consent" form in this case, authorizing seizure of "any letters, papers, material or any other property or things which [the police] desire as evidence for criminal prosecution in the case or cases under investigation."

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No. 73-6874. SPADY ET VIR *v.* MOUNT VERNON HOUSING AUTHORITY. Ct. App. N. Y. Certiorari denied. Reported below: 34 N. Y. 2d 573, 310 N. E. 2d 542.

MR. JUSTICE DOUGLAS, dissenting.

Petitioners Linda and Vincent Spady applied for public housing in Mount Vernon, N. Y., in early 1971. Their application was accepted, and in early July they were told that they were eligible for low-income public housing accommodations. On July 9, 1971, petitioners signed a lease, paid one month's rent plus a security deposit, and were assigned to a specific apartment which would be available to them on July 15, 1971. On or before that date, however, the respondent Housing Authority learned from other tenants that Vincent Spady had previously used the name of Vincent Bentley,¹ and that he had compiled a criminal record under that name. Investigation disclosed that Vincent had been arrested once on burglary charges, which were dismissed when the complaining witnesses failed to appear before the grand jury, and had been arrested again on robbery charges, which were dismissed when he was certified for treatment as a narcotics addict. Since those arrests, he had undergone treatment for his narcotics addiction, had been released as rehabilitated, and was enrolled in a methadone maintenance program.

Upon learning these details, the Housing Authority revoked petitioners' eligibility and removed them from its housing list, on the grounds that their application had been "untruthful" and had failed to reveal Vincent's prior arrests and certification as a narcotics addict.² Pe-

¹ His full name at birth was Vincent Spady, but he took the name of Bentley for several years when his mother remarried under that name.

² It is undisputed that the application form used by the Authority did not expressly request any information concerning aliases, prior

tioners requested an evidentiary hearing to contest the revocation, but the Housing Authority declined to grant a hearing. Petitioners then brought suit in the New York Supreme Court, which ordered the Authority to hold an evidentiary hearing to determine whether petitioners met applicable desirability standards for public housing eligibility. A divided Appellate Division reversed, holding that petitioners were not entitled to a hearing because they were not tenants in possession, and that the Authority's revocation of petitioners' eligibility had a rational basis. The New York Court of Appeals affirmed on the memorandum of the Appellate Division.

Petitioners contend that they were entitled to an evidentiary hearing before they could be deprived of their eligibility for public housing; they further contend that the reasons advanced by the Authority in support of that revocation are so arbitrary and so lacking in any rational basis as to constitute a denial of due process of law and of the equal protection of the laws.³

Our decisions in recent years have identified a wide range of important interests which the State may not trample upon without a prior hearing. Thus we have required hearings prior to termination of welfare benefits, *Goldberg v. Kelly*, 397 U. S. 254 (1970); revo-

arrests, or drug addiction. The claim of untruthfulness in the application is, therefore, simply untenable.

³ Petitioners argue that prior arrests, standing alone, have virtually no probative value in establishing actual misconduct or criminal propensities. They further argue that it is wholly irrational to discriminate against a rehabilitated addict on the basis of his prior addiction or on the basis of criminal acts committed during the period of such addiction, and that such discrimination is fundamentally inconsistent with the nature and purposes of narcotics rehabilitation programs. In the absence of a more specific evidentiary record concerning the circumstances of Vincent's prior arrests and the extent of his rehabilitation, it is impossible to evaluate these arguments as applied to him.

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cation of a driver's license, *Bell v. Burson*, 402 U. S. 535 (1971); revocation of parole, *Morrissey v. Brewer*, 408 U. S. 471 (1972), or probation, *Gagnon v. Scarpelli*, 411 U. S. 778 (1973); and, under certain circumstances, termination of a teaching position at a state college or university, *Board of Regents v. Roth*, 408 U. S. 564 (1972), and *Perry v. Sindermann*, 408 U. S. 593 (1972).

Eligibility for public housing, under the circumstances presented here, arguably merits comparable protection. The long waiting lists maintained for low-income housing projects are ample proof of the pressing demand. An applicant who has been certified as eligible and has spent many months on a waiting list has a substantial interest in maintaining that place and a substantial expectancy of obtaining housing. Summary removal from an eligibility list just prior to occupancy can work serious injury, since the applicant may be relegated to the end of another growing line.

Today's mounting bureaucracy, both at the state and federal levels, promises to be suffocating and repressive unless it is put into the harness of procedural due process. One who need not explain the reasons for his actions can operate beyond the law. One who need not even hear a complaint from the citizen can turn sheer power into an arbitrary force.⁴ Bureaucrats who can, without hearings, ride herd on the people they are supposed to serve, are able to dispense with the concept of equal protection and make their *ipse dixit* the law. Of course not every agency action should be put down for a hearing lest the work of

⁴ As stated by Mr. Justice Frankfurter in *Anti-Fascist Committee v. McGrath*, 341 U. S. 123, 170 (1951):

"The heart of the matter is that democracy implies respect for the elementary rights of men, however suspect or unworthy; a democratic government must therefore practice fairness; and fairness can rarely be obtained by secret, one-sided determination of facts decisive of rights." (Concurring opinion.)

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government be paralyzed. Yet one who has no interest that can be called an entitlement may still have an expectancy on which plans are built and living arrangements made. If, as in Spady's case, he is suddenly cast into the outer darkness and placed on the State's blacklist for housing, he may suffer greatly. The unexamined inferences of this agency and the whispered rumors of Spady's former employer may make him and his family pariahs, so far as housing is concerned.

What the decision on the merits should be is arguable. But I would grant the petition for certiorari and set the case for argument.

No. 74-21. MID-FLORIDA TELEVISION CORP. *v.* TV 9, INC., ET AL.; and

No. 74-31. FEDERAL COMMUNICATIONS COMMISSION *v.* TV 9, INC., ET AL. C. A. D. C. Cir. Certiorari denied. MR. JUSTICE BLACKMUN would grant certiorari. Reported below: 161 U. S. App. D. C. 349, 495 F. 2d 929.

No. 74-28. O'BRYAN *v.* CHANDLER, U. S. DISTRICT JUDGE. C. A. 10th Cir. Certiorari denied. MR. JUSTICE MARSHALL took no part in the consideration or decision of this petition. Reported below: 496 F. 2d 403.

No. 74-77. ANDREWS *v.* CITY OF LOS ANGELES ET AL. C. A. 9th Cir. Motion to dispense with printing petition and certiorari denied.

No. 74-141. SMITH, CORRECTIONAL SUPERINTENDENT *v.* CHENNAULT. C. A. 2d Cir. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 495 F. 2d 1367.

No. 74-169. DRAKE-HENNE, INC., ET AL. *v.* CITY OF WAHPETON. Sup. Ct. N. D. Certiorari denied. MR. JUSTICE BLACKMUN took no part in the consideration or decision of this petition. Reported below: 215 N. W. 2d 897.

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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 Seventh Circuit during the week of January 13, 1975, 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.

NOVEMBER 6, 1974

Dismissal Under Rule 60

No. 74-101. FALLEY *v.* UNITED STATES. C. A. 2d Cir. Certiorari dismissed under this Court's Rule 60. Reported below: 497 F. 2d 919.

NOVEMBER 7, 1974

Dismissal Under Rule 60

No. 74-268. HOUSEHOLD GOODS CARRIERS' BUREAU *v.* TERRELL. C. A. 5th Cir. Certiorari dismissed under this Court's Rule 60. Reported below: 494 F. 2d 16.

NOVEMBER 11, 1974

Affirmed on Appeal

No. 73-1929. McDONALD ET AL. *v.* McLUCAS, ACTING SECRETARY OF THE AIR FORCE, ET AL. Affirmed on appeal from D. C. S. D. N. Y. Reported below: 371 F. Supp. 831.

No. 73-7089. WRIGHT ET AL. *v.* MALLOY, COMMISSIONER, DEPARTMENT OF MOTOR VEHICLES. Affirmed on appeal from D. C. Vt. Reported below: 373 F. Supp. 1011.

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Appeals Dismissed

No. 73-1890. *THOMPSON ET UX. v. CLARK, TREASURER OF DUPAGE COUNTY, ET AL.* Appeal from Sup. Ct. Ill. dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied.

No. 74-5187. *SMITH v. CALIFORNIA.* Appeal from App. Dept., Super. Ct. Cal., County of Alameda, dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied.

No. 73-6884. *HUNTER v. GENERAL MOTORS CORP., BUICK MOTOR DIVISION.* Appeal from C. A. 6th Cir. dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied. MR. JUSTICE POWELL took no part in the consideration or decision of this case. Reported below: 487 F.2d 1402.

No. 73-6899. *STOKES v. BUCHIGNANI ET AL.* Appeal from D. C. E. D. Ky. dismissed for want of jurisdiction.

No. 74-200. *BARNETT v. GORDON.* Appeal from Sup. Ct. Ohio dismissed for want of substantial federal question. Reported below: 38 Ohio St. 2d 90, 310 N. E. 2d 251.

No. 74-224. *BEACON ENTERPRISES, INC. v. CITY OF COLUMBUS.* Appeal from Ct. App. Ohio, Franklin County, dismissed for want of substantial federal question.

No. 74-315. *HOOGASIAN v. REGIONAL TRANSPORTATION AUTHORITY ET AL.* Appeal from Sup. Ct. Ill. dismissed for want of substantial federal question. Reported below: 58 Ill. 2d 117, 317 N. E. 2d 534.

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Vacated and Remanded on Appeal

No. 73-1882. BURNS, COMMISSIONER, DEPARTMENT OF SOCIAL SERVICES, ET AL. *v.* HEIN. Appeal from D. C. S. D. Iowa. Motion of appellee for leave to proceed *in forma pauperis* granted. Judgment vacated and case remanded for reconsideration in light of the revision of regulations of the Department of Agriculture. (See 7 CFR § 271.3 (c)(1)(iii)(f), 39 Fed. Reg. 26002.) Reported below: 371 F. Supp. 1091.

Certiorari Granted—Vacated and Remanded. (See also No. 73-6969, *ante*, p. 18.)

No. 74-5021. GRIER *v.* UNITED STATES. C. A. 4th Cir. Motion for leave to proceed *in forma pauperis* and certiorari granted. Judgment of the Court of Appeals for the Fourth Circuit and the sentence imposed by the United States District Court for the Western District of North Carolina (but not the judgment of conviction) are vacated and case remanded to the District Court for reconsideration in light of *Dorszynski v. United States*, 418 U. S. 424 (1974). Reported below: 498 F. 2d 1398.

Miscellaneous Orders

No. A-290 (74-5492). SNIDER *v.* UNITED STATES. Application for stay of execution and enforcement of judgment of the United States Court of Appeals for the Fifth Circuit, presented to MR. JUSTICE DOUGLAS, and by him referred to the Court, denied. Reported below: 499 F. 2d 424.

No. A-348 (74-5496). BARTLETT *v.* TOLEDO BAR ASSN. Application for stay of execution and enforcement of judgment of the Supreme Court of Ohio, presented to MR. JUSTICE DOUGLAS, and by him referred to the Court, denied. Reported below: 39 Ohio St. 2d 100, 313 N. E. 2d 834.

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No. A-361. *BAYLOR v. HESS, JUDGE*. Application for writ of mandamus, presented to THE CHIEF JUSTICE, and by him referred to the Court, denied.

No. 9, Orig. *UNITED STATES v. LOUISIANA ET AL. (LOUISIANA BOUNDARY CASE)*. Joint motion for additional time for oral argument granted and a total of two hours allotted for that purpose. MR. JUSTICE MARSHALL took no part in the consideration or decision of this motion.

No. 73-820. *UNITED STATES v. GUANA-SANCHEZ*. C. A. 7th Cir. [Certiorari granted, 417 U. S. 967.] Motion of respondent to dismiss writ on account of mootness denied.

No. 73-848. *FUSARI, COMMISSIONER OF LABOR v. STEINBERG ET AL.* Appeal from D. C. Conn. [Probable jurisdiction noted, 415 U. S. 912.] Motion for appointment of counsel granted. It is ordered that John M. Creane, Esquire, of Milford, Conn., a member of the Bar of this Court, be, and he is hereby, appointed to serve as counsel for appellees in this case.

No. 73-1106. *COUSINS ET AL. v. WIGODA ET AL.* App. Ct. Ill., 1st Dist. [Certiorari granted, 415 U. S. 956.] Motion of petitioners for divided argument denied.

No. 73-1346. *McLUCAS, SECRETARY OF THE AIR FORCE, ET AL. v. DECHAMPLAIN*. Appeal from D. C. D. C. [Probable jurisdiction postponed, 418 U. S. 904.] Motion of appellee for leave to proceed *in forma pauperis* granted. Motion of appellees for additional time for oral argument denied.

No. 73-1377. *TRAIN, ADMINISTRATOR, ENVIRONMENTAL PROTECTION AGENCY v. CITY OF NEW YORK ET AL.* C. A. D. C. Cir.; and

No. 73-1378. *TRAIN, ADMINISTRATOR, ENVIRONMENTAL PROTECTION AGENCY v. CAMPAIGN CLEAN WATER, INC.* C. A. 4th Cir. [Certiorari granted, 416 U. S. 969.]

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Motion of petitioner for additional time for oral argument denied.

No. 73-1446. ROE ET AL. v. DOE. Ct. App. N. Y. [Certiorari granted, 417 U. S. 907.] Motion of Authors League of America for leave to file a brief as *amicus curiae* denied. Motion of American Psychiatric Assn. et al. for leave to participate in oral argument as *amici curiae* denied.

No. 73-1462. WHITE, SECRETARY OF STATE OF TEXAS, ET AL. v. REGESTER ET AL. Appeal from D. C. W. D. Tex. [Probable jurisdiction noted, 417 U. S. 906.] Motion of appellees for additional time for oral argument denied.

No. 73-1471. UNITED STATES ET AL. v. NEW JERSEY STATE LOTTERY COMMISSION. C. A. 3d Cir. [Certiorari granted, 417 U. S. 907.] Motion of petitioners to defer oral argument denied.

No. 74-8. O'CONNOR v. DONALDSON. C. A. 5th Cir. [Certiorari granted, *ante*, p. 894.] Motion of Daniel S. Dearing, Esquire, to permit Raymond W. Gearey, Esquire, to present oral argument *pro hac vice* on behalf of petitioner granted.

No. 74-70. GOLDFARB ET UX. v. VIRGINIA STATE BAR ET AL. C. A. 4th Cir. [Certiorari granted, *ante*, p. 963.] Motion of Virginia State Bar to be dismissed as a party respondent denied. MR. JUSTICE POWELL took no part in the consideration or decision of this motion.

No. 73-6721. TYLER ET AL. v. REGAN, U. S. DISTRICT JUDGE; and

No. 74-318. SCARRELLA ET AL. v. SPANNAUS, ATTORNEY GENERAL OF MINNESOTA, ET AL. Motions for leave to file petitions for writs of mandamus denied.

No. A-199 (74-170). ANDRINO v. UNITED STATES. C. A. 9th Cir. Application for bail, presented to MR. JUSTICE DOUGLAS, and by him referred to the Court, denied.

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No. 74-518. *LEVY v. PARKER, WARDEN, ET AL.* C. A. 3d Cir. Application [A-362] for stay of execution and enforcement of mandate, presented to MR. JUSTICE BRENNAN, and by him referred to the Court, denied. MR. JUSTICE DOUGLAS would grant stay pending decision of this Court in No. 73-1346, *McLucas v. DeChamplain*. Motions to expedite and consolidate with No. 73-1346 for oral argument denied.

Probable Jurisdiction Noted

No. 74-214. *WEINBERGER, SECRETARY OF HEALTH, EDUCATION, AND WELFARE, ET AL. v. SALFI ET AL.* Appeal from D. C. N. D. Cal. Motion of appellees for leave to proceed *in forma pauperis* granted. Probable jurisdiction noted. Reported below: 373 F. Supp. 961.

Certiorari Granted

No. 73-1908. *CORT ET AL. v. ASH.* C. A. 3d Cir. Certiorari granted. Reported below: 496 F. 2d 416.

No. 74-124. *BLUE CHIP STAMPS ET AL. v. MANOR DRUG STORES.* C. A. 9th Cir. Certiorari granted. Reported below: 492 F. 2d 136.

No. 74-215. *UNITED STATES v. PARK.* C. A. 4th Cir. Certiorari granted. Reported below: 499 F. 2d 839.

No. 73-1924. *MUNIZ ET AL. v. HOFFMAN, REGIONAL DIRECTOR, NATIONAL LABOR RELATIONS BOARD.* C. A. 9th Cir. Certiorari granted limited to Questions 3 and 4 presented by the petition which read as follows:

"3. Whether petitioners, charged with criminal contempt for an alleged violation of an injunction issued under the National Labor Relations Act, are entitled to a trial by jury under 18 U. S. C. § 3692, which provides that alleged contemnors are entitled to a jury trial in all contempt cases 'arising under the laws of the United States governing the issuance of injunctions or restraining orders in any case involving or growing out of a labor dispute.'

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"4. Whether Article III, Section 2 and the Sixth Amendment to the Constitution mandate a jury trial where a penalty of \$25,000.00 is assessed against a labor organization in a criminal contempt proceeding."

Reported below: 492 F. 2d 929.

No. 73-2000. UNITED STATES *v.* PELTIER. C. A. 9th Cir. Motion of respondent for leave to proceed *in forma pauperis* and certiorari granted. Case set for oral argument with No. 73-2050, *United States v. Ortiz*, ante, p. 824; No. 73-6848, *Bowen v. United States*, ante, p. 824; and No. 74-114, *United States v. Brignoni-Ponce*, ante, p. 824. Reported below: 500 F. 2d 985.

Certiorari Denied. (See also Nos. 73-1890, 74-5187, and 73-6884, *supra*.)

No. 73-1683. MOORING ET AL. *v.* LOUISIANA STATE BOARD OF MEDICAL EXAMINERS. Sup. Ct. La. Certiorari denied. Reported below: 288 So. 2d 355.

No. 73-1813. INTERNATIONAL LONGSHOREMEN'S & WAREHOUSEMEN'S UNION, LOCAL No. 10 *v.* HOFFMAN, REGIONAL DIRECTOR, NATIONAL LABOR RELATIONS BOARD. C. A. 9th Cir. Certiorari denied. Reported below: 492 F. 2d 929.

No. 73-1919. WILLIS *v.* UNITED STATES; and

No. 73-6934. HARRIS *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. Reported below: 494 F. 2d 1273.

No. 73-1931. NATIONAL DYNAMICS CORP. ET AL. *v.* FEDERAL TRADE COMMISSION. C. A. 2d Cir. Certiorari denied. Reported below: 492 F. 2d 1333.

No. 73-1979. SULLIVAN *v.* UNITED STATES. C. A. 1st Cir. Certiorari denied. Reported below: 498 F. 2d 146.

No. 73-1985. NEWELL *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied. Reported below: 497 F. 2d 926.

No. 73-2004. WASHINGTON ET AL. *v.* FLORIDA. Dist.

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Ct. App. Fla., 3d Dist. Certiorari denied. Reported below: 294 So. 2d 407.

No. 73-2011. *RAMSEY v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 493 F. 2d 457.

No. 73-2040. *MANSON ET AL. v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 494 F. 2d 804.

No. 73-2043. *LEWIS, DBA AIRCO ENGINEERS v. UNITED STATES*. Ct. Cl. Certiorari denied.

No. 73-2053. *RIDLAND v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 497 F. 2d 920.

No. 73-2068. *BARTEMIO v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 497 F. 2d 927.

No. 73-6042. *HIGHT v. BELGRADE STATE BANK ET AL.* Sup. Ct. Mont. Certiorari denied. Reported below: 162 Mont. 546, 514 P. 2d 766.

No. 73-6759. *VALENZUELA v. CALIFORNIA*. Ct. App. Cal., 2d App. Dist. Certiorari denied.

No. 73-6828. *STRADER v. ESTELLE, CORRECTIONS DIRECTOR*. C. A. 5th Cir. Certiorari denied. Reported below: 491 F. 2d 969.

No. 73-6835. *FORD v. UNITED STATES*; and

No. 73-7075. *FORD ET AL. v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 494 F. 2d 1295.

No. 73-6861. *HANDY v. NELSON, WARDEN*. Sup. Ct. Cal. Certiorari denied.

No. 73-6896. *PERKINS v. GARRISON, WARDEN, ET AL.* C. A. 4th Cir. Certiorari denied.

No. 73-6917. *FITZGERALD ET AL. v. BOSLOW, INSTITUTION DIRECTOR, ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 492 F. 2d 1240.

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No. 73-6992. *PENNYWELL v. CALIFORNIA*. Ct. App. Cal., 3d App. Dist. Certiorari denied.

No. 73-6997. *WALKER v. HUNT ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 492 F. 2d 1241.

No. 73-7039. *GLORIA v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 494 F. 2d 477.

No. 73-7045. *ROMERO ET AL. v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 495 F. 2d 1356.

No. 73-7049. *REYES v. CALIFORNIA*. Ct. App. Cal., 1st App. Dist. Certiorari denied.

No. 73-7050. *HOLLAND v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 496 F. 2d 876.

No. 73-7061. *REED v. FLORIDA*. Sup. Ct. Fla. Certiorari denied. Reported below: 292 So. 2d 7.

No. 73-7069. *BROWN v. CALIFORNIA*. Sup. Ct. Cal. Certiorari denied.

No. 73-7084. *KIBERT v. SUPERINTENDENT, VIRGINIA STATE PENITENTIARY*. C. A. 4th Cir. Certiorari denied.

No. 73-7099. *GODIN v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 495 F. 2d 560.

No. 73-7101. *JOYNER v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 494 F. 2d 501.

No. 73-7108. *CARD v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 497 F. 2d 927.

No. 73-7118. *HILL v. PACE, SHERIFF*. Sup. Ct. Va. Certiorari denied.

No. 74-3. *ANDERSON ET AL. v. TRIMBLE, DISTRICT ATTORNEY OF CLEVELAND COUNTY, ET AL.* Sup. Ct. Okla. Certiorari denied. Reported below: 519 P. 2d 1352.

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No. 74-11. *FREEMAN v. UNITED STATES ET AL.* C. A. 7th Cir. Certiorari denied. Reported below: 497 F. 2d 926.

No. 74-15. *REICIN v. UNITED STATES.* C. A. 7th Cir. Certiorari denied. Reported below: 497 F. 2d 563.

No. 74-17. *BIBLER, ADMINISTRATRIX, ET AL. v. YOUNG ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 492 F. 2d 1351.

No. 74-71. *KING'S GARDEN, INC. v. FEDERAL COMMUNICATIONS COMMISSION ET AL.* C. A. D. C. Cir. Certiorari denied. Reported below: 162 U. S. App. D. C. 100, 498 F. 2d 51.

No. 74-76. *WILLIAMS v. UNITED STATES.* C. A. 7th Cir. Certiorari denied. Reported below: 498 F. 2d 1403.

No. 74-88. *PHILLIPS ET AL. v. KLASSEN, POSTMASTER GENERAL, ET AL.* C. A. D. C. Cir. Certiorari denied. Reported below: 163 U. S. App. D. C. 360, 502 F. 2d 362.

No. 74-122. *PACKERLAND PACKING CO., INC. v. NATIONAL LABOR RELATIONS BOARD.* C. A. 7th Cir. Certiorari denied. Reported below: 494 F. 2d 293.

No. 74-136. *RUSHTON & MERCIER WOODWORKING CO., INC., ET AL. v. NATIONAL LABOR RELATIONS BOARD.* C. A. 1st Cir. Certiorari denied. Reported below: 502 F. 2d 1160.

No. 74-160. *WILES ET UX. v. COMMISSIONER OF INTERNAL REVENUE.* C. A. 10th Cir. Certiorari denied. Reported below: 499 F. 2d 255.

No. 74-197. *STUDER v. TEXAS.* Ct. Crim. App. Tex. Certiorari denied.

No. 74-198. *YATES v. TEXAS.* Ct. Crim. App. Tex. Certiorari denied. Reported below: 509 S. W. 2d 600.

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No. 74-207. *AKRON PRESFORM MOLD CO. v. McNEIL CORP. ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 496 F. 2d 230.

No. 74-208. *GREAT LAKES STEEL DIVISION, NATIONAL STEEL CORP., ET AL. v. MICHIE ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 495 F. 2d 213.

No. 74-212. *HANZIMANOLIS v. MURPHY, POLICE COMMISSIONER, CITY OF NEW YORK.* App. Div., Sup. Ct. N. Y., 1st Jud. Dept. Certiorari denied.

No. 74-221. *GOOCH ET AL. v. SKELLY OIL CO. ET AL.* C. A. 10th Cir. Certiorari denied. Reported below: 493 F. 2d 366.

No. 74-227. *LECCI ET AL. v. LEVITT, COMPTROLLER OF NEW YORK.* Ct. App. N. Y. Certiorari denied. Reported below: 34 N. Y. 2d 797, 316 N. E. 2d 327.

No. 74-230. *RAFTER v. FAIRFIELD COUNTY TRUST CO.* C. A. 2d Cir. Certiorari denied. Reported below: 497 F. 2d 919.

No. 74-231. *ADAMSZEWSKI ET AL. v. LOCAL LODGE 1487, INTERNATIONAL ASSOCIATION OF MACHINISTS & AEROSPACE WORKERS, AFL-CIO, ET AL.* C. A. 7th Cir. Certiorari denied. Reported below: 496 F. 2d 777.

No. 74-236. *HALDEMAN v. SIRICA, U. S. DISTRICT JUDGE.* C. A. D. C. Cir. Certiorari denied.

No. 74-237. *TEAMSTERS LOCAL UNION 377 v. SCOTT.* C. A. 6th Cir. Certiorari denied. Reported below: 496 F. 2d 276.

No. 74-239. *TUCKER v. MAHER ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 497 F. 2d 1309.

No. 74-244. *BOOZE ET AL. v. FLORIDA.* Dist. Ct. App. Fla., 2d Dist. Certiorari denied. Reported below: 291 So. 2d 262 and 293 So. 2d 107.

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No. 74-248. *UNITED STATES GYPSUM Co. v. UNITED STEELWORKERS OF AMERICA, AFL-CIO*. C. A. 5th Cir. Certiorari denied. Reported below: 492 F. 2d 713 and 498 F. 2d 334.

No. 74-249. *PERINI, CORRECTIONAL SUPERINTENDENT v. BROOKS*. C. A. 6th Cir. Certiorari denied. Reported below: 497 F. 2d 923.

No. 74-257. *PYNE ET AL. v. GREEN*. Super. Ct. Pa. Certiorari denied. Reported below: 311 A. 2d 675.

No. 74-259. *GARDNER v. OREGON*. Ct. App. Ore. Certiorari denied. Reported below: 16 Ore. App. 464, 518 P. 2d 1341.

No. 74-263. *LIBBEY-OWENS-FORD Co. v. NATIONAL LABOR RELATIONS BOARD ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 495 F. 2d 1195.

No. 74-264. *BANCO DO BRASIL v. VENORE TRANSPORTATION Co. ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 498 F. 2d 469.

No. 74-282. *GENERES v. SUPERIOR COURT OF CALIFORNIA FOR THE COUNTY OF SHASTA ET AL.* Ct. App. Cal., 3d App. Dist. Certiorari denied.

No. 74-290. *SIEGFERTH, GUARDIAN, ET AL. v. BALTIMORE & OHIO RAILROAD Co.* C. A. 6th Cir. Certiorari denied. Reported below: 498 F. 2d 392.

No. 74-291. *AANESTAD, ADMINISTRATRIX v. BEECH AIRCRAFT CORP.* C. A. 9th Cir. Certiorari denied.

No. 74-292. *EMPIRE FIRE & MARINE INSURANCE Co. ET AL. v. MEYERHOFER ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 497 F. 2d 1190.

No. 74-297. *BUTCHER ET UX. v. BURTON ABSTRACT & TITLE Co.* Ct. App. Mich. Certiorari denied. Reported below: 52 Mich. App. 98, 216 N. W. 2d 434.

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No. 73-303. *KINEE ET AL. v. ABRAHAM LINCOLN FEDERAL SAVINGS & LOAN ASSN. ET AL.* C. A. 3d Cir. Certiorari denied.

No. 74-306. *PASSAIC VALLEY WATER COMMISSION v. NEW JERSEY EX REL. DEPARTMENT OF HEALTH ET AL.* Super. Ct. N. J. Certiorari denied. Reported below: 127 N. J. Super. 251, 317 A. 2d 86.

No. 74-308. *RILEY ET AL. v. HOWELL ET AL.* App. Div., Sup. Ct. N. Y., 2d Jud. Dept. Certiorari denied. Reported below: 43 App. Div. 2d 843, 351 N. Y. S. 2d 647.

No. 74-309. *TREASURE VALLEY POTATO BARGAINING ASSN. ET AL. v. ORE-IDA FOODS, INC., ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 497 F. 2d 203.

No. 74-5026. *TYLER v. WYRICK, WARDEN.* C. A. 8th Cir. Certiorari denied.

No. 74-5028. *HEDDEN v. OHIO.* Ct. App. Ohio, Summit County. Certiorari denied.

No. 74-5039. *JACKSON v. UNITED STATES.* C. A. 3d Cir. Certiorari denied. Reported below: 497 F. 2d 921 and 922.

No. 74-5040. *MEYER v. BOYLE, JUDGE.* C. A. 7th Cir. Certiorari denied. Reported below: 497 F. 2d 926.

No. 74-5041. *CALDWELL v. UNITED STATES.* C. A. 8th Cir. Certiorari denied.

No. 74-5042. *HALE v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. Reported below: 496 F. 2d 1405.

No. 74-5044. *HAMMONDS v. CALIFORNIA.* Ct. App. Cal., 2d App. Dist. Certiorari denied. Reported below: 39 Cal. App. 3d 150, 113 Cal. Rptr. 896.

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No. 74-5046. *KRYDER v. VIRGINIA*. Sup. Ct. Va. Certiorari denied.

No. 74-5047. *BREWER v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 498 F. 2d 1398.

No. 74-5048. *ROGERS v. LEA COUNTY, NEW MEXICO, PROSECUTORS ET AL.* C. A. 10th Cir. Certiorari denied.

No. 74-5050. *YEDOR v. CALIFORNIA*. Ct. App. Cal., 2d App. Dist. Certiorari denied.

No. 74-5051. *JONES v. PENNSYLVANIA*. Sup. Ct. Pa. Certiorari denied. Reported below: 457 Pa. 563, 319 A. 2d 142.

No. 74-5053. *ROUNDTREE v. NEW YORK*. App. Div., Sup. Ct. N. Y., 2d Jud. Dept. Certiorari denied. Reported below: 45 App. Div. 2d 731, 356 N. Y. S. 2d 357.

No. 74-5055. *WRIGHT v. UNITED STATES*. C. A. 10th Cir. Certiorari denied.

No. 74-5059. *BERARDELLI v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 504 F. 2d 126.

No. 74-5061. *FALK v. CALIFORNIA ADULT AUTHORITY*. Sup. Ct. Cal. Certiorari denied.

No. 74-5064. *JACKSON v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 497 F. 2d 919.

No. 74-5065. *SHORT v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 493 F. 2d 1170 and 500 F. 2d 676.

