

ORDERS FROM APRIL 7 THROUGH  
JUNE 9, 1975

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APRIL 7, 1975

*Dismissal Under Rule 60*

No. 74-730. ROEMER ET AL. v. BOARD OF PUBLIC WORKS OF MARYLAND ET AL. Appeal from D. C. Md. [Probable jurisdiction noted, 420 U. S. 922.] Appeal dismissed under this Court's Rule 60.

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*Appeals Dismissed*

No. 74-5850. WICKS v. CITY OF CHARLOTTESVILLE. Appeal from Sup. Ct. Va. dismissed for want of substantial federal question. Reported below: 215 Va. 274, 208 S. E. 2d 752.

No. 74-6030. RIVERS 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.

No. 74-6043. HARRIS v. CITY OF HOUSTON, TEXAS, ET AL. Appeal from C. A. 5th Cir. dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied. Reported below: 502 F. 2d 1165.

*Vacated and Remanded on Appeal*

No. 74-497. BT INVESTMENT MANAGERS, INC., ET AL. v. DICKINSON, COMPTROLLER OF FLORIDA. Appeal from

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\*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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D. C. N. D. Fla. Judgment 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 for the Fifth Circuit. Reported below: 379 F. Supp. 792.

*Certiorari Granted—Vacated and Remanded*

No. 73-2013. FAIR, SHERIFF *v.* SMITH ET AL. C. A. 6th Cir. Certiorari granted, judgment vacated, and case remanded for further consideration in light of *Bellis v. United States*, 417 U. S. 85 (1974). Reported below: 495 F. 2d 1373.

*Miscellaneous Orders*

No. ———. ROSSI, EXECUTOR *v.* SPECTOR ET AL. C. A. 2d Cir. Motion to dispense with printing petition for writ of certiorari and other relief denied. *Snider v. All State Administrators, Inc.*, 414 U. S. 685 (1974).

No. A-1310, October Term, 1973. AUDUBON SOCIETY, LOS ANGELES CHAPTER, ET AL. *v.* MORTON, SECRETARY OF THE INTERIOR, ET AL. C. A. 9th Cir. Motion of the County of Los Angeles to vacate stay heretofore entered by MR. JUSTICE DOUGLAS on August 15, 1974, granted.

No. A-640 (74-942). RIZZO, MAYOR OF PHILADELPHIA, ET AL. *v.* GOODE ET AL. [Certiorari granted, 420 U. S. 1003.] Application to recall and stay mandate of the United States Court of Appeals for the Third Circuit, presented to THE CHIEF JUSTICE, and by him referred to the Court, granted pending final disposition of the case in this Court.

No. A-789. NATIONAL RIGHT TO WORK LEGAL DEFENSE & EDUCATION FOUNDATION, INC. *v.* RICHEY, U. S. DISTRICT JUDGE. Application for stay of disclosure order of the United States District Court for the District of Columbia issued June 5, 1974, presented to THE CHIEF

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JUSTICE, and by him referred to the Court, denied. Reported below: 376 F. Supp. 1060.

No. A-818. COLON, GOVERNOR OF PUERTO RICO, ET AL. v. ORTIZ ET AL. Application for stay of judgment of United States District Court for the District of Puerto Rico, presented to MR. JUSTICE BRENNAN, and by him referred to the Court, granted pending timely docketing of appeal and final disposition thereon in this Court. Reported below: 385 F. Supp. 111.

No. D-24. IN RE DISBARMENT OF NITSBERG. It having been reported to this Court that Michael B. Nitsberg, of New York, N. Y., has been suspended indefinitely 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 [419 U. S. 1016], having suspended the said Michael B. Nitsberg, 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 that a response has been filed;

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

No. D-25. IN RE DISBARMENT OF LEACH. It having been reported to this Court that Arthur Dale Leach, of Silver Spring, Md., has been disbarred from the practice of law in the United States Court of Appeals for the District of Columbia Circuit and the Court of Appeals of Maryland has accepted his resignation, with prejudice, and this Court by order of January 13, 1975 [419 U. S. 1101], having suspended the said Arthur Dale Leach from the practice of law in this Court and directed

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

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

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

No. D-31. *IN RE DISBARMENT OF ROSS.* It having been reported to this Court that John A. Ross, Jr., of New York, N. Y., has been disbarred from the practice of law in all of the courts of the State of New York, and this Court by order of January 13, 1975 [419 U. S. 1102], having suspended the said John A. Ross, Jr., from the practice of law in this Court and directed that a rule issue requiring him to show cause why he should not be disbarred;

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

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

No. D-40. *IN RE DISBARMENT OF GILBERT.* It having been reported to this Court that Donald E. Gilbert, of East Northport, 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 February 24, 1975 [420 U. S. 941], having suspended the said Donald E. Gilbert from the practice of law in this Court and directed that

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

And it appearing that the said rule was duly issued and served upon the respondent and that a response has been filed;

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

No. D-48. IN RE DISBARMENT OF EHRLICHMAN. It is ordered that John Daniel Ehrlichman, of Bellevue, Wash., 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. MR. JUSTICE REHNQUIST took no part in the consideration or decision of this matter.\*

No. 36, Orig. TEXAS *v.* LOUISIANA. Report of Special Master received and ordered filed. Exceptions, if any, with supporting briefs to Report may be filed by the parties on or before May 29, 1975. Reply briefs, if any, to such exceptions may be filed on or before June 30, 1975. [For previous orders herein, see, *e. g.*, 416 U. S. 965.]

No. 73-1513. UNITED STATES *v.* JENKINS, 420 U. S. 358. C. A. 2d Cir. Motion of respondent for appointment of counsel *nunc pro tunc* granted. It is ordered that James S. Carroll, Esquire, of New York, N. Y., and he is hereby, appointed to serve as counsel for respondent in this case.

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\*See also note, *supra*, p. 901.

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No. 73-776. SCHLESINGER, SECRETARY OF DEFENSE, ET AL. *v.* BALLARD, 419 U. S., 498. Motion of appellee to retax costs denied. MR. JUSTICE BRENNAN would grant the motion.

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. [Certiorari granted, 419 U. S. 1019.] Motion to strike oral argument denied.

No. 74-116. PLACE *v.* WEINBERGER, SECRETARY OF HEALTH, EDUCATION, AND WELFARE, ET AL., 419 U. S. 1040. The Solicitor General is requested to file a response to petition for rehearing within 30 days.

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. [Certiorari granted, 419 U. S. 895.] These cases restored to calendar for reargument.

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, 419 U. S. 1088.] Motion of Common Cause for leave to participate in oral argument as *amicus curiae* denied.

No. 74-928. UNITED STATES *v.* DINITZ. C. A. 5th Cir. [Certiorari granted. 420 U. S. 1003.] Motion for appointment of counsel granted. It is ordered that Fletcher H. Baldwin, Jr., Esquire, of Gainesville, Fla., 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. 74-450. BUTTERFIELD, ADMINISTRATOR, FEDERAL AVIATION ADMINISTRATION, ET AL. *v.* ROBERTSON ET AL. C. A. D. C. Cir. [Certiorari granted, 419 U. S. 1067.] Motion of Mary Helen Sears for leave to participate in oral argument as *amicus curiae* denied.

No. 74-121. PHELPS, RECEIVER IN BANKRUPTCY *v.* UNITED STATES. C. A. 7th Cir. [Certiorari granted, 419 U. S. 1068.] Motion to postpone oral argument denied.

No. 74-676. ESTELLE, CORRECTIONS DIRECTOR *v.* WILIAMS. C. A. 5th Cir. [Certiorari granted, 420 U. S. 907.] Motion for appointment of counsel granted. It is ordered that Ben L. Aderholt, Esquire, of Houston, Tex., a member of the Bar of this Court, be, and he is hereby, appointed to serve as counsel for respondent in this case.

No. 74-878. NATIONAL LEAGUE OF CITIES ET AL. *v.* DUNLOP, SECRETARY OF LABOR; and

No. 74-879. CALIFORNIA *v.* DUNLOP, SECRETARY OF LABOR. Appeals from D. C. D. C. [Probable jurisdiction noted, 420 U. S. 906.] Motion of Harrison A. Williams, Jr., et al. for leave to file a brief as *amici curiae* granted.

No. 74-882. DE CANAS ET AL. *v.* BICA ET AL. Ct. App. Cal., 2d App. Dist. The Solicitor General is invited to file a brief in this case expressing the views of the United States.

No. 74-5116. MURPHY *v.* FLORIDA. C. A. 5th Cir. [Certiorari granted, 419 U. S. 1088.] Motion of respondent to permit William L. Rogers, Esquire, to argue *pro hac vice* granted.

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No. 74-1164. ALFRED A. KNOPF, INC., ET AL. *v.* COLBY, DIRECTOR, CENTRAL INTELLIGENCE AGENCY, ET AL. C. A. 4th Cir. Motion to expedite consideration of petition for writ of certiorari denied.

No. 74-5566. BARRETT *v.* UNITED STATES. C. A. 6th Cir. [Certiorari granted, 420 U. S. 923.] Motion for appointment of counsel granted. It is ordered that Thomas A. Schaffer, Esquire, of Cincinnati, Ohio, be, and he is hereby, appointed to serve as counsel for petitioner in this case.

No. 74-6216. MCCORMICK *v.* LILLY, JUDGE. Motion for leave to file petition for writ of habeas corpus denied.

No. 74-6042. SIMS *v.* MORTON, U. S. DISTRICT JUDGE, ET AL. Motion for leave to file petition for writ of prohibition denied.

*Probable Jurisdiction Noted or Postponed*

No. 74-775. CITY OF NEW ORLEANS ET AL. *v.* DUKES, DBA LOUISIANA CONCESSIONS. Appeal from C. A. 5th Cir. Motion of appellee for leave to proceed *in forma pauperis* granted. Further consideration of question of jurisdiction postponed to hearing of case on the merits. Reported below: 501 F. 2d 706.

No. 74-858. CAREY, GOVERNOR OF NEW YORK, ET AL. *v.* SUGAR ET AL.; and

No. 74-859. CURTIS CIRCULATION CO. ET AL. *v.* SUGAR ET AL. Appeals from D. C. S. D. N. Y. Probable jurisdiction noted. Cases consolidated and a total of one hour allotted for oral argument. Reported below: 383 F. Supp. 643.

*Certiorari Granted*

No. 74-848. DAVID, COMMANDER, FORT DIX MILITARY RESERVATION, ET AL. *v.* SPOCK ET AL. C. A. 3d Cir. Certiorari granted. Reported below: 502 F. 2d 953.

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No. 74-891. PAUL, CHIEF OF POLICE, LOUISVILLE, ET AL. *v.* DAVIS. C. A. 6th Cir. Certiorari granted. Reported below: 505 F. 2d 1180.

No. 74-944. TIME, INC. *v.* FIRESTONE. Sup. Ct. Fla. Certiorari granted. Reported below: 305 So. 2d 172.

No. 74-1042. ERNST & ERNST *v.* HOCHFELDER ET AL. C. A. 7th Cir. Certiorari granted. The Solicitor General is invited to file a brief in this case expressing the views of the United States. Reported below: 503 F. 2d 1100.

*Certiorari Denied.* (See also Nos. 74-6030 and 74-6043, *supra.*)

No. 73-175. FEIN ET AL. *v.* UNITED STATES; and

No. 73-5115. KESSLER ET AL. *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied.

No. 73-231. GRAY ET AL. *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 477 F. 2d 974.

No. 73-622. MARGOLIS ET AL. *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. Reported below: 483 F. 2d 1399.

No. 73-1412. GROSSO ET AL. *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied. Reported below: 492 F. 2d 1239.

No. 73-1503. SCAGLIONE ET AL. *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 490 F. 2d 799.

No. 73-1510. PACHECO ET AL. *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 489 F. 2d 554.

No. 73-1951. REVEL *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 493 F. 2d 1.

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No. 73-1795. *MASCAVAGE ET AL. v. SCHLESINGER, SECRETARY OF DEFENSE, ET AL.* C. A. D. C. Cir. Certiorari denied. Reported below: 161 U. S. App. D. C. 237, 494 F. 2d 1156.

No. 73-2010. *PETRAGLIA ET AL. v. UNITED STATES.* C. A. 3d Cir. Certiorari denied.

No. 73-6030. *SEDIVY v. SCHLESINGER, SECRETARY OF DEFENSE, ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 485 F. 2d 1115.

No. 74-713. *ALVAREZ v. UNITED STATES;*

No. 74-5684. *INFIESTA v. UNITED STATES;*

No. 74-5685. *DEL CRISTO v. UNITED STATES;*

No. 74-5736. *BUSIGO-CIFRE v. UNITED STATES;*

No. 74-5804. *CALANA v. UNITED STATES;* and

No. 74-5827. *FIGUEROA v. UNITED STATES.* C. A. 2d Cir. Certiorari denied. Reported below: 506 F. 2d 455.

No. 74-746. *DIRECTOR OF CIVIL SERVICE OF MASSACHUSETTS ET AL. v. BOSTON CHAPTER, N.A.A.C.P., INC., ET AL.* C. A. 1st Cir. Certiorari denied. Reported below: 504 F. 2d 1017.

No. 74-764. *BARRY ET AL. v. UNITED STATES;*

No. 74-781. *GERAGHTY ET AL. v. UNITED STATES;*

No. 74-782. *BRAASCH v. UNITED STATES;* and

No. 74-5752. *ARMSTRONG ET AL. v. UNITED STATES.* C. A. 7th Cir. Certiorari denied. Reported below: 505 F. 2d 139.

No. 74-778. *McHENRY ET AL. v. CITY OF MOBILE.* Ct. Crim. App. Ala. Certiorari denied. Reported below: 53 Ala. App. 739, 299 So. 2d 779.

No. 74-824. *PERSKY v. UNITED STATES;* and

No. 74-913. *ZANE ET AL. v. UNITED STATES.* C. A. 2d Cir. Certiorari denied. Reported below: 507 F. 2d 346.

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No. 74-820. *FINK v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 502 F. 2d 1.

No. 74-828. *CELGER v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 505 F. 2d 734.

No. 74-837. *WILLIAMS, AKA ERVIN v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 506 F. 2d 1399.

No. 74-902. *INGHAM v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 502 F. 2d 1287.

No. 74-845. *CHIM MING ET AL. v. MARKS, DISTRICT DIRECTOR, IMMIGRATION AND NATURALIZATION SERVICE, ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 505 F. 2d 1170.

No. 74-861. *HARWOOD v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 506 F. 2d 1400.

No. 74-864. *WILLIAMS v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 506 F. 2d 1053.

No. 74-865. *KOSS ET AL. v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 506 F. 2d 1103.

No. 74-886. *BADALAMENTE v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 507 F. 2d 12.

No. 74-889. *BELL v. TAYLOR'S WELDING SERVICE, INC., ET AL.*; and

No. 74-1002. *TAYLOR'S WELDING SERVICE, INC., ET AL. v. BELL*. Ct. App. La., 3d Cir. Certiorari denied. Reported below: 298 So. 2d 327.

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No. 74-838. *FORD v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 505 F. 2d 733.

No. 74-910. *BAKER ET AL. v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 501 F. 2d 692.

No. 74-915. *VITELLO v. UNITED STATES*. C. A. 1st Cir. Certiorari denied. Reported below: 508 F. 2d 834.

No. 74-926. *CITY OF PITTSBURGH v. PUBLIC PARKING AUTHORITY OF PITTSBURGH ET AL.* Pa. Commw. Ct. Certiorari denied. Reported below: 11 Pa. Commw. 442, 314 A. 2d 887.

No. 74-931. *TERRY v. UNITED STATES*. Ct. Cl. Certiorari denied. Reported below: 204 Ct. Cl. 543, 499 F. 2d 695.

No. 74-933. *SECOND NATIONAL BANK OF NORTH MIAMI v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 502 F. 2d 535.

No. 74-947. *KNIGHT ET AL. v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 501 F. 2d 208.

No. 74-957. *CALDWELL, ADMINISTRATRIX, ET AL. v. UNITED STATES*. Ct. Cl. Certiorari denied. Reported below: 202 Ct. Cl. 423, 481 F. 2d 898.

No. 74-930. *ILLINOIS ET AL. v. FEDERAL POWER COMMISSION ET AL.* C. A. 8th Cir. Certiorari denied.

No. 74-960. *GEORGE MITCHELL & ASSOCIATES, INC. v. MACDONALD ET AL.* C. A. D. C. Cir. Certiorari denied. Reported below: 164 U. S. App. D. C. 248, 505 F. 2d 355.

No. 74-975. *RICHARDSON v. UNITED STATES*. C. A. 9th Cir. Certiorari denied.

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No. 74-974. *ROBERTSON ET AL. v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 504 F. 2d 289.

No. 74-978. *TIME-D. C., INC. v. GARRETT, TRUSTEE IN BANKRUPTCY*. C. A. 9th Cir. Certiorari denied. Reported below: 502 F. 2d 627.

No. 74-981. *RAMSEY v. UNITED STATES*. C. A. D. C. Cir. Certiorari denied. Reported below: 165 U. S. App. D. C. 283, 506 F. 2d 1322.

No. 74-990. *MUNGER ET AL. v. NEW YORK*. C. A. 2d Cir. Certiorari denied.

No. 74-997. *FENDER v. ST. LOUIS SOUTHWESTERN RAILWAY Co.* Ct. Civ. App. Tex., 5th Sup. Jud. Dist. Certiorari denied. Reported below: 513 S. W. 2d 131.

No. 74-1000. *SANTIAGO v. NEW YORK*. App. Div., Sup. Ct. N. Y., 2d Jud. Dept. Certiorari denied.

No. 74-1005. *INTERNATIONAL ASSOCIATION OF MACHINISTS & AEROSPACE WORKERS, AFL-CIO, ET AL. v. BOEING Co.* C. A. 5th Cir. Certiorari denied. Reported below: 504 F. 2d 307.

No. 74-1012. *HUNTSVILLE BOARD OF EDUCATION ET AL. v. UNITED STATES ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 504 F. 2d 857.

No. 74-1017. *CUMMINGS ET UX. v. COMMISSIONER OF INTERNAL REVENUE*. C. A. 2d Cir. Certiorari denied. Reported below: 506 F. 2d 449.

No. 74-1018. *HICKMAN ET AL. v. ILLINOIS*. Sup. Ct. Ill. Certiorari denied. Reported below: 59 Ill. 2d 89, 319 N. E. 2d 511.

No. 74-1007. *SHEERAN ET AL. v. GENERAL ELECTRIC Co.* C. A. 9th Cir. Certiorari denied.

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No. 74-1022. LUCERO, A MINOR, BY LUCERO *v.* ROOSEVELT IRRIGATION DISTRICT. Ct. App. Ariz. Certiorari denied.

No. 74-1026. GIBSON *v.* KROGER CO. ET AL. C. A. 7th Cir. Certiorari denied. Reported below: 506 F. 2d 647.

No. 74-1031. FILES *v.* HEISKELL, SECRETARY OF STATE OF WEST VIRGINIA, ET AL. Sup. Ct. App. W. Va. Certiorari denied.

No. 74-1036. PEYMANN *v.* PERINI CORP. C. A. 1st Cir. Certiorari denied. Reported below: 507 F. 2d 1318.

No. 74-1038. LAYNE-NEW YORK CO., INC. *v.* ALLIED ASPHALT CO., INC., ET AL. C. A. 3d Cir. Certiorari denied. Reported below: 501 F. 2d 405.

No. 74-1041. SILVERLITH, INC. *v.* AZOPLATE CORP. C. A. 3d Cir. Certiorari denied. Reported below: See 367 F. Supp. 711.

No. 74-1043. NISSAN MOTOR CORPORATION IN U. S. A. *v.* SANDERSON. C. A. 10th Cir. Certiorari denied. Reported below: 507 F. 2d 477.

No. 74-1048. RANDY'S HOUSE OF STEELE, INC. *v.* CEPON ET AL. C. A. 7th Cir. Certiorari denied. Reported below: 506 F. 2d 1404.

No. 74-1058. BRUNI *v.* DEPARTMENT OF REGISTRATION AND EDUCATION OF ILLINOIS ET AL. Sup. Ct. Ill. Certiorari denied. Reported below: 59 Ill. 2d 6, 319 N. E. 2d 37.

No. 74-1074. WILLEY ET AL. *v.* GARNSEY ET AL. App. Div., Sup. Ct. N. Y., 4th Jud. Dept. Certiorari denied. Reported below: 45 App. Div. 2d 227, 357 N. Y. S. 2d 281.

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No. 74-1053. *CHERMACK v. BJORNSON, STATE TREASURER, ET AL.* Sup. Ct. Minn. Certiorari denied. Reported below: 302 Minn. 213, 223 N. W. 2d 659.

No. 74-1067. *SCHUBERT v. NATIONAL COLLEGIATE ATHLETIC ASSN., AKA NCAA, ET AL.* C. A. 7th Cir. Certiorari denied. Reported below: 506 F. 2d 1402.

No. 74-1088. *MONTEZ v. LAVINE, COMMISSIONER, DEPARTMENT OF SOCIAL SERVICES OF NEW YORK, ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 508 F. 2d 837.

No. 74-1089. *MARKOWITZ ET AL. v. LAVINE, COMMISSIONER, DEPARTMENT OF SOCIAL SERVICES OF NEW YORK.* C. A. 2d Cir. Certiorari denied. Reported below: 508 F. 2d 837.

No. 74-1171. *GABRIEL ET AL. v. LEVIN ET AL.* C. A. 2d Cir. Certiorari denied.

No. 74-5560. *HENRY v. UNITED STATES.* C. A. 4th Cir. Certiorari denied. Reported below: 483 F. 2d 1401.

No. 74-5660. *FULFORD v. HUNT, DIRECTOR OF INSTITUTIONS, ET AL.* C. A. 5th Cir. Certiorari denied.

No. 74-5663. *FULFORD v. HUNT, DIRECTOR OF INSTITUTIONS, ET AL.* C. A. 5th Cir. Certiorari denied.

No. 74-5694. *BURKE v. UNITED STATES.* C. A. 9th Cir. Certiorari denied. Reported below: 506 F. 2d 1165.

No. 74-5765. *CHAPMAN v. ESTELLE, CORRECTIONS DIRECTOR.* C. A. 5th Cir. Certiorari denied.

No. 74-5834. *McFALL v. PENNSYLVANIA.* C. A. 3d Cir. Certiorari denied. Reported below: 506 F. 2d 1052.

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No. 74-5842. *WILLIAMS v. DEPARTMENT OF INSTITUTIONS AND AGENCIES, DIVISION OF PUBLIC WELFARE, ET AL.* Sup. Ct. N. J. Certiorari denied.

No. 74-5859. *PARKER v. UNITED STATES.* C. A. 8th Cir. Certiorari denied. Reported below: 507 F. 2d 587.

