

ORDERS FROM MARCH 29 THROUGH
MAY 27, 1976

MARCH 29, 1976

Affirmed on Appeal

No. 75-676. *BOWMAN TRANSPORTATION, INC. v. ARKANSAS-BEST FREIGHT SYSTEM, INC., ET AL.* Affirmed on appeal from D. C. W. D. Ark. MR. JUSTICE STEVENS would reverse. Reported below: 399 F. Supp. 157.

No. 75-856. *LEVIN v. GULOTTA, PRESIDING JUSTICE, ET AL.;*

No. 75-972. *MILDNER v. GULOTTA, PRESIDING JUSTICE, ET AL.;* and

No. 75-1111. *GERZOF v. GULOTTA, PRESIDING JUSTICE.* Affirmed on appeal from D. C. E. D. N. Y. MR. JUSTICE MARSHALL and MR. JUSTICE POWELL would postpone consideration of question of jurisdiction to hearing of cases on the merits. Reported below: 405 F. Supp. 182.

No. 75-896. *DOE ET AL. v. COMMONWEALTH'S ATTORNEY FOR THE CITY OF RICHMOND ET AL.* Affirmed on appeal from D. C. E. D. Va. MR. JUSTICE BRENNAN, MR. JUSTICE MARSHALL, and MR. JUSTICE STEVENS would note probable jurisdiction and set case for oral argument. Reported below: 403 F. Supp. 1199.

Appeals Dismissed

No. 75-1124. *GASKIN ET AL. v. TENNESSEE.* Appeal from Ct. Crim. App. Tenn. dismissed for want of substantial federal question. Reported below: 530 S. W. 2d 533.

No. 75-6298. *McKELDIN v. TENNESSEE.* Appeal from Sup. Ct. Tenn. dismissed for want of jurisdic-

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tion. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied. Reported below: See 534 S. W. 2d 131.

Miscellaneous Orders

No. A-709 (75-6221). *ROTI v. FLORIDA*. Sup. Ct. Fla. Application for bail, presented to MR. JUSTICE STEWART, and by him referred to the Court, denied.

No. A-748. *GAERTNER v. UNITED STATES*. C. A. 7th Cir. Application for bail, presented to MR. JUSTICE MARSHALL, and by him referred to the Court, denied. MR. JUSTICE STEVENS took no part in the consideration or decision of this application.

No. A-812. *HOFF ET AL. v. UNITED STATES*. Application for stay of execution and enforcement of judgment of the United States Court of Appeals for the Second Circuit, presented to MR. JUSTICE BRENNAN, and by him referred to the Court, denied. MR. JUSTICE STEVENS would grant the application. Reported below: 527 F. 2d 237.

No. 75-251. *FITZPATRICK ET AL. v. BITZER, CHAIRMAN, STATE EMPLOYEES' RETIREMENT COMMISSION, ET AL.*; and

No. 75-283. *BITZER, CHAIRMAN, STATE EMPLOYEES' RETIREMENT COMMISSION, ET AL. v. MATTHEWS ET AL.* C. A. 2d Cir. [Certiorari granted, 423 U. S. 1031.] Motion of Lawrence Silver, Esquire, for additional time to permit Melvin R. Shuster, Esquire, to participate in oral argument as *amicus curiae, pro hac vice*, denied.

No. 75-510. *FLINT RIDGE DEVELOPMENT Co. v. SCENIC RIVERS ASSOCIATION OF OKLAHOMA ET AL.*; and

No. 75-545. *HILLS, SECRETARY OF HOUSING AND URBAN DEVELOPMENT, ET AL. v. SCENIC RIVERS ASSOCIATION OF OKLAHOMA ET AL.* C. A. 10th Cir. [Certiorari granted, 423 U. S. 1013.] Motion of the Attorney Gen-

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eral of California for leave to file an untimely brief as *amicus curiae* granted.

No. 75-382. FEDERAL ENERGY ADMINISTRATION ET AL. *v.* ALGONQUIN SNG, INC., ET AL. C. A. D. C. Cir. [Certiorari granted, 423 U. S. 923.] Motion of respondents for additional time for oral argument denied. Alternative request for divided argument granted. Motion of McClure & Trotter for leave to file a brief as *amicus curiae* granted.

Certiorari Denied. (See also No. 75-6298, *supra.*)

No. 75-844. SUSENKEWA ET AL. *v.* KLEPPE, SECRETARY OF THE INTERIOR, ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 520 F. 2d 1324.

No. 75-877. ALONSO *v.* CALIFORNIA DEPARTMENT OF HUMAN RESOURCES ET AL. Ct. App. Cal., 2d App. Dist. Certiorari denied. Reported below: 50 Cal. App. 3d 242, 123 Cal. Rptr. 536.

No. 75-878. ACCU-NAMICS, INC. *v.* USERY, SECRETARY OF LABOR, ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 515 F. 2d 828.

No. 75-897. ENSLIN *v.* NORTH CAROLINA. Ct. App. N. C. Certiorari denied. Reported below: 25 N. C. App. 662, 214 S. E. 2d 318.

No. 75-902. MITCHELL ET AL. *v.* HONGISTO, SHERIFF. C. A. 9th Cir. Certiorari denied.

No. 75-961. GENTILE ET AL. *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. Reported below: 525 F. 2d 252.

No. 75-964. SENECA-CAYUGA TRIBE OF OKLAHOMA ET AL. *v.* UNITED STATES. Ct. Cl. Certiorari denied. Reported below: 207 Ct. Cl. 958, 521 F. 2d 1406.

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No. 75-965. *SENECA-CAYUGA TRIBE OF OKLAHOMA ET AL. v. UNITED STATES*. Ct. Cl. Certiorari denied. Reported below: 207 Ct. Cl. 959, 521 F. 2d 1406.

No. 75-982. *PARTIN v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 524 F. 2d 992.

No. 75-984. *SEARS v. DANN, COMMISSIONER OF PATENTS*. C. A. 4th Cir. Certiorari denied.

No. 75-1011. *SWEETON, CHIEF OF POLICE v. GENERAL CORP.* Sup. Ct. Ala. Certiorari denied. Reported below: 294 Ala. 657, 320 So. 2d 668.

No. 75-1086. *HENICAN ET AL. v. EXCHANGE NATIONAL BANK OF CHICAGO*. Sup. Ct. La. Certiorari denied. Reported below: 321 So. 2d 338.