No. 74-5066. *BURTON v. NEW YORK*. App. Div., Sup. Ct. N. Y., 4th Jud. Dept. Certiorari denied. Reported below: 44 App. Div. 2d 910, 356 N. Y. S. 2d 234.

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No. 74-5068. *PARKER v. WALTERS*. C. A. 3d Cir. Certiorari denied. Reported below: 495 F. 2d 1369.

No. 74-5069. *LOVE v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 495 F. 2d 1370.

No. 74-5070. *SOMMER v. LAVALLEE*, CORRECTIONAL SUPERINTENDENT. C. A. 2d Cir. Certiorari denied.

No. 74-5071. *BRUNO v. DAGGETT ET AL.* C. A. 9th Cir. Certiorari denied.

No. 74-5075. *DULLES v. SECRETARY OF THE TREASURY ET AL.* C. A. D. C. Cir. Certiorari denied. Reported below: 162 U. S. App. D. C. 18, 495 F. 2d 1074.

No. 74-5077. *BROWN v. MISSISSIPPI*. Sup. Ct. Miss. Certiorari denied. Reported below: 293 So. 2d 425.

No. 74-5079. *BENANTI v. VINCENT*, CORRECTIONAL SUPERINTENDENT. C. A. 2d Cir. Certiorari denied.

No. 74-5082. *WILLIAMS v. JOHNSON*, CORRECTIONAL SUPERINTENDENT, ET AL. C. A. 3d Cir. Certiorari denied.

No. 74-5083. *BRUNO v. UNITED STATES*. C. A. 10th Cir. Certiorari denied.

No. 74-5087. *CANTON, AKA COMBES v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 497 F. 2d 919.

No. 74-5090. *TATE v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 497 F. 2d 925.

No. 74-5093. *FLETCHER ET AL. v. RHODE ISLAND HOSPITAL TRUST NATIONAL BANK ET AL.* C. A. 1st Cir. Certiorari denied. Reported below: 496 F. 2d 927.

No. 74-5094. *CHANAY v. ESTELLE*, CORRECTIONS DIRECTOR. C. A. 5th Cir. Certiorari denied. Reported below: 493 F. 2d 1404.

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No. 74-5095. *ROSARIO v. NEW YORK*. App. Div., Sup. Ct. N. Y., 1st Jud. Dept. Certiorari denied. Reported below: 43 App. Div. 2d 908, 352 N. Y. S. 2d 427.

No. 74-5098. *STEIGLER v. ANDERSON, WARDEN*. C. A. 3d Cir. Certiorari denied. Reported below: 496 F. 2d 793.

No. 74-5104. *SAMUELS, AKA LeBLANC v. CRAVEN, WARDEN*. C. A. 9th Cir. Certiorari denied.

No. 74-5105. *PROFFITT v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 498 F. 2d 1124.

No. 74-5112. *STAPLETON v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 494 F. 2d 1269.

No. 74-5115. *JOHNSON v. CAMDEN COUNTY PROSECUTOR*. C. A. 3d Cir. Certiorari denied.

No. 74-5124. *JOINER v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 496 F. 2d 1314.

No. 74-5125. *RAINEY v. CALIFORNIA*. Ct. App. Cal., 2d App. Dist. Certiorari denied.

No. 74-5126. *BARNES v. GRAY, CORRECTIONAL SUPERINTENDENT*. C. A. 6th Cir. Certiorari denied. Reported below: 497 F. 2d 923.

No. 74-5129. *STARKS v. HENDERSON, WARDEN*. C. A. 5th Cir. Certiorari denied.

No. 74-5130. *CRANE v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 499 F. 2d 1385.

No. 74-5132. *YOUNG v. UNITED STATES*. Ct. Cl. Certiorari denied.

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No. 74-5141. *WOODY v. KANSAS*. Sup. Ct. Kan. Certiorari denied. Reported below: 215 Kan. 353, 524 P. 2d 1150.

No. 74-5143. *BEY, AKA WILLIAMS v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 499 F. 2d 194.

No. 74-5150. *BOWEN v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 500 F. 2d 41.

No. 74-5153. *LEE v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 500 F. 2d 586.

No. 74-5171. *LANDIS v. UNITED STATES*. C. A. 6th Cir. Certiorari denied.

No. 74-5173. *ROBINSON v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 500 F. 2d 1401.

No. 74-5179. *THERIAULT ET AL. v. CARLSON, DIRECTOR, BUREAU OF PRISONS, ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 495 F. 2d 390.

No. 74-5184. *FLOWERS v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 497 F. 2d 927.

No. 74-5186. *KOBLEIN, AKA BUTTONS v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 498 F. 2d 911.

No. 74-5193. *HAYMES v. NEW YORK*. Ct. App. N. Y. Certiorari denied. Reported below: 34 N. Y. 2d 639, 311 N. E. 2d 509.

No. 74-5195. *PARLE v. ARIZONA*. Sup. Ct. Ariz. Certiorari denied. Reported below: 110 Ariz. 517, 521 P. 2d 604.

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No. 74-5203. *JONES v. ARIZONA*. Sup. Ct. Ariz. Certiorari denied. Reported below: 110 Ariz. 546, 521 P. 2d 978.

No. 74-5205. *GARCIA, AKA GARCIA-QUESADA v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 498 F. 2d 910.

No. 74-5222. *COLEMAN v. UNITED STATES*; and

No. 74-5226. *SIMMONS v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 500 F. 2d 1403.

No. 74-5232. *CHESNEY v. CONNECTICUT*. Sup. Ct. Conn. Certiorari denied.

No. 74-5251. *SCAGLIOLA v. SCAGLIOLA*. Sup. Ct. Conn. Certiorari denied. Reported below: — Conn. —, 319 A. 2d 414.

No. 74-5252. *GREEN ET AL. v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 494 F. 2d 820.

No. 74-5257. *MCDONALD v. ARKANSAS*. C. A. 8th Cir. Certiorari denied. Reported below: 501 F. 2d 385.

No. 74-5263. *ROSSILLI v. LAVALLEE, CORRECTIONAL SUPERINTENDENT*. C. A. 2d Cir. Certiorari denied. Reported below: 497 F. 2d 920.

No. 74-5313. *MILLER v. ARIZONA*. Sup. Ct. Ariz. Certiorari denied. Reported below: 110 Ariz. 597, 522 P. 2d 23.

No. 73-1823. *VAN GUNDY ET AL. v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. MR. JUSTICE DOUGLAS, being of the view that any state or federal ban on, or regulation of, obscenity is prohibited by the Constitution, *Roth v. United States*, 354 U. S. 476, 508 (1957) (DOUGLAS, J., dissenting); *Miller v. California*, 413 U. S. 15,

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42-47 (1973) (DOUGLAS, J., dissenting); *Paris Adult Theatre I v. Slaton*, 413 U. S. 49, 70-73 (1973) (DOUGLAS, J., dissenting), would grant certiorari and summarily reverse the judgment. Reported below: 490 F. 2d 76.

MR. JUSTICE BRENNAN, with whom MR. JUSTICE STEWART and MR. JUSTICE MARSHALL join, dissenting.

Petitioners were convicted in the United States District Court for the Eastern District of Louisiana of receiving allegedly obscene material which had been shipped by common carrier in interstate commerce in violation of 18 U. S. C. § 1462, which provides in pertinent part:

"Whoever . . . knowingly uses any express company or other common carrier, for carriage in interstate or foreign commerce [of]—

"(a) any obscene, lewd, lascivious, or filthy book, pamphlet, picture, motion-picture film, paper, letter, writing, print, or other matter of indecent character; or

"Whoever knowingly takes from such express company or other common carrier any matter or thing the carriage of which is herein made unlawful—

"Shall be fined not more than \$5,000 or imprisoned not more than five years, or both"

The Court of Appeals for the Fifth Circuit affirmed, 490 F. 2d 76 (1974).

I adhere to my dissent in *United States v. Orito*, 413 U. S. 139, 147 (1973), in which, speaking of 18 U. S. C. § 1462, I expressed the view that "[w]hatever the extent of the Federal Government's power to bar the distribution of allegedly obscene material to juveniles or the offensive exposure of such material to unconsenting adults, the statute before us is clearly overbroad and unconstitutional on its face." 413 U. S., at 147-148. For the

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reasons stated in my dissent in *Miller v. California*, 413 U. S. 15, 47 (1973), I would therefore grant certiorari, and, since the judgment of the Court of Appeals for the Fifth Circuit was rendered after *Orito*, reverse.* In that circumstance, I have no occasion to consider whether the other questions presented merit plenary review. See *Heller v. New York*, 413 U. S. 483, 494 (1973) (BRENNAN, J., dissenting).

Finally, it does not appear from the petition and response that the obscenity of the disputed materials was adjudged by applying local community standards. Based on my dissent in *Hamling v. United States*, 418 U. S. 87, 141 (1974), I believe that, consistent with the Due Process Clause, petitioners must be given an opportunity to have their case decided on, and to introduce evidence relevant to, the legal standard upon which their convictions have ultimately come to depend. Thus, even on its own terms, the Court should vacate the judgments below and remand for a determination whether petitioners should be afforded a new trial under local community standards.

No. 73-1842. ADAMS ET AL. *v.* SOUTHERN CALIFORNIA FIRST NATIONAL BANK ET AL. C. A. 9th Cir. Motion of Ford Motor Credit Co. et al. for leave to file a brief as *amici curiae* granted. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari. Reported below: 492 F. 2d 324.

No. 73-1897. NOWLIN ET UX. *v.* PROFESSIONAL AUTO SALES, INC., ET AL. C. A. 8th Cir. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari. Reported below: 496 F. 2d 16.

*Although four of us would grant certiorari and reverse the judgments, the Justices who join this opinion do not insist that the case be decided on the merits.

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No. 73-1824. NEW ORLEANS BOOK MART, INC., ET AL. v. UNITED STATES. C. A. 5th Cir. Certiorari denied. MR. JUSTICE DOUGLAS, being of the view that any state or federal ban on, or regulation of, obscenity is prohibited by the Constitution, *Roth v. United States*, 354 U. S. 476, 508 (1957) (DOUGLAS, J., dissenting); *Miller v. California*, 413 U. S. 15, 42-47 (1973) (DOUGLAS, J., dissenting); *Paris Adult Theatre I v. Slaton*, 413 U. S. 49, 70-73 (1973) (DOUGLAS, J., dissenting), would grant certiorari and summarily reverse the judgment. Reported below: 490 F.2d 73.

MR. JUSTICE BRENNAN, with whom MR. JUSTICE STEWART and MR. JUSTICE MARSHALL join, dissenting.

Petitioners were convicted in the United States District Court for the Eastern District of Louisiana of transporting allegedly obscene materials in interstate commerce for the purpose of sale in violation of 18 U. S. C. § 1465, which provides in pertinent part:

"Whoever knowingly transports in interstate or foreign commerce for the purpose of sale or distribution any obscene, lewd, lascivious, or filthy book, pamphlet, picture, film, paper, letter, writing, print, silhouette, drawing, figure, image, cast, phonograph recording, electrical transcription or other article capable of producing sound or any other matter of indecent or immoral character, shall be fined not more than \$5,000 or imprisoned not more than five years, or both."

The Court of Appeals for the Fifth Circuit affirmed, 490 F.2d 73 (1974).

I adhere to my dissent in *United States v. Orito*, 413 U. S. 139, 147 (1973), in which, speaking of 18 U. S. C. § 1462, which is similar in scope to § 1465, I expressed the view that "[w]hatever the extent of the Federal Government's power to bar the distribution of allegedly

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obscene material to juveniles or the offensive exposure of such material to unconsenting adults, the statute before us is clearly overbroad and unconstitutional on its face." 413 U. S., at 147-148. For the reasons stated in my dissent in *Miller v. California*, 413 U. S. 15, 47 (1973), I would grant certiorari, and, since the judgment of the Court of Appeals for the Fifth Circuit was rendered after *Orito*, reverse.* In that circumstance, I have no occasion to consider whether the other questions presented merit plenary review. See *Heller v. New York*, 413 U. S. 483, 494 (1973) (BRENNAN, J., dissenting).

Finally, it does not appear from the petition and response that the obscenity of the disputed materials was adjudged by applying local community standards. Based on my dissent in *Hamling v. United States*, 418 U. S. 87, 141 (1974), I believe that, consistent with the Due Process Clause, petitioners must be given an opportunity to have their case decided on, and to introduce evidence relevant to, the legal standard upon which their convictions have ultimately come to depend. Thus, even on its own terms, the Court should vacate the judgment below and remand for a determination whether petitioners should be afforded a new trial under local community standards.

No. 73-1855. *SISCA ET AL. v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari. Reported below: 503 F. 2d 1337.

No. 73-2023. *COUNTY OF SAN DIEGO ET AL. v. RINCON BAND OF MISSION INDIANS*. C. A. 9th Cir. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari. Reported below: 495 F. 2d 1.

*Although four of us would grant certiorari and reverse the judgment, the Justices who join this opinion do not insist that the case be decided on the merits.

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No. 73-2039. *PETTY v. UNITED STATES*. C. A. 10th Cir. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari.

No. 73-2042. *FIGORELLI v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari. Reported below: 497 F. 2d 218.

No. 73-7074. *ROLLINS v. FLORIDA*. Sup. Ct. Fla. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari. Reported below: 299 So. 2d 586.

No. 74-85. *OAKLAND RAIDERS v. OFFICE OF EMERGENCY PREPAREDNESS ET AL.* Temp. Emerg. Ct. App. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari.

No. 74-123. *IZAACK WALTON LEAGUE OF AMERICA ET AL. v. ST. CLAIR ET AL.* C. A. 8th Cir. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari. Reported below: 497 F. 2d 849.

No. 74-265. *DE LORAINÉ v. MEBA PENSION TRUST ET AL.* C. A. 2d Cir. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari. Reported below: 499 F. 2d 49.

No. 74-286. *BATES v. PRUDENTIAL-GRACE LINES, INC.* C. A. 9th Cir. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari. Reported below: 497 F. 2d 900.

No. 74-5045. *MASON v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari. Reported below: 492 F. 2d 1241.

No. 74-5091. *SHIRLEY v. STATE NATIONAL BANK OF CONNECTICUT*. C. A. 2d Cir. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari. Reported below: 493 F. 2d 739.

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No. 74-5096. *BRIDGES v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari. Reported below: 499 F. 2d 179.

No. 74-5159. *CROWDER v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari. Reported below: 497 F. 2d 1367.

No. 74-5190. *CASTILLO-BURGOS v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari. Reported below: 501 F. 2d 217.

No. 74-5207. *MABE ET AL. v. CLINCHFIELD COAL CO. ET AL.* Sup. Ct. Va. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari.

No. 74-5220. *FELL v. BUREAU OF MOTOR VEHICLES ET AL.* Ct. App. Ohio, Cuyahoga County. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari.

No. 74-5304. *CHRISTIAN v. NEW YORK*. County Court N. Y., Monroe County. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari.

No. 73-1932. *GRONER, DBA LUCKY DISTRIBUTORS v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. MR. JUSTICE DOUGLAS, being of the view that any state or federal ban on, or regulation of, obscenity is prohibited by the Constitution, *Roth v. United States*, 354 U. S. 476, 508 (1957) (DOUGLAS, J., dissenting); *Miller v. California*, 413 U. S. 15, 42-47 (1973) (DOUGLAS, J., dissenting); *Paris Adult Theatre I v. Slaton*, 413 U. S. 49, 70-73 (1973) (DOUGLAS, J., dissenting), would grant certiorari and summarily reverse the judgment. Reported below: 494 F. 2d 499.

MR. JUSTICE BRENNAN, with whom MR. JUSTICE STEWART and MR. JUSTICE MARSHALL join, dissenting.

Petitioner was convicted in the United States District Court for the Northern District of Texas of using a com-

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mon carrier in interstate commerce for carriage of allegedly obscene matter in violation of 18 U. S. C. § 1462, which provides in pertinent part as follows:

"Whoever . . . knowingly uses any express company or other common carrier, for carriage in interstate or foreign commerce [of]—

"(a) any obscene, lewd, lascivious, or filthy book, pamphlet, picture, motion-picture film, paper, letter, writing, print, or other matter of indecent character

"Shall be fined not more than \$5,000 or imprisoned not more than five years, or both"

The Court of Appeals for the Fifth Circuit affirmed the conviction, 479 F. 2d 577 (1973) (en banc), and this Court vacated the judgment of that court and remanded the case for reconsideration in light of *Miller v. California*, 413 U. S. 15 (1973), and companion cases. 414 U. S. 969. On remand, the Fifth Circuit again affirmed the conviction. 494 F. 2d 499 (1974).

I adhere to my dissent in *United States v. Orito*, 413 U. S. 139, 147 (1973), in which, speaking of 18 U. S. C. § 1462, I expressed the view that "[w]hatever the extent of the Federal Government's power to bar the distribution of allegedly obscene material to juveniles or the offensive exposure of such material to unconsenting adults, the statute before us is clearly overbroad and unconstitutional on its face." 413 U. S., at 147–148. For the reasons stated in my dissent in *Miller v. California*, *supra*, at 47, I would therefore grant certiorari, and since the judgment of the Court of Appeals for the Fifth Circuit was rendered after *Orito*, reverse.* In that circumstance, I have no occasion to consider whether the

*Although four of us would grant certiorari and reverse the judgment, the Justices who join this opinion do not insist that the case be decided on the merits.

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other questions presented merit plenary review. See *Heller v. New York*, 413 U. S. 483, 494 (1973) (BRENNAN, J., dissenting).

Finally, it does not appear from the petition and response that the obscenity of the disputed materials was adjudged by applying local community standards. Based on my dissent in *Hamling v. United States*, 418 U. S. 87, 141 (1974), I believe that, consistent with the Due Process Clause, petitioner must be given an opportunity to have his case decided on, and to introduce evidence relevant to, the legal standard upon which his conviction has ultimately come to depend. Thus, even on its own terms, the Court should vacate the judgment below and remand for a determination whether petitioner should be afforded a new trial under local community standards.

No. 73-2027. *BREWER, WARDEN, ET AL. v. REMMERS ET AL.*; and

No. 73-7066. *REMMERS ET AL. v. BREWER, WARDEN, ET AL.* C. A. 8th Cir. Motion of respondents in No. 73-2027 for leave to proceed *in forma pauperis* granted. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari in No. 73-7066. Reported below: 494 F. 2d 1277.

No. 73-7067. *FANNON v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. MR. JUSTICE BRENNAN, MR. JUSTICE WHITE, and MR. JUSTICE MARSHALL would grant certiorari. Reported below: 491 F. 2d 129.

No. 74-14. *GISSEL, EXECUTRIX, ET AL. v. UNITED STATES*. C. A. 5th Cir. Motion of Association of Ship's Brokers & Agents (USA), Inc., for leave to file a brief as *amicus curiae* granted. Certiorari denied. Reported below: 493 F. 2d 27.

No. 74-95. *NEW YORK v. GOGGINS*; and

No. 74-5137. *BROWN v. NEW YORK*. Ct. App. N. Y. Motion of respondent in No. 74-95 for leave to proceed

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in forma pauperis granted. Certiorari denied. Reported below: 34 N. Y. 2d 163, 313 N. E. 2d 41.

No. 74-99. *AMATO v. UNITED STATES*. C. A. 5th Cir. Motion of Donald Lambert to join in petition and certiorari denied. Reported below: 495 F. 2d 545.

No. 74-119. *WASHINGTON v. ODOM*. Sup. Ct. Wash. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 83 Wash. 2d 541, 520 P. 2d 152.

No. 74-161. *CHESAPEAKE & OHIO RAILWAY Co. v. HEATER*. C. A. 7th Cir. Certiorari denied. MR. JUSTICE POWELL took no part in the consideration or decision of this petition. Reported below: 497 F. 2d 1243.

No. 74-240. *SIMON v. DIXON ET AL.* C. A. 5th Cir. Certiorari denied. THE CHIEF JUSTICE took no part in the consideration or decision of this petition. Reported below: 493 F. 2d 1404.

No. 74-5015. *DARROW v. UNITED STATES*. C. A. 7th Cir. Motion of Cecil Dale Pierce to join in petition and certiorari denied. Reported below: 499 F. 2d 64.

No. 74-5078. *FORROW v. ESTELLE, CORRECTIONS DIRECTOR*. C. A. 5th Cir. Certiorari denied as untimely filed. Reported below: 492 F. 2d 1241.

No. 74-5110. *BELL v. UNITED STATES*. C. A. 5th Cir. Certiorari denied as untimely filed. Reported below: 491 F. 2d 1406.

No. 74-5262. *MORGAN v. NEW YORK*. Ct. App. N. Y. Certiorari denied as untimely filed. Reported below: 34 N. Y. 2d 709, 313 N. E. 2d 340.

No. 74-5302. *MORGAN v. CLARK, SHERIFF*. C. A. 6th Cir. Certiorari denied as untimely filed. Reported below: 497 F. 2d 924.

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Rehearing Denied

No. 73-831. *WARDEN, LEWISBURG PENITENTIARY v. MARRERO*, 417 U. S. 653. Petition for rehearing denied.

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Appeals Dismissed

No. 74-155. *DENNIS v. OKLAHOMA*. Appeal from Ct. Crim. App. Okla. dismissed for want of substantial federal question.

No. 74-341. *WHEELER ET AL. v. MONROE ET AL.* Appeal from Sup. Ct. N. M. dismissed for want of substantial federal question. Reported below: 86 N. M. 296, 523 P. 2d 540.

No. 74-5327. *ROBINOWITZ v. SARGENT, GOVERNOR OF MASSACHUSETTS, ET AL.* Appeal from C. A. 1st Cir. dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied.

No. 74-5372. *THALASINOS v. DOLCINO ET AL.* Appeal from Sup. Ct. N. H. dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied. Reported below: 114 N. H. 353, 321 A. 2d 107.

Vacated and Remanded on Appeal

No. 74-218. *DIVINE, SHERIFF v. AMATO*. Appeal from C. A. 7th Cir. Judgment vacated and case remanded for further consideration in light of *Hamling v. United States*, 418 U. S. 87 (1974), and the decision of the Supreme Court of Wisconsin in *State ex rel. Chobot v. Circuit Court*, 61 Wis. 2d 354, 212 N. W. 2d 690 (1973). MR. JUSTICE DOUGLAS, being of the view that any state or federal ban on, or regulation of, obscenity is prohibited by the Constitution, *Roth v. United States*, 354 U. S.

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476, 508-514 (DOUGLAS, J., dissenting); *Miller v. California*, 413 U. S. 15, 42-47 (DOUGLAS, J., dissenting); *Paris Adult Theatre I v. Slaton*, 413 U. S. 49, 70-73 (DOUGLAS, J., dissenting), and that the Constitution prohibits retroactive application of judicially improvised obscenity standards, *Miller v. California, supra*, at 37-42, would affirm the judgment below. MR. JUSTICE BRENNAN, MR. JUSTICE STEWART, and MR. JUSTICE MARSHALL would affirm the judgment. Reported below: 496 F. 2d 441.

Certiorari Granted—Vacated and Remanded

No. 74-108. REGAN, CHAIRMAN, NEW YORK STATE BOARD OF PAROLE, ET AL. *v.* JOHNSON. C. A. 2d Cir. Motion of respondent for leave to proceed *in forma pauperis* and certiorari granted. Judgment vacated and case remanded to the United States District Court for the Eastern District of New York with directions to dismiss cause as moot. Reported below: 500 F. 2d 925.

Miscellaneous Orders

No. A-340. CALLEY *v.* CALLAWAY, SECRETARY OF THE ARMY, ET AL. Application to vacate stay entered by the United States Court of Appeals for the Fifth Circuit on September 26, 1974, presented to MR. JUSTICE POWELL, and by him referred to the Court, denied as moot.

No. A-386. REPUBLIC OF VIETNAM *v.* PFIZER, INC., ET AL. C. A. 8th Cir. Application for injunction, presented to MR. JUSTICE DOUGLAS, and by him referred to the Court, denied.

No. A-392. REAMER *v.* BEALL, U. S. ATTORNEY, ET AL. Application for stay of judgment of the United States District Court for the District of Maryland, presented to THE CHIEF JUSTICE, and by him referred to the Court, granted pending further order of the Court.

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No. D-24. *IN RE DISBARMENT OF NITSBERG*. It is ordered that Michael B. Nitsberg, of New York, N. Y., 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. D-27. *IN RE DISBARMENT OF McDERMOTT*. It is ordered that Francis X. McDermott, of New York, N. Y., 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. D-28. *IN RE DISBARMENT OF BUTTLES*. It is ordered that Robert S. Buttles, of New York, N. Y., 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. D-29. *IN RE DISBARMENT OF OSBORNE*. It is ordered that George R. Osborne, of New York, N. Y., 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. D-30. *IN RE DISBARMENT OF TARR*. It is ordered that Leonard N. Tarr, of New York, N. Y., 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. 73-689. *MANESS v. MEYERS, JUDGE*. 169th Jud. Dist. Ct. Tex., Bell County. [Certiorari granted, 416

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U. S. 934.] Motion of respondent for leave to file supplemental brief after argument granted.

No. 73-1309. *BIGELOW v. VIRGINIA*. Appeal from Sup. Ct. Va. [Probable jurisdiction noted, 418 U. S. 909.] Motion for divided argument on behalf of appellant granted.

No. 73-2050. *UNITED STATES v. ORTIZ*. C. A. 9th Cir. [Certiorari granted, *ante*, p. 824.] Motions to dispense with printing appendix and for appointment of counsel granted. It is ordered that John J. Cleary, Esquire, of San Diego, Cal., a member of the Bar of this Court, be, and he is hereby, appointed to serve as counsel for respondent in this case.

No. 73-6848. *BOWEN v. UNITED STATES*. C. A. 9th Cir. [Certiorari granted, *ante*, p. 824.] Motion of petitioner for appointment of counsel granted. It is ordered that Michael D. Nasatir, Esquire, of Beverly Hills, Cal., a member of the Bar of this Court, be, and he is hereby, appointed to serve as counsel for petitioner in this case.

No. 74-13. *MULLANEY, WARDEN, ET AL. v. WILBUR*. C. A. 1st Cir. [Certiorari granted, *ante*, p. 823.] Motions of respondent for leave to proceed *in forma pauperis* and for appointment of counsel granted. It is ordered that Peter J. Rubin, Esquire, of Portland, Me., a member of the Bar of this Court, be, and he is hereby, appointed to serve as counsel for respondent in this case.

No. 74-114. *UNITED STATES v. BRIGNONI-PONCE*. C. A. 9th Cir. [Certiorari granted, *ante*, p. 824.] Motion of respondent for appointment of counsel granted. It is ordered that John J. Cleary, Esquire, of San Diego, Cal., a member of the Bar of this Court, be, and he is hereby, appointed to serve as counsel for respondent in this case.

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No. 74-175. MIDDENDORF, SECRETARY OF THE NAVY, ET AL. *v.* HENRY ET AL.; and

No. 74-5176. HENRY ET AL. *v.* MIDDENDORF, SECRETARY OF THE NAVY, ET AL. [Certiorari granted, *ante*, p. 895.] Motion to dispense with printing appendix and to proceed on original record granted.

No. 74-5216. REEDER, AKA BLACKROSE *v.* SUPREME COURT OF WYOMING ET AL. Motion for leave to file petition for writ of habeas corpus denied.

No. 74-5081. MYERS *v.* MYERS ET AL.; and

No. 74-5247. REEDER *v.* CHIEF JUSTICE, SUPREME COURT OF WYOMING, ET AL. Motions for leave to file petitions for writs of mandamus denied.

No. 74-5287. WILLIAMS *v.* ALBERT ET AL. Motion for leave to file petition for writ of mandamus and/or prohibition denied.

Probable Jurisdiction Postponed

No. 74-156. HICKS, DISTRICT ATTORNEY OF ORANGE COUNTY, ET AL. *v.* MIRANDA, DBA WALNUT PROPERTIES, ET AL. Appeal from D. C. C. D. Cal. Further consideration of question of jurisdiction postponed to hearing of case on merits. Reported below: 388 F. Supp. 350.

Certiorari Granted

No. 73-1734. GURLEY, DBA GURLEY OIL CO. *v.* RHODEN, CHAIRMAN, TAX COMMISSION OF MISSISSIPPI. Sup. Ct. Miss. Certiorari granted. Reported below: 288 So. 2d 868.

No. 74-304. GORDON *v.* NEW YORK STOCK EXCHANGE, INC., ET AL. C. A. 2d Cir. Certiorari granted. Reported below: 498 F. 2d 1303.

No. 74-363. UNITED STATES *v.* RELIABLE TRANSFER CO., INC. C. A. 2d Cir. Certiorari granted. Reported below: 497 F. 2d 1036.

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No. 74-80. KUGLER, ATTORNEY GENERAL OF NEW JERSEY, ET AL. *v.* HELFANT; and

No. 74-277. HELFANT *v.* KUGLER, ATTORNEY GENERAL OF NEW JERSEY, ET AL. C. A. 3d Cir. Motion to strike certain portions of petition in No. 74-80 and answer to the cross-petition in No. 74-277 denied. Certiorari granted, cases consolidated, and a total of one hour allotted for oral argument. MR. JUSTICE BRENNAN took no part in the consideration or decision of this motion and these petitions. Reported below: 500 F. 2d 1188.

Certiorari Denied. (See also Nos. 74-5327 and 74-5372, *supra.*)

No. 73-1575. CALLAHAN ET AL. *v.* KIMBALL ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 493 F. 2d 564.

No. 73-1802. PENNINGTON *v.* MARYLAND. Ct. Sp. App. Md. Certiorari denied. Reported below: 19 Md. App. 253, 310 A. 2d 817.

No. 73-1946. SCATA *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 492 F. 2d 1100.

No. 73-1997. HARRISON *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied.

No. 73-1999. POOLE *v.* MISSISSIPPI. Sup. Ct. Miss. Certiorari denied. Reported below: 291 So. 2d 723.

No. 73-2051. BOMBACINO *v.* BENSINGER. C. A. 7th Cir. Certiorari denied. Reported below: 498 F. 2d 875.

No. 73-6847. COUSINO *v.* COUSINO. Sup. Ct. Mich. Certiorari denied.

No. 73-6894. SHEPPARD *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied.

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No. 73-6959. *PRATT v. CALIFORNIA*. Ct. App. Cal., 2d App. Dist. Certiorari denied.

No. 73-6996. *KELE v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 495 F. 2d 1369.

No. 73-7026. *ROSENBERG v. MANCUSI, CORRECTIONAL SUPERINTENDENT, ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 495 F. 2d 1367.

No. 73-7037. *MARKER v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 497 F. 2d 921.

No. 73-7040. *OLIVARES-VEGA v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 495 F. 2d 827.

No. 73-7051. *McWHIRT v. FEARNOW ET AL.* Ct. App. Ind. Certiorari denied. Reported below: — Ind. App. —, 301 N. E. 2d 810.

No. 73-7059. *CLEMENTS v. HOPPER, WARDEN*. C. A. 5th Cir. Certiorari denied.

No. 73-7107. *COOK v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 500 F. 2d 1399.