No. 74-5860. *ROBINSON v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. Reported below: 504 F. 2d 759.

No. 74-5863. *DOLAN v. UNITED STATES.* C. A. 10th Cir. Certiorari denied.

No. 74-5870. *McMILLAN v. UNITED STATES.* C. A. 8th Cir. Certiorari denied. Reported below: 508 F. 2d 101.

No. 74-5873. *FLOOD v. LOUISIANA.* Sup. Ct. La. Certiorari denied. Reported below: 301 So. 2d 637.

No. 74-5875. *KOEHLER v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. Reported below: 504 F. 2d 758.

No. 74-5877. *CYPRYLA v. UNITED STATES.* C. A. 10th Cir. Certiorari denied.

No. 74-5881. *GRANZA v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. Reported below: 505 F. 2d 1302.

No. 74-5892. *SAWYER v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. Reported below: 504 F. 2d 878.

No. 74-5894. *BALDWIN v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. Reported below: 504 F. 2d 759.

No. 74-5895. *ISSOD v. UNITED STATES.* C. A. 7th Cir. Certiorari denied. Reported below: 508 F. 2d 990.

No. 74-5901. *MACK v. UNITED STATES.* C. A. 9th Cir. Certiorari denied. Reported below: 509 F. 2d 615.

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No. 74-5884. *HAMPTON v. UNITED STATES*. C. A. 10th Cir. Certiorari denied. Reported below: 504 F. 2d 600.

No. 74-5902. *DYCHES v. GOVERNMENT OF THE VIRGIN ISLANDS*. C. A. 3d Cir. Certiorari denied. Reported below: 507 F. 2d 106.

No. 74-5903. *KENNER v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 508 F. 2d 409.

No. 74-5917. *JOHNSON ET AL. v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 506 F. 2d 674.

No. 74-5921. *WARREN, AKA McCRAY v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 505 F. 2d 1303.

No. 74-5928. *HENDERSHOT ET AL. v. UNITED STATES*;

No. 74-5929. *HUDSON v. UNITED STATES*; and

No. 74-5930. *GASAWAY ET AL. v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 506 F. 2d 1403.

No. 74-5931. *GALLOWAY ET AL. v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 505 F. 2d 733.

No. 74-5937. *BROWN v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 508 F. 2d 844.

No. 74-5945. *JACKSON v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 506 F. 2d 1051.

No. 74-5946. *LEWIS v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 506 F. 2d 1055.

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No. 74-5932. CEDILLO-LOPEZ ET AL. *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied.

No. 74-5965. MOORE *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 505 F. 2d 620.

No. 74-5970. HILTON *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 506 F. 2d 1398.

No. 74-5975. PIZZA *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 508 F. 2d 839.

No. 74-5978. HAWK *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied.

No. 74-6012. WEBSTER *v.* ESTELLE, CORRECTIONS DIRECTOR. C. A. 5th Cir. Certiorari denied. Reported below: 505 F. 2d 926.

No. 74-6018. WILSON *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 506 F. 2d 1055.

No. 74-6028. ALVAREZ ET AL., T/A GREENWOOD SHELL AUTO CENTER *v.* HACKENSACK TRUST Co. Sup. Ct. N. J. Certiorari denied. Reported below: 66 N. J. 275, 330 A. 2d 359.

No. 74-6034. WHITE *v.* MICHIGAN STATE UNIVERSITY. C. A. 6th Cir. Certiorari denied.

No. 74-6040. FRANCO *v.* CALIFORNIA. Ct. App. Cal., 4th App. Dist. Certiorari denied.

No. 74-6045. PAYNE *v.* VIRGINIA. Sup. Ct. Va. Certiorari denied.

No. 74-6046. WASHINGTON ET AL. *v.* FLORIDA. Sup. Ct. Fla. Certiorari denied. Reported below: 302 So. 2d 401.

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No. 74-6053. *CULPEPER v. JOHNSON*, CORRECTIONAL SUPERINTENDENT. C. A. 3d Cir. Certiorari denied.

No. 74-6058. *LIPSCOMB v. ILLINOIS*. Sup. Ct. Ill. Certiorari denied.

No. 74-6059. *CLARK v. WYRICK*, WARDEN. C. A. 8th Cir. Certiorari denied.

No. 74-6060. *MACK v. OKLAHOMA ET AL.* C. A. 10th Cir. Certiorari denied.

No. 74-6063. *FAUGHT v. COWAN*, PENITENTIARY SUPERINTENDENT. C. A. 6th Cir. Certiorari denied. Reported below: 507 F. 2d 273.

No. 74-6064. *ESSER v. JEFFES*, CORRECTIONAL SUPERINTENDENT, ET AL. C. A. 3d Cir. Certiorari denied.

No. 74-6071. *ROSENBORGH ET AL. v. ILLINOIS*. App. Ct. Ill., 1st Dist. Certiorari denied. Reported below: 21 Ill. App. 3d 676, 315 N. E. 2d 545.

No. 74-6076. *PERKINS v. ESTELLE*, CORRECTIONS DIRECTOR. C. A. 5th Cir. Certiorari denied.

No. 74-6078. *DARNOLD v. CLANON*, MEDICAL FACILITY SUPERINTENDENT. Sup. Ct. Cal. Certiorari denied.

No. 74-6080. *WALKER v. ILLINOIS*. App. Ct. Ill., 1st Dist. Certiorari denied. Reported below: 21 Ill. App. 3d 202, 315 N. E. 2d 244.

No. 74-6084. *IN RE JII*. C. A. 6th Cir. Certiorari denied. Reported below: 497 F. 2d 924.

No. 74-6085. *BOOTON v. NEW HAMPSHIRE*. Sup. Ct. N. H. Certiorari denied. Reported below: 114 N. H. 750, 329 A. 2d 376.

No. 74-6090. *BAEZ v. CALIFORNIA*. Ct. App. Cal., 2d App. Dist. Certiorari denied.

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No. 74-6091. *ARMOUR v. HENDERSON, WARDEN*. C. A. 2d Cir. Certiorari denied.

No. 74-6098. *HOOBAN v. BOLING ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 503 F. 2d 648.

No. 74-6099. *HUGHES v. ESTELLE, CORRECTIONS DIRECTOR*. C. A. 5th Cir. Certiorari denied. Reported below: 507 F. 2d 1278.

No. 74-6100. *BLANTON v. HASKINS, CORRECTIONAL SUPERINTENDENT*. Sup. Ct. Ohio. Certiorari denied.

No. 74-6103. *LENTZ v. ESTELLE, CORRECTIONS DIRECTOR*. C. A. 5th Cir. Certiorari denied.

No. 74-6105. *FREEDMAN v. SLAVIN ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 509 F. 2d 574.

No. 74-6110. *THOMAS v. TWOMEY, WARDEN*. C. A. 7th Cir. Certiorari denied. Reported below: 510 F. 2d 976.

No. 74-6143. *HOPKINS ET AL. v. ANDERSON, WARDEN*. C. A. 10th Cir. Certiorari denied. Reported below: 507 F. 2d 530.

No. 74-6159. *SMALLWOOD v. LAVALLEE, CORRECTIONAL SUPERINTENDENT*. C. A. 2d Cir. Certiorari denied. Reported below: 508 F. 2d 837.

No. 73-406. *BURNS, COMMISSIONER, DEPARTMENT OF SOCIAL SERVICES OF IOWA, ET AL. v. DOE*. C. A. 8th Cir. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 479 F. 2d 646.

No. 74-802. *ILLINOIS v. BAUGH*. App. Ct. Ill., 4th Dist. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 19 Ill. App. 3d 448, 311 N. E. 2d 607.

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No. 74-6175. KAPLAN *v.* CONTINENTAL CAN CO., INC. Super. Ct. N. J. Certiorari denied.

No. 74-943. PREISER, CORRECTIONAL COMMISSIONER, ET AL. *v.* SERO ET AL. C. A. 2d Cir. Motion of respondents for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 506 F. 2d 1115.

No. 74-1068. BENSINGER, DIRECTOR, ILLINOIS DEPARTMENT OF CORRECTIONS, ET AL. *v.* ADAMS. C. A. 7th Cir. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 507 F. 2d 390.

No. 73-1643. DARDEN *v.* WITHAM ET AL. C. A. 4th Cir. Certiorari denied. MR. JUSTICE POWELL took no part in the consideration or decision of this petition.\*

No. 74-1040. WHITE MOTOR CORP. ET AL. *v.* INTERNATIONAL UNION, UNITED AUTOMOBILE, AEROSPACE & AGRICULTURAL IMPLEMENT WORKERS OF AMERICA (UAW), ET AL. C. A. 8th Cir. Certiorari denied. MR. JUSTICE BLACKMUN took no part in the consideration or decision of this petition.\* Reported below: 505 F. 2d 1193.

No. 74-1073. FIRST NATIONAL BANK OF OREGON *v.* AMERICAN TIMBER & TRADING CO. ET AL. C. A. 9th Cir. Motion of American Bankers Assn. for leave to file a brief as *amicus curiae* granted. Certiorari denied. Reported below: 511 F. 2d 980.

#### *Rehearing Denied*

No. 73-1285. WOOD ET AL. *v.* STRICKLAND, 420 U. S. 308; and

No. 74-479. ESTELLE, CORRECTIONS DIRECTOR *v.* DORROUGH, 420 U. S. 534. Petitions for rehearing denied.

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\*See also note, *supra*, p. 901.

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No. 74-592. *SUTHERLAND v. IMMIGRATION AND NATURALIZATION SERVICE*, 420 U. S. 946;

No. 74-701. *ECONOMY FINANCE CORP. ET AL. v. UNITED STATES*, 420 U. S. 947;

No. 74-788. *ADDRISI v. EQUITABLE LIFE ASSURANCE SOCIETY OF THE UNITED STATES*, 420 U. S. 929; and

No. 74-812. *CHAMPION OIL SERVICE CO. v. SINCLAIR OIL CORP. ET AL.*, 420 U. S. 930. Petitions for rehearing denied.

No. 74-787. *WILLIS v. UNITED STATES*, 420 U. S. 963. Motion for leave to proceed further herein *in forma pauperis* granted. Petition for rehearing denied.

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*Affirmed on Appeal*

No. 74-1078. *GONZALES v. COUGHENOUR*. Affirmed on appeal from D. C. N. M.

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\*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 the following:

No. 74-587, *Bowen v. United States*, *infra*, p. 929; No. 74-588, *School Town of Speedway v. United States*, *infra*, p. 929; No. 74-605, *Board of School Comm'rs v. United States*, *infra*, p. 929; No. 74-806, *Keen v. United States*, *infra*, p. 929; No. 74-857, *Bucolo v. Florida*, *infra*, p. 927; No. 74-873, *Phillips v. Graf Electric, Inc.*, *infra*, p. 929; No. 74-876, *Draganescu v. First National Bank of Hollywood*, *infra*, p. 929; No. 74-877, *Harden v. Parks*, *infra*, p. 926; No. 74-963, *First National Bank of Fayetteville v. Smith*, *infra*, p. 930; No. 74-965, *Warner Co. v. United States*, *infra*, p. 930; No. 74-976, *Dunham v. United States*, *infra*, p. 930; No. 74-982, *Hearst Corp. v. Los Angeles Newspaper Guild*, *infra*, p. 930; No. 74-988, *McCord v. United States*, *infra*, p. 930; No. 74-992, *Seaver v. Wiegand*, *infra*, p. 924; No. 74-1070, *Rey v. Texas*, *infra*, p. 926; No. 74-1078, *Gonzales v. Coughenour*, *infra*, this page; No. 74-1086, *Los Angeles Newspaper Guild v. Hearst Corp.*, *infra*, p. 930.

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*Appeals Dismissed*

No. 73-1973. ART THEATER GUILD, INC., ET AL. v. EWING. Appeal from Sup. Ct. Ohio dismissed for want of substantial federal question. Reported below: 37 Ohio St. 2d 95, 307 N. E. 2d 911.

MR. JUSTICE BRENNAN, with whom MR. JUSTICE STEWART and MR. JUSTICE MARSHALL join, dissenting.

Appellee brought this action in the Court of Common Pleas of Lucas County, Ohio, to prohibit showing of the motion picture "Without A Stitch" on the theory that the film's exhibition rendered the theater itself a nuisance. Under Ohio law, any place which exhibits filmed obscenity is a nuisance. See *State ex rel. Keating v. A Motion Picture Film Entitled "Vixen,"* 35 Ohio St. 2d 215, 301 N. E. 2d 880 (1973). Obscenity was defined as follows:

"(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

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or for commercial exploitation, rather than for a genuine scientific, educational, sociological, moral, or artistic purpose." Ohio Rev. Code Ann. § 2905.34 (Supp. 1972), now Ohio Rev. Code Ann. § 2907.01 (1975).

The Court of Common Pleas found the film obscene and enjoined its exhibition. The Lucas County Court of Appeals and the Ohio Supreme Court affirmed. *State ex rel. Ewing v. A Motion Picture Film Entitled "Without a Stitch,"* 37 Ohio St. 2d 95, 307 N. E. 2d 911 (1974).

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). Since it is clear that, when tested by that constitutional standard, § 2905.34 is unconstitutionally overbroad and therefore facially invalid, I disagree with the holding that the appeal does not present a substantial federal question, and therefore dissent from the Court's dismissal of the appeal.

For the reasons stated in my dissent in *Miller v. California*, 413 U. S. 15, 47 (1973), and because the judgment of the Ohio 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 *Heller v. New York*, 413 U. S. 483, 494 (1973) (BRENNAN, J., dissenting).

No. 74-992. SEAVER, JUDGE, ET AL. v. WIEGAND. Appeal from C. A. 5th Cir. dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken

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as a petition for writ of certiorari, certiorari denied. Reported below: 504 F. 2d 303.

No. 74-985. S. S. & W., INC., ET AL. *v.* KANSAS CITY ET AL. Appeal from Sup. Ct. Mo. dismissed for want of substantial federal question. Reported below: 515 S. W. 2d 487.

MR. JUSTICE BRENNAN, with whom MR. JUSTICE STEWART and MR. JUSTICE MARSHALL join, dissenting.

Appellants, operators of adult theaters and book stores, commenced this action in the Circuit Court of Missouri, Sixteenth Judicial District, for a declaratory judgment that Kansas City's obscenity ordinance, §§ 26.141 to 26.144, is unconstitutional. Section 26.142 provides in pertinent part as follows:

"No person shall knowingly:

"(a) Sell, deliver or provide, or offer or agree to sell, deliver or provide, any obscene writing, picture, record or other representation or embodiment of the obscene; or

"(c) Publish, exhibit or otherwise make available any obscene material; or

"(d) Possess any obscene material for the purpose of sale or other commercial dissemination . . . ."

"Obscene" is defined in § 26.141, which provides:

"Material is obscene if, considered as a whole, its predominant appeal is to prurient interest, that is, a shameful or morbid interest, in nudity, sex or excretion, and if in addition it goes beyond customary limits of candor in describing or representing such matters."

The Circuit Court found the ordinance valid and denied relief. The Supreme Court of Missouri affirmed. 515 S. W. 2d 487.

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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, § 26.142, as it incorporates the definition of "obscene" in § 26.141, is unconstitutionally 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 Supreme Court of Missouri 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).

No. 74-1070. *REY v. TEXAS*. Appeal from Ct. Civ. App. Tex., 8th Sup. Jud. 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: 512 S. W. 2d 40.

*Vacated and Remanded on Appeal*

No. 74-5898. *COHEN v. MARSH ET AL.* Appeal from D. C. Conn. Motion of appellant for leave to proceed *in forma pauperis* granted. Judgment vacated and case remanded for consideration of question of mootness.

*Certiorari Granted—Vacated and Remanded*

No. 74-877. *HARDEN, COMMISSIONER OF HUMAN RESOURCES OF GEORGIA v. PARKS*. C. A. 5th Cir. Certiorari granted, judgment vacated, and case remanded for

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further consideration in light of *Burns v. Alcala*, 420 U. S. 575 (1975). Reported below: 504 F. 2d 861.

*Certiorari Granted—Reversed*

No. 74-857. *BUCOLO ET AL. v. FLORIDA*. Sup. Ct. Fla. Certiorari granted and judgment reversed. *Jenkins v. Georgia*, 418 U. S. 153 (1974), and *Kois v. Wisconsin*, 408 U. S. 229 (1972). Reported below: 303 So. 2d 329.

*Miscellaneous Orders*

No. A-681 (74-6345). *LEE v. UNITED STATES*. Reapplication for stay of mandate of the United States Court of Appeals for the Second Circuit, entered February 3, 1975, presented to MR. JUSTICE DOUGLAS, and by him referred to the Court, denied. MR. JUSTICE STEWART would grant the stay. Reported below: 509 F. 2d 645.

No. A-767. *BOWLING v. SCOTT ET AL.* C. A. 5th Cir. Reapplication for stay or other relief, presented to MR. JUSTICE DOUGLAS, and by him referred to the Court, denied. Reported below: 511 F. 2d 112.

No. D-47. *IN RE DISBARMENT OF MAYES*. It is ordered that Ronald W. Mayes of Washington, D. C., and Madison, Kan., 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. 65, Orig. *TEXAS v. NEW MEXICO*. Motion for leave to file bill of complaint granted and defendant allotted 60 days to answer.

No. 74-337. *DORAN v. SALEM INN, INC., ET AL.* Appeal from C. A. 2d Cir. [Probable jurisdiction noted, 419 U. S. 1119.] Motion of town of Smithtown for leave to file untimely brief as *amicus curiae* denied.

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No. 74-364. UNITED STATES *v.* HALE. C. A. D. C. Cir. [Certiorari granted, 419 U. S. 1045.] Motion of respondent for appointment of counsel *nunc pro tunc* granted. It is ordered that Larry J. Ritchie, Esquire, of Washington, D. C., be, and he is hereby, appointed to serve as counsel for respondent in this case.

No. 74-653. MICHIGAN *v.* MOSLEY. Ct. App. Mich. [Certiorari granted, 419 U. S. 1119.] Motion of Americans for Effective Law Enforcement, Inc., for leave to file a brief as *amicus curiae* granted.

No. 74-1027. GARCIA ET AL. *v.* TEXAS STATE BOARD OF MEDICAL EXAMINERS ET AL. Appeal from D. C. W. D. Tex. Motion to defer consideration of appeal granted.

No. 74-1204. ROGERS *v.* UNITED STATES. C. A. 5th Cir. Motion of petitioner to expedite and to consolidate this case with No. 74-653, *Michigan v. Mosley, supra*, denied.

No. 74-6232. HARRELSON *v.* UNITED STATES ET AL. Motion for leave to file petition for writ of habeas corpus denied.

#### *Certiorari Granted*

No. 74-1025. HINES ET AL. *v.* ANCHOR MOTOR FREIGHT, INC., ET AL. C. A. 6th Cir. Certiorari granted limited to Question 1 presented by the petition which reads as follows: "Whether petitioners' claim under LMRA § 301 for wrongful discharge is barred by the decision of a joint grievance committee upholding their discharge, notwithstanding that their union breached its duty of fair representation in processing their grievance so as to deprive them and the grievance committee of overwhelming evidence of their innocence of the alleged

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dishonesty for which they were discharged?" Reported below: 506 F. 2d 1153.

No. 74-5968. *GEDERS v. UNITED STATES*. C. A. 5th Cir. Motion for leave to proceed *in forma pauperis* granted. Certiorari granted limited to Question 1 presented by the petition which reads as follows: "Did the Court's order prohibiting defendant Geders and his attorney from conferring with each other during a sixteen-hour period at a crucial stage of the trial deprive defendant Geders of his Sixth Amendment right to assistance of counsel?" Reported below: 502 F. 2d 1.

*Certiorari Denied.* (See also Nos. 74-992 and 74-1070, *supra.*)

No. 74-255. *MURPHY v. MURPHY*. Sup. Ct. Ga. Certiorari denied. Reported below: 232 Ga. 352, 206 S. E. 2d 458.

No. 74-587. *BOWEN, GOVERNOR OF INDIANA, ET AL. v. UNITED STATES ET AL.*;

No. 74-588. *SCHOOL TOWN OF SPEEDWAY, INDIANA, ET AL. v. UNITED STATES ET AL.*; and

No. 74-605. *BOARD OF SCHOOL COMMISSIONERS OF THE CITY OF INDIANAPOLIS ET AL. v. UNITED STATES ET AL.* C. A. 7th Cir. Certiorari denied. Reported below: 503 F. 2d 68.

No. 74-806. *KEEN v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 508 F. 2d 986.

No. 74-873. *PHILLIPS ET AL. v. GRAF ELECTRIC, INC.* Sup. Ct. Kan. Certiorari denied.

No. 74-876. *DRAGANESCU ET AL. v. FIRST NATIONAL BANK OF HOLLYWOOD ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 502 F. 2d 550.

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No. 74-963. *FIRST NATIONAL BANK OF FAYETTEVILLE ET AL. v. SMITH, COMPTROLLER OF THE CURRENCY, ET AL.* C. A. 8th Cir. Certiorari denied. Reported below: 508 F. 2d 1371.

No. 74-965. *WARNER CO. v. UNITED STATES.* C. A. 3d Cir. Certiorari denied. Reported below: 504 F. 2d 689.

No. 74-976. *DUNHAM ET AL. v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. Reported below: 501 F. 2d 80.

No. 74-982. *HEARST CORP. ET AL. v. LOS ANGELES NEWSPAPER GUILD, LOCAL 69, AMERICAN NEWSPAPER GUILD, AFL-CIO, CLC; and*

*LOS ANGELES NEWSPAPER GUILD, LOCAL 69, AMERICAN NEWSPAPER GUILD, AFL-CIO, CLC v. HEARST CORP.* C. A. 9th Cir. Certiorari denied. Reported below: 504 F. 2d 636.

No. 74-988. *MCCORD, AKA WARREN, ET AL. v. UNITED STATES.* C. A. D. C. Cir. Certiorari denied. Reported below: 166 U. S. App. D. C. 1, 509 F. 2d 334.

No. 74-1004. *ROGERS v. ARKANSAS.* Sup. Ct. Ark. Certiorari denied. Reported below: 257 Ark. 144, 515 S. W. 2d 79.

No. 74-1009. *CLEAR GRAVEL ENTERPRISES, INC. v. KEIL, DIRECTOR, BUREAU OF LAND MANAGEMENT OF NEVADA, ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 505 F. 2d 180.

No. 74-1092. *BROWN v. VIRGINIA.* Sup. Ct. Va. Certiorari denied.

No. 74-1016. *KAHN v. DYNAMICS CORPORATION OF AMERICA.* C. A. 2d Cir. Certiorari denied. Reported below: 508 F. 2d 939.