No. 75-1095. *BANKERS LIFE & CASUALTY CO. v. PALM BEACH BILTMORE, INC.* C. A. 5th Cir. Certiorari denied. Reported below: 517 F. 2d 478.

No. 75-1098. *PARK ET AL. v. LANSING SCHOOL DISTRICT ET AL.* Ct. App. Mich. Certiorari denied. Reported below: 62 Mich. App. 397, 233 N. W. 2d 592.

No. 75-1100. *S. S. KRESGE CO. v. BAEZ*. C. A. 5th Cir. Certiorari denied. Reported below: 518 F. 2d 349.

No. 75-1101. *MELNICK ET AL. v. McCLELLAN*. C. A. 10th Cir. Certiorari denied.

No. 75-1113. *HAHN v. SARGENT ET AL.* C. A. 1st Cir. Certiorari denied. Reported below: 523 F. 2d 461.

No. 75-1117. *MISHKIN ET AL. v. NEW YORK*. App. Div., Sup. Ct. N. Y., 1st Jud. Dept. Certiorari denied.

No. 75-1129. *HFH, LTD., ET AL. v. SUPERIOR COURT OF LOS ANGELES COUNTY ET AL.* Sup. Ct. Cal. Certiorari denied. Reported below: 15 Cal. 3d 508, 542 P. 2d 237.

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No. 75-5700. *GARY v. TEXAS*. Ct. Crim. App. Tex. Certiorari denied. Reported below: 527 S. W. 2d 320.

No. 75-5959. *BROWN v. UNITED STATES*; and

No. 75-6059. *BRYANT v. UNITED STATES*. C. A. 9th Cir. Certiorari denied.

No. 75-6002. *ALEXANDER v. UNITED STATES*. C. A. 9th Cir. Certiorari denied.

No. 75-6004. *DE LOS SANTOS v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 520 F. 2d 941.

No. 75-6006. *MALLOY v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 530 F. 2d 971.

No. 75-6013. *CRIM v. UNITED STATES*. C. A. 10th Cir. Certiorari denied. Reported below: 527 F. 2d 289.

No. 75-6020. *WEEMS v. HOGAN, WARDEN*. C. A. 5th Cir. Certiorari denied. Reported below: 524 F. 2d 239.

No. 75-6024. *MORGAN v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 529 F. 2d 527.

No. 75-6032. *GOODIE v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 524 F. 2d 515.

No. 75-6034. *ROSE v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 526 F. 2d 745.

No. 75-6035. *WRIGHT, AKA MORGAN v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 524 F. 2d 239.

No. 75-6037. *EVANS v. UNITED STATES*. C. A. D. C. Cir. Certiorari denied. Reported below: 174 U. S. App. D. C. 70, 527 F. 2d 853.

No. 75-6042. *BEAVER v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 524 F. 2d 963.

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No. 75-6039. *MARTINEZ v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 522 F. 2d 1279.

No. 75-6049. *ARCHER v. GOVERNMENT OF THE VIRGIN ISLANDS*. C. A. 3d Cir. Certiorari denied. Reported below: 529 F. 2d 511.

No. 75-6062. *WILLIS v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 530 F. 2d 971.

No. 75-6068. *HOWARD v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 526 F. 2d 814.

No. 75-6069. *ORTEGA (BELTRAN) v. GOVERNMENT OF THE CANAL ZONE*. C. A. 5th Cir. Certiorari denied. Reported below: 525 F. 2d 691.

No. 75-6070. *JORDEN v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 529 F. 2d 527.

No. 75-6072. *BURROUGHS v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 525 F. 2d 692.

No. 75-6175. *LEMON v. GEORGIA*. Sup. Ct. Ga. Certiorari denied. Reported below: 235 Ga. 74, 218 S. E. 2d 818.

No. 75-6180. *WILSON ET UX. v. BOGGS*. Ct. App. Cal., 1st App. Dist. Certiorari denied.

No. 75-6181. *NIELSEN v. UTAH*. Sup. Ct. Utah. Certiorari denied. Reported below: 544 P. 2d 489.

No. 75-6182. *ST. ANDRE v. HENDERSON, WARDEN*. C. A. 5th Cir. Certiorari denied.

No. 75-6257. *BELL v. OKLAHOMA ET AL.* C. A. 10th Cir. Certiorari denied.

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No. 75-6197. JOHNSON *v.* HY-DYNAMIC Co., INC. C. A. 3d Cir. Certiorari denied. Reported below: 524 F. 2d 1403.

No. 75-527. ARNETT, DIRECTOR, DEPARTMENT OF FISH AND GAME OF CALIFORNIA *v.* FIVE GILL NETS ET AL. Ct. App. Cal., 1st App. Dist. Motion of respondent Mattz for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 48 Cal. App. 3d 454, 121 Cal. Rptr. 906.

No. 75-905. SENAK *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied. MR. JUSTICE STEVENS took no part in the consideration or decision of this petition. Reported below: 527 F. 2d 129.

No. 75-1067. REGENCY ELECTRONICS, INC. *v.* NATIONAL LABOR RELATIONS BOARD ET AL. C. A. 7th Cir. Certiorari denied. MR. JUSTICE STEVENS took no part in the consideration or decision of this petition. Reported below: 523 F. 2d 522.

No. 75-1127. E. J. DELANEY CORP. ET AL. *v.* BONNE BELL, INC., ET AL. C. A. 10th Cir. Certiorari denied. MR. JUSTICE BRENNAN and MR. JUSTICE WHITE would grant certiorari. Reported below: 525 F. 2d 296.

No. 75-1144. HANSEN, RECEIVER *v.* WEYERHAEUSER Co. C. A. 9th Cir. Certiorari denied. THE CHIEF JUSTICE took no part in the consideration or decision of this petition. Reported below: 526 F. 2d 505.

No. 75-6229. MOSS *v.* CENTRAL OF GEORGIA RAILROAD Co. Ct. App. Ga. Certiorari denied. MR. JUSTICE POWELL took no part in the consideration or decision of this petition. Reported below: 135 Ga. App. 904, 219 S. E. 2d 593.

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Rehearing Denied

No. 75-862. *INGRAM v. GEORGIA*, 424 U. S. 914;
No. 75-930. *INTERNATIONAL BROTHERHOOD OF TEAM-
STERS, CHAUFFEURS, WAREHOUSEMEN & HELPERS OF
AMERICA ET AL. v. EAZOR EXPRESS, INC., ET AL.*, 424 U. S.
935; and

No. 75-5975. *COZZETTI v. CENTRAL TELEPHONE CO.
ET AL.*, 424 U. S. 925. Petitions for rehearing denied.