No. 73-7115. *RICHARDSON v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 498 F. 2d 9.

No. 74-25. *UNITED STATES v. AMERICAN RENAISSANCE LINES, INC.* C. A. D. C. Cir. Certiorari denied. Reported below: 161 U. S. App. D. C. 140, 494 F. 2d 1059.

No. 74-26. *McNEAL v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 490 F. 2d 206.

No. 74-40. *JACKSON ET AL. v. UNITED STATES*; and
No. 73-6891. *TANTILLO v. UNITED STATES*. C. A. D. C. Cir. Certiorari denied. Reported below: 161 U. S. App. D. C. 88, 494 F. 2d 1007.

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No. 74-63. MATTHEWS CO. ET AL. *v.* WILLIAMS. C. A. 8th Cir. Certiorari denied. Reported below: 499 F. 2d 819.

No. 74-92. MILES *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied. Reported below: 498 F. 2d 394.

No. 74-150. JOHNSON *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 500 F. 2d 1403.

No. 74-171. LOUISIANA *v.* SAWHILL, ADMINISTRATOR, FEDERAL ENERGY OFFICE, ET AL.; and

No. 74-181. CALIFORNIA, BY AND THROUGH THE STATE LANDS COMMISSION *v.* SAWHILL, ADMINISTRATOR, FEDERAL ENERGY OFFICE, ET AL. Temp. Emerg. Ct. App. Certiorari denied. Reported below: 504 F. 2d 430.

No. 74-172. GROENDYKE TRANSPORT, INC., ET AL. *v.* NATIONAL LABOR RELATIONS BOARD ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 493 F. 2d 17.

No. 74-174. GOLDMAN ET UX. *v.* COMMISSIONER OF INTERNAL REVENUE. C. A. 6th Cir. Certiorari denied. Reported below: 497 F. 2d 382.

No. 74-195. SUN SHIPBUILDING & DRY DOCK CO. *v.* UNITED STATES. Ct. Cl. Certiorari denied.

No. 74-199. BARTON *v.* MORTON, SECRETARY OF THE INTERIOR. C. A. 9th Cir. Certiorari denied. Reported below: 498 F. 2d 288.

No. 74-209. GILA RIVER PIMA-MARICOPA INDIAN COMMUNITY ET AL. *v.* UNITED STATES. Ct. Cl. Certiorari denied. Reported below: 204 Ct. Cl. 137, 494 F. 2d 1386.

No. 74-217. SUTTON, EXECUTOR *v.* COMMISSIONER OF INTERNAL REVENUE. C. A. 4th Cir. Certiorari denied.

No. 74-246. MONARCH INSURANCE COMPANY OF OHIO *v.* DISTRICT OF COLUMBIA ET AL. C. A. D. C. Cir. Certiorari denied.

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No. 74-262. *RICCI v. COUNTY OF RIVERSIDE ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 495 F. 2d 1.

No. 74-269. *BRIAN, SECRETARY, HUMAN RELATIONS AGENCY, ET AL. v. CALIFORNIA WELFARE RIGHTS ORGANIZATION ET AL.* Sup. Ct. Cal. Certiorari denied. Reported below: 11 Cal. 3d 237, 520 P. 2d 970.

No. 74-270. *KELLEY, DIRECTOR OF DEPARTMENT OF CONSERVATION OF ALABAMA, ET AL. v. MOBIL OIL CORP.* C. A. 5th Cir. Certiorari denied. Reported below: 493 F. 2d 784.

No. 74-288. *LOCAL 1426, INTERNATIONAL LONGSHOREMEN'S ASSN., AFL-CIO v. WILMINGTON SHIPPING CO. ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: — F. 2d —.

No. 74-295. *FUR INFORMATION & FASHION COUNCIL, INC., ET AL. v. E. F. TIMME & SON, INC.* C. A. 2d Cir. Certiorari denied. Reported below: 501 F. 2d 1048.

No. 74-302. *TJADEN v. TJADEN.* Ct. App. La., 2d Cir. Certiorari denied. Reported below: 294 So. 2d 846.

No. 74-305. *CONIGLIO v. HIGHWOOD SERVICES, INC., ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 495 F. 2d 1286.

No. 74-311. *SWOAP, DIRECTOR, DEPARTMENT OF SOCIAL WELFARE, ET AL. v. COOPER ET AL.* Sup. Ct. Cal. Certiorari denied. Reported below: 11 Cal. 3d 856, 524 P. 2d 97.

No. 74-312. *SWOAP, DIRECTOR, DEPARTMENT OF SOCIAL WELFARE, ET AL. v. WAITS ET AL.* Sup. Ct. Cal. Certiorari denied. Reported below: 11 Cal. 3d 887, 524 P. 2d 117.

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No. 74-319. MARSHALL ET AL. *v.* CITY OF SEATTLE. Sup. Ct. Wash. Certiorari denied. Reported below: 83 Wash. 2d 665, 521 P. 2d 693.

No. 74-329. PAT RYAN & ASSOCIATES, INC. *v.* OCCIDENTAL LIFE INSURANCE COMPANY OF NORTH CAROLINA. C. A. 4th Cir. Certiorari denied. Reported below: 496 F. 2d 1255.

No. 74-330. TUCKER *v.* THRELKELD. C. A. 9th Cir. Certiorari denied. Reported below: 496 F. 2d 1101.

No. 74-331. TUCKER *v.* CRIKELAIR. C. A. 9th Cir. Certiorari denied.

No. 74-334. YORTY *v.* COURT OF APPEAL OF CALIFORNIA, SECOND APPELLATE DISTRICT (CITY COUNCIL OF LOS ANGELES, REAL PARTY IN INTEREST). Sup. Ct. Cal. Certiorari denied.

No. 74-349. HUSMAN EXPRESS Co. *v.* BRYAN TRUCK LINE, INC. Sup. Ct. Ohio. Certiorari denied. Reported below: 38 Ohio St. 2d 103, 310 N. E. 2d 587.

No. 74-356. BROOKLYN HEIGHTS PRESBYTERIAN CHURCH ET AL. *v.* UNITED PRESBYTERIAN CHURCH IN THE UNITED STATES OF AMERICA ET AL. Ct. App. Cal., 4th App. Dist. Certiorari denied.

No. 74-359. THIBODEAU ET AL. *v.* MINNESOTA STATE BAR ASSN. Sup. Ct. Minn. Certiorari denied. Reported below: 300 Minn. 323, 219 N. W. 2d 920.

No. 74-367. CHISHOLM BROTHERS FARM EQUIPMENT Co. *v.* INTERNATIONAL HARVESTER Co. C. A. 9th Cir. Certiorari denied. Reported below: 498 F. 2d 1137.

No. 74-381. NAPPER ET UX. *v.* ANDERSON, HENLEY, SHIELDS, BRADFORD & PRITCHARD ET AL. Sup. Ct. Ark. Certiorari denied.

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No. 74-5011. *HAMLIN, AKA DAVIS v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 498 F. 2d 1398.

No. 74-5037. *FERRI v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 495 F. 2d 1369.

No. 74-5088. *GREGORIO v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 497 F. 2d 1253.

No. 74-5100. *QUIROZ-SANTI v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 499 F. 2d 36.

No. 74-5111. *MILLER v. VIRGINIA*. C. A. 4th Cir. Certiorari denied.

No. 74-5147. *SMITH v. CENTRAL LOS ANGELES HEALTH PROJECT*. Ct. App. Cal., 2d App. Dist. Certiorari denied.

No. 74-5151. *JEFFERSON v. CALIFORNIA*. Ct. App. Cal., 2d App. Dist. Certiorari denied.

No. 74-5152. *SMITH v. KELLER, CORRECTIONAL SUPERINTENDENT*. C. A. 4th Cir. Certiorari denied.

No. 74-5156. *HURD v. MARSHAL OF RIVERSIDE COUNTY ET AL.* C. A. 9th Cir. Certiorari denied.

No. 74-5158. *MONROE v. NEW YORK*. App. Div., Sup. Ct. N. Y., 1st Jud. Dept. Certiorari denied.

No. 74-5165. *STEINBERG v. UNITED STATES*. C. A. 6th Cir. Certiorari denied.

No. 74-5168. *WILLIAMS v. DANA CORP.* C. A. 6th Cir. Certiorari denied. Reported below: 493 F. 2d 1407.

No. 74-5169. *WARREN v. AARON, WARDEN*. C. A. 7th Cir. Certiorari denied.

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No. 74-5170. *BASALYGA v. ASCH*. Sup. Ct. Pa. Certiorari denied.

No. 74-5175. *SALADIN v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 498 F. 2d 1404.

No. 74-5181. *HANDY v. CALIFORNIA*. Ct. App. Cal., 4th App. Dist. Certiorari denied.

No. 74-5192. *ROONEY v. ILLINOIS*. App. Ct. Ill., 5th Dist. Certiorari denied. Reported below: 16 Ill. App. 3d 901, 307 N. E. 2d 216.

No. 74-5199. *WEDRA v. NEW YORK*. Ct. App. N. Y. Certiorari denied. Reported below: 34 N. Y. 2d 199, 313 N. E. 2d 61.

No. 74-5204. *WALL v. UNITED STATES*. C. A. 10th Cir. Certiorari denied. Reported below: 500 F. 2d 38.

No. 74-5208. *MORROW ET AL. v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 498 F. 2d 1398.

No. 74-5215. *BALLARD v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 496 F. 2d 876.

No. 74-5227. *WASHINGTON v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 497 F. 2d 922.

No. 74-5236. *JOHNSON v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 500 F. 2d 1401.

No. 74-5259. *ETHRIDGE v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 494 F. 2d 351.

No. 74-5309. *MULCAHY v. NEW YORK*. App. Div., Sup. Ct. N. Y., 4th Jud. Dept. Certiorari denied. Reported below: 44 App. Div. 2d 911, 356 N. Y. S. 2d 237.

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No. 74-5323. *FLINT v. MULLEN, WARDEN*. C. A. 1st Cir. Certiorari denied. Reported below: 499 F. 2d 100.

No. 74-5353. *SANDER v. OHIO*. C. A. 6th Cir. Certiorari denied. Reported below: 500 F. 2d 1403.

No. 73-5354. *COLLIER v. COWAN, WARDEN*. C. A. 6th Cir. Certiorari denied. Reported below: 497 F. 2d 923.

No. 73-2025. *JUNIOR CHAMBER OF COMMERCE OF ROCHESTER, INC., ET AL. v. UNITED STATES JAYCEES ET AL.*; and

No. 73-2028. *JUNIOR CHAMBER OF COMMERCE OF PHILADELPHIA ET AL. v. UNITED STATES JAYCEES ET AL.* C. A. 10th Cir. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari. Reported below: 495 F. 2d 883.

No. 74-187. *FIRST AMERICAN BANK & TRUST CO. ET AL. v. ELLWEIN, STATE EXAMINER AND COMMISSIONER, DEPARTMENT OF BANKING AND FINANCIAL INSTITUTIONS, ET AL.* Sup. Ct. N. D. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari. Reported below: 221 N. W. 2d 509.

No. 74-5049. *DANIELS v. ALABAMA*. C. A. 5th Cir. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari.

No. 74-5056. *TRUDEAU v. MICHIGAN*. Ct. App. Mich. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari.

No. 74-5149. *NEW v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari.

No. 74-5167. *WILLIAMS v. ILLINOIS*. Sup. Ct. Ill. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari. Reported below: 57 Ill. 2d 239, 311 N. E. 2d 681.

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No. 74-5183. *SANNEY v. SMITH, CORRECTIONAL SUPERINTENDENT*. C. A. 2d Cir. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari. Reported below: 500 F. 2d 411.

No. 74-5277. *VALLE-ROJAS v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari.

No. 73-7003. *ARNOLD v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari on the wiretap issue.

No. 74-296. *WILLIAMS v. MATTHEWS CO. ET AL.* C. A. 8th Cir. Certiorari denied. MR. JUSTICE DOUGLAS, MR. JUSTICE BRENNAN, and MR. JUSTICE MARSHALL would grant certiorari. Reported below: 499 F. 2d 819.

No. 74-320. *DADE COUNTY ET AL. v. MARINE EXHIBITION CORP.* Dist. Ct. App. Fla., 3d Dist. Motion to defer consideration and certiorari denied. Reported below: 296 So. 2d 652.

No. 74-383. *RIVER FARMS, INC. v. FOUNTAIN ET AL.* Ct. App. Ariz. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari. MR. JUSTICE REHNQUIST took no part in the consideration or decision of this petition. Reported below: 21 Ariz. App. 504, 520 P. 2d 1181.

Rehearing Denied

No. 73-6425. *CHAMBERS v. DELANEY ET AL.*, *ante*, p. 876;

No. 73-6467. *GOODWIN v. IOWA*, *ante*, p. 846;

No. 73-6873. *BONNER ET AL. v. MARKS ET AL.*, *ante*, p. 863;

No. 73-6988. *SANTANA v. NEW YORK ET AL.*, *ante*, p. 866; and

No. 74-68. *CLARION CORP. v. AMERICAN HOME PRODUCTS CORP. ET AL.*, *ante*, p. 870. Petitions for rehearing denied.

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No. 74-5018. *RANDO v. ESTELLE*, CORRECTIONS DIRECTOR, *ante*, p. 820; and

No. 74-5139. *DILLINGHAM v. FLORIDA*, *ante*, p. 871. Petitions for rehearing denied.

No. 1863, Misc., October Term, 1968. *MIKE v. NEW YORK*, 395 U.S. 948; and

No. 73-1524. *HALLMARK INDUSTRY v. REYNOLDS METALS CO. ET AL.*, 417 U.S. 932. Motions for leave to file petitions for rehearing denied.

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Affirmed on Appeal

No. 73-1626. *WEAVER, DIRECTOR, DEPARTMENT OF PUBLIC AID OF ILLINOIS, ET AL. v. RANDLE ET AL.* Appeal from D. C. N. D. Ill. Motion of appellees for leave to proceed *in forma pauperis* granted. Judgment affirmed.

Appeal Dismissed

No. 74-5349. *SKUFCA v. PENNSYLVANIA*. Appeal from Sup. Ct. Pa. dismissed for want of substantial federal question. Reported below: 457 Pa. 124, 321 A. 2d 889.

Certiorari Granted—Vacated and Remanded

No. 73-1982. *UNITED THEATRES OF FLORIDA, INC., DBA UNITED MINI-ADULT THEATRE, ET AL. v. GERSTEIN*;

No. 73-2056. *UNITED THEATRES OF FLORIDA, INC., DBA UNITED MINI-ADULT THEATRE, ET AL. v. GERSTEIN*; and

No. 73-2057. *UNITED THEATRES OF FLORIDA, INC., DBA UNITED MINI-ADULT THEATRE, ET AL. v. GERSTEIN*. Dist. Ct. App. Fla., 3d Dist. Certiorari granted, judgments vacated, and cases remanded for further consideration in light of *Little Beaver Theatre, Inc. v. Tobin*, 258 So. 2d 30 (Fla. App. 1972). Reported below: No. 73-

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1982, 259 So. 2d 215; Nos. 73-2056 and 73-2057, 259 So. 2d 210.

No. 74-5189. YEAGER *v.* UNITED STATES. C. A. 10th Cir. Motion for leave to proceed *in forma pauperis* and certiorari granted. Upon representation of the Solicitor General set forth in his brief for the United States filed November 1, 1974, judgment vacated and case remanded to the United States District Court for the Northern District of Oklahoma directing that court to hold a hearing and make appropriate findings of fact.

Miscellaneous Orders

No. ————. GRAVES ET AL. *v.* LYNN, SECRETARY, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT, ET AL. C. A. 8th Cir. Motion to dispense with printing petition denied.

No. ————. DELLINGER ET AL. *v.* UNITED STATES. C. A. 7th Cir. Motion to dispense with printing portions of appendix to petition granted.

No. A-360 (74-439). LEWIS *v.* UNITED STATES. C. A. 9th Cir. Order entered by MR. JUSTICE DOUGLAS on November 2, 1974, releasing applicant from custody upon his own recognizance, continued pending final disposition of petition for writ of certiorari.

No. A-385. KAPLAN *v.* UNITED STATES POSTAL SERVICE ET AL. C. A. D. C. Cir. Application for stay presented to MR. JUSTICE DOUGLAS, and by him referred to the Court, denied.

No. A-392. REAMER *v.* BEALL, U. S. ATTORNEY, ET AL. Order entered by the Court on November 18, 1974 [*ante*, p. 1015], staying judgment of the United States District Court for the District of Maryland is continued conditioned upon the filing of a petition for writ of certiorari on or before December 24, 1974. Should such a peti-

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tion be so filed on or before December 24, 1974, this order is to continue pending this Court's action on the petition. If the petition for writ of certiorari is denied, this order is to terminate automatically. In the event the petition for writ of certiorari is granted, this order is to remain in effect pending the sending down of the judgment of this Court.

No. A-414. ROEMER ET AL. *v.* BOARD OF PUBLIC WORKS OF MARYLAND ET AL. D. C. Md. Application for an injunction pending appeal presented to THE CHIEF JUSTICE, and by him referred to the Court, denied. MR. JUSTICE DOUGLAS, MR. JUSTICE BRENNAN, and MR. JUSTICE MARSHALL would grant the injunction. THE CHIEF JUSTICE took no part in the consideration or decision of this application. Reported below: 387 F. Supp. 1282.

No. 73-1256. CONNELL CONSTRUCTION Co., INC. *v.* PLUMBERS & STEAMFITTERS LOCAL UNION No. 100, UNITED ASSOCIATION OF JOURNEYMEN & APPRENTICES OF THE PLUMBING & PIPEFITTING INDUSTRY OF THE UNITED STATES AND CANADA, AFL-CIO. C. A. 5th Cir. [Certiorari granted, 416 U. S. 981.] Motion of the Chamber of Commerce of the United States for leave to file a reply brief as *amicus curiae* denied.

No. 73-1543. JOHNSON *v.* RAILWAY EXPRESS AGENCY, INC., ET AL. C. A. 6th Cir. [Certiorari granted, 417 U. S. 929.] Motion of respondents for divided argument granted.

No. 73-6642. CROSBY ET AL. *v.* MIDDENDORF, SECRETARY OF THE NAVY. C. A. 9th Cir. Motion to consolidate this case with Nos. 74-175 and 74-5176 [*Middendorf v. Henry* and *Henry v. Middendorf*, certiorari granted, *ante*, p. 895] denied.

No. 73-7031. FOWLER *v.* NORTH CAROLINA. Sup. Ct. N. C. [Certiorari granted, *ante*, p. 963.] Motion of

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Richard A. Heim for leave to file a brief as *amicus curiae* granted.

No. A-325 (74-5567). *ALERS v. MUNICIPALITY OF SAN JUAN*. Appeal from C. A. 1st Cir. Application for stay presented to THE CHIEF JUSTICE, and by him referred to the Court, denied.

No. 74-5107. *WILLIAMS v. COMSTOCK, MEN'S COLONY SUPERINTENDENT*. Motion for leave to file petition for writ of habeas corpus denied.

No. 74-5043. *FONTAINE v. UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT*;

No. 74-5237. *MYERS v. CARRICO ET AL.*; and

No. 74-5239. *BEGUN v. JUDGES OF THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT*. Motions for leave to file petitions for writs of mandamus denied.

Certiorari Denied

No. 73-1894. *FLAXMAN v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 495 F. 2d 344.

No. 73-1947. *JOYCE v. UNITED STATES*; and

No. 73-1980. *WALLACE v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 499 F. 2d 9.

No. 73-1983. *WILCOX COUNTY BOARD OF EDUCATION ET AL. v. UNITED STATES ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 494 F. 2d 575.

No. 73-2007. *QUICK SHOP MARKETS, INC. v. NATIONAL LABOR RELATIONS BOARD ET AL.* C. A. 8th Cir. Certiorari denied. Reported below: 492 F. 2d 1248.

No. 73-2030. *HEDDEN v. FLORIDA*. Dist. Ct. App. Fla., 2d Dist. Certiorari denied. Reported below: 287 So. 2d 179.

No. 73-2063. *LUE v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 498 F. 2d 531.

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No. 73-2064. *DiBella v. United States*. C. A. 2d Cir. Certiorari denied. Reported below: 499 F. 2d 1175.

No. 73-7054 *Rawls v. Daughters of Charity of Saint Vincent DePaul, Inc., et al.* C. A. 5th Cir. Certiorari denied. Reported below: 491 F. 2d 141.

No. 74-4. *Washington v. United States*. C. A. 9th Cir. Certiorari denied. Reported below: 496 F. 2d 620.

No. 74-7. *McRae v. United States*. Ct. App. D. C. Certiorari denied.

No. 74-23. *Pomares et al. v. United States*. C. A. 2d Cir. Certiorari denied. Reported below: 499 F. 2d 1220.

No. 74-115. *Powell v. Rogers, Deputy Commissioner, Bureau of Employees' Compensation, U. S. Department of Labor, et al.* C. A. 9th Cir. Certiorari denied. Reported below: 496 F. 2d 1248.

No. 74-152. *Rice v. United States*. C. C. P. A. Certiorari denied. Reported below: 496 F. 2d 880.

No. 74-203. *Rosenblatt v. United States*. Ct. Cl. Certiorari denied. Reported below: 204 Ct. Cl. 910, 497 F. 2d 928.

No. 74-252. *Bieski et al. v. Eastern Automobile Forwarding Co., Inc., et al.* C. A. 3d Cir. Certiorari denied. Reported below: 497 F. 2d 921.

No. 74-275. *Jones et ux. v. Jones et ux.* Sup. Ct. Kan. Certiorari denied. Reported below: 215 Kan. 102, 523 P. 2d 743.

No. 74-278. *McCain et al. v. Lybrand et al.* C. A. 4th Cir. Certiorari denied. Reported below: 509 F. 2d 1049.

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No. 74-299. *PREMIER INDUSTRIAL CORP. v. MARLOW ET AL.* Sup. Ct. Ala. Certiorari denied. Reported below: 292 Ala. 407, 295 So. 2d 396.

No. 74-347. *BIERMAN, ADMINISTRATRIX v. PROGRESSIVE FINANCE Co.* Ct. App. Ohio, Hamilton County. Certiorari denied.

No. 74-351. *SAVANNAH SUGAR REFINING CORP. v. BAXTER.* C. A. 5th Cir. Certiorari denied. Reported below: 495 F. 2d 437.

No. 74-357. *SANDERS BRINE SHRIMP Co. v. SOUTHERN PACIFIC TRANSPORTATION Co.* C. A. 10th Cir. Certiorari denied. Reported below: 501 F. 2d 1156.

No. 74-358. *JNO. MCCALL COAL Co., INC., ET AL. v. CULBERTSON, EXECUTRIX.* C. A. 4th Cir. Certiorari denied. Reported below: 495 F. 2d 1403.

No. 74-361. *SCOTT v. TENNESSEE.* Ct. Crim. App. Tenn. Certiorari denied.

No. 74-366. *FISHER ET AL. v. COPELAND REFRIGERATION CORP. ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 497 F. 2d 923.

No. 74-369. *WEIDINGER CHEVROLET, INC. v. UNIVERSAL C. I. T. CREDIT CORP.* C. A. 8th Cir. Certiorari denied. Reported below: 501 F. 2d 459.

No. 74-371. *CORDLE v. ALABAMA.* Ct. Crim. App. Ala. Certiorari denied. Reported below: 53 Ala. App. 148, 298 So. 2d 77.

No. 74-376. *SUSQUEHANNA VALLEY TEACHERS' ASSN. ET AL. v. CENTRAL SCHOOL DISTRICT No. 1 OF TOWN OF CONKLIN ET AL.* App. Div., Sup. Ct. N. Y., 3d Jud.

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Dept. Certiorari denied. Reported below: 43 App. Div. 2d 198, 350 N. Y. S. 2d 805.

No. 74-379. *OHIO v. ARTHUR ANDERSEN & Co. ET AL.* C. A. 10th Cir. Certiorari denied. Reported below: 502 F. 2d 834.

No. 74-393. *BRANTLEY ET AL. v. UNION BANK & TRUST Co. ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 498 F. 2d 365.

No. 74-397. *FORGY v. TENNESSEE.* Ct. Crim. App. Tenn. Certiorari denied.

No. 74-398. *PLAN FOR ARCADIA, INC. v. ANITA ASSOCIATES ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 501 F. 2d 390.

No. 74-400. *BALLAS v. McKIERNAN ET AL.* Ct. App. N. Y. Certiorari denied. Reported below: 35 N. Y. 2d 14, 315 N. E. 2d 758.

No. 74-401. *VULCAN FORGING Co. v. DAHLBERG, SIMON, JAYNE, WOOLFENDEN & GAWNE.* Ct. App. Mich. Certiorari denied.

No. 73-462. *CAPPADONA v. NEW JERSEY.* Super. Ct. N. J. Certiorari denied. Reported below: 127 N. J. Super. 555, 318 A. 2d 425.

No. 74-5004. *CRAWLEY v. UNITED STATES*; and

No. 74-5038. *JONES v. UNITED STATES.* C. A. 4th Cir. Certiorari denied. Reported below: 498 F. 2d 1398.

No. 74-5006. *PROFFITT v. BECKER, CHIEF JUDGE, U. S. DISTRICT COURT, ET AL.* C. A. 8th Cir. Certiorari denied.

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No. 74-5022. RUARK, AKA THATCHER *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 497 F. 2d 925.

No. 74-5025. MITCHELL *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 497 F. 2d 925.

No. 74-5089. KENNEDY *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 496 F. 2d 1185.

No. 74-5097. BENSON ET AL. *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 495 F. 2d 475.

No. 74-5101. BLACKSHEAR *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied. Reported below: 500 F. 2d 1400.

No. 74-5102. SOBOLESKI *v.* UNITED STATES. C. A. 1st Cir. Certiorari denied.

No. 74-5127. CURRY *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 497 F. 2d 99.

No. 74-5133. KREUTZ *v.* MISSISSIPPI. Sup. Ct. Miss. Certiorari denied. Reported below: 293 So. 2d 451.

No. 74-5135. ALLEN *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 497 F. 2d 160.

No. 74-5161. GASKINS *v.* TITEFLEX EMPLOYEES COLLECTIVE BARGAINING ASSN. C. A. 1st Cir. Certiorari denied. Reported below: 502 F. 2d 1160.

No. 74-5162. FLAMMIA *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied. Reported below: 497 F. 2d 921.

No. 74-5180. ELLIS *v.* OKLAHOMA. Ct. Crim. App. Okla. Certiorari denied.

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No. 74-5200. *HOLSEY v. MARYLAND*. Ct. Sp. App. Md. Certiorari denied.

No. 74-5206. *FOSTER ET AL. v. MARYLAND*. Ct. App. Md. Certiorari denied. Reported below: 272 Md. 273, 323 A. 2d 419.

No. 74-5212. *YOUNG v. TEXAS DEPARTMENT OF CORRECTIONS*. Ct. Crim. App. Tex. Certiorari denied.

No. 74-5217. *IN RE KUNKLE*. Sup. Ct. S. D. Certiorari denied. Reported below: — S. D. —, 218 N. W. 2d 521.

No. 74-5219. *BARCENAS v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 498 F. 2d 1110.

No. 74-5221. *WHISNANT v. DAVIS*. C. A. 6th Cir. Certiorari denied. Reported below: 500 F. 2d 1403.

No. 74-5224. *WELLS v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 500 F. 2d 1401.

No. 74-5228. *VANDYGRIFT v. PATTON, JUDGE*. Sup. Ct. Fla. Certiorari denied.

No. 74-5234. *O'BRIEN v. CALIFORNIA*. Ct. App. Cal., 2d App. Dist. Certiorari denied.

No. 74-5242. *LONQUEST v. MEACHAM, WARDEN*. C. A. 10th Cir. Certiorari denied.

No. 74-5244. *FEASTER v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 494 F. 2d 871.

No. 74-5254. *WHITLOW v. WAINWRIGHT, CORRECTIONS DIRECTOR*. C. A. 5th Cir. Certiorari denied. Reported below: 495 F. 2d 1371.

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No. 74-5255. *LOMBARDI v. FOLLETTE, CORRECTIONAL SUPERINTENDENT*. C. A. 2d Cir. Certiorari denied.

No. 74-5256. *BENEVIDES v. CRAVEN, WARDEN*. C. A. 9th Cir. Certiorari denied.

No. 74-5260. *JONES v. MCCARTHY, WARDEN*. C. A. 9th Cir. Certiorari denied.

No. 74-5264. *ERWIN v. LEEKE, CORRECTIONS DIRECTOR, ET AL.* C. A. 4th Cir. Certiorari denied.

No. 74-5269. *QADIR v. COUNTY OF SANTA CLARA ET AL.* C. A. 9th Cir. Certiorari denied.

No. 74-5270. *PERKINS v. OKLAHOMA*. C. A. 10th Cir. Certiorari denied.

No. 74-5271. *GRAHAM v. HALES ET AL.* C. A. 4th Cir. Certiorari denied.

No. 74-5278. *PITTMAN v. LEWIS, PRISON SUPERINTENDENT*. C. A. 4th Cir. Certiorari denied.

No. 74-5286. *LOMBARDI v. CASSCLES, CORRECTIONAL SUPERINTENDENT*. C. A. 2d Cir. Certiorari denied.

No. 74-5288. *MYERS, DBA ROMYCO STEREO v. AMPEX, INC., ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 498 F. 2d 1092.

No. 74-5293. *SMITH v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 500 F. 2d 1403.

No. 74-5296. *CLARK v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 502 F. 2d 1163.

No. 74-5305. *WALKER v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 497 F. 2d 1050.

No. 74-5332. *RADEMAKER v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 500 F. 2d 1404.

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No. 74-5364. *VERVILLE, ADMINISTRATOR v. BOTSFORD GENERAL HOSPITAL ET AL.* Sup. Ct. Mich. Certiorari denied.

No. 74-5382. *SKIDMORE v. NATIONAL RAILROAD ADJUSTMENT BOARD, THIRD DIVISION, ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 498 F. 2d 1396.

No. 73-7090. *WEIR v. UNITED STATES.* C. A. 9th Cir. Certiorari denied. MR. JUSTICE DOUGLAS, MR. JUSTICE BRENNAN, and MR. JUSTICE STEWART would grant certiorari. Reported below: 495 F. 2d 879.

No. 74-45. *PESIKOFF ET AL. v. SECRETARY OF LABOR.* C. A. D. C. Cir. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari. Reported below: 163 U. S. App. D. C. 197, 501 F. 2d 757.

No. 74-62. *GENOVESE v. UNITED STATES.* C. A. 3d Cir. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari. Reported below: 497 F. 2d 921.

No. 74-131. *NOCAR ET AL. v. UNITED STATES.* C. A. 7th Cir. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari. Reported below: 497 F. 2d 719.

No. 74-5229. *TAYLOR, AKA MILLER v. BRATTON, U. S. DISTRICT JUDGE.* C. A. 10th Cir. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari.

No. 74-5276. *MEDINA v. UNITED STATES.* C. A. 9th Cir. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari.

No. 74-5316. *MURRAY v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari. Reported below: 497 F. 2d 160.