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No. 74-1010. SLATTON *v.* MARTIN K. EBY CONSTRUCTION Co., INC., DBA EBY & ASSOCIATES OF ARKANSAS. C. A. 8th Cir. Certiorari denied. Reported below: 506 F. 2d 505.

No. 74-1079. MARITIME OVERSEAS CORP. ET AL. *v.* LINABARY. C. A. 2d Cir. Certiorari denied. Reported below: 505 F. 2d 727.

No. 74-1087. ROSS *v.* ARKANSAS. Sup. Ct. Ark. Certiorari denied. Reported below: 257 Ark. 44, 514 S. W. 2d 409.

No. 74-1099. VILLAGE OF CAMILLUS ET AL. *v.* DIAMOND, COMMISSIONER OF ENVIRONMENTAL CONSERVATION. App. Div., Sup. Ct. N. Y., 4th Jud. Dept. Certiorari denied.

No. 74-1122. BOARD OF EDUCATION OF JEFFERSON COUNTY, KENTUCKY, ET AL. *v.* NEWBURG AREA COUNCIL, INC., ET AL.; and

No. 74-1123. BOARD OF EDUCATION OF LOUISVILLE, KENTUCKY, ET AL. *v.* HAYCRAFT ET AL. C. A. 6th Cir. Certiorari denied.

No. 74-1136. DERBY *v.* CONNECTICUT LIGHT & POWER Co. Sup. Ct. Conn. Certiorari denied. Reported below: 167 Conn. 136, 355 A. 2d 244.

No. 74-5825. HOLLINS *v.* UNITED STATES; and

No. 74-5957. HARRIS *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied.

No. 74-5841. WEBB *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 508 F. 2d 845.

No. 74-5876. BROWN *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 506 F. 2d 1398.

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No. 74-5878. *LEWIS v. HENDERSON, WARDEN*. C. A. 5th Cir. Certiorari denied.

No. 74-5896. *BROWN v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 505 F. 2d 1303.

No. 74-5900. *GREENE v. FLORIDA*. Dist. Ct. App. Fla., 4th Dist. Certiorari denied. Reported below: 302 So. 2d 202.

No. 74-5935. *HENRY v. UNITED STATES*. C. A. 10th Cir. Certiorari denied. Reported below: 504 F. 2d 1335.

No. 74-5939. *MILLER v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 508 F. 2d 839.

No. 74-5949. *DIXON v. UNITED STATES BOARD OF PAROLE ET AL.* C. A. 10th Cir. Certiorari denied.

No. 74-5950. *TALK v. UNITED STATES*. C. A. 10th Cir. Certiorari denied.

No. 74-5960. *NEEDHAM v. UNITED STATES*; and

No. 74-6021. *JENKINS v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 505 F. 2d 733.

No. 74-5982. *WATSON v. UNITED STATES*. C. A. 3rd Cir. Certiorari denied. Reported below: 510 F. 2d 971.

No. 74-6006. *ROBERTS v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 508 F. 2d 844.

No. 74-6007. *MIKE v. LEVI, ATTORNEY GENERAL*. C. A. D. C. Cir. Certiorari denied.

No. 74-6038. *SHEPHERD v. SHEPHERD*. Sup. Ct. Ga. Certiorari denied. Reported below: 233 Ga. 228, 210, S. E. 2d 731.

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No. 74-6088. *MATTHEWS v. UNITED STATES*. C. A. D. C. Cir. Certiorari denied.

No. 74-6109. *BRAGG v. MID-AMERICA FEDERAL SAVINGS & LOAN ASSN. ET AL.* C. A. 7th Cir. Certiorari denied. Reported below: 510 F. 2d 976.

No. 74-6112. *NORTON v. VINCENT, CORRECTIONAL SUPERINTENDENT*. C. A. 2d Cir. Certiorari denied.

No. 74-6114. *MOSS v. WOLFF, WARDEN*. C. A. 8th Cir. Certiorari denied. Reported below: 505 F. 2d 811.

No. 74-6115. *KUHL v. UNITED STATES*. C. A. 7th Cir. Certiorari denied.

No. 74-6116. *GUNDLACH v. NEBRASKA*. Sup. Ct. Neb. Certiorari denied. Reported below: 192 Neb. 692, 224 N. W. 2d 167.

No. 74-6119. *HORTON v. MAGISTRATE OF THE COURT ET AL.* C. A. 4th Cir. Certiorari denied.

No. 74-6120. *WEINER v. PENNSYLVANIA*. Sup. Ct. Pa. Certiorari denied.

No. 74-6124. *WOOD v. OKLAHOMA ET AL.* C. A. 10th Cir. Certiorari denied.

No. 74-6135. *DRAYTON v. WAINWRIGHT, CORRECTIONS DIRECTOR*. C. A. 5th Cir. Certiorari denied. Reported below: 503 F. 2d 1401.

No. 74-6138. *RUTHERFORD v. CUPP, PENITENTIARY SUPERINTENDENT*. C. A. 9th Cir. Certiorari denied. Reported below: 508 F. 2d 122.

No. 74-6145. *TAYLOR v. CALIFORNIA*. Ct. App. Cal., 2d App. Dist. Certiorari denied.

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No. 73-982. ADULT BOOK STORE ET AL. v. SENSENBRENNER, MAYOR OF COLUMBUS. Sup. Ct. Ohio. Certiorari denied. Reported below: 35 Ohio St. 2d 220, 301 N. E. 2d 695.

MR. JUSTICE BRENNAN, with whom MR. JUSTICE STEWART and MR. JUSTICE MARSHALL join, dissenting.

Petitioners were enjoined from selling or distributing 127 publications determined to be obscene under the Ohio obscenity statute, Ohio Rev. Code Ann. §§ 2905.34-2905.35 (Supp. 1972). The Court of Appeals of Franklin County affirmed, and the Supreme Court of Ohio dismissed the appeal. We granted the petition for certiorari and remanded the case for further consideration in light of *Miller v. California*, 413 U. S. 15 (1973). 413 U. S. 911 (1973). On remand, the Supreme Court of Ohio affirmed the judgment of the Court of Appeals. 35 Ohio St. 2d 220, 301 N. E. 2d 695.

For the reasons stated in my dissent from the remand of this case, and because the present judgment was rendered after *Miller*, I would grant the petition and reverse the judgment.

No. 74-783. DEMARRIAS v. POITRA. C. A. 8th Cir. Motion of Standing Rock Sioux Tribe for leave to file a brief as *amicus curiae* granted. Certiorari denied. Reported below: 502 F. 2d 23.

MR. JUSTICE WHITE, dissenting.

Petitioner and respondent are both enrolled Indians residing on the Standing Rock Sioux Indian Reservation, a reservation which straddles the border of North Dakota and South Dakota. Petitioner is resident in the portion of the reservation in South Dakota, and respondent lives within that portion in North Dakota. This litigation arose from an automobile accident occurring on the reservation in North Dakota. Respondent's son was injured by a car

driven by petitioner and died as a result. Respondent brought this wrongful death action based upon North Dakota law in the Federal District Court, invoking its jurisdiction under 28 U. S. C. § 1332 (a). When petitioner failed to respond, the North Dakota Unsatisfied Judgment Fund appeared and moved to dismiss for lack of subject-matter jurisdiction.

The District Court, basing its decision upon *Erie R. Co. v. Tompkins*, 304 U. S. 64 (1938), concluded that it did not have jurisdiction over respondent's suit. The Standing Rock Sioux Tribe had not consented to the jurisdiction of the North Dakota state courts, as required for the exercise of state-court jurisdiction in civil suits between Indians under 25 U. S. C. § 1322 (a), and the state courts would not have jurisdiction over respondent's suit although based upon North Dakota substantive law. See *Gourneau v. Smith*, 207 N. W. 2d 256 (ND 1973). Viewing itself as another state court in diversity cases, the District Court concluded that it, too, could not entertain the suit. 369 F. Supp. 257 (ND 1973).

The Court of Appeals reversed. 502 F. 2d 23 (CA8 1974). It concluded that there was no state policy involved in the absence of state-court jurisdiction over this type of litigation. The lack of jurisdiction arose from the *federal* requirement of consent by the Indians to such jurisdiction and the failure of the tribe here to consent. The federal "consent" statute, 25 U. S. C. § 1322 (a), was not intended to deprive Indians of state-created substantive rights, but rather had as its purpose an effort to prevent the States from interfering with Indian affairs. See 502 F. 2d, at 29.

The court below acknowledged that the Court of Appeals for the Ninth Circuit had in two decisions held that a district court could not exercise diversity jurisdiction in situations in which the state courts would not exercise

subject-matter jurisdiction. See *Hot Oil Service, Inc. v. Hall*, 366 F. 2d 295 (1966); *Littell v. Nakai*, 344 F. 2d 486 (1965), cert. denied, 382 U. S. 986 (1966). It distinguished those decisions on the ground that each involved an effort to avoid interference, under the principle of *Williams v. Lee*, 358 U. S. 217 (1959), with tribal self-government. In this case, in contrast, the suit involved a dispute between two Indian litigants, and there were no "interfering outsiders . . . trying to foist jurisdiction on the Indians." 502 F. 2d, at 29.

The court below, however, misconstrued the role of the discussion of *Williams v. Lee*, *supra*, in the Ninth Circuit decisions. When those cases were decided, the question of whether the subject matter of the litigation was essential to tribal self-government was the key to whether state courts could exercise jurisdiction. See 358 U. S., at 223. Since its enactment in 1968, however, the "consent" statute, 25 U. S. C. §§ 1322 (a) and 1326, provides an explicit procedure through which civil jurisdiction over Indians can be obtained by state courts. See *McClanahan v. Arizona State Tax Comm'n*, 411 U. S. 164, 177-178 (1973); *Kennerly v. District Court of Montana*, 400 U. S. 423 (1971). It is conceded here that the subject matter of this suit, whether or not essential to tribal self-government, cannot be the basis for state-court jurisdiction. Therefore, the significant aspect of the Ninth Circuit decisions is their reliance upon *Woods v. Interstate Realty Co.*, 337 U. S. 535 (1949). Extending that reliance to this case would result in a conclusion that the federal courts did not have jurisdiction.

The decisions of the Courts of Appeals for the Eighth and Ninth Circuits are, therefore, squarely in conflict, and resolution of the conflict will require an appraisal of the roles of the *Erie R. Co. v. Tompkins* line of cases

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and of the federal legislation governing jurisdiction by state courts over Indians in this factual situation.

I would grant certiorari.

No. 74-1037. ALLIGATOR Co., INC. v. LA CHEMISE LACOSTE ET AL. C. A. 3d Cir. Certiorari denied. Reported below: 506 F. 2d 339.

MR. JUSTICE WHITE, with whom MR. JUSTICE BLACKMUN and MR. JUSTICE POWELL join, dissenting.

Respondent La Chemise Lacoste (LCL) initiated this trademark litigation by filing a complaint seeking declaratory and injunctive relief in the Delaware state courts. Petitioner removed it to the District Court under 28 U. S. C. § 1441 (a). The District Court denied respondent's motion for a remand under 28 U. S. C. § 1447 (c). See 313 F. Supp. 915 (Del. 1970). The District Court also denied respondent's motion for a certificate allowing an interlocutory appeal of the removal question under 28 U. S. C. § 1292 (b). When the trial court denied its motion for a preliminary injunction, respondent appealed but did not raise the removal issue; and in affirming the denial of the preliminary injunction, the Court of Appeals did not discuss the question. 487 F. 2d 312 (CA3 1973).

The District Court then conducted a six-day trial on the merits and concluded that petitioner was entitled to injunctive relief. 374 F. Supp. 52 (1974). Respondent then appealed from the final judgment. This time it also raised the removal question. The Court of Appeals ruled that this appeal represented the first opportunity that LCL had to have the District Court's decision denying remand reviewed. There thus had been no waiver of the removal question, and this Court's decision in *Grubbs v. General Electric Credit Corp.*, 405 U. S. 699 (1972), had no application. The Court of Appeals then reversed

the District Court on the removal question and ordered a remand to the state court. 506 F. 2d 339 (1974).

In holding that the refusal to remand a removal case could not be raised on an appeal from a denial of a preliminary injunction, the decision of the Court of Appeals departs from its prior holding in *Mayflower Industries v. Thor Corp.*, 184 F. 2d 537, 538 (1950), cert. denied, 341 U. S. 903 (1951), and conflicts with the decisions of other Courts of Appeals in *Beech-Nut, Inc. v. Warner-Lambert Co.*, 480 F. 2d 801 (CA2 1973), and *Kysor Industrial Corp. v. Pet, Inc.*, 459 F. 2d 1010, 1011 (CA6), cert. denied, 409 U. S. 980 (1972). Furthermore, it would appear that jurisdictional questions should be reviewed at the first available opportunity, and I perceive no good reason for not permitting the removal issue to be raised in connection with an appeal from the denial of a preliminary injunction.\* Had that course been followed here, six days of trial and a decision on the merits would not have been wasted. Also, if it were to be held that the appeal on the injunction issue is a suitable occasion for considering the remand question, then *Grubbs, supra*, should be extended so as to require that the question be raised on such an appeal. Other-

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\*The authorities relied upon by the Court of Appeals—*Chicago, R. I. & P. R. Co. v. Stude*, 346 U. S. 574, 578 (1954); *Wilkins v. American Export-Isbrandtsen Lines, Inc.*, 401 F. 2d 151 (CA2 (1968)); C. Wright, *Law of Federal Courts* § 41, p. 147 (2d ed. 1970)—support the principle that the denial of a motion for remand alone is not a basis for appeal, but they do not support the lower court's decision that the removal question cannot be raised upon appeal from the denial of an interlocutory injunction. Petitioner's position on that issue is supported by *Deckert v. Independence Shares Corp.*, 311 U. S. 282, 287 (1940), which held that the District Court's denial of motions to dismiss could be reviewed by the Court of Appeals upon an appeal from the granting of an interlocutory injunction.

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wise, wasteful litigation is invited, and the losing party on the merits is given another bite at the apple.

I would grant certiorari in this case to resolve the conflict among the Circuits.

No. 74-1061. *ANDERSON, WARDEN, ET AL. v. RADCLIFF ET AL.* C. A. 10th Cir. Motion of respondents for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 509 F. 2d 1093.

#### *Rehearing Denied*

No. 73-1148. *DECOTEAU, NATURAL MOTHER AND NEXT FRIEND OF FEATHER ET AL. v. DISTRICT COUNTY COURT FOR THE TENTH JUDICIAL DISTRICT*, 420 U. S. 425;

No. 73-1500. *ERICKSON, WARDEN v. UNITED STATES EX REL. FEATHER ET AL.*, 420 U. S. 425; and

No. 74-5776. *FAHRIG ET AL. v. COTTERMAN ET AL.*, 420 U. S. 915. Petitions for rehearing denied.

No. 74-875. *BURTON ET AL. v. WALLER, GOVERNOR OF MISSISSIPPI, ET AL.*, 420 U. S. 964. Motion of Members of the Board of Trustees of the Lawyers' Committee for Civil Rights Under Law for leave to file a brief as *amicus curiae* granted. Petition for rehearing denied. MR. JUSTICE BRENNAN and MR. JUSTICE MARSHALL dissent from the denial of this petition.

#### *Assignment Order*

An order of THE CHIEF JUSTICE designating and assigning Mr. Justice Clark (retired) to perform judicial duties in the United States Court of Appeals for the Second Circuit for the period June 2 and 3, 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. 74-238. NATIONAL LIBERTY LIFE INSURANCE CO. v. WISCONSIN. Appeal from Sup. Ct. Wis. This appeal having been made expressly contingent upon a grant of certiorari in No. 74-193, *Wisconsin v. National Liberty Life Insurance Co.*, and the petition for writ of certiorari in No. 74-193 having been denied today, *infra*, p. 947, the appeal is dismissed. Reported below: 62 Wis. 2d 347, 215 N. W. 2d 26.

No. 74-1001. NATIONAL BROADCASTING CO., INC., ET AL. v. UNITED STATES. Appeal from D. C. C. D. Cal. dismissed for want of jurisdiction. MR. JUSTICE REHNQUIST dissents.

*Vacated and Remanded on Appeal*

No. 74-793. MARKS ET AL. v. LEIS, PROSECUTOR OF HAMILTON COUNTY, ET AL. Appeal from D. C. S. D. Ohio. Judgment vacated and cause remanded for further consideration in light of *Sosna v. Iowa*, 419 U. S. 393 (1975), and *Huffman v. Pursue, Ltd.*, 420 U. S. 592 (1975).

MR. JUSTICE BRENNAN, with whom MR. JUSTICE MARSHALL joins, dissenting.

Nuisance proceedings were begun against appellants in Ohio courts on the theory that the some of the books sold in a bookstore on premises owned by one appellant and leased by the others were obscene, and that the bookstore was therefore a nuisance. The Ohio statutory scheme underlying these nuisance proceedings is outlined in *Huffman v. Pursue, Ltd.*, 420 U. S. 592 (1975).

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\*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. 74-903, *Dyke v. Georgia*, *infra*, p. 952.

Appellants filed suit in Federal District Court while the state proceedings were pending seeking injunctions against the state proceedings. The parties agreed not to go forward with the state-court proceedings until the Federal District Court litigation was completed. The federal court refused to enjoin the state proceedings, because it believed that Ohio could treat as a nuisance and close for a year a bookstore which sold some obscene materials, without running afoul of the constitutional proscriptions against prior restraint of materials protected by the First Amendment.

A similar issue was presented on the merits in *Huffman, supra*. However, the Court refused to pass on the merits, because it believed that the federal court was barred from intervening in the state proceedings. The Court now remands this case for further consideration in light of *Huffman, supra*, and *Sosna v. Iowa*, 419 U. S. 393 (1975). But I think it clear that even if *Huffman* was correctly decided, see 420 U. S., at 613 (BRENNAN, J., dissenting), it does not govern this case. Here, the prosecuting authorities expressly agreed to submit to federal-court jurisdiction, and they do not in this Court argue that the District Court could not have enjoined the state proceedings even if it believed them unconstitutional. Thus, any reliance on the principles of *Younger v. Harris*, 401 U. S. 37 (1971), has been waived. See *Sosna v. Iowa, supra*, at 396 n. 3.

I need not reach the question of whether the Ohio scheme constitutes an impermissible prior restraint upon books never judicially determined to be obscene, because I believe that suppression even of specific books adjudicated obscene in nuisance proceedings is unconstitutional.

Ohio defines obscenity as follows:

“(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.” Ohio Rev. Code Ann. § 2905.34 (Supp. 1972), now Ohio Rev. Code Ann. § 2907.01 (1975).

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, when tested by that constitutional standard, § 2905.34, is unconstitutionally overbroad and therefore facially invalid. For the reasons stated in my dissent in *Miller v. California*, 413 U. S. 15, 47 (1973), suppression of any materials whatever on

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the basis of the definition of obscenity in § 2905.34 is, in my view, impermissible. Because the judgment of the District Court was rendered after *Miller*, I would reverse.

No. 74-1242. *CUSTOM RECORDING Co., INC. v. BLANTON, GOVERNOR OF TENNESSEE, ET AL.* Appeal from D. C. M. D. Tenn. Judgment 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 for the Sixth Circuit. *MTM, Inc. v. Baxley*, 420 U. S. 799 (1975).

*Certiorari Granted—Vacated and Remanded*

No. 73-1827. *UNITED STATES ET AL. v. HUMBLE OIL & REFINING Co.* C. A. 5th Cir. Certiorari granted, judgment vacated, and case remanded for further consideration in light of *United States v. Bisceglia*, 420 U. S. 141 (1975). MR. JUSTICE STEWART and MR. JUSTICE BLACKMUN would deny the petition. MR. JUSTICE POWELL took no part in the consideration or decision of this petition.\* Reported below: 488 F. 2d 953.

No. 73-1884. *JONES v. KENTUCKY.* Ct. App. Ky. Certiorari granted, judgment vacated, and case remanded for further consideration in light of *Drope v. Missouri*, 420 U. S. 162 (1975). Reported below: 503 S. W. 2d 757.

No. 74-36. *UNITED STATES v. LEWIS.* C. A. 5th Cir. Motion of respondent for leave to proceed *in forma pauperis* and certiorari granted. Judgment vacated and case remanded for further consideration in light of *Serfass v. United States*, 420 U. S. 377 (1975). Reported below: 492 F. 2d 126.

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\*See also note, *supra*, p. 940.

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No. 74-5246. *IVES v. UNITED STATES*. C. A. 9th Cir. Motion for leave to proceed *in forma pauperis* and certiorari granted. Judgment vacated and case remanded for further consideration in light of *Drope v. Missouri*, 420 U. S. 162 (1975). Reported below: 504 F. 2d 935.

*Miscellaneous Orders\**

No. — — —. *OPPENHEIMER v. LOS ANGELES COUNTY FLOOD CONTROL DISTRICT ET AL.* C. A. 9th Cir. Motion to dispense with printing petition for writ of certiorari denied. *Snider v. All State Administrators, Inc.*, 414 U. S. 685 (1974).

No. A-816. *GRANT ET UX. v. FIRST WESTERN BANK, AKA LLOYDS BANK, ET AL.* C. A. 9th Cir. Application for stay of order of the United States District Court for the Central District of California, entered on March 3, 1975, denied.

No. A-853 (74-1302). *DUNLOP, SECRETARY OF LABOR, ET AL. v. TURNER ELKHORN MINING CO. ET AL.* Application for stay of order of the United States District Court for the Eastern District of Kentucky, entered on November 20, 1974, presented to MR. JUSTICE STEWART, and by him referred to the Court, granted pending final disposition of appeal by this Court. Reported below: 385 F. Supp. 424.

No. 74-754. *UNITED STATES v. MANDUJANO*. C. A. 5th Cir. [Certiorari granted, 420 U. S. 989.] Motion for appointment of counsel granted. It is ordered that Michael Allen Peters, Esquire, of Houston, Tex., be, and he is hereby, appointed to serve as counsel for respondent in this case.

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\*For Court's orders prescribing Bankruptcy Rules and Official Bankruptcy Forms, see *post*, p. 1021.

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No. A-863. EXXON CORP. ET AL. *v.* ENVIRONMENTAL PROTECTION AGENCY;

No. A-864. TEXAS CHEMICAL COUNCIL *v.* ENVIRONMENTAL PROTECTION AGENCY; and

No. A-875. HARRIS COUNTY ET AL. *v.* ENVIRONMENTAL PROTECTION AGENCY. Applications for stay of mandate of the United States Court of Appeals for the Fifth Circuit, presented to MR. JUSTICE REHNQUIST, and by him referred to the Court, denied. MR. JUSTICE POWELL took no part in the consideration or decision of these applications.\* Reported below: 499 F. 2d 289.

No. 73-1869. BEER ET AL. *v.* UNITED STATES ET AL. Appeal from D. C. D. C. [Probable jurisdiction noted, 419 U. S. 822.] Case restored to calendar for reargument.