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Appeals Dismissed

No. 75-1024. *CITIZENS FOR PARENTAL RIGHTS ET AL.
v. SAN MATEO COUNTY BOARD OF EDUCATION ET AL.* Ap-
peal from Ct. App. Cal., 1st App. Dist., dismissed for
want of substantial federal question. Reported below:
51 Cal. App. 3d 1, 124 Cal. Rptr. 68.

No. 75-6328. *OGROD v. OGROD*. Appeal from Sup. Ct.
Pa. dismissed for want of substantial federal question.

No. 75-1128. *PHOENIX NEWSPAPERS, INC., ET AL. v.
CHURCH*. Appeal from Ct. App. Ariz. dismissed for
want of jurisdiction. Treating the papers whereon the
appeal was taken as a petition for writ of certiorari, cer-
tiorari denied. *THE CHIEF JUSTICE* and *MR. JUSTICE
BLACKMUN* would grant certiorari. Reported below: 24
Ariz. App. 287, 537 P. 2d 1345.

No. 75-1176. *KADANS v. STATE BAR OF NEVADA*. Ap-
peal from Sup. Ct. Nev. dismissed for want of
jurisdiction.

Miscellaneous Orders

No. A-834 (75-1379). *MEYER v. UNITED STATES*.
C. A. 5th Cir. Application for stay of execution and
enforcement of judgment of conviction entered by the
United States District Court for the Northern District of

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Georgia, presented to MR. JUSTICE MARSHALL, and by him referred to the Court, denied.

No. A-844. PARHAM, COMMISSIONER, DEPARTMENT OF HUMAN RESOURCES OF GEORGIA, ET AL. *v.* J. L. ET AL. Application for stay of order and judgment of the United States District Court for the Middle District of Georgia, dated February 26, 1976, and March 11, 1976, respectively, presented to MR. JUSTICE POWELL, and by him referred to the Court, granted pending timely filing of appeal and final disposition thereon by this Court. MR. JUSTICE STEVENS would deny the application.

No. 74-799. UNITED STATES *v.* FOSTER LUMBER Co., INC. C. A. 8th Cir. [Restored to calendar, 424 U. S. 903.] Motion of Data Products Corp. for additional time to participate in oral argument as *amicus curiae*, or in the alternative for the Court to grant certiorari in No. 74-996 [*United States v. Data Products Corp.*] and set case for oral argument denied.

No. 74-1520. ELROD, SHERIFF, ET AL. *v.* BURNS ET AL. C. A. 7th Cir. [Certiorari granted, 423 U. S. 821.] Motion of Independent Voters of Illinois et al. for additional time to participate in oral argument as *amici curiae* denied.

No. 75-76. SOUTH DAKOTA *v.* OPPERMAN. Sup. Ct. S. D. [Certiorari granted, 423 U. S. 923.] Motion of Illinois Public Defender Assn. for leave to file a brief as *amicus curiae* denied.

No. 75-679. INTERNAL REVENUE SERVICE *v.* FRUEHAUF CORP. ET AL. C. A. 6th Cir. [Certiorari granted, 423 U. S. 1047.] Motion of respondents for oral argument during the current term of Court, or, in the alterna-

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tive, to vacate stay of judgment of the United States District Court for the Eastern District of Michigan denied.

Probable Jurisdiction Noted

No. 75-1150. CITY OF PHILADELPHIA ET AL. v. NEW JERSEY ET AL. Appeal from Sup. Ct. N. J. Motion of National Solid Wastes Management Assn. for leave to file a brief as *amicus curiae* granted. Probable jurisdiction noted. Reported below: 68 N. J. 451, 348 A. 2d 505.

Certiorari Granted

No. 75-823. BELCHER v. STENGEL ET AL. C. A. 6th Cir. Certiorari granted. Reported below: 522 F. 2d 438.

No. 75-353. PIPER ET AL. v. CHRIS-CRAFT INDUSTRIES, INC.;

No. 75-354. FIRST BOSTON CORP. v. CHRIS-CRAFT INDUSTRIES, INC.; and

No. 75-355. BANGOR PUNTA CORP. ET AL. v. CHRIS-CRAFT INDUSTRIES, INC. C. A. 2d Cir. Motion of Securities Industry Assn. for leave to file a brief as *amicus curiae* in No. 75-354 granted. Certiorari granted. Cases consolidated and a total of one and one-half hours allotted for oral argument. Reported below: 516 F. 2d 172.

No. 75-915. BOUNDS, CORRECTION COMMISSIONER, ET AL. v. SMITH ET AL. C. A. 4th Cir. Motion of respondents for leave to proceed *in forma pauperis* and certiorari granted. Reported below: 538 F. 2d 541.

Certiorari Denied. (See also No. 75-1128, *supra*.)

No. 75-1028. SCANWELL LABORATORIES, INC. v. THOMAS, ACTING ADMINISTRATOR, FEDERAL AVIATION ADMINISTRATION, ET AL. C. A. D. C. Cir. Certiorari denied. Reported below: 172 U. S. App. D. C. 281, 521 F. 2d 941.

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No. 75-773. CALLEY *v.* HOFFMAN, SECRETARY OF THE ARMY, ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 519 F. 2d 184.

No. 75-908. SHAPE SPA FOR HEALTH & BEAUTY, INC., ET AL. *v.* ROUSSEVE ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 516 F. 2d 64.

No. 75-920. MCNAMARA ET AL. *v.* JOHNSTON ET AL. C. A. 7th Cir. Certiorari denied. Reported below: 522 F. 2d 1157.

No. 75-934. FLANAGAN ET AL. *v.* McDONNELL DOUGLAS CORP. ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 523 F. 2d 1083.

No. 75-939. MESCALERO APACHE TRIBE ET AL. *v.* UNITED STATES. Ct. Cl. Certiorari denied. Reported below: 207 Ct. Cl. 369, 518 F. 2d 1309.

No. 75-997. MELNIK ET UX. *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 521 F. 2d 1065.

No. 75-1014. ARIZONA PUBLIC SERVICE Co. ET AL. *v.* ARIZONA POWER POOLING ASSN. ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 527 F. 2d 721.

No. 75-1030. WOROZBYT *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 522 F. 2d 196.