No. 74-5322. *LOVELY v. LALIBERTE ET AL.* C. A. 1st Cir. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari. Reported below: 498 F. 2d 1261.

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No. 74-5340. *GIBBS ET AL. v. GARVER, DIRECTOR, BUREAU OF MOTOR VEHICLES, ET AL.* C. A. 3d Cir. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari. Reported below: 502 F. 2d 1107.

No. 74-51. *IZZI v. UNITED STATES.* C. A. 7th Cir. Certiorari denied. Reported below: 498 F. 2d 1403.

MR. JUSTICE DOUGLAS, dissenting.

Petitioner was convicted by a municipal court of illegal possession of a firearm. Subsequently the Federal Government became interested in the matter, and petitioner was convicted of receiving or possessing a firearm in commerce or affecting commerce. Petitioner is a previously convicted felon, which is an element of the federal offense.

I would grant certiorari in this case limited to the double jeopardy issue which is raised by petitioner's two prosecutions for the same offense. The Solicitor General argues that, because of the interstate-commerce and previously-convicted-felon elements of the federal offense, the two prosecutions did not involve the "same evidence." I am unpersuaded by this approach to the problem, since I believe that a "same transaction" standard is appropriate. See *Ashe v. Swenson*, 397 U. S. 436, 448-460 (1970) (BRENNAN, J., concurring). The Solicitor General also argues that the two prosecutions were permissible because they were carried out by separate sovereigns, but I do not agree with this reasoning either. See *Bartkus v. Illinois*, 359 U. S. 121, 150-170 (1959) (Black and BRENNAN, JJ., dissenting); *Abbate v. United States*, 359 U. S. 187, 196-204 (1959) (Black and BRENNAN, JJ., dissenting).

The Court of Appeals reached the merits of the double jeopardy claim here, but it did so only after noting that the claim appeared not to have been raised below. I do not believe that petitioner's failure to plead double jeopardy at trial, if indeed there was such a failure, should block consideration of that issue. Cf. *LaRuffa v. New*

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York, ante, p. 959; *Blackledge v. Perry*, 417 U. S. 21 (1974); *Robinson v. Neil*, 409 U.S. 505 (1973).

Because I believe that petitioner has an arguably meritorious claim on the double jeopardy issue I think we should grant certiorari on that question and set this case for argument.

No. 74-116. *PLACE v. WEINBERGER, SECRETARY OF HEALTH, EDUCATION, AND WELFARE, ET AL.* C. A. 6th Cir. Certiorari denied. MR. JUSTICE DOUGLAS, MR. JUSTICE STEWART, and MR. JUSTICE WHITE would grant certiorari. Reported below: 497 F. 2d 412.

No. 74-117. *INTERNATIONAL LONGSHOREMEN'S ASSOCIATION, LOCAL NO. 1581, AFL-CIO v. NATIONAL LABOR RELATIONS BOARD.* C. A. 5th Cir. Certiorari denied. MR. JUSTICE WHITE and MR. JUSTICE BLACKMUN would grant certiorari. Reported below: 489 F. 2d 635.

No. 74-176. *JOHNSON ET AL. v. COMMISSIONER OF INTERNAL REVENUE.* C. A. 6th Cir. Certiorari denied. MR. JUSTICE POWELL would grant certiorari. Reported below: 495 F. 2d 1079.

No. 74-251. *LEVINSON ET AL. v. UNITED STATES.* C. A. 3d Cir. Certiorari denied. MR. JUSTICE DOUGLAS, MR. JUSTICE BLACKMUN, and MR. JUSTICE POWELL would grant certiorari. Reported below: 496 F. 2d 651.

No. 74-298. *PROCESS EQUIPMENT ENGINEERING CO., INC. v. TENNESSEE EASTMAN CO., A DIVISION OF EASTMAN KODAK CO.* C. A. 6th Cir. Certiorari denied. MR. JUSTICE POWELL took no part in the consideration or decision of this petition. Reported below: 498 F. 2d 921.

No. 74-390. *LAVINE, COMMISSIONER, DEPARTMENT OF SOCIAL SERVICES v. BOINES BY GAINES.* App. Div., Sup. Ct. N. Y., 4th Jud. Dept. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari

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denied. Reported below: 44 App. Div. 2d 765, 354 N. Y. S. 2d 252.

No. 74-391. COWAN, PENITENTIARY SUPERINTENDENT *v.* CAUDILL. C. A. 6th Cir. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 500 F. 2d 1402.

Rehearing Denied

No. 73-1553. GREEN ET AL. *v.* UNITED STATES, *ante*, p. 827;

No. 73-1753. IN RE ESTATE OF CASSIDY ET AL., *ante*, p. 882;

No. 73-1889. WHITLOCK, EXECUTRIX *v.* COMMISSIONER OF INTERNAL REVENUE, *ante*, p. 839;

No. 73-1972. CANNON, WARDEN, ET AL. *v.* THOMAS ET AL., *ante*, p. 813;

No. 73-6443. GREENE ET AL. *v.* UNITED STATES, *ante*, p. 977;

No. 73-6616. ANGEL *v.* COINER, WARDEN, *ante*, p. 850;

No. 73-6701. CAMPBELL *v.* CALIFORNIA ET AL., *ante*, p. 853;

No. 73-6768. KOPAS ET AL. *v.* UNITED STATES ET AL., *ante*, p. 857; and

No. 73-6775. KOPAS ET AL. *v.* UNITED STATES TAX COURT ET AL., *ante*, p. 857. Petitions for rehearing denied.

No. 73-1179. ENVIRONMENTAL DEFENSE FUND, INC., ET AL. *v.* STAMM, COMMISSIONER, BUREAU OF RECLAMATION, ET AL., 416 U. S. 974. Motion for leave to file petition for rehearing denied.

No. 73-6827. KREAGER *v.* GENERAL ELECTRIC CO. ET AL., *ante*, p. 861. Petition for rehearing denied. MR. JUSTICE POWELL took no part in the consideration or decision of this petition.

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Affirmed on Appeal

No. 74-256. AMERICAN INSTITUTE FOR SHIPPERS' ASSNS., INC., ET AL. *v.* UNITED STATES ET AL. Affirmed on appeal from D. C. R. I. MR. JUSTICE DOUGLAS and MR. JUSTICE STEWART would note probable jurisdiction and set case for oral argument.

No. 74-285. GEORGE TRANSFER & RIGGING CO., INC. *v.* UNITED STATES ET AL. Affirmed on appeal from D. C. Md. Reported below: 380 F. Supp. 179.

No. 74-360. LONG ISLAND RAIL ROAD CO. *v.* UNITED STATES ET AL. Affirmed on appeal from D. C. E. D. N. Y.

No. 74-471. CASSIDY ET AL. *v.* WILLIS, ELECTION COMMISSIONER OF DELAWARE, ET AL. Affirmed on appeal from Sup. Ct. Del. Reported below: — Del. —, 323 A. 2d 598.

No. 74-426. JOINER ET AL. *v.* CITY OF DALLAS ET AL. Affirmed on appeal from D. C. N. D. Tex. MR. JUSTICE WHITE and MR. JUSTICE POWELL would note probable jurisdiction and set case for oral argument. Reported below: 380 F. Supp. 754.

Appeals Dismissed

No. 74-307. B & L MOTOR FREIGHT, INC., ET AL. *v.* HEYMANN, DIRECTOR, DIVISION OF MOTOR VEHICLES, ET AL. Appeal from Sup. Ct. N. J. dismissed for want of substantial federal question. MR. JUSTICE DOUGLAS, MR. JUSTICE WHITE, and MR. JUSTICE POWELL would note probable jurisdiction and set case for oral argument.

No. 74-326. MASON, SECRETARY, DEPARTMENT OF EMPLOYMENT AND SOCIAL SERVICES, ET AL. *v.* FRANCIS ET AL. Appeal from D. C. Md. Motion of appellee Francis for

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leave to proceed *in forma pauperis* granted. Appeal dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari before judgment, certiorari denied.

No. 74-336. SMITH, DBA HOLIDAY HEALTH CLUB, ET AL. *v.* KEATOR, ET AL. Appeal from Sup. Ct. N. C. dismissed for want of substantial federal question. Reported below: 285 N. C. 530, 206 S. E. 2d 203.

No. 74-344. MCCOLLOUGH *v.* ILLINOIS. Appeal from Sup. Ct. Ill. dismissed for want of substantial federal question. Reported below: 57 Ill. 2d 440, 313 N. E. 2d 462.

No. 74-5029. IVORY *v.* FLORIDA. Appeal from Dist. Ct. App. Fla., 1st Dist., dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied. Reported below: 285 So. 2d 633.

Miscellaneous Orders

No. ———. MARK TRAIL CAMP GROUNDS, INC. *v.* FIELD ENTERPRISES, INC., DBA PUBLISHERS-HALL SYNDICATE. C. A. 5th Cir. Motion of petitioner for leave to proceed *in forma pauperis* denied.

No. 71-6356. DOE ET AL. *v.* McMILLAN ET AL., 412 U. S. 306. Motion of petitioners for clarification of opinion of this Court denied.

No. 73-662. SCHLESINGER, SECRETARY OF DEFENSE, ET AL. *v.* COUNCILMAN. C. A. 10th Cir. [Certiorari granted, 414 U. S. 1111.] Motion of respondent for divided argument granted.

No. 73-717. ANTOINE ET UX. *v.* WASHINGTON. Appeal from Sup. Ct. Wash. [Probable jurisdiction noted, 417 U. S. 966.] Motion of appellee to strike brief of the United States as *amicus curiae* denied.

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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. [Probable jurisdiction noted, 417 U. S. 943.] Motion of Isadore Greenberg, Esquire, to permit Douglas A. Eldridge, Esquire, to present oral argument *pro hac vice* on behalf of appellee Stuck granted. Motion of the State of Iowa for leave to participate in oral argument as *amicus curiae* denied.

No. 73-1462. WHITE, SECRETARY OF STATE OF TEXAS, ET AL. *v.* REGESTER ET AL. Appeal from D. C. W. D. Tex. [Probable jurisdiction noted, 417 U. S. 906.] Motion of appellees for divided argument granted.

No. 73-1500. ERICKSON, WARDEN *v.* UNITED STATES EX REL. FEATHER ET AL. C. A. 8th Cir. [Certiorari granted, 417 U. S. 929.] Motion of respondents for divided argument granted.

No. 73-1631. OSTRER *v.* UNITED STATES, *ante*, p. 829. Motion to modify denial of certiorari denied.

No. 73-2000. UNITED STATES *v.* PELTIER. C. A. 9th Cir. [Certiorari granted, *ante*, p. 993.] Motion for appointment of counsel granted. It is ordered that Sandor W. Shapery, Esquire, of LaJolla, Cal., be, and he is hereby, appointed to serve as counsel for respondent in this case.

No. 73-6923. RICE ET AL. *v.* UNITED STATES. C. A. 9th Cir. Motion of Gloria Mae Gilmore et al. to join in petition granted.

No. 74-520. MONTANYE, CORRECTIONAL SUPERINTENDENT, ET AL. *v.* HAYMES. C. A. 2d Cir. Motion to expedite denied.

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No. 74-5140. *CASSIUS v. ARIZONA*. Sup. Ct. Ariz. [Certiorari granted, *ante*, p. 824.] Motion of petitioner to permit Frederick S. Klein, Esquire, to present oral argument *pro hac vice* granted.

No. 74-5373. *ANDERSON v. REED, PENITENTIARY SUPERINTENDENT*; and

No. 74-5437. *LEWIS v. ENGLISH, FACILITY SUPERINTENDENT*. Motions for leave to file petitions for writs of habeas corpus denied.

No. 74-464. *CUPP v. UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF PENNSYLVANIA ET AL.* Motion for leave to file petition for writ of mandamus denied.

No. 74-5368. *KENNEDY ET AL. v. WYOMING ET AL.* Motion for leave to file petition for writ of mandamus and other relief denied.

Probable Jurisdiction Noted

No. 74-453. *VAN LARE, ACTING COMMISSIONER, DEPARTMENT OF SOCIAL SERVICES OF NEW YORK, ET AL. v. HURLEY ET AL.* Appeal from D. C. S. D. N. Y. and D. C. E. D. N. Y. Application for stay presented to Mr. JUSTICE MARSHALL, and by him referred to the Court, denied. Motion of appellees for leave to proceed *in forma pauperis* granted. Probable jurisdiction noted and case set for oral argument with No. 74-5054 [*Taylor v. Lavine*, certiorari granted, *infra*]. Reported below: 380 F. Supp. 167.

Certiorari Granted

No. 73-1888. *UNITED STATES v. ALASKA*. C. A. 9th Cir. Certiorari granted. Reported below: 497 F. 2d 1155.

No. 74-364. *UNITED STATES v. HALE*. C. A. D. C. Cir. Motion of respondent for leave to proceed *in forma*

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pauperis and certiorari granted. Reported below: 162 U. S. App. D. C. 305, 498 F. 2d 1038.

No. 74-5054. TAYLOR ET AL. *v.* LAVINE, COMMISSIONER, DEPARTMENT OF SOCIAL SERVICES OF NEW YORK, ET AL. C. A. 2d Cir. Motion for leave to proceed *in forma pauperis* and certiorari granted. Case set for oral argument with No. 74-453 [*Van Lare v. Hurley*, probable jurisdiction noted, *supra*]. Reported below: 497 F. 2d 1208.

Certiorari Denied. (See also Nos. 74-326 and 74-5029, *supra*.)

No. 73-6830. JUAREZ *v.* ESTELLE, CORRECTIONS DIRECTOR. C. A. 5th Cir. Certiorari denied.

No. 73-6890. ELLINGBURG *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied.

No. 73-6938. GREEN *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied.

No. 73-6991. WILLIAMS *v.* CALIFORNIA. Sup. Ct. Cal. Certiorari denied.

No. 73-6999. PITTMAN *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied.

No. 73-7055. BROWN *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied.

No. 73-7080. BONE *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 496 F. 2d 876.

No. 73-7081. POWELL *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied. Reported below: 497 F. 2d 922.

No. 73-7102. SWANSON *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied. Reported below: 495 F. 2d 1376.

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No. 74-19. *BREWER v. UNITED STATES*; and

No. 73-6931. *MACKAY v. UNITED STATES*. C. A. 10th Cir. Certiorari denied. Reported below: 491 F. 2d 616.

No. 74-65. *CLINGON v. MISSISSIPPI*. Sup. Ct. Miss. Certiorari denied. Reported below: 293 So. 2d 823.

No. 74-93. *BROWN ET AL. v. UNITED STATES*; and

No. 74-138. *PRADER ET AL. v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 499 F. 2d 829.

No. 74-98. *DONNER v. UNITED STATES*;

No. 74-5106. *McNAMARA v. UNITED STATES*;

No. 74-5119. *MACK v. UNITED STATES*;

No. 74-5120. *McNAMARA v. UNITED STATES*;

No. 74-5121. *WILLIAMS v. UNITED STATES*; and

No. 74-5138. *KENNEDY v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 497 F. 2d 184.

No. 74-109. *RACHAL ET AL. v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 498 F. 2d 910.

No. 74-110. *PFOTZER ET AL., DBA E. & E. J. PFOTZER v. WARHOLIC ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 497 F. 2d 919.

No. 74-111. *PFOTZER ET AL. v. CITY OF NORWALK ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 497 F. 2d 919.

No. 74-133. *CALDERON v. BOARD OF EDUCATION OF THE EL MONTE SCHOOL DISTRICT OF LOS ANGELES COUNTY*. Ct. App. Cal., 2d App. Dist. Certiorari denied.

No. 74-144. *COX v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 497 F. 2d 348.

No. 74-146. *CATENA v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 500 F. 2d 1319.

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No. 74-170. *ANDRINO v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 497 F. 2d 1103.

No. 74-180. *SIEGEL ET AL. v. UNITED STATES*. C. A. 9th Cir. Certiorari denied.

No. 74-184. *ROSS v. UNITED STATES ET AL.* Ct. Cl. Certiorari denied.

No. 74-189. *IM ET AL., MINORS, BY IM v. SAXBE, ATTORNEY GENERAL, ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 500 F. 2d 1399.

No. 74-210. *SHEPARD v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 500 F. 2d 1403.

No. 74-228. *TAYLOR v. UNITED STATES*; and

No. 74-5285. *HEARN v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 496 F. 2d 236.

No. 74-233. *DEPARTMENT OF TRANSPORTATION OF MARYLAND ET AL. v. CIVIL AERONAUTICS BOARD ET AL.*; and

No. 74-234. *VIRGINIA v. CIVIL AERONAUTICS BOARD ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 498 F. 2d 129.

No. 74-243. *PACENTE v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 490 F. 2d 661.

No. 74-247. *SIMMONS v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 497 F. 2d 177.

No. 74-266. *TUCKER v. WIGGINS ET AL.* C. A. 2d Cir. Certiorari denied.

No. 74-271. *FRESTA v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 500 F. 2d 1399.

No. 74-273. *AFFILIATED FUND, INC., ET AL. v. PAPILSKY ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 503 F. 2d 554.

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No. 74-317. CAMERON ET AL. *v.* NEW YORK. App. Div., Sup. Ct. N. Y., 2d Jud. Dept. Certiorari denied. Reported below: 44 App. Div. 2d 355, 355 N. Y. S. 2d 19.

No. 74-327. HART *v.* UNITED STATES. Ct. Cl. Certiorari denied. Reported below: 204 Ct. Cl. 925, 498 F. 2d 1405.

No. 74-328. PATCH *v.* UNITED STATES. Ct. Cl. Certiorari denied. Reported below: 204 Ct. Cl. 924, 498 F. 2d 1405.

No. 74-346. FEDERAL PRESCRIPTION SERVICE, INC., ET AL. *v.* NATIONAL LABOR RELATIONS BOARD ET AL. C. A. 8th Cir. Certiorari denied. Reported below: 496 F. 2d 813.

No. 74-355. McCORMICK, EXECUTOR, ET AL. *v.* FINNERMAN ET AL. C. A. 10th Cir. Certiorari denied. Reported below: 499 F. 2d 212.

No. 74-385. YORK INTERNATIONAL BUILDING, INC., ET AL. *v.* CHANEY, TRUSTEE. C. A. 9th Cir. Certiorari denied.

No. 74-417. HEIRS OF BURAT (BURAS) *v.* BOARD OF LEVEE COMMISSIONERS OF THE ORLEANS LEVEE DISTRICT OF LOUISIANA ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 496 F. 2d 1336.

No. 74-419. AUTOMOTIVE CHAUFFEURS, PARTS & GARAGE EMPLOYEES, LOCAL UNION 926, ET AL. *v.* NAPA PITTSBURGH, INC. C. A. 3d Cir. Certiorari denied. Reported below: 502 F. 2d 321.

No. 74-422. DUNBAR *v.* FLORIDA. Dist. Ct. App. Fla., 4th Dist. Certiorari denied. Reported below: 290 So. 2d 582.

No. 74-435. WARD *v.* PHILADELPHIA ELECTRIC CO. Super. Ct. Pa. Certiorari denied.

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No. 74-424. *BOWMAN TRANSPORTATION, INC. v. FRANKS ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 495 F. 2d 398.

No. 74-425. *INTERNATIONAL UNION OF OPERATING ENGINEERS, LOCAL No. 18, AFL-CIO v. DAYTON POWER & LIGHT Co.* C. A. 6th Cir. Certiorari denied. Reported below: 500 F. 2d 766.

No. 74-430. *MODERN AIR TRANSPORT, INC. v. INTERNATIONAL ASSOCIATION OF MACHINISTS & AEROSPACE WORKERS, DISTRICT No. 145.* C. A. 5th Cir. Certiorari denied. Reported below: 495 F. 2d 1241.

No. 74-433. *CHRISTMAN v. HANRAHAN ET AL.* C. A. 7th Cir. Certiorari denied. Reported below: 500 F. 2d 65.

No. 74-448. *MARTH, TRUSTEE IN BANKRUPTCY v. DANNERBECK ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 502 F. 2d 686.

No. 74-451. *UNITED STATES v. GRIFFIN ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 502 F. 2d 959.

No. 74-455. *RESPONSE OF CAROLINA, INC., ET AL. v. LEASCO RESPONSE, INC., ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 498 F. 2d 314.

No. 74-457. *CRANE v. INDUSTRIAL COMMISSION OF ILLINOIS ET AL.* Sup. Ct. Ill. Certiorari denied. Reported below: 57 Ill. 2d 158, 311 N. E. 2d 156.

No. 74-480. *DEERING v. CITY OF SEATTLE ET AL.* Ct. App. Wash. Certiorari denied. Reported below: 10 Wash. App. 832, 520 P. 2d 638.

No. 74-482. *CISSNA v. MCQUAID, TRUSTEE IN BANKRUPTCY.* C. A. 9th Cir. Certiorari denied.

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No. 74-486. *NEW JERSEY v. SHEFFIELD ET AL.* Super. Ct. N. J. Certiorari denied.

No. 74-5003. *WILBANKS ET AL. v. UNITED STATES.* C. A. D. C. Cir. Certiorari denied. Reported below: 162 U. S. App. D. C. 99, 497 F. 2d 686.

No. 74-5014. *MARTINEZ, AKA GONZALES, ET AL. v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. Reported below: 496 F. 2d 664.

No. 74-5067. *PERRY v. UNITED STATES.* C. A. 7th Cir. Certiorari denied. Reported below: 498 F. 2d 1403.

No. 74-5113. *WIEMER v. UNITED STATES.* C. A. 4th Cir. Certiorari denied. Reported below: 498 F. 2d 1399.

No. 74-5117. *FELTS v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. Reported below: 497 F. 2d 80.

No. 74-5177. *BRAWER ET AL. v. UNITED STATES;* and

No. 74-5300. *KRESHIK v. UNITED STATES.* C. A. 2d Cir. Certiorari denied. Reported below: 496 F. 2d 703.

No. 74-5191. *QUALLS v. UNITED STATES.* C. A. 8th Cir. Certiorari denied. Reported below: 500 F. 2d 1238.

No. 74-5197. *BRYANT v. UNITED STATES.* C. A. 1st Cir. Certiorari denied.

No. 72-5211. *ROCKWELL v. UNITED STATES.* C. A. 7th Cir. Certiorari denied. Reported below: 498 F. 2d 1403.

No. 74-5213. *SKELLEY v. UNITED STATES.* C. A. 7th Cir. Certiorari denied. Reported below: 501 F. 2d 447.

No. 74-5223. *PENNICK v. UNITED STATES.* C. A. 10th Cir. Certiorari denied. Reported below: 500 F. 2d 184.

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No. 74-5231. *HAWKINS v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 492 F. 2d 771.

No. 74-5238. *MACKIN, AKA NELSON, ET AL. v. UNITED STATES*. C. A. D. C. Cir. Certiorari denied. Reported below: 163 U. S. App. D. C. 427, 502 F. 2d 429.

No. 74-5243. *JORDAN ET AL. v. UNITED STATES*. C. A. 8th Cir. Certiorari denied.

No. 74-5249. *ELLIS v. UNITED STATES*. C. A. 9th Cir. Certiorari denied.

No. 74-5253. *POSTON v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 494 F. 2d 1296.

No. 74-5258. *WAGONER v. UNITED STATES*. Ct. App. D. C. Certiorari denied. Reported below: 313 A. 2d 719 and 321 A. 2d 211.

No. 74-5261. *COLLINS v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 498 F. 2d 1401.

No. 74-5265. *DOUGLAS v. UNITED STATES*. C. A. 9th Cir. Certiorari denied.

No. 74-5273. *HILL ET AL. v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 495 F. 2d 1245.

No. 74-5275. *VASQUEZ-CASILLAZ v. UNITED STATES*. C. A. 9th Cir. Certiorari denied.

No. 74-5282. *SANGUANDIKUL v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 500 F. 2d 1398.

No. 74-5284. *DAVIS v. UNITED STATES*. C. A. 10th Cir. Certiorari denied.

No. 74-5290. *BRIERLY v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 501 F. 2d 1024.

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No. 74-5291. LACOUTURE *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 495 F. 2d 1237.

No. 74-5292. WEAVER *v.* CANNON, WARDEN. C. A. 7th Cir. Certiorari denied.

No. 74-5298. JONES *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 500 F. 2d 1085.

No. 74-5299. MAGID *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 502 F. 2d 1164.

No. 74-5303. RESNICK *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 498 F. 2d 1401.

No. 74-5308. MILLER *v.* NELSON, WARDEN. C. A. 9th Cir. Certiorari denied.

No. 74-5311. SANTANA *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. Reported below: 503 F. 2d 710.

No. 74-5312. KING *v.* MOORE. C. A. 7th Cir. Certiorari denied.

No. 74-5317. RUIZ *v.* CALIFORNIA. Ct. App. Cal., 1st App. Dist. Certiorari denied.

No. 74-5319. LONG *v.* PORELLE, CORRECTIONAL SUPERINTENDENT. C. A. 1st Cir. Certiorari denied.

No. 74-5324. ROGERS *v.* WASHINGTON. Sup. Ct. Wash. Certiorari denied. Reported below: 83 Wash. 2d 553, 520 P. 2d 159.

No. 74-5326. LEE *v.* HOPPER, WARDEN. C. A. 5th Cir. Certiorari denied. Reported below: 499 F. 2d 456.

No. 74-5335. MCCOY *v.* LAVALLEE, CORRECTIONAL SUPERINTENDENT. C. A. 2d Cir. Certiorari denied. Reported below: 498 F. 2d 1396.

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No. 74-5336. *ESSER v. TRIPODI ET AL.* C. A. 3d Cir. Certiorari denied.

No. 74-5338. *McCANTS v. ALABAMA.* C. A. 5th Cir. Certiorari denied.

No. 74-5339. *HARTMANN v. NEW YORK ET AL.* C. A. 10th Cir. Certiorari denied.

No. 74-5342. *CASTAPHNEY v. UNITED STATES;*

No. 74-5344. *BROWN v. UNITED STATES;* and

No. 74-5345. *GOSHAY v. UNITED STATES.* C. A. 3d Cir. Certiorari denied. Reported below: 500 F. 2d 1399 and 1400.

No. 74-5346. *KESSLER v. ILLINOIS.* Sup. Ct. Ill. Certiorari denied. Reported below: 57 Ill. 2d 493, 315 N. E. 2d 29.

No. 74-5355. *HARRIS v. NEW YORK.* App. Div., Sup. Ct. N. Y., 2d Jud. Dept. Certiorari denied.

No. 74-5356. *PAUL v. NEW MEXICO.* C. A. 10th Cir. Certiorari denied.

No. 74-5358. *D'AMICO ET AL. v. LIBERTY CORP. ET AL.* Sup. Ct. Pa. Certiorari denied. Reported below: 457 Pa. 181, 329 A. 2d 222.

No. 74-5361. *CROSS v. CHURCH, COUNTY CLERK-RECORDER.* C. A. 9th Cir. Certiorari denied.

No. 74-5362. *FRIEDMAN v. UNITED STATES.* C. A. 9th Cir. Certiorari denied. Reported below: 501 F. 2d 1352.

No. 74-5377. *FARRIES v. UNITED STATES.* C. A. 3d Cir. Certiorari denied.

No. 74-5380. *YOPP v. MICHIGAN.* Sup. Ct. Mich. Certiorari denied. Reported below: 392 Mich. 793.

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No. 74-5386. ALLEN *v.* HOPPER, WARDEN. C. A. 5th Cir. Certiorari denied.

No. 74-5387. WILLIAMS *v.* CALIFORNIA. Ct. App. Cal., 2d App. Dist. Certiorari denied.

No. 74-5388. DAVIS *v.* ESTELLE, CORRECTIONS DIRECTOR. C. A. 5th Cir. Certiorari denied. Reported below: 500 F. 2d 1182.

No. 74-5389. PEACOCK *v.* ESTELLE, CORRECTIONS DIRECTOR. C. A. 5th Cir. Certiorari denied. Reported below: 496 F. 2d 1405.

No. 74-5392. TRIGG *v.* ILLINOIS. C. A. 7th Cir. Certiorari denied. Reported below: 498 F. 2d 1404.

No. 74-5393. HILL *v.* OKLAHOMA. Ct. Crim. App. Okla. Certiorari denied.

No. 74-5396. GRAY *v.* NEW YORK. Ct. App. N. Y. Certiorari denied.

No. 74-5404. JACKSON *v.* WYOMING. Sup. Ct. Wyo. Certiorari denied. Reported below: 522 P. 2d 1356.

No. 74-5415. MENDOZA *v.* CAMPBELL, SUPERINTENDENT, MOTOR VEHICLE DIVISION, HIGHWAY DEPARTMENT OF ARIZONA. Sup. Ct. Ariz. Certiorari denied. Reported below: 111 Ariz. 71, 523 P. 2d 502.

No. 74-5416. BARBOSA *v.* ESTELLE, CORRECTIONS DIRECTOR. C. A. 5th Cir. Certiorari denied.

No. 74-5417. STEVENS *v.* ASCH. C. A. 3d Cir. Certiorari denied.

No. 74-5421. GORE *v.* SIELAFF, CORRECTIONS DIRECTOR. C. A. 7th Cir. Certiorari denied.

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No. 74-5428. *WATERS v. ESTELLE*, CORRECTIONS DIRECTOR. C. A. 5th Cir. Certiorari denied. Reported below: 496 F. 2d 1406.

No. 74-5440. *DAVIS v. CALIFORNIA*. Ct. App. Cal., 4th App. Dist. Certiorari denied.

No. 73-1832. *CIRILLO ET AL. v. UNITED STATES*;

No. 73-1837. *LILIENTHAL v. UNITED STATES*;

No. 73-1859. *SORRENTINO ET AL. v. UNITED STATES*;
and

No. 73-1987. *VENETUCCI v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari. Reported below: 499 F. 2d 872.

No. 74-104. *IN RE PORTER*. Sup. Ct. Ore. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari. Reported below: 268 Ore. 417, 521 P. 2d 345.

No. 74-118. *BISHOP, ADMINISTRATOR v. HENDRICKS*. C. A. 4th Cir. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari. Reported below: 495 F. 2d 289.

No. 74-139. *KITCHENS v. MISSISSIPPI*. Sup. Ct. Miss. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari. Reported below: 293 So. 2d 815.

No. 74-154. *MARTINEZ v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari. Reported below: 498 F. 2d 464.

No. 74-219. *TOLIVER v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari. Reported below: 500 F. 2d 1403.

No. 74-232. *VIGORITO ET AL. v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari. Reported below: 499 F. 2d 1351.

No. 74-387. *KARLAN v. CITY OF CINCINNATI*. Sup. Ct. Ohio. Certiorari denied. MR. JUSTICE DOUGLAS

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would grant certiorari. Reported below: 39 Ohio St. 2d 107, 314 N. E. 2d 162.

No. 74-408. *PIETRUNTI v. BOARD OF EDUCATION OF BRICK TOWNSHIP*. Super. Ct. N. J. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari. Reported below: 128 N. J. Super. 149, 319 A. 2d 262.

No. 74-421. *CLEVELAND BROWNS, INC. v. UNITED STATES*. Temp. Emerg. Ct. App. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari.