No. 74-742. FOREMOST-McKESSON, INC. *v.* PROVIDENT SECURITIES Co. C. A. 9th Cir. [Certiorari granted, 420 U. S. 923.] Motion of Allis-Chalmers Manufacturing Co. for leave to file a brief as *amicus curiae* granted.

No. 74-1047. HILLS, SECRETARY OF HOUSING AND URBAN DEVELOPMENT *v.* GAUTREUX ET AL. C. A. 7th Cir. Motion of Housing Authority of Elgin, Ill., for leave to file a brief as *amicus curiae* denied.

No. 74-5822. HAMPTON, AKA BYERS *v.* UNITED STATES. C. A. 8th Cir. [Certiorari granted, 420 U. S. 1003.] Motion for appointment of counsel granted. It is ordered that David A. Lang, Esquire, of St. Louis, Mo., be, and he is hereby, appointed to serve as counsel for petitioner in this case.

No. 74-1028. TERZIAN *v.* UNITED STATES. Motion for leave to file petition for writ of certiorari denied.

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\*See also note, *supra*, p. 940.

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No. 74-6047. *BROWN v. BRITT, WARDEN, ET AL.* Motion for leave to file petition for writ of habeas corpus denied.

No. 74-1049. *SULLIVAN, CORRECTIONS COMMISSIONER, ET AL. v. JOHNSON, U. S. DISTRICT JUDGE.* Motion for leave to file petition for writ of mandamus and/or prohibition denied.

*Certiorari Granted*

No. 74-940. *COLORADO RIVER WATER CONSERVATION DISTRICT ET AL. v. UNITED STATES;* and

No. 74-949. *AKIN ET AL. v. UNITED STATES.* C. A. 10th Cir. Certiorari granted. Cases consolidated and a total of one hour allotted for oral argument. Reported below: 504 F. 2d 115.

No. 74-5808. *FRANCIS v. HENDERSON, WARDEN.* C. A. 5th Cir. Motion for leave to proceed *in forma pauperis* and certiorari granted. Reported below: 496 F. 2d 896.

*Certiorari Denied*

No. 73-1175. *BERKOWITZ ET AL. v. UNITED STATES ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 488 F. 2d 1235.

No. 73-6493. *VELAZQUEZ v. UNITED STATES.* C. A. 2d Cir. Certiorari denied. Reported below: 490 F. 2d 29.

No. 74-193. *WISCONSIN v. NATIONAL LIBERTY LIFE INSURANCE Co.* Sup. Ct. Wis. Certiorari denied. Reported below: 62 Wis. 2d 347, 215 N. W. 2d 26.

No. 74-519. *FRANKEL v. AMERICAN EXPORT ISBRANDTSEN LINES, INC.* Ct. App. N. Y. Certiorari denied.

No. 74-922. *HOWARD v. CALIFORNIA.* Ct. App. Cal., 2d App. Dist. Certiorari denied.

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No. 74-810. *DELP v. OHIO*. Ct. App. Ohio, Columbian County. Certiorari denied.

No. 74-923. *FERRARA v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 506 F. 2d 1051.

No. 74-925. *MAITA v. WHITMORE, SHERIFF*. C. A. 9th Cir. Certiorari denied. Reported below: 508 F. 2d 143.

No. 74-934. *HUESTON ET AL. v. NEW YORK*. Ct. App. N. Y. Certiorari denied. Reported below: 34 N. Y. 2d 116, 312 N. E. 2d 462.

No. 74-951. *BOHN ET AL. v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 508 F. 2d 1145.

No. 74-953. *SCHULLO ET AL. v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 508 F. 2d 1200.

No. 74-967. *CARTIER v. SECRETARY OF STATE ET AL.* C. A. D. C. Cir. Certiorari denied. Reported below: 165 U. S. App. D. C. 130, 506 F. 2d 191.

No. 74-995. *CIRAULO v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 507 F. 2d 1278.

No. 74-994. *SCHOOL COMMITTEE OF SPRINGFIELD v. BOARD OF EDUCATION ET AL.* Sup. Jud. Ct. Mass. Certiorari denied. Reported below: — Mass. —, 319 N. E. 2d 427.

No. 74-1034. *BAIN ET UX. v. MAY DEPARTMENT STORES Co. ET AL.* Ct. App. Cal., 2d App. Dist. Certiorari denied.

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No. 74-964. ONE 1973 CADILLAC FLEETWOOD ET AL. *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied.

No. 74-972. HONNEUS *v.* UNITED STATES. C. A. 1st Cir. Certiorari denied. Reported below: 508 F. 2d 566.

No. 74-1046. BLANKNER *v.* CITY OF CHICAGO ET AL. C. A. 7th Cir. Certiorari denied. Reported below: 504 F. 2d 1037.

No. 74-1071. YELLOWSTONE PINE CO. *v.* UNITED STATES ET AL. Ct. Cl. Certiorari denied. Reported below: 205 Ct. Cl. 867, 506 F. 2d 1406.

No. 74-1101. GLOBE INDEMNITY CO. *v.* WILLIAMS. C. A. 8th Cir. Certiorari denied. Reported below: 507 F. 2d 837.

No. 74-1104. CITIZENS COMMITTEE FOR FARADAY WOOD ET AL. *v.* LINDSAY ET AL. C. A. 2d Cir. Certiorari denied. Reported below: 507 F. 2d 1065.

No. 74-1108. REPUBLIC INDUSTRIES, INC. *v.* ELECTRONICS CORPORATION OF AMERICA. C. A. 1st Cir. Certiorari denied. Reported below: 507 F. 2d 409.

No. 74-1111. UNITED STATES STEEL CORP. *v.* DICKERSON ET AL. C. A. 3d Cir. Certiorari denied.

No. 74-1118. CHUGACH NATIVE ASSN. ET AL. *v.* CENTRAL COUNCIL OF TLINGIT & HAIDA INDIANS OF ALASKA ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 502 F. 2d 1323.

No. 74-1119. ALABAMA ET AL. *v.* NEWMAN ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 503 F. 2d 1320.

No. 74-1135. PACKARD *v.* CALIFORNIA ET AL. C. A. 9th Cir. Certiorari denied.

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No. 74-1146. *CIA DE NAV. MAR. NETUMAR v. CONCEI-  
CAO ET AL.* C. A. 2d Cir. Certiorari denied. Reported  
below: 508 F. 2d 437.

No. 74-1147. *HARWELL, ADMINISTRATRIX v. WEST-  
CHESTER FIRE INSURANCE Co., A DIVISION OF CRUM &  
FORSTER INSURANCE COS.* C. A. 8th Cir. Certiorari de-  
nied. Reported below: 508 F. 2d 1245.

No. 74-1149. *FIRST NATIONAL BANK & TRUST Co.,  
CHICKASHA, OKLAHOMA v. CONTINENTAL INSURANCE Co.*  
C. A. 10th Cir. Certiorari denied. Reported below: 510  
F. 2d 7.

No. 74-1154. *WHITNEY ET AL. v. TSOSIE ET UX.* Ct.  
App. N. M. Certiorari denied.

No. 74-1225. *DORGAN, TAX COMMISSIONER OF NORTH  
DAKOTA v. MESSNER ET UX.* Sup. Ct. N. D. Certiorari  
denied.

No. 74-5854. *HARSHAW v. UNITED STATES.* C. A.  
8th Cir. Certiorari denied.

No. 74-5861. *OUZTS v. MARYLAND NATIONAL INSUR-  
ANCE Co. ET AL.* C. A. 9th Cir. Certiorari denied. Re-  
ported below: 505 F. 2d 547.

No. 74-5872. *JOHNSON v. UNITED STATES.* C. A. 7th  
Cir. Certiorari denied. Reported below: 507 F. 2d 826.

No. 74-5956. *MUNDT v. UNITED STATES.* C. A. 10th  
Cir. Certiorari denied. Reported below: 508 F. 2d 904.

No. 74-5966. *SERRANO v. UNITED STATES.* C. A. 2d  
Cir. Certiorari denied. Reported below: 506 F. 2d  
1323.

No. 74-5971. *SPIVEY v. UNITED STATES.* C. A. 10th  
Cir. Certiorari denied. Reported below: 508 F. 2d 146.

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No. 74-5977. *PAPADAKIS v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 510 F. 2d 287.

No. 74-5990. *THOMAS v. ESTELLE, CORRECTIONS DIRECTOR*. C. A. 5th Cir. Certiorari denied. Reported below: 505 F. 2d 733.

No. 74-5999. *CALHOUN v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 510 F. 2d 861.

No. 74-6002. *FOSTER v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 506 F. 2d 444.

No. 74-6008. *KURTZ v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 510 F. 2d 971.

No. 74-6025. *HINCHMAN v. LOCAL UNION 130, INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS*. Sup. Ct. La. Certiorari denied.

No. 74-6026. *MOREFIELD v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 510 F. 2d 975.

No. 74-6056. *BECKHAM, AKA MOTLEY, ET AL. v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 505 F. 2d 1316.

No. 74-6057. *GETZ ET AL. v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 510 F. 2d 971.

No. 74-6067. *HUTSELL v. UNITED STATES*. C. A. 9th Cir. Certiorari denied.

No. 74-6069. *JONES v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 508 F. 2d 1271.

No. 74-6070. *BARFIELD v. UNITED STATES*; and

No. 74-6095. *HALES v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 507 F. 2d 53.

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No. 74-6081. *TESTAMARK v. VINCENT*, CORRECTIONAL SUPERINTENDENT. C. A. 2d Cir. Certiorari denied. Reported below: 496 F. 2d 641.

No. 74-6130. *WOODEN v. VINCENT*, CORRECTIONAL SUPERINTENDENT. C. A. 2d Cir. Certiorari denied. Reported below: 508 F. 2d 837.

No. 74-6132. *OWENS v. GARRISON*, WARDEN. C. A. 4th Cir. Certiorari denied.

No. 74-6139. *LIVINGSTON v. CIVIL SERVICE COMMISSION OF THE CITY OF TUCSON ET AL.* Ct. App. Ariz. Certiorari denied. Reported below: 22 Ariz. App. 183, 525 P. 2d 949.

No. 74-6157. *WICKS v. GRAY*, PRISON SUPERINTENDENT. C. A. 3d Cir. Certiorari denied. Reported below: 506 F. 2d 1053.

No. 74-6165. *JOHNSON v. COURT OF APPEAL OF CALIFORNIA, SECOND APPELLATE DISTRICT.* Sup. Ct. Cal. Certiorari denied.

No. 74-6170. *JUNCO v. NEW YORK.* Ct. App. N. Y. Certiorari denied. Reported below: 35 N. Y. 2d 419, 321 N. E. 2d 875.

No. 74-6173. *ZANDERS v. TEXAS.* Ct. Crim. App. Tex. Certiorari denied. Reported below: 515 S. W. 2d 907.

No. 74-6174. *BUSSEY v. OKLAHOMA CITY, OKLAHOMA, ET AL.* C. A. 10th Cir. Certiorari denied.

No. 74-6179. *GUNTER v. NEW MEXICO.* Ct. App. N. M. Certiorari denied. Reported below: 87 N. M. 71, 529 P. 2d 297.

No. 74-6183. *LEMASTER v. CALIFORNIA.* Ct. App. Cal., 2d App. Dist. Certiorari denied.

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No. 74-6200. *PROSTROLLO v. BOWEN ET AL.* C. A. 8th Cir. Certiorari denied. Reported below: 507 F. 2d 775.

No. 74-1142. *SCHLESINGER, SECRETARY OF DEFENSE, ET AL. v. UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA.* C. A. D. C. Cir. Certiorari denied. MR. JUSTICE BLACKMUN would grant certiorari.

No. 74-903. *DYKE v. GEORGIA.* Sup. Ct. Ga. 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 Theatre I v. Slaton*, 413 U. S. 49, 70-73 (1973) (DOUGLAS, J., dissenting), would grant certiorari and summarily reverse the judgment. Reported below: 232 Ga. 817, 209 S. E. 2d 166.

MR. JUSTICE BRENNAN, with whom MR. JUSTICE STEWART and MR. JUSTICE MARSHALL join, dissenting.

Petitioner was convicted in the Criminal Court of Fulton County, Ga., of exhibiting an allegedly obscene film in violation of Ga. Code Ann. § 26-2101 (1972), which provides in pertinent part as follows:

“(a) A person commits the offense of distributing obscene materials when he . . . exhibits or otherwise disseminates to any person any obscene material of any description, knowing the obscene nature thereof . . .”

“Obscene” is defined in § 26-2101 (b), which provides in pertinent part:

“(b) Material is obscene if considered as a whole, applying community standards, its predominant appeal is to prurient interest, that is, a shameful or morbid interest in nudity, sex or excretion, and ut-

terly without redeeming social value and if, in addition, it goes substantially beyond customary limits of candor in describing or representing such matters."

The Supreme Court of Georgia 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, the definition of "obscene" contained in § 26-2101 is unconstitutionally 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 Supreme Court of Georgia 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 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

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\*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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the judgment below and remand for a determination whether petitioner should be afforded a new trial under local community standards.

No. 74-5911. *DACHSTEINER v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 518 F. 2d 20.

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 California 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; . . .

“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 . . . .”

The Court of Appeals for the Ninth Circuit affirmed.

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

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therefore grant certiorari, and since the judgment of the Court of Appeals for the Ninth 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.

#### *Rehearing Denied*

No. 74-751. COX, FORMER ASSISTANT DIRECTOR FOR TREATMENT, VIRGINIA DIVISION OF CORRECTIONS, ET AL. v. COOK, 420 U. S. 734;

No. 74-5741. HARDWICK v. CALDWELL, WARDEN, 420 U. S. 996; and

No. 74-5810. MAY v. UNITED STATES, 420 U. S. 996.  
Petitions for rehearing denied.

No. 74-5793. PADILLA v. NEW MEXICO, 420 U. S. 937. Motion for leave to file petition for rehearing denied.

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#### *Dismissal Under Rule 60*

No. 74-1113. NATIONAL STEEL CARRIERS ASSN., INC. v. UNITED STATES ET AL. Appeal from D. C. E. D. Mich. dismissed under this Court's Rule 60.

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*Affirmed on Appeal*

No. 74-912. *STACY ET AL. v. MAHAN ET AL.* Affirmed on appeal from D. C. E. D. Va.

No. 74-1029. *CHICAGO & EASTERN ILLINOIS RAILROAD CO. ET AL. v. UNITED STATES ET AL.* Affirmed on appeal from D. C. N. D. Ill. Reported below: 384 F. Supp. 298.

No. 74-1210. *SADLAK v. GILLIGAN, GOVERNOR OF OHIO, ET AL.* Affirmed on appeal from D. C. N. D. Ohio.

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\*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 the following:

No. 74-912, *Stacy v. Mahan*, *infra*, this page; No. 74-932, *Lekometros v. United States*, *infra*, p. 962; No. 74-955, *Art Theater Guild, Inc. v. Ohio ex rel. Schoen*, *infra*, p. 957; No. 74-956, *Art Theater Guild, Inc. v. Ohio ex rel. Anderson*, *infra*, p. 957; No. 74-984, *Maver v. Loesch*, *infra*, p. 962; No. 74-989, *United States Clay Producers Traffic Assn., Inc. v. Central of Georgia R. Co.*, *infra*, p. 957; No. 74-1021, *Rosselli v. United States*, *infra*, p. 962; No. 74-1029, *Chicago & Eastern Illinois R. Co. v. United States*, *infra*, this page; No. 74-1033, *Dann v. Johnston*, *infra*, p. 962; No. 74-1035, *Stitt v. United States*, *infra*, p. 962; No. 74-1084, *Anderson v. Langenwalter*, *infra*, p. 962; No. 74-1093, *Riley v. Estate of Riley*, *infra*, p. 971; No. 74-1095, *Denton v. United States*, *infra*, p. 963; No. 74-1102, *National Maritime Union of America, AFL-CIO v. National Labor Relations Board*, *infra*, p. 963; No. 74-1125, *Bernstein v. United States*, *infra*, p. 962; No. 74-1131, *Kalamazoo Board of Education v. Oliver*, *infra*, p. 963; No. 74-1132, *Michigan State Board of Education v. Oliver*, *infra*, p. 963; No. 74-1148, *Great Atlantic & Pacific Tea Co., Inc. v. Cottrell*, *infra*, p. 961; No. 74-1158, *Smart v. Texas Power & Light Co.*, *infra*, p. 958; No. 74-1188, *Kerrigan v. Morgan*, *infra*, p. 963; No. 74-1190, *White v. Morgan*, *infra*, p. 963; No. 74-1196, *Kline v. Coldwell, Banker & Co.*, *infra*, p. 963; No. 74-1197, *White v. McIntosh*, *infra*, p. 957; No. 74-1199, *Brown v. Wood*, *infra*, p. 963; No. 74-1210, *Sadlak v. Gilligan*, *infra*, this page; and No. 74-6227, *John v. United States*, *infra*, p. 962.

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No. 74-989. UNITED STATES CLAY PRODUCERS TRAFFIC ASSN., INC., ET AL. v. CENTRAL OF GEORGIA RAILROAD CO. ET AL. Affirmed on appeal from D. C. D. C. MR. JUSTICE POWELL took no part in the consideration or decision of this appeal. Reported below: 379 F. Supp. 976.

*Appeals Dismissed*

No. 74-955. ART THEATER GUILD, INC., ET AL. v. OHIO EX REL. SCHOEN; and

No. 74-956. ART THEATER GUILD, INC., ET AL. v. OHIO EX REL. ANDERSON. Appeals from Ct. App. Ohio, Lucas County, dismissed for failure to file notices of appeal within the time provided by this Court's Rule 11 and 28 U. S. C. § 2101 (c).

No. 74-1197. WHITE v. McINTOSH 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.

No. 74-5852. WHITMARSH v. MASSACHUSETTS. Appeal from Dist. Ct. N. Norfolk County dismissed for want of jurisdiction. Reported below: See — Mass. —, 316 N. E. 2d 610.

No. 74-6015. CROSS v. VILLEGAS ET AL. Appeal from Ct. App. Cal., 1st App. Dist., dismissed for want of substantial federal question.

No. 74-6233. MANION v. MILBREN, INC. Appeal from C. A. 4th Cir. dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied.

*Vacated and Remanded on Appeal*

No. 74-691. SCHMIDT, SECRETARY, DEPARTMENT OF HEALTH AND SOCIAL SERVICES OF WISCONSIN, ET AL. v.

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LESSARD. Appeal from D. C. E. D. Wis. Motion of appellee for leave to proceed *in forma pauperis* granted. Judgment vacated and case remanded for further consideration in light of *Huffman v. Pursue, Ltd.*, 420 U. S. 592 (1975). Reported below: See 349 F. Supp. 1078.

No. 74-952. BLANTON, GOVERNOR OF TENNESSEE, ET AL. *v.* AMERICANS UNITED FOR THE SEPARATION OF CHURCH AND STATE ET AL. D. C. M. D. Tenn. The Court, being advised that after probable jurisdiction herein was noted on March 24, 1975, 420 U. S. 989, the State's Tuition Grant statutory program was amended, judgment vacated and case remanded to District Court for reconsideration in light of statutory changes effected since the litigation was instituted. Reported below: 384 F. Supp. 714.

No. 74-1158. SMART *v.* TEXAS POWER & LIGHT CO. ET AL. Appeal from D. C. N. D. Tex. Judgment 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. *Gonzalez v. Automatic Employees Credit Union*, 419 U. S. 90 (1974).

#### *Miscellaneous Orders*

No. 35, Orig. UNITED STATES *v.* MAINE ET AL. The United States has moved the Court to retain jurisdiction in this case to entertain such further proceedings, enter such orders, and issue such writs as may from time to time be deemed necessary or advisable to give proper force and effect to the decision of March 17, 1975, and to the Court's opinion issued on that date [420 U. S. 515]. Motion of the United States granted. The parties, jointly or separately, are requested within 60 days to submit for the Court's consideration a proposed decree effectuating the March 17 decision and opinion, retaining jurisdiction over such supplemental proceedings as may

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be necessary or advisable and, more specifically, making provision for appropriate proceedings in this Court to establish the coastline of defendant States and the seaward boundary between the seabed lands of the States and those of the United States.

No. A-928. *BLACKBURN v. CITY OF MAPLE HEIGHTS*. Sup. Ct. Ohio. Application for stay of execution and enforcement of judgment of Garfield Heights Municipal Court entered on December 5, 1973, presented to MR. JUSTICE STEWART, and by him referred to the Court, denied.

No. D-36. *IN RE DISBARMENT OF BOMSTEIN*. It having been reported to this Court that Stanley J. Bomstein, of Baltimore, Md., has resigned with prejudice from the Court of Appeals of Maryland, and this Court by order of January 20, 1975 [419 U. S. 1118], having suspended the said Stanley J. Bomstein from the practice of law in this Court and directed that a rule issue requiring him to show cause why he should not be disbarred;

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

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

No. D-37. *IN RE DISBARMENT OF HANKINSON*. It having been reported to this Court that Christopher Ker Hankinson, of Vienna, Va., has been disbarred from the practice of law in the United States Court of Appeals for the District of Columbia Circuit and in the United States District Court for the District of Colum-

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bia, and this Court by order of January 20, 1975 [419 U. S. 1119], having suspended the said Christopher Ker Hankinson from the practice of law in this Court and directed that a rule issue requiring him to show cause why he should not be disbarred;

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

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

No. D-39. *IN RE DISBARMENT OF ROSENBERG*. It having been reported to this Court that Harvey Rosenberg, of Silver Spring, Md., has been disbarred from the practice of law in the Court of Appeals of Maryland and this Court by order of February 24, 1975 [420 U. S. 941], having suspended the said Harvey Rosenberg from the practice of law in this Court and directed that a rule issue requiring him to show cause why he should not be disbarred;

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

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

No. 74-492. *OHIO v. GALLAGHER*. Sup. Ct. Ohio. [Certiorari granted, 420 U. S. 1003.] Motion of the Attorney General of California for leave to participate in oral argument as *amicus curiae* denied.

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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., 420 U. S. 395. Motion of Chemehuevi Tribe of Indians et al. to retax costs denied.

No. 74-775. CITY OF NEW ORLEANS ET AL. v. DUKES, DBA LOUISIANA CONCESSIONS. C. A. 5th Cir. [Probable jurisdiction postponed, *ante*, p. 908.] Motion of appellee for appointment of counsel denied.

No. 74-6027. BEGUN v. UNITED STATES;

No. 74-6235. BEGUN v. STATE BOARD OF MEDICAL EXAMINERS ET AL.; and

No. 74-6237. MYLES v. RYDEL, WORKHOUSE SUPERINTENDENT. Motions for leave to file petitions for writs of certiorari denied.