No. 75-1060. METZGER ET AL. *v.* NEW YORK. Ct. App. N. Y. Certiorari denied. Reported below: 37 N. Y. 2d 675, 339 N. E. 2d 170.

No. 73-1063. THRIFT DRUG, A DIVISION OF J. C. PENNEY Co., INC. *v.* NATIONAL LABOR RELATIONS BOARD. C. A. 5th Cir. Certiorari denied. Reported below: 521 F. 2d 243.

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No. 75-1068. *LEA ASSOCIATES, INC. v. UNITED STATES*. Ct. Cl. Certiorari denied. Reported below: 207 Ct. Cl. 1059, 529 F. 2d 531.

No. 75-1071. *BOGATIN v. NEW YORK*. App. Div., Sup. Ct. N. Y., 2d Jud. Dept. Certiorari denied. Reported below: 48 App. Div. 2d 674, 367 N. Y. S. 2d 824.

No. 75-1076. *SKYDELL ET AL. v. ECOLOGICAL SCIENCE CORP. ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 522 F. 2d 171.

No. 75-1088. *COREX CORP., DBA QUICK CORPORATION OF AMERICA v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 524 F. 2d 1017.

No. 75-1090. *REDD, DBA ABAJO PETROLEUM v. SHELL OIL Co. ET AL.* C. A. 10th Cir. Certiorari denied. Reported below: 524 F. 2d 1054.

No. 75-1123. *SMITH v. ARKANSAS*. Sup. Ct. Ark. Certiorari denied. Reported below: 258 Ark. 601, 528 S. W. 2d 389.

No. 75-1125. *SILVERTON v. CALIFORNIA ADULT AUTHORITY*. C. A. 9th Cir. Certiorari denied.

No. 75-1130. *NIVENS v. SIGNAL OIL & GAS Co., INC., ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 520 F. 2d 1019.

No. 75-1131. *CHANEYFIELD v. CITY OF NEW YORK ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 525 F. 2d 1333.

No. 75-1134. *USM CORP. v. SCHLEGEL MANUFACTURING Co.* C. A. 6th Cir. Certiorari denied. Reported below: 525 F. 2d 775.

No. 75-1137. *PACIERA v. LOUISIANA*. C. A. 5th Cir. Certiorari denied. Reported below: 524 F. 2d 238

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No. 75-1143. *YEE v. CHUN ET AL.* Sup. Ct. Haw. Certiorari denied.

No. 75-1147. *GLAZERS WHOLESALE DRUG CO., INC. v. NATIONAL LABOR RELATIONS BOARD.* C. A. 5th Cir. Certiorari denied. Reported below: 523 F. 2d 1053.

No. 75-1161. *COHOES HOUSING AUTHORITY v. IPPOLITO-LUTZ, INC.* App. Div., Sup. Ct. N. Y., 3d Jud. Dept. Certiorari denied. Reported below: 48 App. Div. 2d 1018, 373 N. Y. S. 2d 335.

No. 75-1168. *SOUTHERN PACIFIC TRANSPORTATION Co. v. LUECK.* Sup. Ct. Ariz. Certiorari denied. Reported below: 111 Ariz. 560 and 112 Ariz. 277; 535 P. 2d 599 and 540 P. 2d 1258.

No. 75-1169. *GABRIEL v. LEVIN ET AL.* C. A. 2d Cir. Certiorari denied.

No. 75-1179. *RUTLAND ENVIRONMENTAL PROTECTION ASSN. ET AL. v. KANE COUNTY ET AL.* App. Ct. Ill., 2d Dist. Certiorari denied. Reported below: 31 Ill. App. 3d 82, 334 N. E. 2d 215.

No. 75-1195. *TAMS-WITMARK MUSIC LIBRARY, INC. v. MUNICIPAL COURT, SACRAMENTO MUNICIPAL COURT DISTRICT, COUNTY OF SACRAMENTO.* Ct. App. Cal., 3d App. Dist. Certiorari denied.

No. 75-1196. *GILBERT v. AMERICAN EAGLE TANKER CORP.* C. A. 2d Cir. Certiorari denied.

No. 75-5881. *BERARD v. UNITED STATES.* C. A. 8th Cir. Certiorari denied. Reported below: 525 F. 2d 319.

No. 75-5935. *BERGER ET AL. v. NORTH DAKOTA.* Sup. Ct. N. D. Certiorari denied. Reported below: 235 N. W. 2d 254.

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No. 75-5950. *RICHERSON v. WOLFF, WARDEN, ET AL.* C. A. 7th Cir. Certiorari denied. Reported below: 525 F. 2d 797.

No. 75-6045. *BRYANT v. UNITED STATES.* C. A. 3d Cir. Certiorari denied. Reported below: 529 F. 2d 511.

No. 75-6055. *JACKSON v. UNITED STATES;* and

No. 75-6078. *BRADFORD v. UNITED STATES.* C. A. 9th Cir. Certiorari denied.

No. 75-6080. *CLAY v. UNITED STATES.* C. A. 6th Cir. Certiorari denied. Reported below: 529 F. 2d 527.

No. 75-6081. *WELLS v. SOUTHERN AIRWAYS, INC., ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 517 F. 2d 132 and 522 F. 2d 707.

No. 75-6087. *TYLER v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. Reported below: 525 F. 2d 692.

No. 75-6090. *KINNARD v. UNITED STATES.* Ct. App. D. C. Certiorari denied.

No. 75-6091. *EVANS v. UNITED STATES.* C. A. 2d Cir. Certiorari denied.

No. 75-6092. *VELARDE v. UNITED STATES.* C. A. 9th Cir. Certiorari denied. Reported below: 528 F. 2d 387.

No. 75-6096. *GIBBONS v. UNITED STATES.* C. A. 7th Cir. Certiorari denied. Reported below: 525 F. 2d 696.

No. 75-6130. *BROOKS v. VIRGINIA.* Sup. Ct. Va. Certiorari denied.

No. 75-6132. *KELLEY v. UNITED STATES;* and

No. 75-6142. *BRYANT v. UNITED STATES.* C. A. 6th Cir. Certiorari denied. Reported below: 529 F. 2d 527.

No. 75-6192. *WILLIAMS v. NEW YORK ET AL.* C. A. 2d Cir. Certiorari denied.

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No. 75-6176. *SAVAGE v. SALT LAKE CITY*. Sup. Ct. Utah. Certiorari denied. Reported below: 541 P. 2d 1035.