No. 74-447. *SAUQUOIT FIBERS Co., INC. v. LEESONA CORP. ET AL.* C. A. 5th Cir. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari. Reported below: 498 F. 2d 271.

No. 74-467. *BUILDING OWNERS & MANAGERS ASSOCIATION OF METROPOLITAN DETROIT ET AL. v. DETROIT EDISON Co. ET AL.* Cir. Ct., Ingham County, Mich. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari.

No. 74-5032. *MONTGOMERY ET AL. v. CALIFORNIA*. Super. Ct. Cal., County of Sacramento. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari.

No. 74-5128. *BETTS v. COUNTY COURT FOR LACROSSE COUNTY, BRANCH II, ET AL.* C. A. 7th Cir. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari. Reported below: 496 F. 2d 1156.

No. 74-5160. *MCNEIL v. UNITED STATES*. C. A. D. C. Cir. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari. Reported below: 162 U. S. App. D. C. 99, 497 F. 2d 686.

No. 74-5225. *WALKER v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari.

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No. 74-5375. SNYDER *v.* UNITED STATES. C. A. D. C. Cir. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari. Reported below: 164 U. S. App. D. C. 370, 505 F. 2d 477.

No. 74-5385. ELI *v.* BRITT, WARDEN. C. A. 9th Cir. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari. Reported below: 498 F. 2d 1340.

No. 74-5447. HAYES *v.* CADY, WARDEN. C. A. 7th Cir. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari. Reported below: 500 F. 2d 1212.

No. 74-78. PREISER, CORRECTIONAL COMMISSIONER OF NEW YORK, ET AL. *v.* WILLIAMS. C. A. 2d Cir. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 497 F. 2d 337.

No. 74-350. TROOPERS LODGE NO. 41, FRATERNAL ORDER OF POLICE, ET AL. *v.* WALKER, GOVERNOR OF ILLINOIS, ET AL. Sup. Ct. Ill. Certiorari denied. MR. JUSTICE BLACKMUN and MR. JUSTICE POWELL would grant certiorari. Reported below: 57 Ill. 2d 512, 315 N. E. 2d 9.

MR. JUSTICE DOUGLAS.

The petitioners are members of the Illinois State Police who, joined by their fraternal organization, challenge an Illinois regulatory program that requires disclosure of financial transactions and associations by state employees. The program was created by an executive order of the Governor of Illinois. The order established a State Board of Ethics, empowered to require designated state employees to file an annual statement of economic interest, which discloses assets and liabilities, each source of income and the amount received therefrom, and each "close economic association," which is defined as a "busi-

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ness or professional entity with which the person is associated as an officer, employee, director or partner or in which he has a substantial interest." The foregoing disclosures must be made not only by the employee himself, but also by members of his immediate family sharing his household. Information so reported is open to "reasonable public inspection." Failure to make the required disclosures subjects the employee to disciplinary action, including discharge.

The executive order applies by its terms only to members of the executive branch. Were this the only element of the Illinois scheme to discourage conflict of interests among those who hold public office, I believe a substantial equal protection question would be presented. The State has an undeniably strong interest in placing beyond question the integrity of its public service. But this is an interest that applies to all branches of the government, and where a State singles out a target group of employees, it is arguably compelled by the Equal Protection Clause to justify the differential treatment. The Illinois program, however, is greater than the executive order, and I add this word because it is not discussed in the briefs nor in the opinion in this case. The Illinois Governmental Ethics Act, passed in 1972, in addition to prescribing a "code of conduct" for legislators, requires the disclosure of "economic interest" by members of the legislature and independent agencies, Ill. Rev. Stat., c. 127, § 601-101 *et seq.* (1973).¹ Criminal penalties are provided for the filing of false statements, and failure to disclose at all subjects the officer to forfeiture of his office, § 604A-107. The statute provides for public examination of statements "at all reasonable times," § 604A-106. Judges have similar reporting obligations under a rule of

¹ See also, Note, The Illinois Governmental Ethics Act—A Step Ahead Toward Better Government, 22 De Paul L. Rev. 302 (1972).

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the Illinois Supreme Court, Ill. Rev. Stat., c. 110A, § 68 (1973).² Since it appears that Illinois has offered even-handed treatment, I accordingly join in the denial of certiorari.

Rehearing Denied

No. 73-1387. *FITHIAN v. FITHIAN*, *ante*, p. 825;

No. 73-1559. *FAIRVIEW NURSING HOME v. NATIONAL LABOR RELATIONS BOARD*, *ante*, p. 827;

No. 73-1624. *ANDREA DUMON, INC., ET AL. v. CLAIROL, INC.*, *ante*, p. 873;

No. 73-1657. *ESTATE OF MEADE ET AL. v. COMMISSIONER OF INTERNAL REVENUE*, *ante*, p. 882;

No. 73-1709. *SNEIDERS v. HENRY*, *ante*, p. 832;

No. 73-1713. *SMYZER v. KENTUCKY*, *ante*, p. 832;

No. 73-1741. *PERSICO ET AL. v. UNITED STATES*, *ante*, p. 924;

No. 73-1756. *BIDDLE, ADMINISTRATRIX v. BOWSER*, *ante*, p. 834;

No. 73-1826. *PETTITT ET UX. v. CITY OF FRESNO ET AL.*, *ante*, p. 810;

No. 73-1935. *PAYNE, A MINOR, BY PAYNE v. CITY OF FORT LAUDERDALE ET AL.*, *ante*, p. 875;

No. 73-1953. *CANNON v. OVIATT*, *ante*, p. 810;

No. 73-2061. *SMITH v. UNITED STATES*, *ante*, p. 964;

No. 73-6625. *COULTER v. UNITED STATES*, *ante*, p. 850;

No. 73-6629. *PRYOR v. UNITED STATES*, *ante*, p. 977;
and

No. 73-6710. *ZAUN ET UX. v. FANN, SHERIFF, ET AL.*, *ante*, p. 854. Petitions for rehearing denied.

² Statements filed by judges are not automatically open to public inspection, but litigants in a particular case may ascertain, through an administrative procedure, whether a judge has had an economic interest in the outcome. Ill. Rev. Stat., c. 110A, §§ 66-68 (1973).

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No. 73-6774. EPHRAIM *v.* ESTELLE, CORRECTIONS DIRECTOR, *ante*, p. 897;

No. 73-6806. SOTELO ET UX. *v.* IMMIGRATION AND NATURALIZATION SERVICE, *ante*, p. 859;

No. 73-6912. LEE *v.* ALABAMA, *ante*, p. 864;

No. 73-6964. OLENZ *v.* TELETYPE CORP. ET AL., *ante*, p. 865;

No. 73-6968. ENGLEFIELD *v.* ENGLEFIELD, *ante*, p. 958;

No. 73-7019. BAILEY *v.* WEINBERGER, SECRETARY OF HEALTH, EDUCATION, AND WELFARE, *ante*, p. 953;

No. 74-1. CARDIN *v.* KENTUCKY, *ante*, p. 868;

No. 74-90. KELLER, SECRETARY, DEPARTMENT OF HEALTH AND REHABILITATIVE SERVICES OF FLORIDA, ET AL. *v.* MIXON, A MINOR, BY CARTER, ET AL., *ante*, p. 880; and

No. 74-194. WALL ET AL. *v.* HARDWICK ET AL., *ante*, p. 888. Petitions for rehearing denied.

No. 73-1744. FOSTER *v.* AMERICAN MACHINE & FOUNDRY CO. ET AL., *ante*, p. 833;

No. 73-6805. GEARIN *v.* WEYERHAEUSER LINE, *ante*, p. 884; and

No. 74-86. LEONARD *v.* STRAUSS, *ante*, p. 901. Motions for leave to file petitions for rehearing denied.

Assignment Order

An order of THE CHIEF JUSTICE designating and assigning Mr. Justice Clark (retired) to perform judicial duties in the United States Court of Appeals for the Eighth Circuit during the week of March 10, 1975, 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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Appeals Dismissed

No. 74-225. MARSHALL ET AL. v. OHIO; and

No. 74-226. KENSINGER v. OHIO. Appeals from Ct. App. Ohio, Hamilton County. Stays (Nos. A-1282 and A-1283) heretofore granted on July 9, 1974, by MR. JUSTICE STEWART are vacated. Appeals dismissed for want of substantial federal question. MR. JUSTICE DOUGLAS, being of the view that any state or federal ban on, or regulation of, obscenity is prohibited by the Constitution, *Roth v. United States*, 354 U. S. 476, 508-514 (1957) (DOUGLAS, J., dissenting); *Miller v. California*, 413 U. S. 15, 42-47 (1973) (DOUGLAS, J., dissenting); *Paris Adult Theatre I v. Slaton*, 413 U. S. 49, 70-73 (1973) (DOUGLAS, J., dissenting), would note probable jurisdiction and summarily reverse the judgments.

MR. JUSTICE BRENNAN, with whom MR. JUSTICE STEWART and MR. JUSTICE MARSHALL join, dissenting.

Appellants were convicted in the Court of Common Pleas of Hamilton County, Ohio, of possession of allegedly obscene materials with intent to distribute the materials in violation of Ohio Rev. Code Ann. § 2905.35 (Supp. 1973), which provided in pertinent part at the time of the alleged offense as follows:

"No person, with knowledge of the content and character of the obscene material or performance involved, shall make, manufacture, write, draw, print, reproduce, or publish any obscene material, knowing or having reasonable cause to know that such material will be sold, distributed, circulated, or disseminated; or sell, lend, give away, distribute, circulate, disseminate, exhibit, or advertise any obscene material; or write, direct, produce, present, advertise, or participate in an obscene performance;

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or possess or have in his control any obscene material with intent to violate this section”

As used in § 2905.35,

“(A) Any material or performance is ‘obscene’ if, when considered as a whole and judged with reference to ordinary adults, any of the following apply:

“(1) Its dominant appeal is to prurient interest;

“(2) Its dominant tendency is to arouse lust by displaying or depicting nudity, sexual excitement, or sexual conduct in a way which tends to represent human beings as mere objects of sexual appetite;

“(3) Its dominant tendency is to arouse lust by displaying or depicting bestiality or extreme or bizarre violence, cruelty, or brutality;

“(4) It contains a series of displays or descriptions of nudity, sexual excitement, sexual conduct, bestiality, extreme or bizarre violence, cruelty, or brutality, or human bodily functions of elimination, the cumulative effect of which is a dominant tendency to appeal to prurient interest, when the appeal to such interest is primarily for its own sake or for commercial exploitation, rather than for a genuine scientific, educational, sociological, moral, or artistic purpose.” § 2905.34.

On appeal, the Court of Appeals of Hamilton County affirmed the convictions. The Supreme Court of Ohio dismissed the appeals.

It is my view that “at least in the absence of distribution to juveniles or obtrusive exposure to unconsenting adults, the First and Fourteenth Amendments prohibit the State and Federal Governments from attempting wholly to suppress sexually oriented materials on the basis of their allegedly ‘obscene’ contents.”

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Paris Adult Theatre I v. Slaton, 413 U. S. 49, 113 (1973) (BRENNAN, J., dissenting). It is clear that, tested by that constitutional standard, § 2905.35, as it incorporated the definition of "obscene" of § 2905.34, was constitutionally overbroad and therefore invalid on its face. For the reasons stated in my dissent in *Miller v. California*, 413 U. S. 15, 47 (1973), I would therefore note probable jurisdiction and, since the judgment of the Court of Appeals of Hamilton County was rendered after *Miller*, reverse.* In that circumstance, I have no occasion to consider whether the other questions presented in addition to those already treated merit plenary review. See *Heller v. New York*, 413 U. S. 483, 494 (1974) (BRENNAN, J., dissenting).

Further, it does not appear from the petition and response that the obscenity of the disputed materials was adjudged by applying local community standards. Based on my dissent in *Hamling v. United States*, 418 U. S. 87, 141 (1974), I believe that, consistent with the Due Process Clause, each appellant must be given an opportunity to have his case decided upon, and to introduce evidence relevant to, the legal standard upon which his conviction has ultimately come to depend. Thus, even on its own terms, the Court should vacate the judgments below and remand for a determination whether appellants should be afforded new trials under local community standards.

No. 74-474. CONKLIN *v.* CALIFORNIA. Appeal from Sup. Ct. Cal. dismissed for want of substantial federal question. Reported below: 12 Cal. 3d 259, 522 P. 2d 1049.

*Although four of us would note probable jurisdiction and reverse the judgments, the Justices who join this opinion do not insist that the case be decided on the merits.

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No. 74-284. DISTRICT OF COLUMBIA *v.* WALTERS ET AL. Appeal from Ct. App. D. C. dismissed for want of properly presented federal question. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied. THE CHIEF JUSTICE and MR. JUSTICE WHITE would note probable jurisdiction and set case for oral argument. Reported below: 319 A. 2d 332.

No. 74-478. GARIS *v.* COMPANIA MARITIMA SAN BASILIO, S. A., ET AL. Appeal from App. Div., Sup. Ct. N. Y., 1st Jud. Dept., dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied. Reported below: 44 App. Div. 2d 655, 353 N. Y. S. 2d 711.

No. 74-5376. GARGALLO *v.* GARGALLO. 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.

No. 74-5403. MARTINOLICH *v.* PENNSYLVANIA. Appeal from Sup. Ct. Pa. dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied. Reported below: 456 Pa. 136, 318 A. 2d 680.

Vacated and Remanded on Appeal

No. 74-499. FITZGERALD ET AL. *v.* DIGRAZIA ET AL. Appeal from D. C. E. D. Mo. Judgment vacated and case remanded for entry of a fresh judgment or decree from which a timely appeal may be taken to the United States Court of Appeals. *Gonzalez v. Automatic Employees Credit Union, ante*, p. 90. Reported below: 383 F. Supp. 668.

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Certiorari Dismissed

No. 73-1739. *SANDQUIST v. CALIFORNIA*. App. Dept., Super Ct. Cal., County of Los Angeles;

No. 74-158. *KUHNS ET AL. v. CALIFORNIA*; and

No. 74-159. *KUHNS ET AL. v. CALIFORNIA*. App. Dept., Super. Ct. Cal., County of Santa Cruz. Petitioners did not seek to have the Appellate Department certify their cases to the Court of Appeal pursuant to California Penal Code § 1471 and California Rules of Court 62 and 63. Accordingly, the decisions of the Appellate Department are not "[f]inal judgments . . . rendered by the highest court of a State in which a decision could be had . . .," 28 U. S. C. § 1257, and the petitions for writs of certiorari to their respective courts are dismissed for want of jurisdiction. See *Banks v. California*, 395 U. S. 708 (1969).

Miscellaneous Orders

No. A-430. *BEASLEY v. UNITED STATES*. C. A. 5th Cir. Application for reduction of bail pending appeal, presented to MR. JUSTICE WHITE, and by him referred to the Court, denied.

No. 73-1256. *CONNELL CONSTRUCTION Co., INC. v. PLUMBERS & STEAMFITTERS LOCAL No. 100, UNITED ASSOCIATION OF JOURNEYMEN & APPRENTICES OF THE PLUMBING & PIPEFITTING INDUSTRY OF THE UNITED STATES AND CANADA, AFL-CIO*. C. A. 5th Cir. [Certiorari granted, 416 U. S. 981.] Motion of petitioner for leave to file a brief after argument granted.

No. 73-6739. *COSTARELLI v. MASSACHUSETTS*. Appeal from Municipal Ct. of Boston. [Probable jurisdiction postponed, *ante*, p. 893.] Motion of appellant for appointment of counsel granted. It is ordered that Robert W. Hagopian, Esquire, of Wrentham, Mass., be, and he is hereby, appointed to serve as counsel for appellant in this case.

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No. 74-157. UNITED HOUSING FOUNDATION, INC., ET AL. *v.* FORMAN ET AL. C. A. 2d Cir. Motion to defer consideration of petition for writ of certiorari granted.

No. 74-5522. DOLPHUS *v.* WAINWRIGHT, CORRECTIONS DIRECTOR. Motion for leave to file petition for writ of habeas corpus denied.

No. 74-5374. MONTEER *v.* CHIEF JUDGE, UNITED STATES COURT OF APPEALS FOR THE EIGHTH CIRCUIT; and

No. 74-5481. DOLLAR *v.* CALIFORNIA ET AL. Motions for leave to file petitions for writs of mandamus denied.

Probable Jurisdiction Noted

No. 74-201. CITY OF RICHMOND, VIRGINIA *v.* UNITED STATES ET AL. Appeal from D. C. D. C. Motion of appellee Holt for leave to proceed *in forma pauperis* granted. Probable jurisdiction noted. MR. JUSTICE POWELL took no part in the consideration or decision of this matter. Reported below: 376 F. Supp. 1344.

Certiorari Granted

No. 74-22. IVAN ALLEN CO. *v.* UNITED STATES. C. A. 5th Cir. Certiorari granted. Reported below: 493 F. 2d 426.

No. 74-415. RONDEAU *v.* MOSINEE PAPER CORP. C. A. 7th Cir. Certiorari granted. Reported below: 500 F. 2d 1011.

No. 74-450. BUTTERFIELD, ADMINISTRATOR, FEDERAL AVIATION ADMINISTRATION, ET AL. *v.* ROBERTSON ET AL. C. A. D. C. Cir. Certiorari granted. Reported below: 162 U. S. App. D. C. 298, 498 F. 2d 1031.

No. 74-452. TWENTIETH CENTURY MUSIC CORP. ET AL. *v.* AIKEN. C. A. 3d Cir. Certiorari granted. Reported below: 500 F. 2d 127.

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No. 74-466. BRENNAN, SECRETARY OF LABOR *v.* BACHOWSKI ET AL. C. A. 3d Cir. Certiorari granted. Reported below: 502 F. 2d 79.

No. 74-121. PHELPS, RECEIVER IN BANKRUPTCY *v.* UNITED STATES. C. A. 7th Cir. Certiorari granted limited to Questions 1, 2, and 3 presented by the petition which read as follows:

1. "Whether the Court of Appeals incorrectly granted to the United States a priority based upon the Internal Revenue Code of 1954 for taxes in violation of and contrary to the priorities for payment of claims established by the Bankruptcy Act?"

2. "Whether the Court of Appeals incorrectly held that service of a Notice of Levy upon an assignee for the benefit of creditors subsequent to the assignment reduced the bankrupt's property then held by the assignee to the constructive possession of the United States?"

3. "Whether the Court of Appeals incorrectly determined that the Bankruptcy Court lacked summary jurisdiction to adjudicate the controversy before it without the consent of the United States?"

Reported below: 495 F. 2d 1283.

No. 74-389. ALBEMARLE PAPER CO. ET AL. *v.* MOODY ET AL.; and

No. 74-428. HALIFAX LOCAL NO. 425, UNITED PAPERMAKERS & PAPERWORKERS, AFL-CIO *v.* MOODY ET AL. C. A. 4th Cir. Certiorari granted, cases consolidated, and a total of one hour allotted for oral argument. MR. JUSTICE POWELL took no part in the consideration or decision of these petitions. Reported below: 474 F. 2d 134.

Certiorari Denied. (See also Nos. 74-284, 74-478, 74-5376, and 74-5403, *supra*.)

No. 73-7058. THOMAS *v.* UNITED STATES BOARD OF PAROLE ET AL. C. A. 10th Cir. Certiorari denied.

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No. 73-7093. *MILLER v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 496 F. 2d 982.

No. 73-7094. *WILSON v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 497 F. 2d 602.

No. 74-127. *MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION ET AL. v. SIMON, SECRETARY OF THE TREASURY, ET AL.* C. A. D. C. Cir. Certiorari denied. Reported below: 162 U. S. App. D. C. 19, 495 F. 2d 1075.

No. 74-145. *BRAINERD v. BEAL ET AL.* C. A. 7th Cir. Certiorari denied. Reported below: 498 F. 2d 901.

No. 74-191. *MARKHAM ET AL. v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 498 F. 2d 178.

No. 74-223. *HASTY v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 496 F. 2d 876.

No. 74-258. *YOUNG ET AL. v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 498 F. 2d 1164.

No. 74-279. *MIRELEZ v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 496 F. 2d 915.

No. 74-280. *BRAMBLE v. SAXBE, ATTORNEY GENERAL, ET AL.* C. A. 10th Cir. Certiorari denied. Reported below: 498 F. 2d 968.

No. 74-281. *VOWTERAS ET AL. v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 500 F. 2d 1210.

No. 74-340. *MALONE v. UNITED STATES*. Ct. Cl. Certiorari denied. Reported below: 204 Ct. Cl. 899, 497 F. 2d 928.

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No. 74-345. *R. J. REYNOLDS TOBACCO CO. ET AL. v. AMERICAN PRESIDENT LINES, LTD., ET AL.* C. A. D. C. Cir. Certiorari denied. Reported below: 164 U. S. App. D. C. 66, 503 F. 2d 157.

No. 74-368. *ROBERTS ET AL. v. UNITED STATES.* C. A. 9th Cir. Certiorari denied. Reported below: 498 F. 2d 520.

No. 74-429. *SIGMA SYSTEMS CORP. ET AL. v. ELECTRONIC DATA SYSTEMS CORP.* C. A. 5th Cir. Certiorari denied. Reported below: 500 F. 2d 241.

No. 74-468. *WEBSTER v. KENTUCKY.* Ct. App. Ky. Certiorari denied. Reported below: 508 S. W. 2d 33.

No. 74-473. *STEAMSHIP MUTUAL UNDERWRITING ASSN., LTD. v. WESTCHESTER FIRE INSURANCE CO. ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 494 F. 2d 1352.

No. 74-475. *UNIVERSAL BUILDERS, INC., ET AL. v. CLARK ET AL.* C. A. 7th Cir. Certiorari denied. Reported below: 501 F. 2d 324.

No. 74-488. *HARTLEY ET AL. v. CITY OF CHATTANOOGA ET AL.*; and

No. 74-490. *HUDSON ET AL. v. CITY OF CHATTANOOGA ET AL.* Sup. Ct. Tenn. Certiorari denied. Reported below: 512 S. W. 2d 555.

No. 74-500. *REMSCO ASSOCIATES, INC. v. BEAVER FALLS MUNICIPAL AUTHORITY.* Super. Ct. Pa. Certiorari denied.

No. 74-507. *GONZALEZ ET AL. v. INTERNATIONAL LONGSHOREMEN'S ASSOCIATION, LOCAL No. 1581, AFL-CIO.* C. A. 5th Cir. Certiorari denied. Reported below: 498 F. 2d 330.

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No. 74-509. *MONTY v. NEW YORK*. App. Div., Sup. Ct. N. Y., 2d Jud. Dept. Certiorari denied. Reported below: 45 App. Div. 2d 1038, 358 N. Y. S. 2d 181.

No. 74-529. *JOHNSON v. OHIO*. Ct. App. Ohio, Cuyahoga County. Certiorari denied.

No. 74-5024. *DORAN v. OHIO*. Ct. App. Ohio, Wayne County. Certiorari denied.

No. 74-5030. *GIBSON v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 498 F. 2d 1398.

No. 74-5076. *ALLISON v. WISCONSIN*. Sup. Ct. Wis. Certiorari denied. Reported below: 62 Wis. 2d 14, 214 N. W. 2d 437.

No. 74-5108. *FELTS v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 499 F. 2d 845.

No. 74-5235. *FIELDS v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 500 F. 2d 69.

No. 74-5267. *MUNDT v. UNITED STATES*. C. A. 9th Cir. Certiorari denied.

No. 74-5306. *STURGEON v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 501 F. 2d 1270.

No. 74-5331. *DILWORTH v. UNITED STATES*. C. A. 5th Cir. Certiorari denied.

No. 74-5333. *PIETRAS v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 501 F. 2d 182.

No. 74-5341. *RESNICK v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 500 F. 2d 575.

No. 74-5351. *DURAN v. UNITED STATES*. C. A. 10th Cir. Certiorari denied.

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No. 74-5359. *FONSECA v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 497 F.2d 1384.

No. 74-5360. *PECINA v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 501 F.2d 536.

No. 74-5365. *WENTZ ET AL. v. MARYLAND*. Ct. Sp. App. Md. Certiorari denied.

No. 74-5370. *GONG v. UNITED STATES*. C. A. 9th Cir. Certiorari denied.

No. 74-5406. *CALLAHAN v. NEW YORK*. App. Div., Sup. Ct. N. Y., 2d Jud. Dept. Certiorari denied. Reported below: 45 App. Div. 2d 819, 356 N. Y. S. 2d 549.

No. 74-5442. *MOYNIER v. VALUCH ET AL.* Ct. App. Cal., 2d App. Dist. Certiorari denied.

No. 74-5456. *CONNER v. DERAMUS, CORRECTIONAL SUPERINTENDENT*. C. A. 3d Cir. Certiorari denied.

No. 74-5457. *AGUR v. WILSON, GOVERNOR OF NEW YORK, ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 498 F.2d 961.

No. 74-5462. *GIBSON v. HENDERSON, WARDEN*. C. A. 5th Cir. Certiorari denied.

No. 74-5463. *MILLER v. MARYLAND*. Crim. Ct. Baltimore City, Md. Certiorari denied.

No. 74-5464. *BENNETT v. MICHIGAN*. Ct. App. Mich. Certiorari denied. Reported below: 52 Mich. App. 742, 218 N. W. 2d 407.

No. 74-5467. *RAYMOND v. JOHNSON, CORRECTIONAL SUPERINTENDENT*. C. A. 3d Cir. Certiorari denied.

No. 74-5471. *SEDILLO, AKA BAYLORS v. NEW MEXICO*. Sup. Ct. N. M. Certiorari denied.

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No. 74-5474. *ARNOLD v. SUPERIOR COURT OF CALIFORNIA, COUNTY OF ALAMEDA*. Ct. App. Cal., 1st App. Dist. Certiorari denied.

No. 74-5476. *WILSON v. CLANON, PRISON SUPERINTENDENT*. C. A. 9th Cir. Certiorari denied.

No. 74-5477. *PAQUETTE v. LAVALLEE, CORRECTIONAL SUPERINTENDENT*. C. A. 2d Cir. Certiorari denied. Reported below: 497 F. 2d 920.

No. 74-5480. *GUTIERREZ v. ESTELLE, CORRECTIONS DIRECTOR*. C. A. 5th Cir. Certiorari denied.

No. 74-5484. *ALEXANDER v. ESTELLE, CORRECTIONS DIRECTOR*. C. A. 5th Cir. Certiorari denied. Reported below: 496 F. 2d 1405.

No. 74-5494. *NEVAREZ v. ARIZONA*. Super. Ct. Ariz., Pima County. Certiorari denied.

No. 74-5496. *BARTLETT v. TOLEDO BAR ASSN.* Sup. Ct. Ohio. Certiorari denied. Reported below: 39 Ohio St. 2d 100, 313 N. E. 2d 834.

No. 74-5498. *CARTER v. HARDY*. C. A. 5th Cir. Certiorari denied.

No. 74-5526. *KENNEDY ET AL. v. MEACHAM, WARDEN, ET AL.* Sup. Ct. Wyo. Certiorari denied.

No. 74-5559. *SANTANA v. UNITED STATES DISTRICT COURT*. C. A. 2d Cir. Certiorari denied.

No. 73-2008. *AYRE v. MARYLAND*. Crim. Ct. Baltimore City, Md. Certiorari denied. MR. JUSTICE DOUGLAS, being of the view that any state or federal ban on, or regulation of, obscenity is prohibited by the Constitution, *Roth v. United States*, 354 U. S. 476, 508-514 (1957) (DOUGLAS, J., dissenting); *Miller v. California*, 413 U. S. 15, 42-47 (1973) (DOUGLAS, J., dissenting); *Paris Adult*

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Theatre I v. Slaton, 413 U. S. 49, 70-73 (1973) (DOUGLAS, J., dissenting), would grant certiorari and summarily reverse the judgment.

MR. JUSTICE BRENNAN, with whom MR. JUSTICE STEWART and MR. JUSTICE MARSHALL join, dissenting.

Petitioner was convicted in the Criminal Court of Baltimore City of possession of obscene materials with intent to sell in violation of Md. Ann. Code, Art. 27, § 418 (1971). Section 418 provides in pertinent part as follows: "Every person who . . . has in his possession with intent to distribute . . . any obscene matter is guilty of a misdemeanor." The Maryland courts have defined the term "obscene" by adopting the test set forth in *Miller v. California*, 413 U. S. 15 (1973). See *Ebert v. Maryland State Bd. of Censors*, 19 Md. App. 300, 313 A. 2d 536 (1973). The Maryland Court of Special Appeals and the Maryland Court of Appeals denied certiorari.

It is my view that "at least in the absence of distribution to juveniles or obtrusive exposure to unconsenting adults, the First and Fourteenth Amendments prohibit the State and Federal Governments from attempting wholly to suppress sexually oriented materials on the basis of their allegedly 'obscene' contents." *Paris Adult Theatre I v. Slaton*, 413 U. S. 49, 113 (1973) (BRENNAN, J., dissenting). It is clear that, tested by that constitutional standard, § 418 of the Maryland Code is constitutionally overbroad and therefore invalid on its face. For the reasons stated in my dissent in *Miller v. California*, *supra*, at 47, I would therefore grant certiorari, and, since the judgment of the Maryland Court of Appeals was rendered after *Miller*, reverse.* In that circumstance, I

*Although four of us would grant certiorari and reverse the judgment, the Justices who join this opinion do not insist that the case be decided on the merits.

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have no occasion to consider whether the other questions presented merit plenary review. See *Heller v. New York*, 413 U. S. 483, 494 (1973) (BRENNAN, J., dissenting).

No. 73-6535. *WELLS v. MISSOURI*. Sup. Ct. Mo. Certiorari denied. Reported below: 504 S. W. 2d 96.

MR. JUSTICE BRENNAN, with whom MR. JUSTICE DOUGLAS and MR. JUSTICE MARSHALL join, dissenting.

On April 28, 1967, petitioner and two companions allegedly robbed the Liberty Loan Corporation office in St. Louis of \$200. During the robbery, one of petitioner's confederates fired a shot which killed a bank employee. Petitioner was charged in separate indictments with first-degree murder and first-degree robbery by means of a dangerous and deadly weapon. At the time, the death penalty was available under Missouri law for each of these crimes, with the decision whether it should be imposed committed to jury discretion. Mo. Rev. Stat. §§ 559.030, 560.135 (1959).

Under then-applicable Missouri criminal procedure rules, it was not permissible to join in one indictment or at one trial robbery and murder charges. See Mo. Sup. Ct. Rule 24.04; Mo. Rev. Stat. §§ 545.120, 545.130 (1959). Petitioner was tried first on the murder charge. Missouri punishes as first-degree murder "every homicide which shall be committed in the perpetration or attempt to perpetrate any arson, rape, robbery, burglary or mayhem." Mo. Rev. Stat. § 559.010 (1969). While the murder indictment alleged that petitioner murdered the victim "feloniously, willfully, and premeditatedly, deliberately, on purpose and of . . . malice aforethought," petitioner claims, and the Supreme Court of Missouri, as we read its opinion, found, that the murder case was tried to the jury on a felony-murder theory, with proof of the elements of

the robbery supplying the requisite *mens rea* for murder. Missouri permits trial on a felony-murder theory even though the indictment does not allege the felony but alleges directly the *mens rea* for first-degree murder. *State v. Conway*, 351 Mo. 126, 171 S. W. 2d 677 (1943).