No. 74-6314. MILLS v. AULT, CORRECTIONS DIRECTOR;

No. 74-6332. COLE v. TENNESSEE; and

No. 74-6350. SMITH v. PUTMAN, WARDEN. Motions for leave to file petitions for writs of habeas corpus denied.

No. 74-5657. REID v. UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT;

No. 74-6019. STEELE v. SUPREME COURT OF COLORADO ET AL.; and

No. 74-6142. STURGEON v. HEANEY, U. S. CIRCUIT JUDGE, ET AL. Motions for leave to file petitions for writs of mandamus denied.

*Probable Jurisdiction Noted*

No. 74-1148. GREAT ATLANTIC & PACIFIC TEA CO., INC. v. COTTRELL, HEALTH OFFICER OF MISSISSIPPI. Ap-

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peal from D. C. S. D. Miss. Probable jurisdiction noted. Reported below: 383 F. Supp. 569.

*Certiorari Granted*

No. 74-1033. DANN, COMMISSIONER OF PATENTS AND TRADEMARKS *v.* JOHNSTON. C. C. P. A. Motion of Computer & Business Equipment Manufacturers Assn. (CBEMA) for leave to file a brief as *amicus curiae* and certiorari granted. MR. JUSTICE POWELL took no part in the consideration or decision of this motion and petition.\* Reported below: 502 F. 2d 765.

No. 74-1047. HILLS, SECRETARY OF HOUSING AND URBAN DEVELOPMENT *v.* GAUTREAUX ET AL. C. A. 7th Cir. Certiorari granted. Reported below: 503 F. 2d 930.

*Certiorari Denied.* (See also Nos. 74-1197 and 74-6233, *supra.*)

No. 74-932. LEKOMETROS *v.* UNITED STATES;

No. 74-1125. BERNSTEIN *v.* UNITED STATES; and

No. 74-6227. JOHN *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied. Reported below: 508 F. 2d 1134.

No. 74-984. MAVER *v.* LOESCH ET AL. C. A. 6th Cir. Certiorari denied.

No. 74-1021. ROSSELLI *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 509 F. 2d 1352.

No. 74-1035. STITT *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied. Reported below: 510 F. 2d 971.

No. 74-1084. ANDERSON *v.* LANGENWALTER ET AL. C. A. 8th Cir. Certiorari denied. Reported below: 508 F. 2d 846.

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\*See also note, *supra*, p. 956.

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No. 74-1095. *DENTON v. UNITED STATES*. Ct. Cl. Certiorari denied. Reported below: 204 Ct. Cl. 188.

No. 74-1102. *NATIONAL MARITIME UNION OF AMERICA, AFL-CIO v. NATIONAL LABOR RELATIONS BOARD ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 506 F. 2d 1052.

No. 74-1131. *KALAMAZOO BOARD OF EDUCATION v. OLIVER, BY JONES, ET AL.*; and

No. 74-1132. *MICHIGAN STATE BOARD OF EDUCATION ET AL. v. OLIVER, BY JONES, ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 508 F. 2d 178.

No. 74-1188. *KERRIGAN ET AL. v. MORGAN ET AL.*; and

No. 74-1190. *WHITE, MAYOR OF BOSTON, ET AL. v. MORGAN ET AL.* C. A. 1st Cir. Certiorari denied. Reported below: 509 F. 2d 580.

No. 74-1196. *KLINE ET AL. v. COLDWELL, BANKER & Co. ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 508 F. 2d 226.

No. 74-1199. *BROWN ET UX. v. WOOD, JUDGE, ET AL.* Sup. Ct. Ark. Certiorari denied. Reported below: 257 Ark. 252, 516 S. W. 2d 98.

No. 74-375. *SHELL CHEMICAL CO. v. NATIONAL LABOR RELATIONS BOARD ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 495 F. 2d 1116.

No. 74-736. *WASHINGTON RESEARCH PROJECT, INC. v. DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE ET AL.* C. A. D. C. Cir. Certiorari denied. Reported below: 164 U. S. App. D. C. 169, 504 F. 2d 238.

No. 74-906. *PARKER v. ESTELLE, CORRECTIONS DIRECTOR.* C. A. 5th Cir. Certiorari denied. Reported below: 498 F. 2d 625.

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No. 74-950. *BARRETT v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 505 F. 2d 1091.

No. 74-1014. *MEISTER ET UX. v. COMMISSIONER OF INTERNAL REVENUE*. C. A. 3d Cir. Certiorari denied. Reported below: 504 F. 2d 505.

No. 74-1050. *LICHTIG ET AL. v. UNITED STATES*. C. A. 9th Cir. Certiorari denied.

No. 74-1051. *VON LEWINSKI v. PEPITONE, ACTING DIRECTOR, SELECTIVE SERVICE SYSTEM, ET AL.* C. A. D. C. Cir. Certiorari denied.

No. 74-1056. *DROBACK v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 509 F. 2d 625.

No. 74-1066. *CIRAMI ET AL. v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 510 F. 2d 69.

No. 74-1082. *IN RE GROSSGOLD*. Sup. Ct. Ill. Certiorari denied. Reported below: 58 Ill. 2d 9, 317 N. E. 2d 45.

No. 74-1127. *FUJITA v. CALIFORNIA*. Ct. App. Cal., 4th App. Dist. Certiorari denied. Reported below: 43 Cal. App. 3d 454, 117 Cal. Rptr. 757.

No. 74-1134. *PAVLICKA v. NEW YORK UNIVERSITY MEDICAL CENTER*. C. A. 2d Cir. Certiorari denied. Reported below: 508 F. 2d 837.

No. 74-1150. *SIDOR v. SELLMAN*. Super. Ct. N. J. Certiorari denied.

No. 74-1157. *IN RE BERLANT*. Sup. Ct. Pa. Certiorari denied. Reported below: 458 Pa. 439, 328 A. 2d 471.

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No. 74-1175. DELTA AIR LINES, INC. *v.* McDONNELL DOUGLAS CORP. C. A. 5th Cir. Certiorari denied. Reported below: 503 F. 2d 239.

No. 74-1176. BRUBAKER ET AL. *v.* BOARD OF EDUCATION, SCHOOL DISTRICT No. 149, COOK COUNTY, ILLINOIS, ET AL. C. A. 7th Cir. Certiorari denied. Reported below: 502 F. 2d 973.

No. 74-1182. UNITED BROADCASTING CO., INC., ET AL. *v.* ARMES. C. A. 5th Cir. Certiorari denied. Reported below: 506 F. 2d 766.

No. 74-1183. EASTERBROOK *v.* NEW YORK. Ct. App. N. Y. Certiorari denied.

No. 74-1186. MOYA ET VIR *v.* CHILILI COOPERATIVE ASSN., INC., ET AL. Sup. Ct. N. M. Certiorari denied. Reported below: 87 N. M. 99, 529 P. 2d 1220.

No. 74-1191. ILIGAN INTEGRATED STEEL MILLS, INC., ET AL. *v.* THE JOHN WEYERHAEUSER ET AL. C. A. 2d Cir. Certiorari denied. Reported below: 507 F. 2d 68.

No. 74-1208. TANGLEWOOD MALL, INC. *v.* CHASE MANHATTAN BANK (NATIONAL ASSOCIATION), TRUSTEE. C. A. 4th Cir. Certiorari denied. Reported below: 508 F. 2d 838.

No. 74-1211. NORTH AMERICAN ROCKWELL CORP. *v.* KNAPP. C. A. 3d Cir. Certiorari denied. Reported below: 506 F. 2d 361.

No. 74-1212. ST. PAUL FIRE & MARINE INSURANCE Co. *v.* HAWKEYE CHEMICAL Co. ET AL. C. A. 7th Cir. Certiorari denied. Reported below: 510 F. 2d 322.

No. 74-1230. SNELLING *v.* CHELTENHAM NATIONAL BANK. Super. Ct. Pa. Certiorari denied. Reported below: 230 Pa. Super. 498, 326 A. 2d 557.

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No. 74-1291. *FRED v. OKLAHOMA*. Ct. Crim. App. Okla. Certiorari denied. Reported below: 531 P. 2d 1038.

No. 74-5800. *MOODY v. UNITED STATES BOARD OF PAROLE*. C. A. 5th Cir. Certiorari denied.

No. 74-5890. *MAGEE v. BRITT, WARDEN*. Sup. Ct. Cal. Certiorari denied.

No. 74-5909. *KIMBLE v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 508 F. 2d 844.

No. 74-5919. *SPYCHALA v. GUNN, WARDEN*. C. A. 9th Cir. Certiorari denied.

No. 74-5922. *CROSIER v. CALIFORNIA*. Ct. App. Cal., 2d App. Dist. Certiorari denied.

No. 74-5925. *NORMAN, AKA ANA v. MISSISSIPPI*. Sup. Ct. Miss. Certiorari denied. Reported below: 302 So. 2d 254.

No. 74-5948. *CLARK v. RODRIGUEZ, WARDEN*. C. A. 10th Cir. Certiorari denied.

No. 74-5955. *TURLEY v. MISSOURI*. Ct. App. Mo., St. Louis District. Certiorari denied. Reported below: 518 S. W. 2d 207.

No. 74-5958. *JEFFERY v. NEW YORK*. App. Div., Sup. Ct. N. Y., 1st Jud. Dept. Certiorari denied.

No. 74-5997. *TOOTEN v. SHEVIN, ATTORNEY GENERAL OF FLORIDA, ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 493 F. 2d 173.

No. 74-5998. *DINSIO v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 510 F. 2d 973.

No. 74-6020. *TERRELL v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 508 F. 2d 844.

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No. 74-6022. CLARK *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 506 F. 2d 416.

No. 74-6032. BATTLES *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied. Reported below: 506 F. 2d 791.

No. 74-6033. SULLIVAN *v.* WEINBERGER, SECRETARY OF HEALTH, EDUCATION, AND WELFARE. C. A. 5th Cir. Certiorari denied. Reported below: 493 F. 2d 855.

No. 74-6036. CREW *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied. Reported below: 506 F. 2d 1053.

No. 74-6037. MEDINA ET AL. *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 505 F. 2d 1303.

No. 74-6041. BARNHILL *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 508 F. 2d 844.

No. 74-6044. ISAAC, AKA PITTS *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied. Reported below: 508 F. 2d 1237.

No. 74-6048. MARTIN ET AL. *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 509 F. 2d 1211.

No. 74-6050. RUFF *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 508 F. 2d 839.

No. 74-6052. PIGMAN *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. Reported below: 508 F. 2d 837.

No. 74-6062. PARKER *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied.

No. 74-6075. CANSECO *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 506 F. 2d 1054.

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No. 74-6074. *RODRIGUEZ v. IMMIGRATION AND NATURALIZATION SERVICE*. C. A. 9th Cir. Certiorari denied.

No. 74-6077. *MUNN v. UNITED STATES*. C. A. 10th Cir. Certiorari denied. Reported below: 507 F. 2d 563.

No. 74-6083. *HINES v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 510 F. 2d 967.

No. 74-6087. *TAYLOR ET AL. v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 510 F. 2d 976.

No. 74-6089. *ESCAMILLA v. BOGUE, U. S. DISTRICT JUDGE*. C. A. 8th Cir. Certiorari denied.

No. 74-6093. *TATE v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 510 F. 2d 973.

No. 74-6097. *BERMAN v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 510 F. 2d 975.

No. 74-6104. *BUCHERT v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 507 F. 2d 629.

No. 74-6111. *SMITH v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 506 F. 2d 406.

No. 74-6117. *GAUS v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 510 F. 2d 976.

No. 74-6122. *HARRELSON v. UNITED STATES*. C. A. 5th Cir. Certiorari denied.

No. 74-6123. *PERKINS v. BALL, SOCIAL SECURITY COMMISSIONER, ET AL.* C. A. 7th Cir. Certiorari denied. Reported below: 506 F. 2d 1405.

No. 74-6131. *MORROW v. UNITED STATES*. C. A. 9th Cir. Certiorari denied.

No. 74-6134. *CULOTTA v. PICKETT*. C. A. 7th Cir. Certiorari denied. Reported below: 506 F. 2d 1061.

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No. 74-6137. *ROBINSON v. VINCENT*, CORRECTIONAL SUPERINTENDENT. C. A. 2d Cir. Certiorari denied. Reported below: 506 F. 2d 923.

No. 74-6140. *MADER v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 511 F. 2d 1394.

No. 74-6144. *HAVANSEK v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 511 F. 2d 1405.

No. 74-6163. *FIELDS v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 510 F. 2d 967.

No. 74-6187. *WILLIAMS v. FORTNER*, PRISON SUPERINTENDENT. C. A. 5th Cir. Certiorari denied. Reported below: 507 F. 2d 1279.

No. 74-6190. *GREENLEE v. NORTH CAROLINA*. Sup. Ct. N. C. Certiorari denied. Reported below: 285 N. C. 761, 209 S. E. 2d 285.

No. 74-6192. *HUGHES v. OKLAHOMA*. Ct. Crim. App. Okla. Certiorari denied. Reported below: 529 P. 2d 510.

No. 74-6197. *PATTERSON v. HENDERSON*, WARDEN. C. A. 5th Cir. Certiorari denied.

No. 74-6208. *WRIGHT v. LUEDDEMANN ET AL.* C. A. 9th Cir. Certiorari denied.

No. 74-6210. *BRAXTON v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 483 F. 2d 1403.

No. 74-6213. *ELLERBEE v. MARLBORO COUNTY ET AL.* C. A. 4th Cir. Certiorari denied.

No. 74-6218. *RODGERS v. LAVALLEE*, CORRECTIONAL SUPERINTENDENT. C. A. 2d Cir. Certiorari denied.

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No. 74-6214. *NULL v. WAINWRIGHT, CORRECTIONS DIRECTOR*. C. A. 5th Cir. Certiorari denied. Reported below: 508 F. 2d 340.

No. 74-6219. *LUGO v. NEW YORK*. App. Div., Sup. Ct. N. Y., 1st Jud. Dept. Certiorari denied.

No. 74-6222. *SMITH ET AL. v. LINK, GOVERNOR OF NORTH DAKOTA, ET AL.* C. A. 8th Cir. Certiorari denied.

No. 74-6225. *OLDEN v. GUNN, WARDEN, ET AL.* Sup. Ct. Cal. Certiorari denied.

No. 74-6230. *HAMPTON v. KARFELD, TRUSTEE*. C. A. 8th Cir. Certiorari denied.

No. 74-6239. *JOHNSON v. DEPARTMENT OF WATER AND POWER, CITY OF LOS ANGELES*. Ct. App. Cal., 2d App. Dist. Certiorari denied.

No. 74-6242. *STANLEY v. WARDEN, STATE PRISON OF SOUTHERN MICHIGAN*. C. A. 6th Cir. Certiorari denied. Reported below: 511 F. 2d 1404.

No. 74-6243. *HOM v. CLANON, MEDICAL FACILITY SUPERINTENDENT*. C. A. 9th Cir. Certiorari denied.

No. 74-6245. *GERSBACHER v. ILLINOIS*. App. Ct. Ill., 5th Dist. Certiorari denied. Reported below: 23 Ill. App. 3d 136, 318 N. E. 2d 685.

No. 74-6250. *HILL v. CITY OF DETROIT ET AL.* C. A. 6th Cir. Certiorari denied.

No. 74-6258. *TAHL v. GUNN, WARDEN*. C. A. 9th Cir. Certiorari denied.

No. 74-6275. *SCHNEIDER v. OKLAHOMA ET AL.* C. A. 10th Cir. Certiorari denied.

No. 74-6279. *VITORATOS v. CARDWELL, WARDEN*. C. A. 6th Cir. Certiorari denied.

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No. 74-6266. *ROLON v. REGAN, PRISON SUPERINTENDENT*. C. A. 3d Cir. Certiorari denied. Reported below: 511 F. 2d 1396.

No. 74-6365. *DAVIS v. CHATTANOOGA FEDERAL SAVINGS & LOAN ASSN. CORP. ET AL.* C. A. 6th Cir. Certiorari denied.

No. 74-863. *PENNSYLVANIA v. WHITE*. Sup. Ct. Pa. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied, it appearing the judgment below rests upon adequate state grounds. Reported below: 459 Pa. 84, 327 A. 2d 40.

No. 74-1093. *RILEY ET AL. v. ESTATE OF RILEY*. Sup. Ct. Pa. Certiorari denied, it appearing that the judgment below rests upon adequate state grounds. Reported below: 459 Pa. 428, 329 A. 2d 511.

No. 74-1172. *GARCIA ET AL. v. GRAY ET AL.* C. A. 10th Cir. Certiorari denied. MR. JUSTICE BRENNAN and MR. JUSTICE MARSHALL would grant certiorari. Reported below: 507 F. 2d 539.

No. 74-5912. *HURST v. HUNT, CORRECTIONS DIRECTOR, ET AL.* C. A. 5th Cir. Certiorari denied. MR. JUSTICE STEWART would grant certiorari.

No. 74-6177. *PERKINS v. KENTUCKY*. Ct. App. Ky. Certiorari denied. MR. JUSTICE STEWART would grant certiorari. Reported below: 516 S. W. 2d 873.

#### *Rehearing Denied*

No. 73-296. *HUFFMAN ET AL. v. PURSUE, LTD.*, 420 U. S. 592;

No. 74-576. *STERRETT ET AL. v. TAYLOR ET AL.*, 420 U. S. 983; and

No. 74-680. *BLUMBERG v. BAUSCH & LOMB OPTICAL Co.*, 420 U. S. 927. Petitions for rehearing denied.

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No. 74-5711. O'BRIEN *v.* UNITED STATES DISTRICT COURT FOR THE CENTRAL DISTRICT OF CALIFORNIA, 420 U. S. 1005;

No. 74-5812. SCHALL ET AL. *v.* UNITED STATES, 420 U. S. 993;

No. 74-5886. STRAWN *v.* UNITED STATES, 420 U. S. 1006; and

No. 74-6011. PORZUCZEK, GUARDIAN *v.* COUNTY OF SAN MATEO ET AL., 420 U. S. 1007. Petitions for rehearing denied.

No. 9, Orig. UNITED STATES *v.* LOUISIANA ET AL. (LOUISIANA BOUNDARY CASE), 420 U. S. 529. Petition for rehearing denied. MR. JUSTICE MARSHALL took no part in the consideration or decision of this petition.\*

No. 74-97. DIAMOND ET AL. *v.* BLAND, SHERIFF, ET AL., 419 U. S. 885 and 1097. Motion for leave to file second petition for rehearing denied.

No. 74-893. THE SVENDBORG ET AL. *v.* MARINE ENGINE SPECIALTIES CORP., 420 U. S. 964;

No. 74-5407. MASSENGALE *v.* UNITED STATES, 419 U. S. 1091; and

No. 74-5981. KONJEVIC ET VIR *v.* FLORIDA DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL REGULATION, 420 U. S. 995. Motions for leave to file petitions for rehearing denied.

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*Affirmed on Appeal*

No. 74-1120. MURGIA *v.* MASSACHUSETTS BOARD OF RETIREMENT ET AL. Affirmed on appeal from D. C. Mass. Reported below: 386 F. Supp. 179.

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\*See also note, *supra*, p. 956.

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*Appeals Dismissed*

No. 74-1081. HANSEN *v.* BOARD OF INSPECTORS OF ELECTION, 8TH ELECTION DISTRICT, 68TH ASSEMBLY DISTRICT OF NEW YORK, ET AL. Appeal from App. Div., Sup. Ct. N. Y., 1st Jud. Dept., dismissed for want of substantial federal question. Reported below: 45 App. Div. 2d 988, 360 N. Y. S. 2d 207.

No. 74-1178. COLLINS ET AL. *v.* CAREY, GOVERNOR OF NEW YORK, ET AL. Appeal from Ct. App. N. Y. dismissed for want of substantial federal question. MR. JUSTICE DOUGLAS, MR. JUSTICE WHITE, and MR. JUSTICE MARSHALL would note probable jurisdiction and set case for oral argument. Reported below: 35 N. Y. 2d 547, 324 N. E. 2d 113.

No. 74-1193. SANFORD ET AL. *v.* CAREY, GOVERNOR OF NEW YORK, ET AL. Appeal from Ct. App. N. Y. dismissed for want of substantial federal question. MR. JUSTICE DOUGLAS, MR. JUSTICE WHITE, and MR. JUSTICE MARSHALL would note probable jurisdiction and set case for oral argument. Reported below: 35 N. Y. 2d 547, 324 N. E. 2d 113.

No. 74-1255. MILLER *v.* CALIFORNIA. Appeal from App. Dept., Super. Ct. Cal., County of Orange, dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied. MR. JUSTICE DOUGLAS would note probable jurisdiction and set case for oral argument.

No. 74-6249. CONRAD ET UX. *v.* MEYER & KAUCHER 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.

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*Certiorari Granted—Reversed and Remanded.* (See No. 74-1128, *ante*, p. 482.)

*Miscellaneous Orders*

No. A-365 (74-6458). *SHADD v. HOGAN, WARDEN.* C. A. 3d Cir. Application for bail, presented to MR. JUSTICE DOUGLAS, and by him referred to the Court, denied.

No. 74-712. *UNITED STATES v. BORNSTEIN ET AL.* C. A. 3d Cir. [Certiorari granted, 420 U. S. 906.] Motion of respondent Page for leave to proceed further herein *in forma pauperis* denied. *Snider v. All State Administrators, Inc.*, 414 U. S. 685 (1974).

No. 74-884. *UNITED STATES v. POWELL.* C. A. 9th Cir. [Certiorari granted, 420 U. S. 971.] Motions of respondent for leave to proceed further herein *in forma pauperis* and for appointment of counsel granted. It is ordered that Jerry J. Moberg, Esquire, of Moses Lake, Wash., is appointed to serve as counsel for respondent in this case.

No. 74-1107. *CAPPAERT ET AL. v. UNITED STATES ET AL.* C. A. 9th Cir. Motion to defer consideration of petition for writ of certiorari granted pending further order of this Court.

No. 74-6224. *COLLIER v. UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT*; and

No. 74-6267. *CALLINAN ET AL. v. GARRITY, U. S. DISTRICT JUDGE, ET AL.* Motions for leave to file petitions for writs of mandamus denied. MR. JUSTICE DOUGLAS took no part in the consideration or decision of these motions.

*Probable Jurisdiction Noted*

No. 74-1044. *MASSACHUSETTS BOARD OF RETIREMENT ET AL. v. MURGIA.* Appeal from D. C. Mass. Probable

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jurisdiction noted. Reported below: 376 F. Supp. 753 and 386 F. Supp. 179.

*Certiorari Granted*

No. 74-1110. EASTERN KENTUCKY WELFARE RIGHTS ORGANIZATION ET AL. *v.* SIMON, SECRETARY OF THE TREASURY, ET AL.; and

No. 74-1124. SIMON, SECRETARY OF THE TREASURY, ET AL. *v.* EASTERN KENTUCKY WELFARE RIGHTS ORGANIZATION ET AL. C. A. D. C. Cir. Certiorari granted. Cases consolidated, and a total of one hour allotted for oral argument. Reported below: 165 U. S. App. D. C. 239, 506 F. 2d 1278.