No. 75-6199. *RICH v. BONNER, JUDGE, ET AL.* C. A. 10th Cir. Certiorari denied.

No. 75-6201. *BREAUX v. HENDERSON, WARDEN*. C. A. 5th Cir. Certiorari denied.

No. 75-6203. *WICKER v. ROTH ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 524 F. 2d 238.

No. 75-6208. *CAMERON v. HOPPER, WARDEN*. C. A. 5th Cir. Certiorari denied. Reported below: 522 F. 2d 1278.

No. 75-6213. *TYLER v. WYRICK, WARDEN*. C. A. 8th Cir. Certiorari denied. Reported below: 527 F. 2d 877.

No. 75-6214. *GAUSE v. ARIZONA*. Sup. Ct. Ariz. Certiorari denied. Reported below: 112 Ariz. 296, 541 P. 2d 396.

No. 75-6215. *DISHNER ET AL. v. MOFFETT ET AL.* C. A. D. C. Cir. Certiorari denied. Reported below: 172 U. S. App. D. C. 224, 521 F. 2d 324.

No. 75-6219. *BOONE v. KANSAS*. Sup. Ct. Kan. Certiorari denied. Reported below: 218 Kan. 482, 543 P. 2d 945.

No. 75-6221. *ROTI v. FLORIDA*. Sup. Ct. Fla. Certiorari denied.

No. 75-6226. *OWENS v. WARDEN, ILLINOIS STATE PENITENTIARY*. C. A. 7th Cir. Certiorari denied.

No. 75-6228. *POGUE v. GOVERNMENT EMPLOYEES INSURANCE Co.* C. A. 5th Cir. Certiorari denied.

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No. 75-6232. JONES *v.* BURGWIN. C. A. 4th Cir. Certiorari denied.

No. 75-6233. JONES *v.* MEEKS. C. A. 4th Cir. Certiorari denied.

No. 75-6238. TORREZ *v.* ARIZONA. Sup. Ct. Ariz. Certiorari denied. Reported below: 112 Ariz. 525, 544 P. 2d 207.

No. 75-6244. GARY *v.* ARIZONA. Sup. Ct. Ariz. Certiorari denied. Reported below: 112 Ariz. 470, 543 P. 2d 782.

No. 73 6642. CROSBY ET AL. *v.* MIDDENDORF, SECRETARY OF THE NAVY. C. A. 9th Cir. Certiorari denied. MR. JUSTICE STEVENS took no part in the consideration or decision of this petition.

No. 75-579. ESPOSITO *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied. MR. JUSTICE STEVENS took no part in the consideration or decision of this petition. Reported below: 523 F. 2d 242.

No. 75-1203. FITZGERALD ET AL. *v.* PORTER MEMORIAL HOSPITAL ET AL. C. A. 7th Cir. Certiorari denied. MR. JUSTICE STEVENS took no part in the consideration or decision of this petition. Reported below: 523 F. 2d 716.

No. 75-1120. WITT ET AL. *v.* CALIFORNIA. Ct. App. Cal., 5th App. Dist. Applications for bail, presented to THE CHIEF JUSTICE, and by him referred to the Court, denied. Certiorari denied. Reported below: 53 Cal. App. 3d 154, 125 Cal. Rptr. 653.

No. 75-1142. MULLIGAN ET AL. *v.* DUNNE ET AL. Sup. Ct. Ill. Motion of Illinois Liquor Control Commission for leave to file a brief as *amicus curiae* granted. Certiorari denied. Reported below: 61 Ill. 2d 544, 338 N. E. 2d 6.

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No. 75-6275. *OLDEN v. CALIFORNIA*. Ct. App. Cal., 1st App. Dist. Certiorari denied.

No. 75-5687. *WALKER v. UNITED STATES*;

No. 75-5696. *ROBERSON v. UNITED STATES*; and

No. 75-5828. *DUNCAN ET AL. v. UNITED STATES*. C. A. D. C. Cir. Certiorari denied. MR. JUSTICE BRENNAN, MR. JUSTICE MARSHALL, and MR. JUSTICE POWELL would grant certiorari.

No. 75-5688. *SCOTT ET AL. v. UNITED STATES*. C. A. D. C. Cir. Certiorari denied. MR. JUSTICE POWELL would grant certiorari. Reported below: 170 U. S. App. D. C. 158, 516 F. 2d 751.

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

The Court today again refuses to grant certiorari to consider the proper implementation of the "minimization" requirement of 18 U. S. C. § 2518 (5), one of the core provisions of Title III of the Omnibus Crime Control and Safe Streets Act of 1968. See, *e. g.*, *Bynum v. United States*, 423 U. S. 952 (1975) (BRENNAN, J., dissenting from denial of cert.). The "minimization" provision, which requires that every order and extension thereof authorizing electronic surveillance shall "contain a provision that the authorization to intercept shall be . . . conducted in such a way as to minimize the interception of communications not otherwise subject to interception under this chapter,"

"constitutes the congressionally designed bulwark against conduct of authorized electronic surveillance in a manner that violates the constitutional guidelines announced in *Berger v. New York*, 388 U. S. 41 (1967), and *Katz v. United States*, 389 U. S. 347 (1967). Congress has explicitly informed us that

the 'minimization' and companion safeguards [*e. g.*, §§ 2518 (3)(a), (b), (c), and (d)] were designed to assure that 'the order will link up specific person, specific offense, and specific place. Together [the provisions of Title III] are intended to meet the test of the Constitution that electronic surveillance techniques be used only under the most precise and discriminate circumstances, which fully comply with the requirement of particularity.' S. Rep. No. 1097, 90th Cong., 2d Sess., 102 (1968)." *Bynum v. United States*, *supra*, at 952.

When the Court denied certiorari in *Bynum*, I indicated my reasons for believing that "we plainly fail in our judicial responsibility when we do not review these cases to give content to the congressional mandate of 'minimization,'" particularly since guidance for judges authorizing electronic surveillance "is absolutely essential if the congressional mandate to confine execution of authorized surveillances within constitutional and statutory bounds is to be carried out." *Id.*, at 958-959, 953. That review is no less appropriate now. Indeed, it is even more urgent in light of the proliferation of opinions—exemplified by this case from the Court of Appeals for the District of Columbia Circuit—sanctioning round-the-clock surveillance in which every conversation, whether innocuous or incriminating, is intercepted.