Petitioner was found guilty of first-degree murder by the jury, which assessed his punishment as life imprisonment. At the sentencing hearing before the trial judge, petitioner waived his right to appeal the murder conviction and was sentenced to life imprisonment for murder. At the same hearing, he withdrew his not-guilty plea to the robbery charge and entered a guilty plea. The prosecuting attorney then recommended a concurrent life sentence on the robbery conviction, and the judge imposed the recommended sentence.

In 1970, petitioner sought state post-conviction remedies to vacate both the waiver of appeal from the murder conviction and the guilty plea to the robbery charge. After hearing, the trial judge held that, although both the waiver of appeal and the guilty plea were motivated by fear that the death penalty might be imposed if petitioner stood trial for robbery, the waiver and plea were voluntary. The Supreme Court of Missouri affirmed. 504 S. W. 2d 96 (1974).

The Supreme Court of Missouri also rejected petitioner's contention that the prosecution for robbery after conviction for murder on a felony-murder theory violated the constitutional protection from double jeopardy. *Id.*, at 97, relying on *State v. Moore*, 326 Mo. 1199, 33 S. W. 2d 905 (1930). In my view this holding was in error.

I

The two charges leveled against petitioner clearly arose out of the same criminal transaction or episode, yet they were tried separately. In that circumstance, we should grant the petition for certiorari and reverse the robbery

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conviction. I adhere to the view that the Double Jeopardy Clause of the Fifth Amendment, which is applicable to the States through the Fourteenth Amendment, *Benton v. Maryland*, 395 U. S. 784 (1969), requires the joinder at one trial, except in extremely limited circumstances not present here, of "all the charges against a defendant that grow out of a single criminal act, occurrence, episode, or transaction." *Ashe v. Swenson*, 397 U. S. 436, 453-454 (1970) (BRENNAN, J., concurring). See *Tijerina v. New Mexico*, 417 U. S. 956 (1974) (BRENNAN, J., dissenting); *Ciuzio v. United States*, 416 U. S. 995 (1974) (BRENNAN, J., dissenting); *Moton v. Swenson*, 417 U. S. 957 (1974) (BRENNAN, J., dissenting); *Harris v. Washington*, 404 U. S. 55, 57 (1971) (concurring statement); *Waller v. Florida*, 397 U. S. 387, 395 (1970) (BRENNAN, J., concurring). See also *People v. White*, 390 Mich. 245, 212 N. W. 2d 222 (1973); *State v. Brown*, 262 Ore. 442, 497 P. 2d 1191 (1972); *Commonwealth v. Campana*, 452 Pa. 233, 304 A. 2d 432 (1973), vacated and remanded, 414 U. S. 808 (1973), on remand, 455 Pa. 622, 314 A. 2d 854 (1974).

Guilty pleas can be vacated on collateral attack on double jeopardy grounds, even when the double jeopardy claim was not raised before conviction. *Blackledge v. Perry*, 417 U. S. 21, 31 (1974). Further, there is no significance in the fact that Missouri law would not have permitted joinder of the two offenses here. If it is state law rather than prosecutorial abuse which results in two trials for the same offense, the "remedy lies in changing [Missouri's] criminal procedure, not in denying petitioner the constitutional protection to which he is entitled.* Petitioner was tried twice for the same offense,

*In fact, Missouri's joinder rules have been changed since petitioner was tried. They now permit joinder of "[a]ll offenses which are based . . . on two or more acts or transactions which constitute

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and his conviction should be reversed." *Duncan v. Tennessee*, 405 U. S. 127, 133 (1972) (BRENNAN, J., dissenting). Cf. *Turner v. Arkansas*, 407 U. S. 366 (1972).

II

Even on the "same evidence" theory, never adopted by this Court, see *Ashe v. Swenson*, *supra*, at 452-453; *Abbate v. United States*, 359 U. S. 187, 197-198 (1959) (separate opinion), it is my view that the robbery conviction here violated the double jeopardy protection. The State claims that, since conviction for robbery would require proof that another was deprived of property against his will, it would involve evidence not pertinent to the murder conviction. Yet, it appears from those portions of the record now available to us that the murder conviction was premised upon proof of the completed robbery. We have indicated that a person cannot be tried for a greater offense which includes all the elements already established by evidence in a trial on a lesser offense. *Waller v. Florida*, *supra*. There is also some indication that the same-evidence rule operates in the other direction, to preclude retrial on a lesser offense when all of its elements have been established by evidence in a trial on a greater offense. See *In re Nielsen*, 131 U. S. 176, 187-190 (1889); *Grafton v. United States*, 206 U. S. 333, 352 (1907). This case illustrates graphically why this should be so. The prosecution threatened to retry essentially the same case in pursuit of a greater sentence, and it used the leverage of that threatened prosecution to induce the waiver of the right to appeal the murder conviction.

No. 74-55. CLAY v. VIRGINIA. Sup. Ct. Va. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari.

parts of a common scheme or plan." Mo. Sup. Ct. Rule 24.04, as amended Dec. 7, 1970.

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No. 74-213. *VON CLEMM ET AL. v. BANUELOS, TREASURER OF THE UNITED STATES, ET AL.* C. A. 1st Cir. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari. Reported below: 498 F. 2d 163.

No. 74-260. *TRAMUNTI v. UNITED STATES.* C. A. 2d Cir. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari. Reported below: 500 F. 2d 1334.

No. 74-267. *CHARBONIER ET AL. v. UNITED STATES;* and

No. 74-5268. *BURKE ET AL. v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari. Reported below: 495 F. 2d 1226.

No. 74-5178. *CASTLEBERRY v. OKLAHOMA.* Ct. Crim. App. Okla. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari. Reported below: 522 P. 2d 257.

No. 74-5240. *BRYAN v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari. Reported below: 492 F. 2d 775.

No. 74-5272. *HAWKINS v. UNITED STATES.* C. A. 9th Cir. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari. Reported below: 501 F. 2d 1029.

No. 74-324. *CITY OF DALLAS ET AL. v. SOUTHWEST AIRLINES CO. ET AL.* C. A. 5th Cir. Motion of Air Transport Association of America for leave to file a brief as *amicus curiae* granted. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari. Reported below: 494 F. 2d 773.

No. 74-332. *SATTERWHITE v. UNITED PARCEL SERVICE, INC.* C. A. 10th 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: 496 F. 2d 448.

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No. 74-352. MEACHUM, CORRECTIONAL SUPERINTENDENT *v.* LAFRANCE; and

No. 74-5458. LAFRANCE *v.* MEACHUM, CORRECTIONAL SUPERINTENDENT. C. A. 1st Cir. Motion of respondent in No. 74-352 for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 499 F. 2d 29.

No. 74-458. NEW JERSEY *v.* GENERAL MOTORS CORP. ET AL. C. A. 7th Cir. Certiorari denied. MR. JUSTICE POWELL took no part in the consideration or decision of this petition. Reported below: 500 F. 2d 1404.

No. 74-463. DANN, COMMISSIONER OF PATENTS *v.* HONEYWELL, INC. C. C. P. A. Certiorari denied. MR. JUSTICE BRENNAN and MR. JUSTICE WHITE would grant certiorari. THE CHIEF JUSTICE and MR. JUSTICE BLACKMUN took no part in the consideration or decision of this petition. Reported below: 497 F. 2d 1344.

No. 74-485. MICHIGAN *v.* DAVIS ET AL. Sup. Ct. Mich. Motions of respondents for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: See 53 Mich. App. 94, 218 N. W. 2d 787.

No. 74-5027. ALLEN *v.* ROSE, WARDEN. C. A. 6th Cir. Certiorari denied. *Molinaro v. New Jersey*, 396 U. S. 365 (1970). Reported below: 495 F. 2d 1373.

Rehearing Denied

No. 73-6800. BAXTER *v.* UNITED STATES, *ante*, p. 964; and

No. 73-6809. FALKNER *v.* BLANTON, JUDGE, *ante*, p. 977. Petitions for rehearing denied.

No. 73-6605. FOLKS *v.* UNITED STATES, *ante*, p. 849. Motion for leave to file petition for rehearing denied.

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Assignment Orders

An order of THE CHIEF JUSTICE designating and assigning Mr. Justice Clark (retired) to perform judicial duties in the United States Court of Appeals for the Second Circuit on December 13, 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.

An order of THE CHIEF JUSTICE designating and assigning Mr. Justice Clark (retired) to perform judicial duties in the United States Court of Appeals for the Second Circuit during the week of May 26, 1975, 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. 74-517. *MERCER ET AL. v. MICHIGAN STATE BOARD OF EDUCATION ET AL.* Affirmed on appeal from D. C. E. D. Mich. MR. JUSTICE DOUGLAS, MR. JUSTICE BRENNAN, and MR. JUSTICE WHITE would note probable jurisdiction and set case for oral argument. Reported below: 379 F. Supp. 580.

Appeals Dismissed

No. 73-7014. *JONES v. FLORIDA.* Appeal from Sup. Ct. Fla. dismissed for want of properly presented federal question. Reported below: 293 So. 2d 33.

MR. JUSTICE BRENNAN, with whom MR. JUSTICE DOUGLAS and MR. JUSTICE MARSHALL join, dissenting.

The Court dismisses this appeal for want of a properly presented federal question. That disposition is utterly indefensible on the record of this case.

Appellant was arrested for violating Fla. Stat. § 847.05 (Supp. 1974-1975), which provides:

“Any person who shall publicly use or utter any indecent or obscene language shall be guilty of a misdemeanor of the second degree”

After the arrest, appellant was searched and marihuana was found in his possession. Appellant was then charged with using indecent or obscene language, resisting arrest, and possession of marihuana. Prior to trial, he moved to dismiss the information on the ground that on its face Fla. Stat. § 847.05 violates the First and Fourteenth Amendments and therefore the arrest pursuant to § 847.05 was unlawful and the ensuing search and seizure of the marihuana invalid. The motion was denied. At trial by jury, the marihuana was admitted in evidence and appellant was convicted solely on the charge of possession of marihuana. The conviction was appealed to the Florida Supreme Court pursuant to Art. 5, § 3 (b) (1), of the Florida Constitution, which directs the Florida Supreme Court to “hear appeals . . . from orders of trial courts . . . passing on the validity of a state statute” The Florida Supreme Court upheld the constitutionality of § 847.05, finding that the statutory language itself was “sufficient to convey to a person of common understanding its prohibition.” 293 So. 2d 33, 34 (1974). In view of that holding, the Florida Supreme Court found it unnecessary to decide whether the marihuana conviction could stand if § 847.05 were unconstitutional and the initial arrest therefore unlawful.

Section 847.05 punishes only spoken words and, as construed by the Florida Supreme Court, is facially unconstitutional because it is not limited in application “to punish only unprotected speech” but is “susceptible of application to protected expression.” *Gooding v. Wilson*,

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405 U. S. 518, 522 (1972). See also *Lewis v. City of New Orleans*, 415 U. S. 130, 134 (1974); *Cohen v. California*, 403 U. S. 15, 20 (1971). In that circumstance, it is irrelevant that the statute might constitutionally reach appellant's conduct, for "[a]lthough a statute may be neither vague, overbroad, nor otherwise invalid as applied to the conduct charged against a particular defendant, he is permitted to raise its vagueness or unconstitutional overbreadth as applied to others. And if the law is found deficient in one of these respects, it may not be applied to him either, until and unless a satisfactory limiting construction is placed on the statute. The statute, in effect, is stricken down on its face. . . ." *Gooding v. Wilson*, *supra*, at 521.

Gooding obviously compels reversal of the judgment of the Florida Supreme Court. The Court, however, dismisses this appeal for want of a properly presented federal question. But a dismissal on that ground would be appropriate only if the federal claim had not been raised in a proper and timely manner in the state courts. See, e. g., *Bailey v. Anderson*, 326 U. S. 203, 206-207 (1945); *Street v. New York*, 394 U. S. 576, 581-585 (1969). That cannot possibly be said of this case. The unconstitutionality of § 847.05 was the basic claim asserted by appellant and he urged it at every level in the state proceedings. And even were there doubt of this, and there can be none on this record, our jurisdiction still obtains since the Florida Supreme Court's sole ground of decision was based upon resolution of the federal question. "There can be no question as to the proper presentation of a federal claim when the highest state court passes on it." *Raley v. Ohio*, 360 U. S. 423, 436 (1959).

Certainly it cannot be said that there is lack of a properly presented federal question because appellant was con-

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victed not for violating § 847.05 but on the marihuana charge. His claim is that the marihuana seized from him and admitted in evidence against him was "fruit of the poisonous tree" because his initial arrest was pursuant to the unconstitutional § 847.05. It may be that on remand his "fruits" claim will be rejected and the marihuana conviction reinstated. But the Florida Supreme Court did not speak to that question in light of its determination, based on holding § 847.05 constitutional, that the initial arrest was valid. Appellant has properly presented the federal question decided by the Florida Supreme Court and our plain duty is to reverse that court and remand for further proceedings not inconsistent with this opinion.

No. 74-69. *PADILLA v. LAVINE, COMMISSIONER, DEPARTMENT OF SOCIAL SERVICES OF NEW YORK, ET AL.* Appeal from Ct. App. N. Y. dismissed for want of substantial federal question. Reported below: 34 N. Y. 2d 36, 312 N. E. 2d 149.

No. 74-434. *COLORADO CIVIL RIGHTS COMMISSION EX REL. McALLISTER v. COLORADO ET AL.* Appeal from Sup. Ct. Colo. dismissed for want of substantial federal question. Reported below: 185 Colo. 42, 521 P. 2d 908.

No. 74-5486. *BRIMM v. WORKMEN'S COMPENSATION APPEALS BOARD ET AL.* Appeal from Ct. App. Cal., 2d App. Dist., dismissed for want of substantial federal question.

No. 74-235. *SEIDENFADEN ET AL. v. CITY OF LOUISVILLE ET AL.* Appeal from Ct. App. Ky. dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied. MR. JUSTICE DOUGLAS would postpone further consideration of question of jurisdiction to hear-

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ing of case on the merits. Reported below: 508 S. W. 2d 42.

Vacated and Remanded on Appeal

No. 73-711. *CRYAN, SHERIFF, ET AL. v. HAMAR THEATRES, INC., ET AL.* Appeal from D. C. N. J. [Probable jurisdiction noted, 416 U. S. 954.] Judgment vacated and case remanded to determine whether the cause is moot in light of *State v. DeSantis*, 65 N. J. 462, 323 A. 2d 489 (1974).

No. 74-67. *DICKSON v. FORD, PRESIDENT OF THE UNITED STATES, ET AL.* Appeal from D. C. W. D. Tex. This is an appeal, assertedly brought under 28 U. S. C. § 1253, from a three-judge court order dismissing a complaint which sought to enjoin a federal statute upon the ground of its unconstitutionality, 28 U. S. C. § 2282. The court found the case "non-justiciable" because the appellant lacked standing to sue and because the case involved a "political question." Where a three-judge court dismisses a complaint as being nonjusticiable, appeal does not lie to this Court under 28 U. S. C. § 1253. *Gonzalez v. Automatic Employees Credit Union, ante*, p. 90. Accordingly, the order is vacated and case remanded so that a fresh order may be entered from which a timely appeal may be taken to the United States Court of Appeals. 28 U. S. C. § 1291. Reported below: 379 F. Supp. 1345.

No. 74-437. *NORTH v. RUSSELL ET AL.* Appeal from Ct. App. Ky. Upon representation of the Attorney General of Kentucky set forth in his motion to dismiss or affirm filed in this Court on November 29, 1974, judgment is vacated and case remanded for further consideration in light of the position presently asserted by the Commonwealth. Reported below: 516 S. W. 2d 103.

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Miscellaneous Orders

No. A-446 (74-759). *MOORE v. UNITED STATES*. Ct. App. D. C. Application for release pending disposition of petition for writ of certiorari, presented to THE CHIEF JUSTICE, and by him referred to the Court, denied.

No. A-467 (74-668). *SELIKOFF v. NEW YORK*. Ct. App. N. Y. Application for stay of incarceration, presented to MR. JUSTICE DOUGLAS, and by him referred to the Court, denied. Reported below: 35 N. Y. 2d 227, 318 N. E. 2d 784.

No. A-498. *GABRIEL v. UNITED STATES ET AL.* D. C. N. J. Application for stay, presented to MR. JUSTICE DOUGLAS, and by him referred to the Court, denied.

No. A-506. *GIBBS ET AL. v. HOWELL ET AL.* Ct. App. N. Y. Application for stay of execution of judgment upon remittitur, presented to MR. JUSTICE REHNQUIST, and by him referred to the Court, denied.

No. A-514. *BOYD v. PENNSYLVANIA STATE BOARD OF OSTEOPATHIC EXAMINERS*. Pa. Commw. Ct. Application for stay of suspension of license to practice pending timely filing and disposition of a petition for writ of certiorari, presented to MR. JUSTICE BRENNAN, and by him referred to the Court, denied. Reported below: 12 Pa. Commw. 620, 317 A. 2d 307.

No. 74-5588. *TUCKER v. BOWERS, UNITED STATES ATTORNEY, ET AL.*; and

No. 74-5621. *CRANE v. STONE, CORRECTIONAL SUPERINTENDENT, ET AL.* Motions for leave to file petitions for writs of habeas corpus denied.

No. 73-6650. *BROWN v. ILLINOIS*. Sup. Ct. Ill. [Certiorari granted, *ante*, p. 894.] Motion of John Thomas Moran, Jr., Esquire, to permit Robert P. Isaac-

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son, Esquire, to present oral argument *pro hac vice* on behalf of petitioner granted.

No. A-511. MILLER *v.* CALIFORNIA. App. Dept., Super. Ct. Cal., County of Orange. Application for bail pending appeal, presented to MR. JUSTICE DOUGLAS, and by him referred to the Court, denied.

No. 35, Orig. UNITED STATES *v.* MAINE ET AL. Motion of Special Committee on Tidelands of National Association of Attorneys General for leave to file a brief as *amicus curiae* granted.

No. 73-1708. BURNS, COMMISSIONER, DEPARTMENT OF SOCIAL SERVICES OF IOWA, ET AL. *v.* ALCALA ET AL. C. A. 8th Cir. [Certiorari granted, *ante*, p. 823.] Motion of Pacific Legal Foundation for leave to file a brief as *amicus curiae* granted.

No. 73-1765. MEEK ET AL. *v.* PITTINGER, SECRETARY OF EDUCATION, ET AL. Appeal from D. C. E. D. Pa. [Probable jurisdiction noted, *ante*, p. 822.] Joint motion for additional time for oral argument granted, and a total of one and one-half hours allotted for oral argument.

No. 73-1808. LAING *v.* UNITED STATES ET AL. C. A. 2d Cir. [Certiorari granted, *ante*, p. 824]; and

No. 74-75. UNITED STATES ET AL. *v.* HALL. C. A. 6th Cir. [Certiorari granted, *ante*, p. 824.] Motion to consolidate for oral argument granted.

No. 73-1933. UNITED STATES *v.* CITIZENS & SOUTHERN NATIONAL BANK ET AL. Appeal from D. C. N. D. Ga. [Probable jurisdiction noted, *ante*, p. 893.] Motion of Independent Bankers Association of Georgia, Inc., for leave to file a brief as *amicus curiae* granted.

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Probable Jurisdiction Noted

No. 74-456. HILL, ATTORNEY GENERAL OF TEXAS, ET AL. *v.* PRINTING INDUSTRIES OF THE GULF COAST ET AL. Appeal from D. C. S. D. Tex. Probable jurisdiction noted. Reported below: 382 F. Supp. 801.

Certiorari Granted

No. 74-5116. MURPHY *v.* FLORIDA. C. A. 5th Cir. Motion for leave to proceed *in forma pauperis* and certiorari granted. Reported below: 495 F. 2d 553.

Certiorari Denied. (See also No. 74-235, *supra.*)

No. 73-1978. MITZNER ET AL. *v.* UNITED STATES;

No. 74-5063. HECK *v.* UNITED STATES;

No. 74-5073. MOTHS *v.* UNITED STATES; and

No. 74-5086. ROSS *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 499 F. 2d 778.

No. 73-7076. OLSON *v.* TEXAS. C. A. 5th Cir. Certiorari denied. Reported below: 488 F. 2d 1056.

No. 74-202. DiMATTINA, AKA ZAMPITELLA *v.* IMMIGRATION AND NATURALIZATION SERVICE. C. A. 3d Cir. Certiorari denied. Reported below: 497 F. 2d 921.

No. 74-211. TOLLETT *v.* LAMAN ET AL. C. A. 8th Cir. Certiorari denied. Reported below: 497 F. 2d 1231.

No. 74-229. POMMERENING ET AL. *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. Reported below: 500 F. 2d 92.

No. 74-348. ODLAND *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied. Reported below: 502 F. 2d 148.

No. 74-354. VERIVE *v.* UNITED STATES; and

No. 74-5109. SCHULMAN *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied. Reported below: 500 F. 2d 1404.

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No. 74-373. *KONIECKI ET AL. v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 500 F. 2d 1405.

No. 74-382. *UNITED STATES v. FINLEY COAL CO. ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 493 F. 2d 285.

No. 74-386. *IDAHO TAX COMMISSION v. MAHONEY*. Sup. Ct. Idaho. Certiorari denied. Reported below: 96 Idaho 59, 524 P. 2d 187.

No. 74-399. *MAYSE ET AL. v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 497 F. 2d 925.

No. 74-405. *WARREN v. UNITED STATES*. Ct. Cl. Certiorari denied. Reported below: 205 Ct. Cl. 823, 503 F. 2d 1406.

No. 74-410. *SMITH v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 502 F. 2d 1150.

No. 74-432. *COMMUNITY BANK ET AL. v. FEDERAL RESERVE BANK OF SAN FRANCISCO ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 500 F. 2d 282.

No. 74-443. *LIBERTY LOAN CORP. v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 498 F. 2d 225.

No. 74-449. *GREENBERG v. UNITED STATES*. C. A. 9th Cir. Certiorari denied.

No. 74-460. *HIGHWAY & LOCAL MOTOR FREIGHT DRIVERS LOCAL NO. 701, AFFILIATED WITH INTERNATIONAL BROTHERHOOD OF TEAMSTERS, CHAUFFEURS, WAREHOUSEMEN & HELPERS OF AMERICA v. SUBURBAN TRANSIT CORP. ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 499 F. 2d 78.

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No. 74-483. O'CALLAGHAN ET AL. *v.* SHELDON ET AL.;
and

No. 74-541. SHELDON ET AL. *v.* O'CALLAGHAN ET AL.
C. A. 2d Cir. Certiorari denied. Reported below: 497
F. 2d 1276.

No. 74-502. SMART *v.* JONES ET AL. C. A. 5th Cir.
Certiorari denied. Reported below: 493 F. 2d 663.

No. 74-505. BALDWIN ET AL. *v.* MISSISSIPPI. Sup.
Ct. Miss. Certiorari denied. Reported below: 297 So.
2d 157.

No. 74-527. CHILDREN'S REHABILITATION CENTER,
INC. *v.* SERVICE EMPLOYEES INTERNATIONAL UNION,
LOCAL No. 227, AFL-CIO. C. A. 3d Cir. Certiorari
denied. Reported below: 503 F. 2d 1077.

No. 74-531. PATTON ET AL., TRUSTEES *v.* RAILWAY
LABOR EXECUTIVES' ASSN. ET AL. C. A. 6th Cir. Certio-
rari denied. Reported below: 500 F. 2d 34.

No. 74-553. GOODYEAR *v.* GATES RUBBER Co. C. A.
10th Cir. Certiorari denied.

No. 74-5052. McMANUS *v.* OKLAHOMA. Ct. Crim.
App. Okla. Certiorari denied. Reported below: See
516 P. 2d 277.

No. 74-5118. HILL *v.* LOUISIANA. Sup. Ct. La. Cer-
tiorari denied. Reported below: 297 So. 2d 660.

No. 74-5123. NUNEZ-VILLALOBOS *v.* UNITED STATES.
C. A. 9th Cir. Certiorari denied. Reported below: 500
F. 2d 1023.

No. 74-5157. MEYERS *v.* VENABLE ET AL. C. A. 9th
Cir. Certiorari denied. Reported below: 500 F. 2d
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No. 74-343. *AGNEW v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 500 F. 2d 1400.

No. 74-5131. *APODACA v. CALIFORNIA*. Ct. App. Cal., 1st App. Dist. Certiorari denied.

No. 74-5134. *FICO v. UNITED STATES*. C. A. 9th Cir. Certiorari denied.

No. 74-5185. *DOE v. MIDDENDORF, SECRETARY OF THE NAVY*. C. A. 9th Cir. Certiorari denied.

No. 74-5202. *RUSH ET AL. v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 500 F. 2d 1405.

No. 74-5241. *GILLIKIN v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 498 F. 2d 1398.

No. 74-5279. *KLEIN v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 488 F. 2d 481.

No. 74-5325. *VAN DRUNEN v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 501 F. 2d 1393.

No. 74-5407. *MASSENGALE v. UNITED STATES*. C. A. D. C. Cir. Certiorari denied. Reported below: 162 U. S. App. D. C. 99, 497 F. 2d 686.

No. 74-5509. *AIKEN v. HOPPER, WARDEN*. C. A. 5th Cir. Certiorari denied. Reported below: 500 F. 2d 574.

No. 74-5513. *RICH v. TEXAS*. Ct. Crim. App. Tex. Certiorari denied. Reported below: 510 S. W. 2d 596.

No. 74-5514. *CLOUSTON v. CALIFORNIA*. Ct. App. Cal., 4th App. Dist. Certiorari denied.

No. 74-5520. *BRYANT v. NELSON, WARDEN*. C. A. 9th Cir. Certiorari denied.

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No. 74-5525. *GAITO v. MATSON*. Sup. Ct. Pa. Certiorari denied. Reported below: 233 Ga. 393, 211 S. E. 2d 771.

No. 74-5540. *BUSH v. CRAIG ET AL.* Sup. Ct. Ga. Certiorari denied. Reported below: 233 Ga. 393, 211 S. E. 2d 771.

No. 74-5549. *HAWKINS v. LAVALLEE, CORRECTIONAL SUPERINTENDENT*. C. A. 2d Cir. Certiorari denied. Reported below: 505 F. 2d 728.

No. 73-1702. *LOWDER v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. MR. JUSTICE STEWART would grant certiorari. Reported below: 492 F. 2d 953.

No. 73-2058. *PENNSYLVANIA v. O'SHEA*. Sup. Ct. Pa. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 456 Pa. 288, 318 A. 2d 713.

No. 74-241. *HENNIGAN ET UX. v. PLACID OIL CO. ET AL.* C. A. 5th Cir. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari. Reported below: 496 F. 2d 876.

No. 74-370. *GOODRICH v. SOUTH DAKOTA*. Sup. Ct. S. D. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari. Reported below: — S. D. —, 216 N. W. 2d 557.

No. 74-523. *FRASIER v. INDIANA*. Sup. Ct. Ind. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari. Reported below: — Ind. —, 312 N. E. 2d 77.

No. 74-5017. *SEDILLO v. NEW MEXICO*. Sup. Ct. N. M. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari.

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No. 74-524. *THISTLETHWAITE v. CITY OF NEW YORK ET AL.* C. A. 2d Cir. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari. Reported below: 497 F. 2d 339.

No. 74-580. *GOODEN, A MINOR, BY GOODEN, ET AL. v. MISSISSIPPI STATE UNIVERSITY ET AL.* C. A. 5th Cir. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari. Reported below: 499 F. 2d 441.

No. 74-5016. *AYERS v. OREGON.* Ct. App. Ore. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari. Reported below: 16 Ore. App. 300, 518 P. 2d 190.

No. 74-5074. *ESTRADA v. WISCONSIN.* Sup. Ct. Wis. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari. Reported below: 63 Wis. 2d 476, 217 N. W. 2d 359.

No. 74-5427. *WERTS v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari. Reported below: 502 F. 2d 784.

No. 74-5506. *CARTER v. COOK.* C. A. 5th Cir. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari. Reported below: 502 F. 2d 1165.

No. 74-313. *BUCKLEY ET AL. v. AMERICAN FEDERATION OF TELEVISION & RADIO ARTISTS.* C. A. 2d Cir.; and

No. 74-314. *LEWIS v. AMERICAN FEDERATION OF TELEVISION & RADIO ARTISTS.* Ct. App. N. Y. Certiorari denied. Reported below: No. 74-313, 496 F. 2d 305, and No. 74-314, 34 N. Y. 2d 265, 313 N. E. 2d 735.

MR. JUSTICE DOUGLAS, with whom THE CHIEF JUSTICE joins, dissenting.

These cases, as I view them, present the issue of whether a person suffers an infringement of his First Amend-

ment rights when he is compelled to pay union dues (or their equivalent) as a precondition to expressing his ideas through a public broadcasting medium.¹

In *Railway Employees' Dept. v. Hanson*, 351 U. S. 225 (1956), a union-shop agreement authorized under the Railway Labor Act was challenged under the First and Fifth Amendments. While holding on the merits that a union-shop requirement does not violate those Amendments, we held that the Railway Labor Act provision governing union-shop agreements constituted sufficient governmental action to require consideration of the constitutional issues: "[T]he federal statute is the source of the power and authority by which any private rights are lost or sacrificed." 351 U. S., at 232. We left open the possibility that a membership or dues requirement might, in some circumstances, be imposed in contravention of the First Amendment, though no such problem was presented on the record in that case.

In *Hanson*, governmental action was based on the Railway Labor Act, which provided that state "right to work" laws were superseded and that a union-shop agreement was permissible notwithstanding such laws. 351 U. S., at 231-232. Thus that federal Act placed "the imprimatur of the federal law" upon union-shop agreements. The Taft-Hartley Act (in contrast) authorizes union-shop agreements only in the absence of contrary state law. 61 Stat. 151, 29 U. S. C. § 164 (b). Yet there still is a substantial argument in favor of a holding that a union-shop agreement under the NLRA bears the imprimatur of federal law.

The fact that § 8 (a) (3) ² is phrased in permissive rather than mandatory terms would not, in and of itself,

¹ I agree with the respective Courts of Appeals that issues concerning union disciplinary sanctions (or threats of such sanctions) are not properly before us.

² 49 Stat. 452, as amended, 29 U. S. C. § 158 (a) (3).

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prevent a finding of governmental action. The Federal Government has undertaken extensive regulation of the field of labor-management relations, and by its approval and enforcement of union-shop agreements, may be said to "encourage" and foster such agreements. *Linscott v. Millers Falls Co.*, 440 F. 2d 14 (CA1 1971); cf. *Reitman v. Mulkey*, 387 U. S. 369 (1967).

It is significant that congressional permissiveness toward union-shop agreements is coupled with the NLRA's "exclusivity" principle, whereby a majority vote of the employees in a particular category is sufficient to designate an exclusive bargaining representative whose actions bind majority and minority alike. When Congress authorizes an employer and a union to enter into union-shop agreements and makes such agreements binding and enforceable over the dissents of a minority of employees or union members, it has cast the weight of the Federal Government behind the agreements just as surely as if it had imposed them by statute.