*Certiorari Denied.* (See also Nos. 74-1255 and 74-6249, *supra.*)

No. 74-896. BURLINGTON NORTHERN, INC. *v.* AMERICAN RAILWAY SUPERVISORS ASSN. ET AL. C. A. 7th Cir. Certiorari denied. Reported below: 503 F. 2d 58.

No. 74-1006. LEWIS ET AL. *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 504 F. 2d 92.

No. 74-1030. WILSON *v.* OREGON STATE BAR ET AL. Sup. Ct. Ore. Certiorari denied.

No. 74-1052. HUNT ET AL. *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 505 F. 2d 931.

No. 74-1075. DEVITT *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied. Reported below: 499 F. 2d 135.

No. 74-1080. LANCASTER ET AL. *v.* UNITED STATES; and

No. 74-1114. DEL PIETRO *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied. Reported below: 510 F. 2d 1307.

No. 74-1100. BRADY *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied. Reported below: 506 F. 2d 1050.

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No. 74-1112. *PRICE v. COTTON, TRUSTEE*. C. A. 5th Cir. Certiorari denied. Reported below: 505 F. 2d 733.

No. 74-1117. *CONDOR OPERATING CO. ET AL. v. ZARB, ADMINISTRATOR, FEDERAL ENERGY ADMINISTRATION, ET AL.* Temp. Emerg. Ct. App. Certiorari denied. Reported below: 514 F. 2d 351.

No. 74-1126. *LOCAL UNION 396, INTERNATIONAL BROTHERHOOD OF TEAMSTERS, CHAUFFEURS, WAREHOUSEMEN & HELPERS OF AMERICA, ET AL. v. NATIONAL LABOR RELATIONS BOARD*. C. A. 9th Cir. Certiorari denied. Reported below: 509 F. 2d 1075.

No. 74-1155. *PENN-DIXIE CEMENT CORP. ET AL. v. SCHLICK*. C. A. 2d Cir. Certiorari denied. Reported below: 507 F. 2d 374.

No. 74-1177. *MILHAN v. MILHAN*. Sup. Ct. Cal. Certiorari denied. Reported below: 13 Cal. 3d 129, 528 P. 2d 1145.

No. 74-1226. *MCBETH ET UX. v. UNITED PRESS INTERNATIONAL, INC.* C. A. 5th Cir. Certiorari denied. Reported below: 505 F. 2d 959.

No. 74-1236. *TYSON v. VIRGIN ISLANDS NATIONAL BANK*. C. A. 3d Cir. Certiorari denied. Reported below: 506 F. 2d 802.

No. 74-5984. *MONSIVAIS v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 509 F. 2d 675.

No. 74-6066. *WILLIAMS v. UNITED STATES*. C. A. 4th Cir. Certiorari denied.

No. 74-6029. *SARLES v. FLORIDA*. Dist. Ct. App. Fla., 1st Dist. Certiorari denied. Reported below: 294 So. 2d 95.

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No. 74-6000. *TRUJILLO-HERNANDEZ v. FARRELL*, COMMISSIONER, IMMIGRATION AND NATURALIZATION SERVICE, ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 503 F. 2d 954.

No. 74-6068. *ENTREKIN v. UNITED STATES*; and  
No. 74-6169. *ENTREKIN v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 508 F. 2d 1328.

No. 74-6092. *BORASKY v. UNITED STATES*. Ct. Cl. Certiorari denied. Reported below: 204 Ct. Cl. 874.

No. 74-6096. *TOOKER v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 510 F. 2d 971.

No. 74-6106. *SILMAN, AKA LONG v. UNITED STATES*. C. A. 10th Cir. Certiorari denied.

No. 74-6125. *MASON v. TEHAN*, U. S. DISTRICT JUDGE, ET AL. C. A. 7th Cir. Certiorari denied.

No. 74-6127. *STROY v. UNITED STATES*. C. A. D. C. Cir. Certiorari denied. Reported below: 165 U. S. App. D. C. 283, 506 F. 2d 1322.

No. 74-6129. *HAMILTON v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 509 F. 2d 574.

No. 74-6136. *BOLAR v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 511 F. 2d 1396.

No. 74-6141. *REDMAYNE v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 508 F. 2d 840.

No. 74-6155. *DOWD v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 506 F. 2d 1055.

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No. 74-6178. *BORUSKI v. UNITED STATES*. Ct. Cl. Certiorari denied. Reported below: 204 Ct. Cl. 807.

No. 74-998. *FOWLER ET AL. v. OREGON*. Ct. App. Ore. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari. Reported below: 18 Ore. App. 486, 525 P. 2d 1061.

No. 74-1011. *MICHAELSON v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari. Reported below: 511 F. 2d 882.

No. 74-1059. *FORTH CORP. ET AL. v. ALLEGHENY AIRLINES, INC., ET AL.*; and

No. 74-1223. *UNITED STATES v. ALLEGHENY AIRLINES, INC., ET AL.* C. A. 7th Cir. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari. Reported below: 504 F. 2d 104.

No. 74 1060. *FORTH CORP. ET AL. v. ALLEGHENY AIRLINES, INC., ET AL.* C. A. 7th Cir. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari. Reported below: 504 F. 2d 400.

No. 74-1083. *SCHAEFER v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari. Reported below: 510 F. 2d 1307.

No. 74-1105. *FORREST ET AL., DBA FORREST & KIEFER v. CAPITAL BUILDING & LOAN ASSN. ET AL.* C. A. 5th Cir. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari. Reported below: 504 F. 2d 891.

No. 74-1109. *PROCTER & GAMBLE CO. ET AL. v. CITY OF CHICAGO*. C. A. 7th Cir. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari. Reported below: 509 F. 2d 69.

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No. 74-1200. *DUFFY v. BARNES ET AL.* C. A. 3d Cir. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari. Reported below: 508 F. 2d 205.

No. 74-1238. *DEPARTMENT OF REVENUE OF WASHINGTON v. CARRINGTON Co.* Sup. Ct. Wash. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari. Reported below: 84 Wash. 2d 444, 527 P. 2d 74.

No. 74-5961. *CORMIER v. LOUISIANA.* Sup. Ct. La. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari. Reported below: 303 So. 2d 743.

No. 74-6164. *GALLOWAY v. UNITED STATES.* Ct. App. D. C. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari. Reported below: 326 A. 2d 803.

No. 74-1138. *KALB ET AL. v. UNITED STATES.* C. A. 2d Cir. Certiorari denied. MR. JUSTICE DOUGLAS took no part in the consideration or decision of this petition. Reported below: 505 F. 2d 506.

No. 74-6273. *WARE v. CHICAGO & NORTH WESTERN RAILWAY Co.* C. A. 7th Cir. Certiorari denied. MR. JUSTICE DOUGLAS took no part in the consideration or decision of this petition. Reported below: 506 F. 2d 1405.

No. 74-6274. *VERGA v. VERGA, AKA VIRGA.* Super. Ct. N. J. Certiorari denied. MR. JUSTICE DOUGLAS took no part in the consideration or decision of this petition.

No. 74-6276. *SMITH, TRUSTEE IN BANKRUPTCY v. BRYANT ET AL.* C. A. 5th Cir. Certiorari denied. MR. JUSTICE DOUGLAS took no part in the consideration or decision of this petition. Reported below: 502 F. 2d 784.

No. 74-6288. *WILEY v. MCMANUS, WARDEN.* C. A. 8th Cir. Certiorari denied. MR. JUSTICE DOUGLAS took no part in the consideration or decision of this petition.

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No. 74-6280. *MACKEY v. HENDERSON, CORRECTIONAL SUPERINTENDENT*. C. A. 2d Cir. Certiorari denied. MR. JUSTICE DOUGLAS took no part in the consideration or decision of this petition.

No. 74-6284. *HAMMOND v. CALIFORNIA*. Ct. App. Cal., 1st App. Dist. Certiorari denied. MR. JUSTICE DOUGLAS took no part in the consideration or decision of this petition.

No. 74-6285. *SINCLAIR v. HENDERSON, WARDEN*; and  
No. 74-6286. *SINCLAIR v. HENDERSON, WARDEN*. C. A. 5th Cir. Certiorari denied. MR. JUSTICE DOUGLAS took no part in the consideration or decision of this petition.

No. 74-6290. *QUICK v. CALIFORNIA*. Ct. App. Cal., 4th App. Dist. Certiorari denied. MR. JUSTICE DOUGLAS took no part in the consideration or decision of this petition.

No. 74-6291. *DEDMON v. ENOMOTO, CORRECTIONS DIRECTOR, ET AL.* C. A. 9th Cir. Certiorari denied. MR. JUSTICE DOUGLAS took no part in the consideration or decision of this petition.

No. 74-1116. *SMITH v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. MR. JUSTICE STEWART and MR. JUSTICE MARSHALL would grant certiorari. Reported below: 508 F. 2d 1157.

No. 74-1156. *FRILETTE ET AL. v. KIMBERLIN ET AL.* C. A. 3d Cir. Certiorari denied. MR. JUSTICE DOUGLAS and MR. JUSTICE WHITE would grant certiorari. MR. JUSTICE POWELL took no part in the consideration or decision of this petition. Reported below: 508 F. 2d 205.

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*Rehearing Denied*

No. 74-514. *JOHNSON v. UNITED STATES*, 420 U. S. 972;

No. 74-767. *CHU v. UNITED STATES*, 420 U. S. 940;

No. 74-844. *ORAM v. GENERAL AMERICAN OIL COMPANY OF TEXAS ET AL.*, 420 U. S. 964;

No. 74-1002. *TAYLOR'S WELDING SERVICE, INC., ET AL. v. BELL*, *ante*, p. 911;

No. 74-6078. *DARNOLD v. CLANON, MEDICAL FACILITY SUPERINTENDENT*, *ante*, p. 919; and

No. 74-6232. *HARRELSON v. UNITED STATES ET AL.*, *ante*, p. 928. Petitions for rehearing denied. MR. JUSTICE DOUGLAS took no part in the consideration or decision of these petitions.

No. 74-5573. *RONAN v. BRIGGS ET AL.*, 420 U. S. 911. Motion for leave to file petition for rehearing denied. MR. JUSTICE DOUGLAS took no part in the consideration or decision of this motion.

*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 Fourth Circuit on May 6, 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.

An order of THE CHIEF JUSTICE designating and assigning Mr. Justice Clark (retired) to perform judicial duties in the United States Court of Appeals for the Eighth Circuit during the period beginning October 12, 1975, and ending October 17, 1975, and for such additional time as may be required to complete unfinished business, pursuant to 28 U. S. C. § 294 (a), is ordered

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entered on the minutes of this Court, pursuant to 28 U. S. C. § 295.

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*Vacated and Remanded on Appeal*

No. 74-339. *WOLMAN ET AL. v. ESSEX ET AL.* Appeal from D. C. S. D. Ohio. Judgment vacated and case remanded for further consideration in light of *Meek v. Pittenger, ante*, p. 349. MR. JUSTICE DOUGLAS took no part in the consideration or decision of this appeal.

No. 74-1221. *CIVIL SERVICE COMMISSION OF NEW YORK ET AL. v. SNEAD.* Appeal from D. C. S. D. N. Y. Judgment vacated and case remanded for consideration of question of mootness. MR. JUSTICE DOUGLAS would note probable jurisdiction and set case for oral argument. MR. JUSTICE BRENNAN, MR. JUSTICE MARSHALL, and MR. JUSTICE BLACKMUN would affirm the judgment. Reported below: 389 F. Supp. 935.

*Appeals Dismissed*

No. 74-1153. *KACHER v. PITTSBURGH NATIONAL BANK ET AL.* Appeal from C. A. 3d Cir. dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied.

No. 74-1258. *E. F. JOHNSON Co. v. COMMISSIONER OF TAXATION.* Appeal from Sup. Ct. Minn. dismissed for want of substantial federal question. MR. JUSTICE BLACKMUN took no part in the consideration or decision of this appeal. Reported below: 302 Minn. 236, 224 N. W. 2d 150.

*Certiorari Granted—Vacated and Remanded*

No. 74-506. *TAYLOR ET AL. v. PERINI, CORRECTIONAL SUPERINTENDENT, ET AL.* C. A. 6th Cir. Certiorari

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granted, judgment vacated, and case remanded for further consideration in light of *Alyeska Pipeline Service Co. v. Wilderness Society*, ante, p. 240. MR. JUSTICE DOUGLAS took no part in the consideration or decision of this case. Reported below: 503 F. 2d 899.

No. 74-558. SKEHAN v. BOARD OF TRUSTEES OF BLOOMSBURG STATE COLLEGE ET AL. C. A. 3d Cir. Certiorari granted, judgment vacated, and case remanded for further consideration in light of *Alyeska Pipeline Service Co. v. Wilderness Society*, ante, p. 240, and *Wood v. Strickland*, 420 U. S. 308 (1975). MR. JUSTICE DOUGLAS took no part in the consideration or decision of this case. Reported below: 501 F. 2d 31.

No. 74-1247. STANTON, ADMINISTRATOR, DEPARTMENT OF PUBLIC WELFARE OF INDIANA, ET AL. v. GREEN 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 *Burns v. Alcala*, 420 U. S. 575 (1975). MR. JUSTICE DOUGLAS would deny the petition for writ of certiorari. Reported below: 499 F. 2d 155.

#### *Miscellaneous Orders*

No. A-931. BRINGE v. COLLINS ET AL. Application for stay of execution and enforcement of judgment of Court of Appeals of Maryland, presented to MR. JUSTICE MARSHALL, and by him referred to the Court, denied. MR. JUSTICE DOUGLAS took no part in the consideration or decision of this application. Reported below: 274 Md. 338, 335 A. 2d 670.

No. D 32. IN RE DISBARMENT OF GERMAISE. It having been reported to this Court that Irwin L. Germaise, of New York, N. Y., has been disbarred from the practice of law in all of the courts in the State of New York, and

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this Court by order of January 13, 1975 [419 U. S. 1102], having suspended the said Irwin L. Germaise 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;

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

MR. JUSTICE DOUGLAS took no part in the consideration or decision of this matter.

No. D-33. IN RE DISBARMENT OF McDONALD. It having been reported to this Court that Ronald F. McDonald, Jr., of Rockville, Md., has been disbarred from the practice of law in the Court of Appeals of Maryland, and this Court by order of January 20, 1975 [419 U. S. 1118], having suspended the said Ronald F. McDonald, Jr., from the practice of law in this Court and directed that a rule issue requiring him to show cause why he should not be disbarred;

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

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

MR. JUSTICE DOUGLAS took no part in the consideration or decision of this matter.

No. D-42. IN RE DISBARMENT OF DEAN. It having been reported to this Court that John W. Dean III, of Los Angeles, Cal., has been disbarred from the practice

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of law in the United States District Court for the District of Columbia, and this Court by order of February 24, 1975 [420 U. S. 942], having suspended the said John W. Dean III, from the practice of law in this Court and directed that a rule issue requiring him to show cause why he should not be disbarred;

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

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

MR. JUSTICE DOUGLAS and MR. JUSTICE REHNQUIST took no part in the consideration or decision of this matter.

No. 74-492. OHIO *v.* GALLAGHER. Sup. Ct. Ohio. [Certiorari granted, 420 U. S. 1003.] Motion of respondent for appointment of counsel granted and Jack T. Schwarz, Esquire, of Dayton, Ohio, is appointed to serve as counsel for respondent in this case. MR. JUSTICE DOUGLAS took no part in the consideration or decision of this motion.

No. 74-850. WEINBERGER, SECRETARY OF HEALTH, EDUCATION, AND WELFARE *v.* WEBER. C. A. 9th Cir. [Certiorari granted, 420 U. S. 989.] Peter David Ehrenhaft, Esquire, of Washington, D. C., is invited to brief and argue this case as *amicus curiae* in support of judgment below. MR. JUSTICE DOUGLAS took no part in the consideration or decision of this order.

No. 74-6457. GOODSPEED *v.* GRIGGS, INSTITUTION SUPERINTENDENT. Motion for leave to file petition for writ of habeas corpus denied.

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No. 74-878. NATIONAL LEAGUE OF CITIES ET AL. *v.* DUNLOP, SECRETARY OF LABOR; and

No. 74-879. CALIFORNIA *v.* DUNLOP, SECRETARY OF LABOR. Appeals from D. C. D. C. [Probable jurisdiction noted, 420 U. S. 906.] Cases restored to calendar for reargument.

No. 74-1254. OIL, CHEMICAL & ATOMIC WORKERS INTERNATIONAL UNION, AFL-CIO, ET AL. *v.* MOBIL OIL CORP., MARINE TRANSPORTATION DEPARTMENT, GULF-EAST COAST OPERATIONS. C. A. 5th Cir. The Solicitor General is invited to file a brief in this case expressing the views of the United States.

No. 74-1203. PHELPS *v.* UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF ILLINOIS ET AL. Motion for leave to file petition for writ of mandamus denied.

No. 74-6329. MAGEE *v.* UNITED STATES DISTRICT COURT FOR THE CENTRAL DISTRICT OF CALIFORNIA ET AL. Motion for leave to file petition for writ of prohibition and/or mandamus denied. MR. JUSTICE DOUGLAS would grant the motion.

*Probable Jurisdiction Noted*

No. 74-1267. EXAMINING BOARD OF ENGINEERS, ARCHITECTS AND SURVEYORS ET AL. *v.* FLORES DE OTERO; EXAMINING BOARD OF ENGINEERS, ARCHITECTS AND SURVEYORS ET AL. *v.* PEREZ NOGUEIRO. Appeals from D. C. P. R. Probable jurisdiction noted. The Solicitor General is invited to file a brief in these cases expressing the views of the United States. Application for stay of execution and enforcement of judgments, presented to MR. JUSTICE BRENNAN, and by him referred to the Court, granted pending issuance of judgment of this Court. MR. JUSTICE DOUGLAS took no part in the consideration or decision of this application.

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*Certiorari Granted*

No. 74-1023. *KERR ET AL. v. UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA ET AL.* C. A. 9th Cir. Certiorari granted. Reported below: 511 F. 2d 192.

No. 74 1245. *LIBERTY MUTUAL INSURANCE Co. v. WETZEL ET AL.* C. A. 3d Cir. Certiorari granted. Reported below: 511 F. 2d 199.

No. 74-1269. *BARRY, COMMISSIONER, SUFFOLK COUNTY POLICE DEPARTMENT v. DWEN.* C. A. 2d Cir. Certiorari granted. Reported below: 508 F. 2d 836.

No. 74-768. *BROWN v. GENERAL SERVICES ADMINISTRATION ET AL.* C. A. 2d Cir. Certiorari granted. MR. JUSTICE DOUGLAS and MR. JUSTICE MARSHALL took no part in the consideration or decision of this petition. Reported below: 507 F. 2d 1300.

No. 74-1141. *UNITED STATES v. GADDIS ET AL.* C. A. 5th Cir. Motion of respondents for leave to proceed *in forma pauperis* and certiorari granted. Reported below: 506 F. 2d 352.

No. 74-1216. *RISTAINO ET AL. v. ROSS.* C. A. 1st Cir. Motion of respondent for leave to proceed *in forma pauperis* and certiorari granted. Reported below: 508 F. 2d 754.

*Certiorari Denied.* (See also No. 74-1153, *supra.*)

No. 74-991. *COSTANZA v. UNITED STATES.* C. A. 6th Cir. Certiorari denied. Reported below: 508 F. 2d 844.

No. 74-1019. *GARGOTTO v. UNITED STATES.* C. A. 6th Cir. Certiorari denied. Reported below: 510 F. 2d 409.

No. 74-1054. *CREWS ET AL. v. NORTH CAROLINA.* Sup. Ct. N. C. Certiorari denied. Reported below: 286 N. C. 41, 209 S. E. 2d 462.

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No. 74-1069. *WHITAKER ET UX. v. UNITED STATES*. C. A. D. C. Cir. Certiorari denied. Reported below: 165 U. S. App. D. C. 283, 506 F. 2d 1322.

No. 74-1098. *ABBAS v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 504 F. 2d 123.

No. 74-1139. *CLARK ET AL. v. STANKIVIC ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 505 F. 2d 729.

No. 74-1166. *MINNESOTA ET AL. v. MINNESOTA CIVIL LIBERTIES UNION ET AL.*;

No. 74-1167. *LARKIN ET AL. v. MINNESOTA CIVIL LIBERTIES UNION ET AL.*; and

No. 74-1168. *QUAST ET AL. v. MINNESOTA CIVIL LIBERTIES UNION ET AL.* Sup. Ct. Minn. Certiorari denied. Reported below: 302 Minn. 216, 224 N. W. 2d 344.

No. 74-1174. *AIR LINE DISPATCHERS' ASSN, ET AL. v. CIVIL AERONAUTICS BOARD ET AL.* C. A. D. C. Cir. Certiorari denied. Reported below: 165 U. S. App. D. C. 282, 506 F. 2d 1321.

No. 74-1248. *ARMSTRONG CORK Co. v. CONGOLEUM INDUSTRIES, INC.* C. A. 3d Cir. Certiorari denied. Reported below: 510 F. 2d 334.

No. 74-1251. *THOMAS v. FORD MOTOR Co. ET AL.* C. A. 6th Cir. Certiorari denied.

No. 74-1253. *HOWARD v. BOARD OF COUNTY COMMISSIONERS OF WELD COUNTY, COLORADO.* C. A. 10th Cir. Certiorari denied.

No. 74-1280. *NAT HARRISON ASSOCIATES, INC. v. LOUISVILLE GAS & ELECTRIC Co. ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 512 F. 2d 511.

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No. 74-6049. *WEBB v. CULBERTSON ET AL.* C. A. 5th Cir. Certiorari denied.

No. 74-6073. *CONWAY ET AL. v. HAWKINS ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 506 F. 2d 1397.

No. 74-6082. *MITCHELL v. VIRGINIA.* Sup Ct. Va. Certiorari denied.

No. 74-6107. *LANCER v. UNITED STATES.* C. A. 3d Cir. Certiorari denied. Reported below: 508 F. 2d 719.

No. 74-6113. *CARTER ET AL. v. UNITED STATES.* C. A. 7th Cir. Certiorari denied. Reported below: 510 F. 2d 976.

No. 74-6146. *HOCKADAY v. UNITED STATES.* Ct. App. D. C. Certiorari denied. Reported below: 326 A. 2d 254.

No. 74-6148. *ANDRADE-GONZALEZ ET AL. v. UNITED STATES.* C. A. 9th Cir. Certiorari denied.