The facts of this case are relatively simple. The Government sought and obtained authorization to intercept wire communications over a certain specified telephone on the ground that there was probable cause to believe that certain named individuals were using that telephone in connection with the commission of narcotics offenses, and that information concerning the offenses would be obtained through the interception of the communications over the telephone. The order authorized the intercep-

tion of conversations relating to the illegal importation and transportation of narcotics and, as required by § 2518 (5), specified that the interception "shall be conducted in such a way as to minimize the interception of communications not otherwise subject to interception under this chapter."

Although the monitoring agents were aware of the minimization requirement, the agent in charge testified that no attempt was made to minimize the interceptions. In fact, the agents listened to and recorded each and every one of the 384 calls completed over the subject telephone during the 30 days the surveillance was in effect, even though the agents' contemporaneous reports to the supervising judge classified the intercepted calls as only 40% narcotics-related and 60% non-narcotics-related. The agents also never informed the judge that they were taking no steps to minimize the amount of surveillance.

After the surveillance was terminated and petitioners and others were arrested, the District Judge conducted pretrial hearings on the question whether all evidence obtained during the surveillance, and the fruits thereof, had to be suppressed on the ground of noncompliance with the minimization mandate of the statute and the explicit provision of the wiretap authorization. The judge, finding that the agents "did not even attempt 'lip service compliance' with the provision of the order and statutory mandate but rather completely disregarded it," 331 F. Supp. 233, 247 (DC 1971), ordered the complete suppression of all evidence obtained directly or indirectly through the surveillance. *Id.*, at 248. On appeal, the Court of Appeals remanded for further consideration in light of another case in which it had adopted a test by which the statutory command of minimization was considered to be satisfied if monitoring agents made good-

faith efforts to minimize and if those efforts were reasonable. 164 U. S. App. D. C. 125, 504 F. 2d 194 (1974).

On remand, further hearings were held, and the District Judge again concluded that "the monitoring agents made no attempt to comply with the minimization order of the Court but listened to and recorded all calls over the [subject's] telephone. They showed no regard for the right of privacy and did nothing to avoid unnecessary intrusion." Crim. No. 1088-70, Nov. 12, 1974; App. 14a. The judge again acknowledged the "knowing and purposeful failure to comply with or even attempt to comply with the minimization requirements," *id.*, at 17a, and held that this "admitted" "conduct would be unreasonable even if every intercepted call were narcotic-related." *Id.*, at 18a.

On appeal, the Court of Appeals again reversed, concluding that the surveillance was reasonable because, in light of the conversations actually intercepted, it could not identify any categories of calls which could not have been reasonably intercepted even if minimization procedures had been instituted. 170 U. S. App. D. C. 158, 516 F. 2d 751 (1975). The bad faith of the monitoring agents in not instituting any minimization procedures was thus deemed essentially irrelevant: the "agents could publicly declare their intent to disobey the minimization provisions of the wiretap order, and yet it is possible that the ultimate interceptions will be found to have been reasonable." *Id.*, at 163, 516 F. 2d, at 756.

Rehearing en banc was denied, 173 U. S. App. D. C. 118, 522 F. 2d 1333, with four judges stating why they believed reconsideration by the full court was absolutely essential. Their statement is pertinent as an indication of the necessity for granting certiorari in this case. The dissenters observed, *id.*, at 118-119, 522 F. 2d, at 1333-1334 (Robinson, J., joined by Bazelon, C. J., and

Wright and Leventhal, JJ.) (emphasis supplied, footnotes omitted):

“The decision in these cases appears to be seriously inconsistent with our earlier decision in *United States v. James*, [161 U. S. App. D. C. 88, 494 F. 2d 1007, cert. denied *sub nom. Tantillo v. United States*, 419 U. S. 1020 (1974)]. Beyond that, *the extent to which judicial interpretations of a statute sanctioning telephone wiretaps may tolerate otherwise unconstitutional invasions of privacy is a question of exceptional and recurring importance*. For these reasons—traditional foundations for full-court consideration—I would grant rehearing *en banc* in these cases.

“The governing statute requires all judicially authorized wiretapping to ‘be conducted in such a way as to minimize the interception of communications not otherwise subject to interception . . .’ *James* adopted a construction of this provision which was formulated originally by the Second Circuit. Under the *James* standard, the duty to minimize is satisfied ‘if “on the whole the [intercepting] agents have shown a high regard for the right of privacy and have done all they *reasonably* could to avoid unnecessary intrusions.”’ Thus *James* demands an inquiry as to the intercepting agent’s subjective intent to minimize the interception of innocent calls, as well as an objective determination that the agent could reasonably have believed that calls actually intercepted were likely to be illicit.

“The instant decision acknowledges this holding in *James*, but concludes that although the agents’ attitude ‘is a relevant factor to be considered, . . . the decisive factor is the second element—the objective reasonableness of the interceptions.’ The first ele-

ment is relegated to a far less significant position: '[t]he subjective intent of the monitoring agents is not a sound basis for evaluating the legality of the seizure;' '[w]hen the monitoring agents fail to manifest "a high regard for the right of privacy," the Government will simply have a heavier burden of showing that the interceptions were reasonable.' Indeed, the court now says that 'the agents could publicly declare their intent to disobey the minimization provisions of the wiretap order, and yet it is possible that the ultimate interceptions will be found to have been reasonable.'

"Despite the admitted fact that '[t]hroughout these proceedings the Government has conceded that its agents did not minimize the interception of any conversations,' and the further fact, found by the District Court, that there was a 'knowing and purposeful failure by the monitoring agents to comply with [its] minimization order,' the decision herein rejects the District Court's ruling 'that the failure to attempt minimization was itself proof that the interceptions were unreasonable.' The opinion does concede that '[t]he presence or absence of a good faith attempt to minimize on the part of the agents is undoubtedly one factor to be considered in assessing whether the minimization requirements [*sic*] has been satisfied.' But the court stresses that in the final analysis 'the decision on . . . suppression . . . must ultimately be based on the reasonableness of the actual interceptions and not on whether the agents subjectively intended to minimize their interceptions.'

"This interpretation effectively destroys the subjective criterion of *James*' two-pronged standard for minimization efforts, and fatally undermines the

force of the minimization requirement itself. *Once the decisive test of the validity of an interception becomes its 'objective reasonableness,' there is grave danger that determinations of reasonableness will be dictated by hindsight evaluations of evidence uncovered by wiretaps.* This, in turn, is bound to generate a strong temptation to wiretap first and then use the fruits of the interception in an effort to demonstrate that the intrusion was justified. Courts have repeatedly refused to validate searches and seizures in this after-the-fact manner, and any decision which implies that Fourth Amendment safeguards apply less stringently to wiretaps than to other searches deserves close scrutiny by the entire court.