There is a substantial question whether the union-dues requirement imposed upon these petitioners should be characterized as a prior restraint or inhibition upon their free-speech rights. In some respects, the requirement to pay dues under compulsion can be viewed as the functional equivalent of a "license" to speak. In several related decisions, we have left open the possibility that First Amendment associational freedoms would be infringed by a requirement that a union member subject to a union-shop agreement pay dues to support union political activities with which he disagrees. *Machinists v. Street*, 367 U. S. 740 (1961); *Railway Employees' Dept v. Hanson*, *supra*. Cf. *Lathrop v. Donohue*, 367 U. S. 820 (1961). We held in *Street* that the Railway Labor Act should be construed to deny unions the power to compel a union member to pay dues in support of union political causes of which he disapproves; we indicated that some

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suitable formula of apportionment could be worked out, so that the union member would bear his share of the cost of collective-bargaining activities from which he benefited, but would not be forced to contribute to political activities if he did not wish to do so. Whether a similar accommodation could be worked out in the present case, I do not know. Our cases dealing with flat license fees or registration requirements, such as *Thomas v. Collins*, 323 U. S. 516 (1945), and *Murdock v. Pennsylvania*, 319 U. S. 105 (1943), tend to suggest that even a minimal payment designed solely to cover administrative costs may be impermissible in a First Amendment context. There remains a question of whether an accommodation respecting dues could be worked out in the present case. Whatever the outcome, I believe that the issues are sufficiently substantial to call for plenary consideration.

No. 74-498. *RESEARCH CORP. v. NASCO INDUSTRIES, INC.* C. A. 7th Cir. Certiorari denied. MR. JUSTICE BLACKMUN took no part in the consideration or decision of this petition. Reported below: 501 F. 2d 358.

No. 74-501. *WYETH LABORATORIES, A DIVISION OF AMERICAN HOME PRODUCTS CORP. v. REYES*. C. A. 5th Cir. Motions of American Academy of Pediatrics and Conference of State and Territorial Epidemiologists for leave to file briefs as *amici curiae* granted. Motion of American Medical Assn. for leave to file a brief as *amicus curiae* denied. Certiorari denied. Reported below: 498 F. 2d 1264.

No. 74-546. *DITTER, U. S. DISTRICT JUDGE v. PHILADELPHIA NEWSPAPERS, INC., ET AL.* C. A. 3d Cir. Motion of American Newspaper Publishers Assn. for leave to file a brief as *amicus curiae* and certiorari denied. Reported below: 504 F. 2d 1.

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No. 74-5527. *BRIDGES v. TENNESSEE*. C. A. 6th Cir. Certiorari denied. Reported below: 500 F. 2d 1402.

No. 74-5532. *BOLDEN v. COWAN, PENITENTIARY SUPERINTENDENT*. C. A. 6th Cir. Certiorari denied.

No. 73-528. *GENERES v. STICH ET AL.* Ct. App. Cal., 3d App. Dist. Certiorari and other relief denied.

Rehearing Denied

No. 73-1890. *THOMPSON ET UX. v. CLARK, TREASURER OF DUPAGE COUNTY, ET AL.*, *ante*, p. 988;

No. 74-97. *DIAMOND ET AL. v. BLAND, SHERIFF, ET AL.*, *ante*, p. 885;

No. 74-248. *UNITED STATES GYPSUM CO. v. UNITED STEELWORKERS OF AMERICA, AFL-CIO*, *ante*, p. 998; and

No. 74-5187. *SMITH v. CALIFORNIA*, *ante*, p. 988. Petitions for rehearing denied.

No. 73-6732. *SLOAN v. NIXON, PRESIDENT OF THE UNITED STATES, ET AL.*, *ante*, p. 958. Petition for rehearing denied. See this Court's Rule 58.

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Dismissal Under Rule 60

No. 74-5565. *ESTEVEZ v. UNITED STATES*. C. A. 9th Cir. Certiorari dismissed under this Court's Rule 60.

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Dismissal Under Rule 60

No. 73-1943. *TRANSWESTERN PIPELINE CO. v. KERR-McGEE CORP. ET AL.* C. A. 10th Cir. Certiorari dismissed under this Court's Rule 60. Reported below: 492 F. 2d 878.

JANUARY 13, 1975*

Affirmed on Appeal

No. 74-380. LOUISIANA STATE BOARD OF MEDICAL EXAMINERS ET AL. *v.* ROSEN. Affirmed on appeal from D. C. E. D. La. Reported below: 380 F. Supp. 875.

MR. JUSTICE WHITE, with whom MR. JUSTICE REHNQUIST joins, concurring.

Under the compulsion of *Roe v. Wade*, 410 U. S. 113 (1973), and *Doe v. Bolton*, 410 U. S. 179 (1973), which in my view were erroneously decided, I join the affirmance.

No. 74-402. RASTETTER ET AL. *v.* WEINBERGER, SECRETARY OF HEALTH, EDUCATION, AND WELFARE, ET AL. Affirmed on appeal from D. C. Ariz. Reported below: 379 F. Supp. 170.

No. 74-5136. YOUNG ET AL. *v.* COBB, CHIEF, BUREAU OF FINANCIAL RESPONSIBILITY, ET AL. Affirmed on appeal from D. C. S. D. Fla.

Appeals Dismissed

No. 73-2045. AMERICAN PLANT FOOD CORP. *v.* TEXAS. Appeal from Ct. Crim. App. Tex. dismissed for want of substantial federal question. Reported below: 508 S. W. 2d 598.

No. 74-253. SOBOTTKA *v.* BROWN, REGISTRAR OF VOTERS. Appeal from Sup. Ct. Va. dismissed for want of substantial federal question.

No. 74-413. CEREZO *v.* BUSO ET AL. Appeal from Sup. Ct. P. R. dismissed for want of substantial federal question. Reported below: — P. R. R. —.

*MR. JUSTICE DOUGLAS took no part in the consideration or decision of cases in which orders hereinafter reported were announced on this date.

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No. 74-5425. *RUDERER v. WOOD ET AL.* Appeal from D. C. S. D. Ill. dismissed for want of jurisdiction.

No. 74-5571. *RAY ET AL. v. HEDGEWALD ET AL.* Appeal from D. C. W. D. Ky. dismissed for want of jurisdiction.

No. 74-5567. *ALERS v. MUNICIPALITY OF SAN JUAN.* Appeal from C. A. 1st Cir. dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied.

No. 74-5577. *HURD v. HURD.* Appeal from Ct. App. Cal., 4th App. Dist., dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied.

No. 74-5583. *TURNER v. CALIFORNIA.* Appeal from Ct. App. Cal., 4th App. Dist., dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied.

Certiorari Granted—Vacated and Remanded

No. 74-83. *PELLICIONI v. SCHUYLER PACKING CO. ET AL.* Super. Ct. N. J. Certiorari granted, judgment vacated, and case remanded for further consideration in light of *Kelley v. Southern Pacific Co.*, ante, p. 318. Reported below: See 65 N. J. 290, 321 A. 2d 251.

No. 74-5352. *ACKERSON v. UNITED STATES.* C. A. 8th Cir. Motion for leave to proceed *in forma pauperis* and certiorari granted. Upon representation of the Solicitor General set forth in his brief for the United States filed December 19, 1974, judgment vacated and case remanded to the United States District Court for the Eastern District of Missouri to permit the Government to dismiss the charges against petitioner. THE CHIEF JUSTICE, MR. JUSTICE WHITE, and MR. JUSTICE REHNQUIST dissent. Reported below: 502 F. 2d 300.

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Miscellaneous Orders

No. A-285. *WOHLGEMUTH v. PLANNED PARENTHOOD ASSOCIATION OF SOUTHEASTERN PENNSYLVANIA, INC., ET AL.* C. A. 3d Cir. Application to vacate preliminary injunction, presented to MR. JUSTICE REHNQUIST, and by him referred to the Court, denied.

No. A-445. *PARKER v. ESTELLE, CORRECTIONS DIRECTOR.* C. A. 5th Cir. Application for continuance of bail pending timely filing of petition for writ of certiorari, presented to MR. JUSTICE DOUGLAS, and by him referred to the Court, denied.

No. A-501. *HOWARD v. UNITED STATES.* C. A. 5th Cir. Application for bail pending appeal, presented to MR. JUSTICE DOUGLAS, and by him referred to the Court, denied.

No. A-518. *McINTOSH v. WOODWARD, ACTING DIRECTOR, UNITED STATES BOARD OF PAROLE, ET AL.* C. A. 5th Cir. Application for bail pending appeal, presented to MR. JUSTICE DOUGLAS, and by him referred to the Court, denied.

No. A-547 (74-5678). *LIDDY v. UNITED STATES.* C. A. D. C. Cir. Application for bail, presented to THE CHIEF JUSTICE, and by him referred to the Court, denied. Reported below: 166 U. S. App. D. C. 95, 509 F. 2d 428.

No. A-553. *NATIONAL LEAGUE OF CITIES, INC., ET AL. v. BRENNAN, SECRETARY OF LABOR;* and

No. A-566. *CALIFORNIA ET AL. v. BRENNAN, SECRETARY OF LABOR.* D. C. D. C. Stay order heretofore granted by THE CHIEF JUSTICE on December 31, 1974, is hereby continued on condition that appellants file their jurisdictional statements on or before January 17, 1975. Appellee may file a reply to the jurisdictional statements on or before 12 p. m., January 23, 1975. Neither the

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jurisdictional statements nor the replies need be initially printed. Reported below: 406 F. Supp. 826.

No. A-563. HUNTSVILLE BOARD OF EDUCATION ET AL. v. HEREFORD ET AL. Application for recall and stay of mandate of the United States Court of Appeals for the Fifth Circuit, presented to MR. JUSTICE POWELL, and by him referred to the Court, denied.

No. D-25. IN RE DISBARMENT OF LEACH. It is ordered that Arthur Dale Leach, of Silver Spring, Md., 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. D-26. IN RE DISBARMENT OF KETCHAM. It is ordered that Frank S. Ketcham, of Potomac, Md., 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. D-28. IN RE DISBARMENT OF BUTTLES. It having been reported to this Court that Robert S. Buttles, of New York, N. Y., has been suspended from the practice of law in all of the courts of the State of New York, and this Court by order of November 18, 1974 [*ante*, p. 1016], having suspended the said Robert S. Buttles 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 respondent, and that a response has been filed;

It is ordered that the said Robert S. Buttles be, and he is hereby, disbarred from the practice of law in this Court and that his name be stricken from the roll of

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attorneys admitted to practice before the Bar of this Court.

No. D-31. *IN RE DISBARMENT OF ROSS*. It is ordered that John A. Ross, Jr., of New York, N. Y., 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. D-32. *IN RE DISBARMENT OF GERMAISE*. It is ordered that Irwin L. Germaise, of New York, N. Y., 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. 35, Orig. *UNITED STATES v. MAINE ET AL.* Motion of Associated Gas Distributors for leave to file a brief as *amicus curiae* granted. [For earlier orders herein, see, *e. g., ante*, p. 1087.]

No. 73-1708. *BURNS, COMMISSIONER, DEPARTMENT OF SOCIAL SERVICES OF IOWA, ET AL. v. ALCALA ET AL.* C. A. 8th Cir. [Certiorari granted, *ante*, p. 823.] Motion of American Association for Maternal & Child Health et al. for leave to file a brief as *amici curiae* granted. Motion of the Attorney General of Florida for leave to participate in oral argument as *amicus curiae* denied.

No. 73-1908. *CORT ET AL. v. ASH*. C. A. 3d Cir. [Certiorari granted, *ante*, p. 992.] Motion of Chamber of Commerce of the United States for leave to file a brief as *amicus curiae* granted.

No. 73-2047. *BUCK ET AL. v. IMPEACH NIXON COMMITTEE ET AL.*, *ante*, p. 891. Motion of respondents to retax costs denied.

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No. 73-1765. MEEK ET AL. *v.* PITTENGER, SECRETARY OF EDUCATION, ET AL. Appeal from D. C. E. D. Pa. [Probable jurisdiction noted, *ante*, p. 822.] Motion of National Audio-Visual Assn., Inc., for leave to file a brief as *amicus curiae* granted.

No. 73-1923. EASTLAND ET AL. *v.* UNITED STATES SERVICEMEN'S FUND ET AL. C. A. D. C. Cir. [Certiorari granted, *ante*, p. 823.] Motion of respondents for divided argument granted.

No. 73-2060. AUSTIN ET AL. *v.* NEW HAMPSHIRE ET AL. Appeal from Sup. Ct. N. H. [Probable jurisdiction noted, *ante*, p. 822.] Motion of appellees to permit Charles G. Cleaveland, Esquire, to present oral argument *pro hac vice* granted. Motions of Attorney General of Vermont and Attorney General of New Jersey for leave to participate in oral argument as *amici curiae* denied.

No. 74-70. GOLDFARB ET UX. *v.* VIRGINIA STATE BAR ET AL. C. A. 4th Cir. [Certiorari granted, *ante*, p. 963.] Motions of the Bar of the City of New York and the District of Columbia Bar for leave to file briefs as *amici curiae* denied. MR. JUSTICE POWELL took no part in the consideration or decision of these motions.

No. 74-5595. RATCLIFF *v.* TEXAS ET AL. Motion for leave to file petition for writ of certiorari denied.

No. 74-453. VAN LARE, ACTING COMMISSIONER, DEPARTMENT OF SOCIAL SERVICES OF NEW YORK, ET AL. *v.* HURLEY ET AL. Appeal from D. C. S. D. N. Y. and D. C. E. D. N. Y. [Probable jurisdiction noted, *ante*, p. 1045]; and

No. 74-5054. TAYLOR ET AL. *v.* LAVINE, COMMISSIONER, DEPARTMENT OF SOCIAL SERVICES OF NEW YORK, ET AL. C. A. 2d Cir. [Certiorari granted, *ante*, p. 1046.] Motion to consolidate for oral argument granted.

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No. 74-304. *GORDON v. NEW YORK STOCK EXCHANGE, INC., ET AL.* C. A. 2d Cir. [Certiorari granted, *ante*, p. 1018.] Motion of Retirement Board of the Teachers' Retirement System of the City of New York for leave to file a brief as *amicus curiae* denied.

No. 74-5295. *PARMLEY v. ALABAMA ET AL.*;

No. 74-5502. *FARRIES v. UNITED STATES DISTRICT COURT*; and

No. 74-5531. *DRAUGHON v. UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT.* Motions for leave to file petitions for writs of mandamus denied.

No. 74-5451. *MAGEE v. SUPERIOR COURT OF CALIFORNIA, COUNTY OF SANTA CLARA.* Motion for leave to file petition for writ of mandamus and/or prohibition, and/or certiorari denied.

Probable Jurisdiction Noted

No. 73-1689. *UNITED STATES v. AMERICAN BUILDING MAINTENANCE INDUSTRIES.* Appeal from D. C. C. D. Cal. Probable jurisdiction noted. Reported below: 401 F. Supp. 1005.

No. 74-548. *UNITED STATES v. TAX COMMISSION OF MISSISSIPPI ET AL.* Appeal from D. C. S. D. Miss. Probable jurisdiction noted. Reported below: 378 F. Supp. 558.

Certiorari Granted

No. 74-204. *WEINBERGER, SECRETARY OF HEALTH, EDUCATION, AND WELFARE v. ELDRIDGE.* C. A. 4th Cir. Motion of respondent for leave to proceed *in forma pauperis* and certiorari granted. Reported below: 493 F. 2d 1230.

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Certiorari Denied. (See also Nos. 74-5567, 74-5577, and 74-5583, *supra*.)

No. 73-1433. *HURT v. BRITTON, WARDEN.* C. A. 10th Cir. *Certiorari denied.*

No. 73-7112. *VALDEZ v. UNITED STATES.* C. A. 9th Cir. *Certiorari denied.*

No. 74-49. *CARLSON ET AL. v. CARLSON.* Sup. Ct. Cal. *Certiorari denied.* Reported below: 11 Cal. 3d 474, 521 P. 2d 1114.

No. 74-57. *DYKMAN v. FLORIDA.* Sup. Ct. Fla. *Certiorari denied.* Reported below: 294 So. 2d 633.

No. 74-94. *SCRANTON CONSTRUCTION Co., INC., ET AL. v. LITTON INDUSTRIES LEASING CORP. ET AL.* C. A. 5th Cir. *Certiorari denied.* Reported below: 494 F. 2d 778.

No. 74-105. *GOLDEN EAGLE, AKA AUSTINE v. JOHNSON, DEPUTY SHERIFF, ET AL.* C. A. 9th Cir. *Certiorari denied.* Reported below: 493 F. 2d 1179.

No. 74-128. *ADOLPH COORS Co. v. FEDERAL TRADE COMMISSION;* and

No. 74-609. *FEDERAL TRADE COMMISSION v. ADOLPH COORS Co.* C. A. 10th Cir. *Certiorari denied.* Reported below: 497 F. 2d 1178.

No. 74-274. *PARNES ET UX. v. UNITED STATES.* C. A. 2d Cir. *Certiorari denied.* Reported below: 503 F. 2d 430.

No. 74-276. *NATIONAL ROOFING CONTRACTORS ASSN. ET AL. v. BRENNAN, SECRETARY OF LABOR.* C. A. 7th Cir. *Certiorari denied.* Reported below: 495 F. 2d 1294.

No. 74-287. *GABLES BY THE SEA, INC. v. LEE ET AL.* C. A. 5th Cir. *Certiorari denied.* Reported below: 498 F. 2d 1340.

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No. 74-300. *ROSEN v. LAWRENCE*. C. A. 5th Cir. Certiorari denied. Reported below: 498 F. 2d 910.

No. 74-301. *WASHBURN v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 500 F. 2d 575.

No. 74-310. *STANDARD FORGE & AXLE Co., INC. v. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION*. C. A. 5th Cir. Certiorari denied. Reported below: 496 F. 2d 1392.

No. 74-316. *KERN v. VIRGINIA*. Sup. Ct. Va. Certiorari denied.

No. 74-321. *DUNN v. IMMIGRATION AND NATURALIZATION SERVICE*. C. A. 9th Cir. Certiorari denied. Reported below: 499 F. 2d 856.

No. 74-325. *ROVNER v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 500 F. 2d 1400.

No. 74-372. *SCHENKER, AKA SHENKER v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 497 F. 2d 1367.

No. 74-378. *GIBSON v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 500 F. 2d 854.

No. 74-396. *MATHIS v. ALABAMA*. Sup. Ct. Ala. Certiorari denied. Reported below: 292 Ala. 732, 296 So. 2d 764.

No. 74-392. *ORRIN v. SIMON, SECRETARY OF THE TREASURY*. C. A. D. C. Cir. Certiorari denied. Reported below: 162 U. S. App. D. C. 97, 497 F. 2d 684.

No. 74-394. *PATERNO ET AL. v. UNITED STATES*; and
No. 74-406. *DENTI v. UNITED STATES*. C. A. 2d Cir. Certiorari denied: Reported below: 498 F. 2d 1396.

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No. 74-388. *CASEY v. UNITED STATES*. C. A. 9th Cir. Certiorari denied.

No. 74-407. *INFELICE v. UNITED STATES*; and

No. 74-5397. *GARELLI v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: No. 74-407, 500 F. 2d 1405; No. 74-5397, 500 F. 2d 1406.

No. 74-414. *DE VESTE v. UNITED STATES*. C. A. 9th Cir. Certiorari denied.

No. 74-423. *PROVIDENT LIFE INSURANCE CO. ET AL. v. RESERVE LIFE INSURANCE CO. ET AL.*; and

No. 74-617. *RESERVE LIFE INSURANCE CO. ET AL. v. PROVIDENT LIFE INSURANCE CO. ET AL.* C. A. 8th Cir. Certiorari denied. Reported below: 499 F. 2d 715.

No. 74-427. *WILLIAMS v. GAGLIARDI*, U. S. DISTRICT JUDGE. C. A. 2d Cir. Certiorari denied. Reported below: 500 F. 2d 403.

No. 74-436. *MEDENICA v. CALLAWAY, SECRETARY OF THE ARMY*. C. A. 5th Cir. Certiorari denied. Reported below: 500 F. 2d 574.

No. 74-442. *ESSEX, ADMINISTRATRIX v. VINAL ET AL.* C. A. 8th Cir. Certiorari denied. Reported below: 499 F. 2d 226.

No. 74-445. *HASWELL v. UNITED STATES*. Ct. Cl. Certiorari denied. Reported below: 205 Ct. Cl. 421, 500 F. 2d 1133.

No. 74-461. *ALEXANDER v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 500 F. 2d 1.

No. 74-477. *LIPPMAN v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 492 F. 2d 314.

No. 74-484. *PRINCE v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 496 F. 2d 1289.

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No. 74-493. OHIO CIVIL RIGHTS COMMISSION *v.* LYSYJ, DBA KENT TRAILER PARK. Sup. Ct. Ohio. Certiorari denied. Reported below: 38 Ohio St. 2d 217, 313 N. E. 2d 3.

No. 74-494. KRAUSE ET UX. *v.* COMMISSIONER OF INTERNAL REVENUE. C. A. 6th Cir. Certiorari denied. Reported below: 497 F. 2d 1109.

No. 74-516. STEWART *v.* KYROS ET AL. C. A. 1st Cir. Certiorari denied. Reported below: 502 F. 2d 1161.

No. 74-539. NICHOLS *v.* WOODWARD & LOTHROP, INC. Ct. App. D. C. Certiorari denied. Reported below: 322 A. 2d 283.

No. 74-550. PHILADELPHIA ANTI-POVERTY ACTION COMMISSION (PAAC) ET AL. *v.* RIZZO, MAYOR OF PHILADELPHIA, ET AL. C. A. 3d Cir. Certiorari denied. Reported below: 502 F. 2d 306.

No. 74-554. PARRIGAN *v.* PADERICK, PENITENTIARY SUPERINTENDENT. Sup. Ct. Va. Certiorari denied.

No. 74-555. ISHLER *v.* TOLEDO BAR ASSN. Sup. Ct. Ohio. Certiorari denied. Reported below: 39 Ohio St. 2d 33, 313 N. E. 2d 818.

No. 74-559. JOHNSON *v.* FLORIDA. Dist. Ct. App. Fla., 4th Dist. Certiorari denied. Reported below: 291 So. 2d 67.

No. 74-562. MAHALEY ET AL. *v.* CUYAHOGA METROPOLITAN HOUSING AUTHORITY ET AL. C. A. 6th Cir. Certiorari denied. Reported below: 500 F. 2d 1087.

No. 74-564. VASSALLO *v.* LATORR, WARDEN. C. A. 2d Cir. Certiorari denied.

No. 74-566. REED *v.* CALIFORNIA. Ct. App. Cal., 2d App. Dist. Certiorari denied.

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No. 74-568. *ESTEP, A MINOR, BY STANLEY v. JANLER PLASTIC MOLD CORP.* Sup. Ct. Ill. Certiorari denied. Reported below: 57 Ill. 2d 395, 312 N. E. 2d 618.

No. 74-569. *ELLIS v. HAWAII.* Sup. Ct. Hawaii. Certiorari denied. Reported below: 55 Haw. 458, 522 P. 2d 460.

No. 74-570. *DEAN v. FORD MOTOR CO.* C. A. 9th Cir. Certiorari denied.

No. 74-581. *CALIFORNIA MOVING & STORAGE ASSN. ET AL. v. PUBLIC UTILITIES COMMISSION OF CALIFORNIA.* Sup. Ct. Cal. Certiorari denied.

No. 74-582. *PICARD v. RHODE ISLAND.* Sup. Ct. R. I. Certiorari denied. Reported below: 113 R. I. 649, 324 A. 2d 631.

No. 74-585. *STANJIM CO. ET AL. v. BOARD OF REVISION OF MAHONING COUNTY ET AL.* Sup. Ct. Ohio. Certiorari denied. Reported below: 38 Ohio St. 2d 233, 313 N. E. 2d 14.

No. 74-589. *BROWN v. BAYLOR UNIVERSITY MEDICAL CENTER AT DALLAS, TEXAS, ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 502 F. 2d 783.

No. 74-590. *KASTNER, T/A LIBERTY BELL DISCOUNT, ET AL. v. PENNSYLVANIA DEPARTMENT OF TRANSPORTATION.* Pa. Commw. Ct. Certiorari denied. Reported below: 13 Pa. Commw. Ct. 525, 320 A. 2d 146.

No. 74-598. *EDUCATION/ISTRUCCION, INC., ET AL. v. MOORE, CHAIRMAN, CAPITOL REGIONAL PLANNING AGENCY OF CONNECTICUT, ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 503 F. 2d 1187.

No. 74-600. *LA TURNER ET AL. v. BURLINGTON NORTHERN, INC., ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 501 F. 2d 593.

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No. 74-608. *CAREY ET AL. v. O'DONNELL ET AL.* C. A. D. C. Cir. Certiorari denied. Reported below: 165 U. S. App. D. C. 46, 506 F. 2d 107.

No. 74-610. *NORTHEAST MASTER EXECUTIVE COUNCIL v. CIVIL AERONAUTICS BOARD ET AL.* C. A. D. C. Cir. Certiorari denied. Reported below: 165 U. S. App. D. C. 36, 506 F. 2d 97.

No. 74-612. *PINNELL v. ARKANSAS.* Sup. Ct. Ark. Certiorari denied. Reported below: 256 Ark. 738, 512 S. W. 2d 13.

No. 74-616. *PETERS ET AL. v. CLARK ET AL.* Petition for certiorari before judgment to C. A. 5th Cir. Certiorari denied.

No. 74-625. *CALVERT v. STATE ADMINISTRATIVE BOARD OF ELECTION LAWS ET AL.* Ct. App. Md. Certiorari denied. Reported below: 272 Md. 659, 327 A. 2d 290.

No. 74-627. *NELSON v. SOUTH DAKOTA.* Sup. Ct. S. D. Certiorari denied. Reported below: — S. D. —, 220 N. W. 2d 2.

No. 74-628. *LIBERTY NATIONAL LIFE INSURANCE CO. ET AL. v. BATTLE, DBA EDGAR H. BATTLE FUNERAL HOME, ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 493 F. 2d 39.

No. 74-629. *PLACID OIL CO. ET AL. v. LOUISIANA ET AL.*; and

No. 74-638. *TEXACO INC. v. LOUISIANA ET AL.* Sup. Ct. La. Certiorari denied. Reported below: 300 So. 2d 154.

No. 74-639. *CONNECTICUT ET AL. v. KLARMAN ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 503 F. 2d 29.

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No. 74-646. REYNOLDS ET AL. *v.* PASTER ET AL. Sup. Ct. Mo. Certiorari denied. Reported below: 512 S. W. 2d 97.

No. 74-665. CIACCIO *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 506 F. 2d 1398.

No. 74-5020. CARRINGTON *v.* VIRGINIA STATE PENITENTIARY SUPERINTENDENT. C. A. 4th Cir. Certiorari denied. Reported below: 493 F. 2d 1355.

No. 74-5072. STEWART *v.* CALIFORNIA. Sup. Ct. Cal. Certiorari denied. Reported below: 10 Cal. 3d 902, 519 P. 2d 568.

No. 74-5122. WHITE *v.* MASSACHUSETTS. Sup. Jud. Ct. Mass. Certiorari denied. Reported below: — Mass. —, —, and —, 311 N. E. 2d 543, 547 and 550.

No. 74-5144. O'BRIEN *v.* CALIFORNIA. Sup. Ct. Cal. Certiorari denied.

No. 74-5146. SURLES *v.* CALIFORNIA. Ct. App. Cal., 2d App. Dist. Certiorari denied.

No. 74-5194. CHAVERS *v.* LOUISIANA. Sup. Ct. La. Certiorari denied. Reported below: 294 So. 2d 489.

No. 74-5201. OWENS *v.* CANNON, WARDEN. C. A. 7th Cir. Certiorari denied. Reported below: 497 F. 2d 927.

No. 74-5209. MORROW *v.* ILLINOIS; and

No. 74-5210. MACKINS *v.* ILLINOIS. App. Ct. Ill., 1st Dist. Certiorari denied. Reported below: 17 Ill. App. 3d 24, 308 N. E. 2d 92.

No. 74-5218. CRUMP *v.* BRANTLEY, WARDEN. App. Ct. Ill., 1st Dist. Certiorari denied. Reported below: 17 Ill. App. 3d 318, 307 N. E. 2d 651.

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No. 74-5233. *JONES v. WAINWRIGHT, CORRECTIONS DIRECTOR*. C. A. 5th Cir. Certiorari denied. Reported below: 494 F. 2d 1184.

No. 74-5250. *HUDSPETH v. VIRGINIA*. Sup. Ct. Va. Certiorari denied.

No. 74-5266. *LOCKETT v. ALABAMA*. C. A. 5th Cir. Certiorari denied. Reported below: 498 F. 2d 910.

No. 74-5283. *RODRIGUEZ-PRECIADO v. IMMIGRATION AND NATURALIZATION SERVICE*. C. A. 9th Cir. Certiorari denied.

No. 74-5289. *KRAPPATSCH, ADMINISTRATOR v. CAPPS ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 498 F. 2d 910.

No. 74-5301. *RAMIREZ v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 498 F. 2d 1400.

No. 74-5310. *MARSHALL v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 499 F. 2d 76.

No. 74-5314. *LAWRENCE v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 498 F. 2d 1065.

No. 74-5315. *MANJARRES-ARCE v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 504 F. 2d 426.

No. 73-5320. *BAKER v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 500 F. 2d 1402.

No. 74-5321. *BROWN v. UNITED STATES*. C. A. 10th Cir. Certiorari denied.

No. 74-5328. *HALLAWAY v. UNITED STATES*. C. A. 9th Cir. Certiorari denied.

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No. 74-5329. *SCOTT v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 500 F. 2d 1401.

No. 74-5334. *GARVEY v. UNITED STATES*. C. A. 9th Cir. Certiorari denied.

No. 74-5337. *MARTIN-MENDOZA v. IMMIGRATION AND NATURALIZATION SERVICE*. C. A. 9th Cir. Certiorari denied. Reported below: 499 F. 2d 918.

No. 74-5343. *GEARIN v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 496 F. 2d 691.

No. 74-5366. *WHITAKER ET AL. v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 503 F. 2d 1400.

No. 74-5371. *WILLIS ET AL. v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 498 F. 2d 1401.

No. 74-5378. *NORTON v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 504 F. 2d 342.

No. 74-5383. *WILLIAMS v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 500 F. 2d 1401.

No. 74-5391. *JONES ET AL. v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 500 F. 2d 1403.

No. 74-5400. *GRAHAM v. DEWINTER, UNITED STATES MARSHAL*. C. A. 1st Cir. Certiorari denied.

No. 74-5409. *COWLES v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 503 F. 2d 67.

No. 74-5410. *ROBERTS v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 503 F. 2d 598.

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No. 74-5412. *DANIELS v. ALABAMA*. C. A. 5th Cir. Certiorari denied.

No. 74-5418. *DENSON v. UNITED STATES*. C. A. 10th Cir. Certiorari denied.

No. 74-5420. *HUBBARD v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 501 F. 2d 1254.

No. 74-5432. *HAYGOOD v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 502 F. 2d 166.