No. 74-6149. *STEVENS v. UNITED STATES.* C. A. 8th Cir. Certiorari denied. Reported below: 509 F. 2d 683.

No. 74-6151. *ISOME v. UNITED STATES.* C. A. 6th Cir. Certiorari denied. Reported below: 512 F. 2d 756.

No. 74-6166. *BATTLE v. UNITED STATES.* C. A. 6th Cir. Certiorari denied. Reported below: 510 F. 2d 973.

No. 74-6171. *RUTH v. UNITED STATES.* C. A. 3d Cir. Certiorari denied. Reported below: 510 F. 2d 970.

No. 74-6180. *RICO v. UNITED STATES;* and

No. 74-6193. *SALAS-MARTINEZ v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. Reported below: 507 F. 2d 1279.

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No. 74-6182. *KENYON v. UNITED STATES*. C. A. 9th Cir. Certiorari denied.

No. 74-6189. *HOFFMAN v. UNITED STATES*. C. A. 9th Cir. Certiorari denied.

No. 74-6198. *BOSTON v. UNITED STATES*. C. A. 9th Cir. Certiorari denied.

No. 74-6199. *BRINLEE v. ATTORNEY GENERAL OF THE UNITED STATES ET AL.* C. A. 10th Cir. Certiorari denied.

No. 74-6201. *MORANDI v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 510 F. 2d 968.

No. 74-6270. *RESNICK v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 505 F. 2d 733.

No. 74-6310. *BRANTLEY v. BAXLEY ET AL.* C. A. 5th Cir. Certiorari denied.

No. 74-6312. *CARTER v. CHIPPER'S NUT HUT, INC.* C. A. 5th Cir. Certiorari denied.

No. 74-6315. *JAMES v. HENDERSON, CORRECTIONAL SUPERINTENDENT*. C. A. 2d Cir. Certiorari denied.

No. 74-6316. *BURSTON v. CALDWELL, WARDEN*. C. A. 5th Cir. Certiorari denied. Reported below: 506 F. 2d 24.

No. 74-6317. *JOHNSON v. ALABAMA*. Ct. Crim. App. Ala. Certiorari denied. Reported below: 54 Ala. App. 187, 306 So. 2d 55.

No. 74-6326. *YOUNG v. NEW YORK*. App. Div., Sup. Ct. N. Y., 4th Jud. Dept. Certiorari denied. Reported below: 46 App. Div. 2d 202, 361 N. Y. S. 2d 762.

No. 74-6333. *ROLL v. CALIFORNIA*. Sup. Ct. Cal. Certiorari denied.

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No. 74-6360. *FAIR v. BALL ET AL.* Sup. Ct. Fla. Certiorari denied. Reported below: 304 So. 2d 126.

No. 74-6396. *GIBSON v. HENDERSON, WARDEN.* Sup. Ct. La. Certiorari denied.

No. 74-403. *JORDON ET AL. v. GILLIGAN, GOVERNOR OF OHIO, ET AL.* C. A. 6th Cir. Certiorari denied. MR. JUSTICE DOUGLAS and MR. JUSTICE MARSHALL would grant certiorari. Reported below: 500 F. 2d 701.

No. 74-543. *BRIDGEPORT GUARDIANS, INC., ET AL. v. BRIDGEPORT CIVIL SERVICE COMMISSION ET AL.* C. A. 2d Cir. Certiorari denied. MR. JUSTICE DOUGLAS took no part in the consideration or decision of this petition. Reported below: 497 F. 2d 1113.

No. 74-757. *CITIZENS TO PRESERVE OVERTON PARK, INC., ET AL. v. SMITH, COMMISSIONER, TENNESSEE DEPARTMENT OF TRANSPORTATION, ET AL.* C. A. 6th Cir. Certiorari denied. MR. JUSTICE DOUGLAS took no part in the consideration or decision of this petition.

No. 74-842. *TIIDEE PRODUCTS, INC. v. NATIONAL LABOR RELATIONS BOARD ET AL.* C. A. D. C. Cir. Certiorari denied. MR. JUSTICE DOUGLAS took no part in the consideration or decision of this petition. Reported below: 163 U. S. App. D. C. 347, 502 F. 2d 349.

No. 74-1140. *LOWE ET AL. v. SECRETARY OF STATE ET AL.* C. A. D. C. Cir. Certiorari denied. MR. JUSTICE DOUGLAS took no part in the consideration or decision of this petition.

No. 74-1173. *ESTATE OF KLEIN ET AL. v. COMMISSIONER OF INTERNAL REVENUE.* C. A. 7th Cir. Certiorari denied. MR. JUSTICE DOUGLAS took no part in the consideration or decision of this petition. Reported below: 507 F. 2d 617.

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No. 74-1185. FIRESTONE PLASTICS CO., DIVISION OF FIRESTONE TIRE & RUBBER CO., ET AL. *v.* UNITED STATES DEPARTMENT OF LABOR ET AL. C. A. 2d Cir. Certiorari denied. MR. JUSTICE DOUGLAS took no part in the consideration or decision of this petition. Reported below: 509 F. 2d 1301.

No. 74-961. DILLON *v.* ANTLER LAND COMPANY OF WYOLA ET AL. C. A. 9th Cir. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari. Reported below: 507 F. 2d 940.

No. 74-1090. TERRELL *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari. Reported below: 508 F. 2d 841.

No. 74-1164. ALFRED A. KNOPF, INC., ET AL. *v.* COLBY, DIRECTOR, CENTRAL INTELLIGENCE AGENCY, ET AL. C. A. 4th Cir. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari. Reported below: 509 F. 2d 1362.

No. 74-1268. CITY OF CHICAGO ET AL. *v.* CHICAGO AREA MILITARY PROJECT ET AL. C. A. 7th Cir. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari. Reported below: 508 F. 2d 921.

No. 74-1279. SUTT ET AL. *v.* FIRST NATIONAL BANK OF KANSAS CITY ET AL. Sup. Ct. Mo. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari.

No. 74-6079. BEARD *v.* ILLINOIS. Sup. Ct. Ill. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari. Reported below: 59 Ill. 2d 220, 319 N. E. 2d 745.

No. 74-6094. GOLON *v.* UNITED STATES. C. A. 1st Cir. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari. Reported below: 511 F. 2d 298.

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No. 74-1240. *WEISER ET AL. v. WHITE, SECRETARY OF STATE OF TEXAS*. C. A. 5th Cir. Certiorari denied. MR. JUSTICE DOUGLAS took no part in the consideration or decision of this petition. Reported below: 505 F. 2d 912.

No. 74-6153. *BAECHLER v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari. Reported below: 509 F. 2d 13.

No. 74-6305. *BENNETT v. NORTH CAROLINA*. C. A. 4th Cir. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari.

No. 74-1003. *RIDENS ET AL. v. ILLINOIS ET AL.* Sup. Ct. Ill. 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 Theatre I v. Slaton*, 413 U. S. 49, 70-73 (1973) (DOUGLAS, J., dissenting), would grant certiorari and summarily reverse the judgment. Reported below: 59 Ill. 2d 362, 321 N. E. 2d 264.

MR. JUSTICE BRENNAN, with whom MR. JUSTICE STEWART and MR. JUSTICE MARSHALL join, dissenting.

Petitioners were convicted of selling allegedly obscene publications in violation of the Illinois Obscenity Statute, Ill. Rev. Stat., c. 38, § 11-20 (1969), and the obscenity ordinance of the city of Moline, Ill. The Illinois Supreme Court affirmed their convictions. 51 Ill. 2d 410, 282 N. E. 2d 691 (1972). We granted certiorari and remanded the case for further consideration in light of *Miller v. California*, 413 U. S. 15 (1973).

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413 U. S. 912 (1973). On remand, the Illinois Supreme Court again affirmed the convictions.

For the reasons stated in my dissent from the remand of this case, *id.*, at 911, and because the present judgment was rendered after *Miller*, I would grant certiorari and reverse.\*

No. 74-1024. *SIERRA CLUB v. HILLS, SECRETARY OF HOUSING AND URBAN DEVELOPMENT, ET AL.* C. A. 5th Cir. Motion of Citizens for Better Environment et al. for leave to join in petition for writ of certiorari denied. Certiorari denied. MR. JUSTICE DOUGLAS took no part in the consideration or decision of this motion and petition. Reported below: 502 F. 2d 43.

No. 74-1065. *ILLINOIS v. GRAYSON.* Sup. Ct. Ill. Certiorari denied, it appearing the judgment below rests upon adequate state grounds. MR. JUSTICE DOUGLAS would grant certiorari. Reported below: 58 Ill. 2d 260, 319 N. E. 2d 43.

#### *Rehearing Denied*

No. 74-926. *CITY OF PITTSBURGH v. PUBLIC PARKING AUTHORITY OF PITTSBURGH ET AL.*, *ante*, p. 912;

No. 74-930. *ILLINOIS ET AL. v. FEDERAL POWER COMMISSION ET AL.*, *ante*, p. 912;

No. 74-5964. *OLENZ v. CLEARY ET AL.*, 420 U. S. 994; and

No. 74-6034. *WHITE v. MICHIGAN STATE UNIVERSITY*, *ante*, p. 918. Petitions for rehearing denied. MR. JUSTICE DOUGLAS took no part in the consideration or decision of these petitions.

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\*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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*Affirmed on Appeal*

No. 74-1027. *GARCIA ET AL. v. TEXAS STATE BOARD OF MEDICAL EXAMINERS ET AL.* Affirmed on appeal from D. C. W. D. Tex. MR. JUSTICE BRENNAN, MR. JUSTICE WHITE, and MR. JUSTICE MARSHALL would note probable jurisdiction and set case for oral argument. Reported below: 384 F. Supp. 434.

*Appeals Dismissed*

No. 74-1289. *PHAGAN v. TEXAS.* Appeal from Ct. Civ. App. Tex., 2d Sup. Jud. Dist., dismissed for want

\*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 the following:

No. 73-1285, *Wood v. Strickland*, *infra*, p. 997; No. 74-1027, *Garcia v. Texas State Board of Medical Examiners*, *infra*, this page; No. 74-1057, *Commodity Option Co. v. Bernhardt*, *infra*, p. 1004; No. 74-1062, *Caldwell v. City of New Orleans*, *infra*, p. 1003; No. 74-1072, *Henderson v. Donovan*, *infra*, p. 996; No. 74-1076, *Washington v. Murray*, *infra*, p. 1004; No. 74-1085, *Matteo v. United States*, *infra*, p. 998; No. 74-1097, *Consumers Union of United States v. Kissinger*, *infra*, p. 1004; No. 74-1121, *Hood v. United States*, *infra*, p. 998; No. 74-1133, *Strauss v. United States*, *infra*, p. 998; No. 74-1143, *Indiviglio v. United States*, *infra*, p. 998; No. 74-1160, *George R. Whitten, Jr., Inc. v. Paddock Pool Builders, Inc.*, *infra*, p. 1004; No. 74-1218, *Allen Homes, Inc. v. Weersing*, *infra*, p. 998; No. 74-1244, *Brundage v. United States*, *infra*, p. 998; No. 74-1270, *Train v. Colorado Public Interest Research Group, Inc.*, *infra*, p. 998; No. 74-1271, *H & R Block, Inc. v. Havenfield Corp.*, *infra*, p. 999; No. 74-1272, *Local 542, International Union of Operating Engineers v. Higginbotham*, *infra*, p. 999; No. 74-1278, *Lovelace v. DeChamplain*, *infra*, p. 996; No. 74-1287, *Weinstein v. Bradford*, *infra*, p. 998; No. 74-1308, *Lundvall v. Kuiper*, *infra*, p. 996; No. 74-6072, *Jackson v. Illinois*, *infra*, p. 999; No. 74-6108, *Moore v. United States*, *infra*, p. 999; No. 74-6121, *Saunders v. Foltz*, *infra*, p. 999; No. 74-6161, *Breen v. United States*, *infra*, p. 998; No. 74-6238, *Geelan v. United States*, *infra*, p. 999; and No. 74-6357, *Roots v. Wainwright*, *infra*, p. 996.

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of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied. Reported below: 509 S. W. 2d 703.

No. 74-1308. LUNDVALL *v.* KUIPER ET AL. Appeal from Sup. Ct. Colo. dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied. Reported below: 187 Colo. 40, 529 P. 2d 1328.

No. 74-6357. ROOTS *v.* WAINWRIGHT, CORRECTIONS DIRECTOR. 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.

*Certiorari Granted—Vacated and Remanded*

No. 74-948. UNITED STATES *v.* SANFORD ET AL. C. A. 9th Cir. Certiorari granted, judgment vacated, and case remanded for further consideration in light of *Serfass v. United States*, 420 U. S. 377 (1975). Reported below: 503 F. 2d 291.

No. 74-1072. HENDERSON, WARDEN *v.* DONIVAN. C. A. 5th Cir. Motion of respondent for leave to proceed *in forma pauperis* and certiorari granted. Judgment vacated and case remanded for consideration of question of mootness. Reported below: 503 F. 2d 1401.

No. 74-1278. LOVELACE ET AL. *v.* DECHAMPLAIN. C. A. 8th 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 Western District of Missouri with directions to dismiss cause as moot. Reported below: 510 F. 2d 419.

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*Miscellaneous Orders*

No. A-944. *CANNEY v. FLORIDA*. Application for stay of execution and enforcement of judgment of the District Court of Appeal of Florida, Second District, presented to MR. JUSTICE BRENNAN, and by him referred to the Court, denied. Reported below: 298 So. 2d 495.

No. A-967. *SMILOW v. UNITED STATES*. Application for injunction pending appeal to the United States Court of Appeals for the Second Circuit, presented to MR. JUSTICE MARSHALL, and by him referred to the Court, denied.

No. A-981. *NEWSPAPERS, INC., DBA AUSTIN AMERICAN-STATESMAN v. BLACKWELL, JUDGE*. Application for stay of order of 147th Judicial District Court of Travis County, Tex., presented to MR. JUSTICE POWELL, and by him referred to the Court, denied. MR. JUSTICE BRENNAN and MR. JUSTICE WHITE would grant the application. THE CHIEF JUSTICE took no part in the consideration or decision of this application.\*

No. 74-6358. *SHINDER v. ESMIOL*. Motion for leave to file petition for writ of certiorari denied.

No. 74-538. *UNITED STATES v. WATSON*. C. A. 9th Cir. [Certiorari granted, 420 U. S. 924.] Motion for appointment of counsel is granted, and Michael D. Nasatir, Esquire, of Beverly Hills, Cal., is appointed to serve as counsel for respondent in this case.

No. 73-1285. *WOOD ET AL. v. STRICKLAND ET AL.*, 420 U. S. 308. Motion of respondents to retax costs granted and it is ordered that petitioners and respondents divide the costs equally.

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\*See also note, *supra*, p. 995.

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No. 74-6292. SACASAS *v.* HOGAN, WARDEN; and  
No. 74-6478. MINK *v.* EGELER, WARDEN. Motions  
for leave to file petitions for writs of habeas corpus  
denied.

*Certiorari Granted*

No. 74-1270. TRAIN, ADMINISTRATOR, ENVIRON-  
MENTAL PROTECTION AGENCY, ET AL. *v.* COLORADO PUBLIC  
INTEREST RESEARCH GROUP, INC., ET AL. C. A. 10th Cir.  
Motion of Boston Edison Co. et al. for leave to file a  
brief as *amici curiae* and certiorari granted. Reported  
below: 507 F. 2d 743.

No. 74-1287. WEINSTEIN ET AL. *v.* BRADFORD ET AL.  
C. A. 4th Cir. Motion of respondents for leave to pro-  
ceed *in forma pauperis* and certiorari granted. Reported  
below: 519 F. 2d 728.

*Certiorari Denied.* (See also Nos. 74-1289, 74-1308, and  
74-6357, *supra.*)

No. 74-1085. MATTEO *v.* UNITED STATES;

No. 74-1143. INDIVIGLIO *v.* UNITED STATES; and

No. 74-6161. BREEN *v.* UNITED STATES. C. A. 2d  
Cir. Certiorari denied. Reported below: 510 F. 2d 968.

No. 74-1121. HOOD, AKA HAWKINS, ET AL. *v.* UNITED  
STATES. C. A. 10th Cir. Certiorari denied.

No. 74-1133. STRAUSS *v.* UNITED STATES. C. A. 5th  
Cir. Certiorari denied.

No. 74-1218. ALLEN HOMES, INC. *v.* WEERSING ET AL.  
C. A. 8th Cir. Certiorari denied. Reported below: 510  
F. 2d 360.

No. 74-1244. BRUNDAGE *v.* UNITED STATES. Ct. Cl.  
Certiorari denied. Reported below: 205 Ct. Cl. 502, 504  
F. 2d 1382.

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No. 74-1271. H & R BLOCK, INC. *v.* HAVENFIELD CORP. C. A. 8th Cir. Certiorari denied. Reported below: 509 F. 2d 1263.

No. 74-1272. LOCAL 542, INTERNATIONAL UNION OF OPERATING ENGINEERS *v.* HIGGINBOTHAM, U. S. DISTRICT JUDGE. C. A. 3d Cir. Certiorari denied.

No. 74-6072. JACKSON *v.* ILLINOIS. App. Ct. Ill., 1st Dist. Certiorari denied.

No. 74-6108. MOORE ET AL. *v.* UNITED STATES; and  
No. 74-6238. GEELAN *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied. Reported below: 509 F. 2d 737.

No. 74-6121. SAUNDERS ET AL. *v.* FOLTZ, DEPUTY WARDEN, ET AL. C. A. 6th Cir. Certiorari denied.

No. 73-1768. DUFF *v.* FAIN. C. A. 5th Cir. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 488 F. 2d 218.

No. 74-750. DAVIS, CORRECTIONS DIRECTOR, ET AL. *v.* LEWIS. C. A. 4th Cir. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 504 F. 2d 426.

No. 74-954. SHARP, JUDGE, ET AL. *v.* COBELL ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 503 F. 2d 790.

No. 74-1020. ALLSTATE MORTGAGE CORP. ET AL. *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied. Reported below: 507 F. 2d 492.

No. 74-1039. ZYCHINSKI ET AL. *v.* COMMISSIONER OF INTERNAL REVENUE. C. A. 8th Cir. Certiorari denied. Reported below: 506 F. 2d 637.

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No. 74-1129. *JAMES v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 505 F. 2d 898.

No. 74-1145. *COOK v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 505 F. 2d 659.

No. 74-1189. *AMERICAN STANDARD, INC. v. CRANE CO. ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 510 F. 2d 1043.

No. 74-1195. *WATERFRONT GUARD ASSOCIATION, LOCAL 1852, INDEPENDENT WATCHMEN'S ASSOCIATION OF THE PORT OF BALTIMORE, MARYLAND v. NATIONAL LABOR RELATIONS BOARD ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 508 F. 2d 839.

No. 74-1206. *ZIONS FIRST NATIONAL BANK, EXECUTOR v. COMMISSIONER OF INTERNAL REVENUE*. C. A. 10th Cir. Certiorari denied. Reported below: 506 F. 2d 1144.

No. 74-1215. *T. J. FALGOUT BOATS, INC., ET AL. v. UNITED STATES ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 508 F. 2d 855.

No. 74-1232. *BELTRONICS, INC. v. EBERLINE INSTRUMENT CORP. ET AL.* C. A. 10th Cir. Certiorari denied. Reported below: 509 F. 2d 1316.

No. 74-5248. *ANDERSON v. MARYLAND*. Ct. App. Md. Certiorari denied. Reported below: 272 Md. 85, 321 A. 2d 516.

No. 74-6128. *KNIGHT v. ESTELLE, CORRECTIONS DIRECTOR*. C. A. 5th Cir. Certiorari denied. Reported below: 501 F. 2d 963.

No. 74-6133. *TEDDER v. FLORIDA*. Dist. Ct. App. Fla., 2d Dist. Certiorari denied. Reported below: 287 So. 2d 330.

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No. 74-6147. *O'DONNELL v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 510 F. 2d 1190.

No. 74-6152. *LUJAN v. GENGLER, WARDEN, ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 510 F. 2d 62.

No. 74-6156. *RIED v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 511 F. 2d 1396.

No. 74-6172. *CAGLE v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 505 F. 2d 729.

No. 74-6181. *WARREN, AKA CHUNN v. UNITED STATES*. C. A. 2d Cir.;

No. 74-6268. *WARREN, AKA CHUNN v. UNITED STATES*; and

No. 74-6269. *WARREN, AKA CHUNN v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 510 F. 2d 968 (first case); 509 F. 2d 575 (next two cases).

No. 74-6185. *HURT v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 511 F. 2d 1398.

No. 74-6188. *BOSTON v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 508 F. 2d 1171.

No. 74-6194. *RICHARDSON v. UNITED STATES*. C. A. 6th Cir. Certiorari denied.

No. 74-6217. *ROSAS v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 505 F. 2d 115 and 509 F. 2d 805.

No. 74-6196. *HOLLAND v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 511 F. 2d 38.

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No. 74-6204. *LEE v. UNITED STATES*. C. A. 9th Cir. Certiorari denied.

No. 74-6206. *LAWRENCE v. HENDERSON, WARDEN*. C. A. 5th Cir. Certiorari denied.

No. 74-6209. *FLORES v. McCUNE, WARDEN*. C. A. 10th Cir. Certiorari denied.

No. 74-6221. *VAN BUREN v. UNITED STATES*. C. A. 10th Cir. Certiorari denied. Reported below: 513 F. 2d 1327.

No. 74-6229. *CAMPBELL v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 510 F. 2d 967.

No. 74-6234. *SCOTT v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 511 F. 2d 15.

No. 74-6240. *MOORE v. UNITED STATES*; and

No. 74-6256. *MORROW v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 508 F. 2d 840.

No. 74-6244. *LEE v. UNITED STATES*. C. A. D. C. Cir. Certiorari denied. Reported below: 165 U. S. App. D. C. 50, 506 F. 2d 111.

No. 74-6265. *STABLER v. UNITED STATES*. C. A. 8th Cir. Certiorari denied.

No. 74-6277. *RETHORST v. COMMISSIONER OF INTERNAL REVENUE*. C. A. 9th Cir. Certiorari denied. Reported below: 509 F. 2d 623.

No. 74-6343. *DAYE v. BOUNDS, CORRECTION COMMISSIONER, ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 509 F. 2d 66.

No. 74-6346. *MILLER v. ARKANSAS*. Sup. Ct. Ark. Certiorari denied.

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No. 74-6349. GRAYTON *v.* ENOMOTO, CORRECTIONS DIRECTOR. C. A. 9th Cir. Certiorari denied.

No. 74-6351. McCLINDON *v.* GRIGGS, INSTITUTION SUPERINTENDENT. C. A. 9th Cir. Certiorari denied.