"Moreover, the practical ramifications of this decision are serious. It appears to destroy any incentive for law enforcement agents conducting wiretap surveillances to respect the rights of citizens to privacy in noncriminal telephone conversations in advance of their intrusion. *It is evident that when agents endeavor in good faith to honor these rights, innocent conversations are less likely to be intercepted. But when agents completely disregard their obligations to minimize no conversation is likely to escape their ears. That in my view is a result which hardly comports with a statute explicitly requiring minimization.* The court as a whole should take a hard look at these cases, and should itself define the extent to which would-be wiretappers must maintain allegiance to the statute and the Fourth Amendment."

Moreover, in *Walker v. United States*, ante, p. 917, in which the Court also denies certiorari today, a unanimous panel of the Court of Appeals for the District of Colum-

bia Circuit declared that it would have found a violation of the minimization requirement had the Court of Appeals not denied rehearing en banc in *Scott*:

“This panel is of the view that § 2518 (5) was violated. However, this court in a case indistinguishable on this point, *United States v. Scott* . . . held otherwise. Since a suggestion to rehear *Scott en banc* was pending at the time this case was *sub judice*, this panel moved the court to rehear *Scott* and this case *en banc*. That motion was denied. . . . Under the circumstances, on this issue this panel is bound by the decision in *Scott*.” Memo., Crim. No. 1978-69, Oct. 3, 1975, p. 1; Pet. for Cert. 2a.

In light of the general importance of the minimization provision in the conduct of electronic surveillance and the conflict between the holding in *Scott* and other formulations of the minimization requirement, and especially in light of the *Scott* opinion's denigration of the importance of the monitoring agents' good-faith attempt to comply with the statute and its retroactive validation of a Fourth Amendment search on the basis of what was uncovered by the search, there is simply no justification for failing to grant the writ of certiorari in this case. The minimization issue is not clouded by other factors, and given the District Judge's findings of total noncompliance with the statutory command, only an unyielding hostility to the statutory command of minimization and to the constitutional interest in privacy which it was fashioned to protect, can motivate the Court to continue to refuse to review decisions which condone round-the-clock interception of every conversation that transpires during the conduct of a particular surveillance. No concern with crowded dockets, at a time when we review a not insubstantial number of trivial cases, can excuse the failure to address this crucial issue of statutory construction,

fraught as it is with substantial constitutional overtones.

This refusal is not only inexcusable, but also especially anomalous in light of related actions by this Court in the electronic surveillance area. In *United States v. Kahn*, 415 U. S. 143 (1974), the Court, addressing the question of who must be named in an application and order authorizing surveillance, held:

“Title III requires the naming of a person in the application or interception order only when the law enforcement authorities have probable cause to believe that the individual is ‘committing the offense’ for which the wiretap is sought.” *Id.*, at 155.

In response to the argument of the Court of Appeals and the dissent, see *id.*, at 158–163 (Douglas, J., joined by BRENNAN and MARSHALL, JJ.), that such a conclusion would amount to approval of a general warrant proscribed by both Title III and the Fourth Amendment, the *Kahn* Court relied on the minimization mandate as an adequate safeguard to prevent such unlimited invasions of personal privacy, *id.*, at 154–155:

“[I]n accord with the statute the order required the agents to execute the warrant in such a manner as to minimize the interception of any innocent conversations. . . . Thus, the failure of the order to specify that Mrs. Kahn’s conversations might be the subject of interception hardly left the executing agents free to seize at will every communication that came over the wire—and there is no indication that such abuses took place in this case.”

Yet the Court has consistently refused, and today persists in that refusal, to confront a case presenting the minimization question and the abuse that emanates from the seizure of “every communication that came over the

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wire." Indeed, the refusal is even more troubling since certiorari has been granted in *United States v. Donovan*, 424 U. S. 907 (1976), a case in which the Solicitor General requests that we dilute even further the standard enunciated in *Kahn* for naming the subjects of proposed surveillance. I fail to comprehend how, in light of the above passage from *Kahn*, the Court can undertake that analysis without concomitantly addressing the contours of the minimization requirement. Inaction can only continue evisceration of the statutory mandate and require that Congress take a further and clearly unnecessary step of enacting more legislation to give concrete content to § 2518 (5).

I would grant the petition for certiorari.

Rehearing Denied

No. 75-652. *CATERINE v. UNITED STATES*, 424 U. S. 909;

No. 75-731. *SUN OIL CO. ET AL. v. PUBLIC SERVICE COMMISSION OF NEW YORK ET AL.*, 424 U. S. 910;

No. 75-822. *THOMPSON v. KENTON COUNTY BOARD OF ELECTION COMMISSION ET AL.*, 423 U. S. 1083;

No. 75-5366. *FISHER v. DISTRICT COURT OF THE SIXTEENTH JUDICIAL DISTRICT OF MONTANA, IN AND FOR THE COUNTY OF ROSEBUD*, 424 U. S. 382;

No. 75-5747. *ZIMMERMAN v. UNITED STATES ET AL.*, 424 U. S. 918;

No. 75-5834. *HARMON v. HODGE*, 423 U. S. 1090;

No. 75-5902. *REED v. UNITED STATES*, 424 U. S. 956;

No. 75-6056. *BONNER v. CIRCUIT COURT OF THE CITY OF ST. LOUIS ET AL.*, 424 U. S. 946;

No. 75-6098. *JACKSON v. COURT OF APPEAL OF CALIFORNIA, SECOND APPELLATE DISTRICT*, 424 U. S. 957; and

No. 75-6107. *JOHNSON v. DEPARTMENT OF WATER & POWER ET AL.*, 424 U. S. 927. Petitions for rehearing denied.

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No. 75-866. *M. J. D. M. TRUCK RENTALS, INC., ET AL. v. O'BRIEN*; and

No. 75-887. *ANASTOS ET AL. v. M. J. D. M. TRUCK RENTALS, INC., ET AL.*, 424 U. S. 928. Petition for rehearing denied. MR. JUSTICE STEVENS took no part in the consideration or decision of this petition.

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Dismissal Under Rule 60

No. 75-6110. *VIGIL v. UNITED STATES*. C. A. 10th Cir. Certiorari dismissed under this Court's Rule 60. Reported below: 524 F. 2d 209.