No. 74-5434. *VILLARREAL v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 500 F. 2d 1183.

No. 74-5438. *HALL v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 505 F. 2d 736.

No. 74-5441. *MANDUJANO v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 499 F. 2d 370.

No. 74-5443. *VILKAITIS v. MARYLAND*. Ct. App. Md. Certiorari denied.

No. 74-5465. *LAUGHLIN v. UNITED STATES*. C. A. D. C. Cir. Certiorari denied.

No. 74-5468. *MAGEE v. SUPERIOR COURT OF CALIFORNIA, COUNTY OF SANTA CLARA, ET AL.* Ct. App. Cal., 1st App. Dist. Certiorari denied.

No. 74-5518. *PEMBERTON v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 502 F. 2d 784.

No. 74-5495. *FUNCHES v. ALABAMA*. Ct. Crim. App. Ala. Certiorari denied. Reported below: 53 Ala. App. 330, 299 So. 2d 771.

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No. 74-5492. *SNIDER v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 499 F. 2d 424.

No. 74-5529. *McHAR v. McHALE*. C. A. D. C. Cir. Certiorari denied.

No. 74-5542. *COOK v. ADMINISTRATOR, VETERANS' ADMINISTRATION*. C. A. 5th Cir. Certiorari denied. Reported below: 495 F. 2d 1371.

No. 74-5545. *STONE v. CALIFORNIA*. Ct. App. Cal., 2d App. Dist. Certiorari denied.

No. 74-5546. *NORMAN v. CLANON, MEDICAL FACILITY SUPERINTENDENT*. Sup. Ct. Cal. Certiorari denied.

No. 74-5547. *CARPENTER v. CALIFORNIA*. Ct. App. Cal., 3d App. Dist. Certiorari denied.

No. 74-5550. *MORENO v. TEXAS*. Ct. Crim. App. Tex. Certiorari denied. Reported below: 511 S. W. 2d 273.

No. 74-5555. *McALISTER ET AL. v. MASSACHUSETTS*. Sup. Jud. Ct. Mass. Certiorari denied. Reported below: — Mass. —, —, and —, 313 N. E. 2d 113, 869, and 872.

No. 74-5557. *DODSON v. NEW YORK*. App. Div., Sup. Ct. N. Y., 2d Jud. Dept. Certiorari denied.

No. 74-5558. *MYERS, DBA ROMYCO STEREO v. AMPEX, INC., ET AL.* C. A. 5th Cir. Certiorari denied.

No. 74-5561. *CARTER v. MONEY TREE Co.* C. A. 5th Cir. Certiorari denied. Reported below: 502 F. 2d 783.

No. 74-5569. *JONES v. GEORGIA*. Sup. Ct. Ga. Certiorari denied. Reported below: 232 Ga. 771, 208 S. E. 2d 825.

No. 74-5578. *MAGEE v. BRITT, WARDEN, ET AL.* Sup. Ct. Cal. Certiorari denied.

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No. 74-5582. *CARROL v. CALIFORNIA*. Ct. App. Cal., 2d App. Dist. Certiorari denied.

No. 74-5590. *VESTER v. NORTH CAROLINA*. Ct. App. N. C. Certiorari denied. Reported below: 22 N. C. App. 16, 205 S. E. 2d 556.

No. 74-5592. *COSCO v. MEACHAM, WARDEN, ET AL.* C. A. 10th Cir. Certiorari denied.

No. 74-5596. *SHINE v. CALIFORNIA*. Ct. App. Cal., 4th App. Dist. Certiorari denied.

No. 74-5601. *DUARTE v. CALIFORNIA*. Ct. App. Cal., 4th App. Dist. Certiorari denied.

No. 74-5606. *RAMIREZ v. CALIFORNIA*. Ct. App. Cal., 2d App. Dist. Certiorari denied. Reported below: 40 Cal. App. 3d 347, 114 Cal. Rptr. 916.

No. 74-441. *MEIER v. BOLDT*, U. S. DISTRICT JUDGE. C. A. 9th Cir. Certiorari denied. See *Molinaro v. New Jersey*, 396 U. S. 365 (1970).

No. 74-551. *LEE ET AL. v. ARROWOOD*, Co-EXECUTOR, ET AL. C. A. 8th Cir. Certiorari denied. MR. JUSTICE BLACKMUN took no part in the consideration or decision of this petition. Reported below: 500 F. 2d 138.

No. 74-586. *WAINWRIGHT, CORRECTIONS DIRECTOR, ET AL. v. MEANS*. Sup. Ct. Fla. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 299 So. 2d 577.

Rehearing Denied

No. 73-1823. *VAN GUNDY ET AL. v. UNITED STATES*, ante, p. 1004; and

No. 73-1824. *NEW ORLEANS BOOK MART, INC., ET AL. v. UNITED STATES*, ante, p. 1007. Petitions for rehearing denied.

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No. 73-6847. *COUSINO v. COUSINO*, *ante*, p. 1019;

No. 74-187. *FIRST AMERICAN BANK & TRUST CO. ET AL. v. ELLWEIN, STATE EXAMINER AND COMMISSIONER, DEPARTMENT OF BANKING AND FINANCIAL INSTITUTIONS, ET AL.*, *ante*, p. 1026;

No. 74-419. *AUTOMOTIVE CHAUFFEURS, PARTS & GARAGE EMPLOYEES, LOCAL UNION 926, ET AL. v. NAPA PITTSBURGH, INC.*, *ante*, p. 1049;

No. 74-5032. *MONTGOMERY ET AL. v. CALIFORNIA*, *ante*, p. 1057;

No. 74-5161. *GASKINS v. TITFLEX EMPLOYEES COLLECTIVE BARGAINING ASSN.*, *ante*, p. 1035;

No. 74-5168. *WILLIAMS v. DANA CORP.*, *ante*, p. 1024;

No. 74-5240. *BRYAN v. UNITED STATES*, *ante*, p. 1079;

No. 74-5254. *WHITLOW v. WAINWRIGHT, CORRECTIONS DIRECTOR*, *ante*, p. 1036; and

No. 74-5269. *QADIR v. COUNTY OF SANTA CLARA ET AL.*, *ante*, p. 1037. Petitions for rehearing denied.

Assignment Order

An order of THE CHIEF JUSTICE designating and assigning Mr. Justice Clark (retired) to perform judicial duties in the United States Court of Appeals for the Fourth Circuit during the month of January 1975, 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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Appeals Dismissed

No. 74-5433. *KOVACH v. SCHUBERT, HOSPITAL SUPERINTENDENT*. Appeal from Sup. Ct. Wis. dismissed for

*MR. JUSTICE DOUGLAS took no part in the consideration or decision of cases in which orders hereinafter reported were announced on this date, with the exception of No. 74-335, *Pryba v. United States*, *infra*, p. 1127.

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want of substantial federal question. Reported below: 64 Wis. 2d 612, 219 N. W. 2d 341.

No. 74-5710. *SMITH v. CALIFORNIA*. Appeal from App. Dept., Super. Ct. Cal., County of Kern, dismissed for want of substantial federal question.

No. 74-5617. *NICKENS v. VIRGINIA*. Appeal from Sup. Ct. Va. dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied.

Miscellaneous Orders

No. D-33. *IN RE DISBARMENT OF McDONALD*. It is ordered that Ronald F. McDonald, Jr., of Rockville, Md., 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. D-34. *IN RE DISBARMENT OF KERR*. It is ordered the Elaine Worley Kerr, of Bailey's Crossroads, Va., be suspended from the practice of law in this Court and that a rule issue, returnable within 40 days, requiring her to show cause why she should not be disbarred from the practice of law in this Court.

No. D-35. *IN RE DISBARMENT OF RAIMONDI*. It is ordered that Thomas Paul Raimondi, of Baltimore, Md., 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. D-36. *IN RE DISBARMENT OF BOMSTEIN*. It is ordered that Stanley J. Bomstein, of Baltimore, Md., 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.

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No. D-37. *IN RE DISBARMENT OF HANKINSON*. It is ordered that Christopher Ker Hankinson, of Vienna, Va., 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. 73-1933. *UNITED STATES v. CITIZENS & SOUTHERN NATIONAL BANK ET AL.* Appeal from D. C. N. D. Ga. [Probable jurisdiction noted, *ante*, p. 893.] Motion of the Solicitor General for additional time for oral argument granted and 15 additional minutes allotted for that purpose. Appellees also allotted 15 additional minutes for oral argument.

No. 74-8. *O'CONNOR v. DONALDSON*. C. A. 5th Cir. [Certiorari granted, *ante*, p. 894.] Motion of Texas et al. for leave to file a brief as *amici curiae* denied.

No. 74-5574. *WILLIAMS v. UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF NEW YORK*. Motion for leave to file petition for writ of mandamus denied.

Probable Jurisdiction Noted

No. 74-337. *DORAN v. SALEM INN, INC., ET AL.* Appeal from C. A. 2d Cir. Probable jurisdiction noted. Reported below: 501 F. 2d 18.

Certiorari Granted

No. 74-362. *INTERCOUNTY CONSTRUCTION CORP. ET AL. v. WALTER, DEPUTY COMMISSIONER, BUREAU OF EMPLOYEES' COMPENSATION, U. S. DEPARTMENT OF LABOR, ET AL.* C. A. D. C. Cir. Certiorari granted. Reported below: 163 U. S. App. D. C. 147, 500 F. 2d 815.

No. 74-653. *MICHIGAN v. MOSLEY*. Ct. App. Mich. Certiorari granted. Reported below: 51 Mich. App. 105, 214 N. W. 2d 564.

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No. 74-157. UNITED HOUSING FOUNDATION, INC., ET AL. *v.* FORMAN ET AL.; and

No. 74-647. NEW YORK ET AL. *v.* FORMAN ET AL. C. A. 2d Cir. Certiorari granted, cases consolidated, and a total of one hour allotted for oral argument. Reported below: 500 F. 2d 1246.

No. 74-634. UNITED STATES *v.* NOBLES. C. A. 9th Cir. Motion of respondent for leave to proceed *in forma pauperis* and certiorari granted. Reported below: 501 F. 2d 146.

Certiorari Denied. (See also No. 74-5617, *supra*.)

No. 73-2006. COLORADO MAGNETICS, INC., DBA SOUND VALUES, INC., ET AL. *v.* EDWARD B. MARKS MUSIC CORP. C. A. 10th Cir. Certiorari denied. Reported below: 497 F. 2d 285.

No. 74-81. COCHRAN *v.* UNITED STATES; and

No. 74-522. HORNSBY *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 496 F. 2d 1072.

No. 74-250. COLE *v.* SCHLESINGER, SECRETARY OF DEFENSE, ET AL. C. A. 10th Cir. Certiorari denied. Reported below: 494 F. 2d 141.

No. 74-261. C. R. FEDRICK, INC. *v.* STATE BOARD OF EQUALIZATION OF CALIFORNIA. Ct. App. Cal., 2d App. Dist. Certiorari denied. Reported below: 38 Cal. App. 3d 385, 120 Cal. Rptr. 434.

No. 74-283. EMPRISE CORP. *v.* UNITED STATES;

No. 74-322. POLIZZI ET AL. *v.* UNITED STATES; and

No. 74-323. GIORDANO *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 500 F. 2d 856.

No. 74-365. WHITTED *v.* NORTH CAROLINA. Ct. App. N. C. Certiorari denied. Reported below: 21 N. C. App. 649, 205 S. E. 2d 611.

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No. 74-446. LOCAL 300, LABORERS' INTERNATIONAL UNION OF NORTH AMERICA, ET AL. *v.* MAGALLANES ET AL. Ct. App. Cal., 2d App. Dist. Certiorari denied. Reported below: 40 Cal. App. 3d 809, 115 Cal. Rptr. 428.

No. 74-491. SCHNEIDER *v.* UNITED STATES; and

No. 74-5608. DACE *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied. Reported below: 502 F. 2d 897.

No. 74-526. STOLLINGS *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 506 F. 2d 1398.

No. 74-530. LAWHON *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 499 F. 2d 352.

No. 74-560. RENDON ET AL. *v.* DISTRICT OF COLUMBIA BOARD OF ELECTIONS. Ct. App. D. C. Certiorari denied.

No. 74-565. BREIER ET AL. *v.* BENCE ET AL. C. A. 7th Cir. Certiorari denied. Reported below: 501 F. 2d 1185.

No. 74-618. MORSE *v.* WILSON, WARDEN. C. A. 10th Cir. Certiorari denied. Reported below: 500 F. 2d 1264.

No. 74-624. FENNER *v.* STRICKLAND. Sup. Ct. Neb. Certiorari denied. Reported below: 192 Neb. 114, 219 N. W. 2d 229.

No. 74-626. CONTINENTAL ILLINOIS NATIONAL BANK & TRUST COMPANY OF CHICAGO *v.* O'BRIEN ET AL. C. A. 7th Cir. Certiorari denied.

No. 74-631. EDDIE DASSIN, INC. *v.* EASTERN AIRLINES, INC. C. A. 9th Cir. Certiorari denied. Reported below: 501 F. 2d 74.

No. 74-644. ASSOCIATION OF MOTION PICTURE & TELEVISION PRODUCERS, INC., ET AL. *v.* KNOPF ET AL. Ct. App. Cal., 2d App. Dist. Certiorari denied. Reported below: 40 Cal. App. 3d 233, 114 Cal Rptr. 782.

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No. 74-636. *PELLICCI v. UNITED STATES*. C. A. 1st Cir. Certiorari denied. Reported below: 504 F.2d 1106.

No. 74-640. *ECONOMIC RESEARCH ANALYSTS, INC., ET AL. v. O'CONNELL*; and

No. 74-642. *ECONOMIC RESEARCH ANALYSTS, INC., ET AL. v. HUDAK*. C. A. 5th Cir. Certiorari denied. Reported below: No. 74-640, 499 F.2d 994; No. 74-642, 499 F.2d 996.

No. 74-651. *BRENNAN, SECRETARY OF LABOR v. GREYHOUND LINES, INC.* C. A. 7th Cir. Certiorari denied. Reported below: 499 F.2d 859.

No. 74-654. *O'DELL ET AL. v. CITY OF CHATTANOOGA ET AL.* Sup. Ct. Tenn. Certiorari denied. Reported below: 513 S. W.2d 780.

No. 74-668. *SELIKOFF v. NEW YORK*. Ct. App. N. Y. Certiorari denied. Reported below: 35 N. Y. 2d 227, 318 N. E. 2d 784.

No. 74-672. *CITY OF LOS ANGELES v. AARON ET AL.* Ct. App. Cal., 2d App. Dist. Certiorari denied. Reported below: 40 Cal. App. 3d 471, 115 Cal. Rptr. 162.

No. 74-686. *LOESER v. LOESER*. Ct. App. Ind. Certiorari denied. Reported below: — Ind. App. —, 311 N. E. 2d 636.

No. 74-695. *DESKINS v. KENTUCKY*. Ct. App. Ky. Certiorari denied. Reported below: 512 S. W. 2d 520.

No. 74-697. *MAHONEY ET AL. v. PHILADELPHIA HOUSING AUTHORITY*. Pa. Commw. Ct. Certiorari denied. Reported below: 13 Pa. Commw. 243, 320 A. 2d 459.

No. 74-5005. *ALEXANDER ET AL. v. CALIFORNIA*. Sup. Ct. Cal. Certiorari denied.

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No. 74-5103. *BAKER v. ATKINS, ACTING WARDEN.* C. A. 10th Cir. Certiorari denied.

No. 74-5245. *PORTER v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. Reported below: 497 F. 2d 1006.

No. 74-5274. *HURST ET AL. v. UNITED STATES.* C. A. 6th Cir. Certiorari denied. Reported below: 497 F. 2d 923.

No. 74-5297. *WOODS v. VIRGINIA.* Sup. Ct. Va. Certiorari denied.

No. 74-5350. *VARFIS v. RICHEY, U. S. DISTRICT JUDGE, ET AL.* C. A. D. C. Cir. Certiorari denied.

No. 74-5379. *MILNE, AKA GORDON v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. Reported below: 498 F. 2d 329.

No. 74-5384. *CROOK v. UNITED STATES.* C. A. 3d Cir. Certiorari denied. Reported below: 502 F. 2d 1378.

No. 74-5394. *SCALES v. VIRGINIA.* Sup. Ct. Va. Certiorari denied. Reported below: 214 Va. 728, 204 S. E. 2d 273.

No. 74-5395. *HOWES v. UNITED STATES.* C. A. 9th Cir. Certiorari denied.

No. 74-5398. *STYPMANN v. UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA ET AL.* C. A. 9th Cir. Certiorari denied.

No. 74-5401. *CORUM v. CALIFORNIA.* Ct. App. Cal., 1st App. Dist. Certiorari denied.

No. 74-5402. *COOLEY v. UNITED STATES.* C. A. 9th Cir. Certiorari denied. Reported below: 501 F. 2d 1249.

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No. 74-5408. *RAVEN v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 500 F. 2d 728.

No. 74-5411. *MALONE v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 502 F. 2d 554.

No. 74-5430. *BANKS v. UNITED STATES*. C. A. 5th Cir. Certiorari denied.

No. 74-5448. *BEAMON v. FLORIDA*. Sup. Ct. Fla. Certiorari denied. Reported below: 298 So. 2d 376.

No. 74-5450. *TERAN v. UNITED STATES*. C. A. 9th Cir. Certiorari denied.

No. 74-5452. *KOCHEL v. UNITED STATES*. C. A. 4th Cir. Certiorari denied.

No. 74-5461. *KEMPER v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 503 F. 2d 327.

No. 74-5470. *COCHRAN v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 499 F. 2d 380.

No. 74-5485. *MAYFIELD v. UNITED STATES*. C. A. 10th Cir. Certiorari denied.

No. 74-5490. *SMITH v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 503 F. 2d 1037.

No. 74-5501. *RODRIGUEZ v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 503 F. 2d 1397.

No. 74-5503. *TUBBS v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 503 F. 2d 1397.

No. 74-5508. *LINCOLN v. UNITED STATES*. C. A. 9th Cir. Certiorari denied.

No. 74-5521. *ROMERO v. UNITED STATES*. C. A. 9th Cir. Certiorari denied.

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No. 74-5528. *RODOVICH v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 499 F. 2d 358.

No. 74-5533. *TALLEY v. UNITED STATES*. C. A. 3d Cir. Certiorari denied: Reported below: 505 F. 2d 731.

No. 74-5537. *TASBY v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 504 F. 2d 332.

No. 74-5541. *DEMONTIJO v. UNITED STATES*. C. A. 9th Cir. Certiorari denied.

No. 74-5605. *MARTIN v. FLORIDA*. C. A. 5th Cir. Certiorari denied. Reported below: 500 F. 2d 1182.

No. 74-5610. *PILLIS v. RUSSO, JUDGE, ET AL.* Sup. Ct. Va. Certiorari denied.

No. 74-5614. *HARSANY v. WORKMEN'S COMPENSATION APPEALS BOARD ET AL.* C. A. 9th Cir. Certiorari denied.

No. 74-5618. *CHERRY v. INDIANA*. C. A. 7th Cir. Certiorari denied.

No. 74-5622. *ENGLISH v. DAVIS, CORRECTIONS DIRECTOR*. Sup. Ct. Va. Certiorari denied.

No. 75-5626. *BESSER v. DUNN, JUDGE, ET AL.* C. A. 6th Cir. Certiorari denied.

No. 74-5630. *WILLIAMS v. ESTELLE, CORRECTIONS DIRECTOR*. C. A. 5th Cir. Certiorari denied. Reported below: 500 F. 2d 1183.

No. 74-5631. *HENDERSON v. ATKINS, ACTING WARDEN*. C. A. 10th Cir. Certiorari denied.

No. 74-5640. *ADKINS v. FLORIDA*. Dist. Ct. App. Fla., 2d Dist. Certiorari denied. Reported below: 295 So. 2d 120.

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No. 74-5649. *CATANZARITE v. MAZURKIEWICZ ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 503 F. 2d 1400.

No. 74-5650. *BREDY v. OKLAHOMA.* Ct. Crim. App. Okla. Certiorari denied.

No. 74-5652. *TALLENT, AKA OSTERHOUT, ET AL. v. NEW YORK.* App. Div., Sup. Ct. N. Y., 4th Jud. Dept. Certiorari denied. Reported below: 44 App. Div. 2d 911, 356 N. Y. S. 2d 238.

No. 74-29. *SYKES v. MARYLAND;* and

No. 74-30. *FORNARO v. MARYLAND.* Crim. Ct. Baltimore City. Certiorari denied.

MR. JUSTICE BRENNAN, with whom MR. JUSTICE STEWART and MR. JUSTICE MARSHALL join, dissenting.

Petitioners were convicted in Baltimore City District Court of showing unlicensed films in violation of the Maryland motion picture censorship statute, Md. Ann. Code, Art. 66A, §§ 1-26 (1970 and Supp. 1974), which requires that films be licensed before exhibition and forbids the licensing of obscene films. Pursuant to § 6 (b) of the statute a film is "obscene" if, "when considered as a whole, its calculated purpose or dominant effect is substantially to arouse sexual desires, and if the probability of this effect is so great as to outweigh whatever other merits the film may possess." The Criminal Court of Baltimore City affirmed both convictions, and the Maryland Court of Special Appeals and the Maryland Court of Appeals denied certiorari.

It is my view that "at least in the absence of distribution to juveniles or obtrusive exposure to unconsenting adults, the First and Fourteenth Amendments prohibit the State and Federal Governments from attempting wholly to suppress sexually oriented materials on the basis of their allegedly 'obscene' contents." *Paris Adult*

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Theatre I v. Slaton, 413 U. S. 49, 113 (1973) (BRENNAN, J., dissenting).

It is clear that, tested by that constitutional standard, the Maryland motion picture censorship statute, as it defines "obscene" in § 6 (b), is constitutionally overbroad and therefore invalid on its face. For the reasons stated in my dissent in *Miller v. California*, 413 U. S. 15, 47 (1973), and because the judgments below were rendered after *Miller*, I would therefore reverse. In that circumstance, I have no occasion to consider whether the other questions presented merit plenary review. See *Heller v. New York*, 413 U. S. 483, 494 (1973) (BRENNAN, J., dissenting).

No. 74-222. *ALLRED ET AL. v. NORTH CAROLINA*. Ct. App. N. C. Certiorari denied. MR. JUSTICE BRENNAN and MR. JUSTICE MARSHALL would grant certiorari. Reported below: 21 N. C. App. 229, 204 S. E. 2d 214.

No. 74-335. *PRYBA v. UNITED STATES*. C. A. D. C. Cir. Certiorari denied. Reported below: 163 U. S. App. D. C. 389, 502 F. 2d 391.

MR. JUSTICE BRENNAN, with whom MR. JUSTICE STEWART and MR. JUSTICE MARSHALL join, dissenting.

Petitioner was convicted in the United States District Court for the District of Columbia of transporting obscene films in interstate commerce in violation of 18 U. S. C. § 1462 and of possessing such films with intent to distribute in violation of D. C. Code Ann. § 22-2001 (1973). The Court of Appeals for the District of Columbia Circuit affirmed. 163 U. S. App. D. C. 389, 502 F. 2d 391 (1974). Title 18 U. S. C. § 1462 provides in pertinent part:

"Whoever brings into the United States, or any place subject to the jurisdiction thereof, or knowingly uses any express company or other

common carrier, for carriage in interstate or foreign commerce—

“(a) any obscene, lewd, lascivious, or filthy book, pamphlet, picture, motion-picture film, paper, letter, writing, print, or other matter of indecent character; or

“Whoever knowingly takes from such express company or other common carrier any matter or thing the carriage of which is herein made unlawful—

“Shall be fined not more than \$5,000 or imprisoned not more than five years, or both, for the first such offense and shall be fined not more than \$10,000 or imprisoned not more than ten years, or both, for each such offense thereafter.”

District of Columbia Code Ann. § 22-2001 (1973) provides in pertinent part:

“(a)(1) It shall be unlawful in the District of Columbia for a person knowingly—

“(A) to sell, deliver, distribute, or provide, or offer or agree to sell, deliver, distribute, or provide any obscene, indecent, or filthy writing, picture, sound recording, or other article or representation;

“(E) to create, buy, procure, or possess any matter described in the preceding subparagraphs of this paragraph with intent to disseminate such matter in violation of this subsection.

“(e) A person convicted of violating subsection (a) or (b) of this section shall for the first offense be fined not more than \$3,000 or imprisoned not more than one year, or both. A person convicted of a second or subsequent offense under subsection (a) or (b) of this section shall be fined not less than

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\$1,000 nor more than \$5,000 or imprisoned not less than six months or more than three years, or both."

It is my view that, "at least in the absence of distribution to juveniles or obtrusive exposure to unconsenting adults, the First and Fourteenth Amendments prohibit the State and Federal Governments from attempting wholly to suppress sexually oriented materials on the basis of their allegedly 'obscene' contents." *Paris Adult Theatre I v. Slaton*, 413 U. S. 49, 113 (1973) (BRENNAN, J., dissenting).

It is clear that, tested by that constitutional standard, 18 U. S. C. § 1462 and D. C. Code Ann. § 22-2001 (1973) are constitutionally overbroad and therefore facially invalid. For the reasons stated in my dissent in *Miller v. California*, 413 U. S. 15, 47 (1973), I would therefore grant certiorari, and, since the judgment of the District of Columbia Court of Appeals was rendered after *Miller*, reverse.* In that circumstance, I have no occasion to consider whether the other questions presented merit plenary review. See *Heller v. New York*, 413 U. S. 483, 494 (1973) (BRENNAN, J., dissenting).

Finally, it does not appear from the petition and response that the obscenity of the disputed materials was adjudged by applying local community standards. Based on my dissent in *Hamling v. United States*, 418 U. S. 87, 141 (1974), I believe that, consistent with the Due Process Clause, petitioner must be given an opportunity to have his case decided on, and to introduce evidence relevant to, the legal standard upon which his convictions have ultimately come to depend. Thus, even on its own terms, the Court should vacate the judgment below and

*Although four of us would grant certiorari and reverse the judgment, the Justices who join this opinion do not insist that the case be decided on the merits.

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remand for a determination whether petitioner should be afforded a new trial under local community standards.

MR. JUSTICE DOUGLAS, dissenting.

It is occasionally suggested that the First Amendment, applied to the States through the Fourteenth, *Stromberg v. California*, 283 U. S. 359 (1931), has a more restricted meaning than when applied to the Federal Government. See *Roth v. United States*, 354 U. S. 476, 500-503 (1957) (Harlan, J., concurring in judgment in *Alberts v. California*, 354 U. S. 476 (1957)). That view has never prevailed and is not at issue in this case as the prohibition of the First Amendment against abridgment of speech and press precisely fits this federal prosecution and, in my view, should bar it. That is the view I expressed in *Roth*, *supra*, at 508-514 (dissenting), a position from which I have not retreated.

No. 74-353. SCHUBERT, HOSPITAL SUPERINTENDENT *v.* KOVACH. Sup. Ct. Wis. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 64 Wis. 2d 612, 219 N. W. 2d 341.

No. 74-384. SPRINKLE, ACTING WARDEN, ET AL. *v.* MASON. C. A. 10th Cir. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied.

No. 74-536. BALLEW *v.* ALABAMA; and

No. 74-537. PIERCE *v.* ALABAMA. Sup. Ct. Ala. Certiorari denied. Reported below: No. 74-536, 292 Ala. 1460, 296 So. 2d 206; No. 74-537, 292 Ala. 473, 296 So. 2d 218.

MR. JUSTICE BRENNAN, with whom MR. JUSTICE STEWART and MR. JUSTICE MARSHALL join, dissenting.

Petitioners were convicted of distributing or exhibiting allegedly obscene publications in violation of Ala. Code,

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Tit. 14, § 374 (4)(1) (Supp. 1973), which provides as follows:

"Every person who, with knowledge of its contents, . . . sells, exhibits or commercially distributes, . . . any obscene printed or written matter or material, other than mailable matter . . . shall be guilty of a misdemeanor . . ."

As used in § 374 (4), "obscene" means:

"lewd, lascivious, filthy and pornographic and that to the average person, applying contemporary community standards, its dominant theme taken as a whole appeals to prurient interest." § 374 (3).

On appeal, the Alabama Court of Criminal Appeals affirmed the convictions. The Supreme Court of Alabama granted certiorari in both cases and affirmed.

It is my view that, "at least in the absence of distribution to juveniles or obtrusive exposure to unconsenting adults, the First and Fourteenth Amendments prohibit the State and Federal Governments from attempting wholly to suppress sexually oriented materials on the basis of their allegedly 'obscene' contents." *Paris Adult Theatre I v. Slaton*, 413 U. S. 49, 113 (1973) (BRENNAN, J., dissenting). It is clear that, tested by that constitutional standard, § 374 (4), as it incorporates the definition of "obscene" of § 374 (3), is constitutionally overbroad and therefore invalid on its face. For the reasons stated in my dissent in *Miller v. California*, 413 U. S. 15, 47 (1973), I would therefore grant certiorari and, since the judgments of the Supreme Court of Alabama were rendered after *Miller*, reverse the convictions. In that circumstance, I have no occasion to consider whether the other questions presented merit plenary review. See *Heller v. New York*, 413 U. S. 483, 494 (1973) (BRENNAN, J., dissenting).

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Further, it does not appear from the petition or response in No. 74-536 that the obscenity of the disputed materials was adjudged by applying local community standards. Based on my dissent in *Hamling v. United States*, 418 U. S. 87, 141 (1974), I believe that, consistent with the Due Process Clause, petitioner Ballew must be given an opportunity to have his case decided on, and to introduce evidence relevant to, the legal standard upon which his conviction has ultimately come to depend. Thus, even on its own terms, the Court should vacate this judgment and remand for a determination whether petitioner Ballew should be afforded a new trial under local community standards.

No. 74-645. NATIONAL RIGHT TO WORK LEGAL DEFENSE & EDUCATION FOUNDATION, INC., ET AL. v. INTERNATIONAL UNION, UNITED AUTOMOBILE, AEROSPACE & AGRICULTURAL IMPLEMENT WORKERS OF AMERICA, ET AL. C. A. D. C. Cir. Motion to defer consideration and certiorari denied. Reported below: See 376 F. Supp. 1060.

Rehearing Denied

No. 73-1902. NATIONAL INDEPENDENT COAL OPERATORS ASSN. v. BRENNAN, SECRETARY OF LABOR, *ante*, p. 955;

No. 73-6856. ROBINSON v. JEFFERSON COUNTY BOARD OF EDUCATION ET AL., *ante*, p. 862;

No. 73-6991. WILLIAMS v. CALIFORNIA, *ante*, p. 1046;

No. 74-426. JOINER ET AL. v. CITY OF DALLAS ET AL., *ante*, p. 1042;

No. 74-5132. YOUNG v. UNITED STATES, *ante*, p. 1002; and

No. 74-5527. BRIDGES v. TENNESSEE, *ante*, p. 1097. Petitions for rehearing denied.

No. 74-44. FAHRIG ET AL. v. LEDFORD, EXECUTOR, *ante*, p. 967. Motion for leave to proceed further herein *in forma pauperis* granted. Petition for rehearing denied.