No. 74-6353. DUNKER *v.* VINZANT. C. A. 1st Cir. Certiorari denied. Reported below: 505 F. 2d 503.

No. 74-6356. DAVIDSON *v.* CALIFORNIA ET AL. C. A. 9th Cir. Certiorari denied.

No. 74-6359. BELL *v.* MARYLAND. Ct. Sp. App. Md. Certiorari denied.

No. 74-6361. BRASWELL *v.* GRAY, PRISON SUPERINTENDENT. C. A. 3d Cir. Certiorari denied.

No. 74-6362. BROWN *v.* OREGON EX REL. JUVENILE DEPARTMENT FOR LANE COUNTY. Ct. App. Ore. Certiorari denied. Reported below: 19 Ore. App. 427, 528 P. 2d 569.

No. 74-6363. HEALEY *v.* NEW YORK. App. Div., Sup. Ct. N. Y., 2d Jud. Dept. Certiorari denied.

No. 74-6364. HARDAWAY *v.* SHERMAN ENTERPRISES, INC., ET AL. Ct. App. Ga. Certiorari denied. Reported below: 133 Ga. App. 181, 210 S. E. 2d 363.

No. 74-6367. MARTINEZ *v.* NEW MEXICO. Sup. Ct. N. M. Certiorari denied.

No. 74-6404. SHARPE *v.* JOHNSON, CORRECTIONAL SUPERINTENDENT. C. A. 3d Cir. Certiorari denied.

No. 74-1062. CALDWELL *v.* CITY OF NEW ORLEANS. Crim. Dist. Ct. La., Orleans Parish. Certiorari denied. Mr. JUSTICE DOUGLAS would grant certiorari.

No. 74-6416. DENMAN ET AL. *v.* ATKINS ET AL. C. A. 1st Cir. Certiorari denied.

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No. 74-1057. COMMODITY OPTION CO., INC., ET AL. v. BERNHARDT ET AL. Sup. Ct. Colo. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari. Reported below: 187 Colo. 89, 528 P. 2d 919.

No. 74-1097. CONSUMERS UNION OF UNITED STATES, INC. v. KISSINGER, SECRETARY OF STATE, ET AL. C. A. D. C. Cir. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari. Reported below: 165 U. S. App. D. C. 75, 506 F. 2d 136.

No. 74-1160. GEORGE R. WHITTEN, JR., INC., DBA WHITTEN CORP. v. PADDOCK POOL BUILDERS, INC., ET AL. C. A. 1st Cir. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari. Reported below: 508 F. 2d 547.

No. 74-1076. WASHINGTON v. MURRAY, AKA TERRY, ET AL. Sup. Ct. Wash. Motion of respondent Murray for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 84 Wash. 2d 527, 527 P. 2d 1303.

No. 74-1130. FRIEDMAN ET AL. v. UNITED STATES. C. A. 8th Cir. Certiorari denied. Reported below: 506 F. 2d 511.

MR. JUSTICE BRENNAN, with whom MR. JUSTICE STEWART and MR. JUSTICE MARSHALL join, dissenting.

Petitioner Sooner State News Agency was convicted in the United States District Court for the Eastern District of Arkansas of transporting obscene literature through the United States mail 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."

Petitioners Friedman, Mitchum, Fishman, and Boyd were convicted in the same District Court of conspiracy to violate 18 U. S. C. § 1465. 18 U. S. C. § 371. The Court of Appeals for the Eighth Circuit affirmed all petitioners' convictions. 506 F. 2d 511 (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 judgments of the Court of Appeals for the Eighth Circuit were 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 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, petitioners must be given an opportunity to have their cases decided on, and to introduce evidence relevant to, the legal standard upon which their

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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.

*Rehearing Denied*

No. 74-1037. ALLIGATOR CO., INC. *v.* LA CHEMISE LACOSTE ET AL., *ante*, p. 937;

No. 74-1171. GABRIEL ET AL. *v.* LEVIN ET AL., *ante*, p. 915; and

No. 74-5950. TALK *v.* UNITED STATES, *ante*, p. 932. Petitions for rehearing denied.

No. 74-5906. BROGAN *v.* WEINBERGER, SECRETARY OF HEALTH, EDUCATION, AND WELFARE, 420 U. S. 1006. Motion for leave to file petition for rehearing denied.

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*Dismissal Under Rule 60*

No. 74-1300. LOUISIANA *v.* HERMAN. Sup. Ct. La. Certiorari dismissed under this Court's Rule 60. Reported below: 304 So. 2d 322.

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*Dismissal Under Rule 60*

No. 74-6344. DUHART *v.* UNITED STATES. C. A. 6th Cir. Certiorari dismissed under this Court's Rule 60. Reported below: 511 F. 2d 7.

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*Affirmed on Appeal*

No. 74-1296. WATER TRANSPORT ASSN. ET AL. *v.* UNITED STATES ET AL.; and

No. 74-1297. AMERICAN WATERWAYS OPERATORS, INC., ET AL. *v.* UNITED STATES ET AL. Affirmed on appeal from

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D. C. D. C. MR. JUSTICE POWELL took no part in the consideration or decision of these appeals. Reported below: 386 F. Supp. 799.

*Appeals Dismissed*

No. 74-487. CLOVER BOTTOM HOSPITAL & SCHOOL *v.* TOWNSEND ET AL. Appeal from Sup. Ct. Tenn. Motion of appellees for 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, certiorari denied. MR. JUSTICE DOUGLAS took no part in the consideration or decision of this motion and case. Reported below: 513 S. W. 2d 505.

No. 74-1091. FARRELL *v.* IOWA. Appeal from Sup. Ct. Iowa dismissed for want of substantial federal question. MR. JUSTICE DOUGLAS and MR. JUSTICE BRENNAN would note probable jurisdiction and set case for oral argument. MR. JUSTICE STEWART would dismiss the appeal as untimely docketed. Reported below: 223 N. W. 2d 270.

No. 74-1380. GRUND *v.* ALDRIDGE ET AL. Appeal from Sup. Ct. Ala. dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied. Reported below: 293 Ala. 333, 302 So. 2d 847.

No. 74-6366. HART ET UX. *v.* FEHSEKE ET AL. Appeal from Sup. Ct. Iowa dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied.

No. 74-6313. MAISEL *v.* UNITED STATES ET AL. Appeal from D. C. W. D. N. Y. dismissed.

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*Miscellaneous Orders*

No. ————. *IN RE RESIGNATION OF CARDEN*. Motion of Philip M. Carden, of Nashville, Tenn., to resign as a member of the Bar of this Court is granted. It is ordered that his name be stricken from the roll of attorneys admitted to practice before the Bar of this Court. MR. JUSTICE DOUGLAS took no part in the consideration or decision of this matter.

No. D-49. *IN RE DISBARMENT OF ISHLER*. It is ordered that Loren Grant Ishler, of Toledo, Ohio, 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. MR. JUSTICE DOUGLAS took no part in the consideration or decision of this matter.

No. 9, Orig. *UNITED STATES v. LOUISIANA ET AL. (LOUISIANA BOUNDARY CASE)*. Motion of Special Master for allowance of compensation granted and it is ordered that such costs be borne equally by the parties to this litigation. MR. JUSTICE DOUGLAS and MR. JUSTICE MARSHALL took no part in the consideration or decision of this motion. [For earlier orders herein, see, *e. g.*, 420 U. S. 904.]

No. 74-389. *ALBEMARLE PAPER CO. ET AL. v. MOODY ET AL.* C. A. 4th Cir. [Certiorari granted, 419 U. S. 1068.] Motion of petitioners for leave to file supplemental brief after argument granted. MR. JUSTICE DOUGLAS and MR. JUSTICE POWELL took no part in the consideration or decision of this motion.

No. 74-6321. *STRATTON v. GROSSMAN ET AL.* Motion for leave to file petition for writ of mandamus denied.

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No. 74-850. WEINBERGER, SECRETARY OF HEALTH, EDUCATION, AND WELFARE *v.* WEBER. C. A. 9th Cir. [Certiorari granted, 420 U. S. 989.] Motion to dispense with printing appendix granted. MR. JUSTICE DOUGLAS took no part in the consideration or decision of this motion.

No. 74-891. PAUL ET AL. *v.* DAVIS. C. A. 6th Cir. [Certiorari granted, *ante*, p. 909.] Motion of Americans for Effective Law Enforcement, Inc., et al., for leave to file a brief as *amici curiae* granted. MR. JUSTICE DOUGLAS took no part in the consideration or decision of this motion.

No. 74-1213. CALIFORNIA DEPARTMENT OF INDUSTRIAL RELATIONS, DIVISION OF INDUSTRIAL WELFARE, ET AL. *v.* HOMEMAKERS, INC., OF LOS ANGELES. C. A. 9th Cir. The Solicitor General is invited to file a brief in this case expressing the views of the United States.

No. 74-1216. RISTAINO ET AL. *v.* ROSS. C. A. 1st Cir. [Certiorari granted, *ante*, p. 987.] Motion for appointment of counsel granted and Michael G. West, Esquire, of Springfield, Mass., is appointed to serve as counsel for respondent in this case. MR. JUSTICE DOUGLAS took no part in the consideration or decision of this motion.

No. 74-5808. FRANCIS *v.* HENDERSON, WARDEN. C. A. 5th Cir. [Certiorari granted, *ante*, p. 946.] Motion of petitioner for appointment of counsel granted and Bruce S. Rogow, Esquire, of Miami, Fla., is appointed to serve as counsel for petitioner in this case.

No. 74-6584. LIPSMAN *v.* GIARDINO ET AL. C. A. 2d Cir. Motion to expedite consideration of petition for writ of certiorari denied. MR. JUSTICE DOUGLAS took no part in the consideration or decision of this motion.

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*Probable Jurisdiction Noted*

No. 74-1302. DUNLOP, SECRETARY OF LABOR, ET AL. *v.* TURNER ELKHORN MINING CO. ET AL.; and

No. 74-1316. TURNER ELKHORN MINING CO. ET AL. *v.* DUNLOP, SECRETARY OF LABOR, ET AL. Appeals from D. C. E. D. Ky. Probable jurisdiction noted. Cases consolidated and a total of one hour allotted for oral argument. Reported below: 385 F. Supp. 424.

No. 74-1329. HYNES ET AL. *v.* MAYOR OF BOROUGH OF ORADELL ET AL. Appeal from Sup. Ct. N. J. Probable jurisdiction noted. Reported below: 66 N. J. 376, 331 A. 2d 277.

*Certiorari Granted*

No. 74-958. UNITED STATES ET AL. *v.* JANIS. C. A. 9th Cir. Certiorari granted.

No. 74-1179. UNITED STATES *v.* MILLER. C. A. 5th Cir. Motion of respondent for leave to proceed *in forma pauperis* and certiorari granted. Reported below: 500 F. 2d 751.

No. 74-1187. BAXTER ET AL. *v.* PALMIGIANO. C. A. 1st Cir. Motion of respondent for leave to proceed *in forma pauperis* and certiorari granted. Case set for oral argument with No. 74-1194, immediately *infra*. Reported below: 510 F. 2d 534.

No. 74-1194. ENOMOTO, CORRECTIONS DIRECTOR, ET AL. *v.* CLUTCHETTE ET AL. C. A. 9th Cir. Motion of respondents for leave to proceed *in forma pauperis* and certiorari granted. Case set for oral argument with No. 74-1187, immediately *supra*. Reported below: 510 F. 2d 613.

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*Certiorari Denied.* (See also Nos. 74-487, 74-1380, and 74-6366, *supra.*)

No. 74-1152. ARTEMIS ET AL. *v.* UNITED STATES. C. A. 9th Cir. *Certiorari denied.*

No. 74-1201. MIZANI *v.* UNITED STATES. C. A. 4th Cir. *Certiorari denied.* Reported below: 510 F. 2d 967.

No. 74-1235. SIMS *v.* FOX ET AL. C. A. 5th Cir. *Certiorari denied.* Reported below: 505 F. 2d 857.

No. 74-1239. MITCHELL BROS. TRUCK LINES *v.* GILSTRAP ET AL. Sup. Ct. Ore. *Certiorari denied.* Reported below: 270 Ore. 599, 529 P. 2d 370.

No. 74-1288. LIBERTY MUTUAL INSURANCE Co. *v.* WETZEL ET AL.; and

No. 74-1319. WETZEL ET AL. *v.* LIBERTY MUTUAL INSURANCE Co. C. A. 3d Cir. *Certiorari denied.* Reported below: 508 F. 2d 239.

No. 74-1299. SERVICE TECHNICIANS, INC. *v.* UNITED STATES. Ct. Cl. *Certiorari denied.* Reported below: 206 Ct. Cl. 833, 513 F. 2d 638.

No. 74-1306. HONEYCUTT *v.* AETNA INSURANCE Co. C. A. 7th Cir. *Certiorari denied.* Reported below: 510 F. 2d 340.

No. 74-1307. BOWMAN ET AL. *v.* PRESIDING JUDGE, SUPERIOR COURT OF CALIFORNIA FOR THE COUNTY OF LOS ANGELES, ET AL. Ct. App. Cal., 2d App. Dist. *Certiorari denied.*

No. 74-1311. HUDSON VALLEY ASBESTOS CORP. *v.* TOUGHER HEATING & PLUMBING Co., INC., ET AL. C. A. 2d Cir. *Certiorari denied.* Reported below: 510 F. 2d 1140.

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No. 74-1315. *PLESS v. VIRGINIA*. Sup. Ct. Va. Certiorari denied.

No. 74-1320. *ANDERSEN ET AL. v. FEAR*. C. A. 3d Cir. Certiorari denied. Reported below: 506 F. 2d 331.

No. 74-1321. *FEYEN v. AMERICAN MAIL LINE, LTD.* Sup. Ct. Ore. Certiorari denied. Reported below: 271 Ore. 76, 530 P. 2d 830.

No. 74-1325. *DUGGAN ET AL. v. INTERNATIONAL ASSOCIATION OF MACHINISTS*. C. A. 9th Cir. Certiorari denied. Reported below: 510 F. 2d 1086.

No. 74-1338. *MELODY RECORDINGS, INC., ET AL. v. JONDORA MUSIC PUBLISHING CO. ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 506 F. 2d 392.

No. 74-1348. *AUSTIN v. INDIANA*. Sup. Ct. Ind. Certiorari denied. Reported below: 262 Ind. 529, 319 N. E. 2d 130.

No. 74-1356. *RALEY v. NICHOLAS ET UX.* C. A. 10th Cir. Certiorari denied. Reported below: 510 F. 2d 160.

No. 74-6167. *HAWK v. SUPERIOR COURT OF CALIFORNIA, SOLANO COUNTY*. Ct. App. Cal., 1st App. Dist. Certiorari denied. Reported below: 42 Cal. App. 3d 108, 116 Cal. Rptr. 713.

No. 74-6203. *DANIEL v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 508 F. 2d 838.

No. 74-6205. *DAVIS v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 508 F. 2d 840.

No. 74-6211. *MONTOYA v. UNITED STATES*. C. A. 10th Cir. Certiorari denied.

No. 74-6236. *BURKS v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 508 F. 2d 672.

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No. 74-6247. THOMPSON *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied. Reported below: 505 F. 2d 731.

No. 74-6253. BOERNER *v.* UNITED STATES;

No. 74-6261. BOERNER *v.* UNITED STATES; and

No. 74-6262. BEAUFORD *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 508 F. 2d 1064.

No. 74-6255. GARDFREY *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied. Reported below: 513 F. 2d 634.

No. 74-6260. SELLARO *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied. Reported below: 514 F. 2d 114.

No. 74-6281. WASSON *v.* OKLAHOMA. Ct. Crim. App. Okla. Certiorari denied.

No. 74-6282. BORUSKI *v.* UNITED STATES ET AL. C. A. 2d Cir. Certiorari denied.

No. 74-6298. POLLARD *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 509 F. 2d 601.

No. 74-6308. BARKER ET AL. *v.* UNITED STATES. C. A. D. C. Cir. Certiorari denied. Reported below: 168 U. S. App. D. C. 312, 514 F. 2d 208.

No. 74-6325. BRANSON *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 511 F. 2d 1404.

No. 74-6338. HALL *v.* MARYLAND. C. A. 4th Cir. Certiorari denied.

No. 74-6339. HEMMINGER *v.* CALIFORNIA. Ct. App. Cal., 4th App. Dist. Certiorari denied.

No. 74-6372. CARTER *v.* BENNETT. C. A. 5th Cir. Certiorari denied.

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No. 74-6373. *CANNON v. DIRKER*. C. A. 6th Cir. Certiorari denied. Reported below: 508 F. 2d 843.

No. 74-6374. *RAY v. KANE, ATTORNEY GENERAL OF PENNSYLVANIA, ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 511 F. 2d 1395.

No. 74-6379. *PORZUCZEK, GUARDIAN v. TOWNER ET AL.* Sup. Ct. Cal. Certiorari denied.

No. 74-6385. *BROCKMAN v. SOUTH CAROLINA ET AL.* C. A. 4th Cir. Certiorari denied.

No. 74-6390. *PATTERSON ET AL. v. AULT, WARDEN.* C. A. 5th Cir. Certiorari denied. Reported below: 511 F. 2d 1401.

No. 74-6392. *DONOVAN v. CALIFORNIA.* Ct. App. Cal., 2d App. Dist. Certiorari denied.

No. 74-6393. *THOMPSON v. McMANUS, WARDEN.* C. A. 8th Cir. Certiorari denied. Reported below: 512 F. 2d 769.

No. 74-6400. *WHITE v. TEXAS.* Ct. Crim. App. Tex. Certiorari denied. Reported below: 517 S. W. 2d 543.

No. 74-6426. *BRAGER v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. Reported below: 505 F. 2d 1302.

No. 74-6432. *GREENE ET AL. v. CHANDLER, MAYOR OF MEMPHIS, ET AL.* C. A. 6th Cir. Certiorari denied.

No. 74-6456. *ALBERTSON v. MICHIGAN.* Cir. Ct., Berrien County, Mich. Certiorari denied.

No. 73-839. *OHIO v. UNITED STATES.* Temp. Emerg. Ct. App. Certiorari denied. MR. JUSTICE DOUGLAS took no part in the consideration or decision of this petition. Reported below: 487 F. 2d 936.

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No. 73-1565. *IOWA v. DUNLOP, SECRETARY OF LABOR*. C. A. 8th Cir. Certiorari denied. MR. JUSTICE DOUGLAS took no part in the consideration or decision of this petition. Reported below: 494 F. 2d 100.

No. 74-739. *UNITED STATES v. CALIFORNIA ET AL.* Temp. Emerg. Ct. App. Certiorari denied. MR. JUSTICE DOUGLAS took no part in the consideration or decision of this petition. Reported below: 504 F. 2d 750.

No. 74-5979. *FIDELER v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. MR. JUSTICE DOUGLAS took no part in the consideration or decision of this petition. Reported below: 500 F. 2d 1182.

No. 74-6395. *HEMSTREET v. NEMIR ET AL.* Ct. App. Cal., 3d App. Dist. Certiorari denied. MR. JUSTICE DOUGLAS took no part in the consideration or decision of this petition.

No. 74-1163. *CRITZER ET AL. v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari. Reported below: 510 F. 2d 967.

No. 74-1202. *FIFTY-FIVE GAMBLING DEVICES ET AL. v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari. Reported below: 505 F. 2d 658.

No. 74-1205. *CHALE ET AL. v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari. Reported below: 510 F. 2d 976.

No. 74-1305. *SLOCA v. BAYNE*. C. A. 8th Cir. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari.

No. 74-6220. *SCHOFIELD v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari. Reported below: 507 F. 2d 963.

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No. 74-1314. LOUISVILLE LODGE No. 6, FRATERNAL ORDER OF POLICE, ET AL. *v.* BURTON, DIRECTOR OF PUBLIC SAFETY, ET AL. Ct. App. Ky. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari. Reported below: 518 S. W. 2d 777.

No. 74-1370. LAKESIDE HOSPITAL ASSN. ET AL. *v.* FIRST NATIONAL BANK OF KANSAS CITY ET AL. Sup. Ct. Mo. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari.

No. 74-6186. WILKINS *v.* NORTH CAROLINA. Sup. Ct. N. C. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari. Reported below: 286 N. C. 214, 209 S. E. 2d 318.

No. 74-6251. KIRBY *v.* STURGES, CHAIRMAN, PAROLE AND PARDON BOARD OF ILLINOIS. C. A. 7th Cir. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari. Reported below: 510 F. 2d 397.

No. 74-6388. CRYER *v.* PRESTRESSED CONCRETE PRODUCTS Co., INC., ET AL. C. A. 5th Cir. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari. Reported below: 507 F. 2d 1278.

No. 74-6434. B. J. R. *v.* DISTRICT OF COLUMBIA. Ct. App. D. C. Certiorari denied. MR. JUSTICE DOUGLAS would grant certiorari. Reported below: 332 A. 2d 58.

No. 74-6401. BECKETT *v.* WARREN, ATTORNEY GENERAL OF WISCONSIN, ET AL. C. A. 7th Cir. Application for bail, presented to THE CHIEF JUSTICE, and by him referred to the Court, denied. Certiorari denied. MR. JUSTICE DOUGLAS took no part in the consideration or decision of the application. Reported below: 513 F. 2d 635.

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*Rehearing Denied*

No. 73-6868. FERNANDEZ ET AL. v. UNITED STATES, 420 U. S. 990;

No. 74-916. RADISICH v. RADISICH, 420 U. S. 992; and

No. 74-1136. DERBY v. CONNECTICUT LIGHT & POWER Co., *ante*, p. 931. Petitions for rehearing denied. MR. JUSTICE DOUGLAS took no part in the consideration or decision of these petitions.

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., *ante*, p. 117. Petition for rehearing denied. MR. JUSTICE DOUGLAS and MR. JUSTICE BRENNAN took no part in the consideration or decision of this petition.

No. 74-345. R. J. REYNOLDS TOBACCO CO. ET AL. v. AMERICAN PRESIDENT LINES, LTD., ET AL., 419 U. S. 1070. Motion for leave to file petition for rehearing denied. MR. JUSTICE DOUGLAS took no part in the consideration or decision of this motion.

No. 74-817. ROSS v. ROSS, 420 U. S. 947. Motion of petitioner for leave to proceed further herein *in forma pauperis* granted. Petition for rehearing denied. MR. JUSTICE DOUGLAS took no part in the consideration or decision of this motion and petition.

*Assignment Orders*

An order of THE CHIEF JUSTICE designating and assigning Mr. Justice Clark (retired) to perform judicial duties in the United States Court of Appeals for the Second Circuit during the period June 23 to June 27, 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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An order of THE CHIEF JUSTICE designating and assigning Mr. Justice Clark (retired) to perform judicial duties in the United States Court of Appeals for the Tenth Circuit during the week of July 7, 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.