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Miscellaneous Order

No. A-911 (75-1493). *MOORE, GOVERNOR OF WEST VIRGINIA v. MCCARTNEY, SECRETARY OF WEST VIRGINIA, ET AL.* Application for stay of judgment of the Supreme Court of Appeals of West Virginia, presented to THE CHIEF JUSTICE, and by him referred to the Court, denied.

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Affirmed on Appeal

No. 74-5887. *MAXWELL ET AL. v. HIXSON, CLERK, HAMILTON COUNTY GENERAL SESSIONS COURT, ET AL.* Affirmed on appeal from D. C. E. D. Tenn. Reported below: 383 F. Supp. 320.

No. 75-870. *FORD MOTOR Co. v. COLEMAN, SECRETARY OF TRANSPORTATION, ET AL.* Affirmed on appeal from D. C. D. C. MR. JUSTICE STEWART, MR. JUSTICE POWELL, and MR. JUSTICE STEVENS would note probable jurisdiction and set case for oral argument. Reported below: 402 F. Supp. 475.

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No. 75-6330. *WORKMEN ET AL. v. DUKE POWER CO. ET AL.* Affirmed on appeal from D. C. W. D. N. C. MR. JUSTICE BRENNAN took no part in the consideration or decision of this case. Reported below: 425 F. Supp. 411.

Appeals Dismissed

No. 75-1118. *BENSCHOTER v. FIRST NATIONAL BANK OF LAWRENCE ET AL.* Appeal from Sup. Ct. Kan. dismissed for want of substantial federal question. Reported below: 218 Kan. 144, 542 P. 2d 1042.

No. 75-1163. *SHADE v. PUBLIC UTILITIES COMMISSION OF CALIFORNIA ET AL.* Appeal from Sup. Ct. Cal. dismissed for want of jurisdiction. MR. JUSTICE BLACKMUN took no part in the consideration or decision of this appeal.

No. 75-1210. *QUARLES, TRUSTEE v. GOODSON ET AL.* Appeal from Ct. Civ. App. Tex., 14th 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.

No. 75-1212. *GOSTOUT v. HALE.* Appeal from C. A. 2d Cir. dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied.

No. 75-6159. *MASTERSON v. OHIO.* Appeal from Ct. App. Ohio, Mahoning County, dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied.

No. 75-6323. *JOHNSRUD v. MINNESOTA DEPARTMENT OF EMPLOYMENT SERVICES.* Appeal from Sup. Ct. Minn. dismissed for want of substantial federal question. Reported below: 306 Minn. 295, 237 N. W. 2d 362.

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No. 75-6169. *LOVELACE v. TENNESSEE*. Appeal from Sup. Ct. Tenn. dismissed for want of substantial federal question. Reported below: 532 S. W. 2d 912.

Vacated and Remanded on Appeal

No. 74-1622. *KIRWAN, SUPERINTENDENT, NEW YORK STATE POLICE v. ROMANO*. Appeal from D. C. W. D. N. Y. Judgment vacated and case remanded for further consideration in light of *Kelley v. Johnson, ante*, p. 238. MR. JUSTICE STEVENS took no part in the consideration or decision of this case. Reported below: 391 F. Supp. 643.

No. 75-1158. *NATIONAL SOCIALIST WHITE PEOPLE'S PARTY ET AL. v. WALSH ET AL.* Appeal from D. C. Conn. Judgment vacated and case remanded with directions to enter a fresh decree from which a timely appeal may be taken to the United States Court of Appeals for the Second Circuit. *Butler v. Dexter, ante*, p. 262. Reported below: — F. Supp. —.

No. 75-1194. *SHOUSE ET AL. v. PIERCE COUNTY ET AL.* Appeal from D. C. W. D. Wash. Judgment vacated and case remanded with directions to enter a fresh decree from which a timely appeal may be taken to the United States Court of Appeals for the Ninth Circuit. *Gonzalez v. Automatic Employees Credit Union*, 419 U. S. 90 (1974). Reported below: 403 F. Supp. 353.

Certiorari Granted—Vacated and Remanded

No. 75-1065. *JOHN NUVEEN & Co., INC., ET AL. v. SANDERS*. C. A. 7th Cir. Motions of Securities Industry Assn. and Lehman Commercial Paper, Inc., for leave to file briefs as *amici curiae* granted. Certiorari granted, judgment vacated, and case remanded for further consideration in light of *Ernst & Ernst v. Hochfelder, ante*, p. 185. MR. JUSTICE STEVENS took no part in the con-

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sideration or decision of this case. Reported below: 524 F. 2d 1064.

Miscellaneous Orders

No. A-838 (75-1421). GULF STATES UTILITIES Co. v. FEDERAL POWER COMMISSION ET AL. Application for stay of judgment of the United States Court of Appeals for the District of Columbia Circuit pending final disposition of the petition for writ of certiorari, presented to MR. JUSTICE POWELL, and by him referred to the Court, denied.

No. A-862. STANDARD OIL COMPANY OF CALIFORNIA v. FLORIDA EX REL. SHEVIN, ATTORNEY GENERAL OF FLORIDA. Application for stay of mandate of the United States Court of Appeals for the Fifth Circuit pending timely filing and disposition of a petition for writ of certiorari, presented to MR. JUSTICE POWELL, and by him referred to the Court, denied. Reported below: 526 F. 2d 266.

No. A-876. THOMPSON v. RUMSFELD, SECRETARY OF DEFENSE, ET AL. Application for stay of judgment of the United States District Court for the Northern District of Texas and for an injunction pending final disposition of appeal by the United States Court of Appeals for the Fifth Circuit, presented to MR. JUSTICE MARSHALL, and by him referred to the Court, denied.

No. A-892 (75-1447). BERGER, COMMISSIONER, DEPARTMENT OF SOCIAL SERVICES OF NEW YORK v. AITCHISON. Application for stay of judgment of the United States Court of Appeals for the Second Circuit pending final disposition of the petition for writ of certiorari, presented to MR. JUSTICE MARSHALL, and by him referred to the Court, denied.

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No. A-867. HALVERSON *v.* UNITED STATES. Application for bail and stay of judgment of the United States Court of Appeals for the Ninth Circuit pending timely filing and disposition of petition for writ of certiorari, presented to MR. JUSTICE MARSHALL, and by him referred to the Court, denied.

No. A-895. KANSAS *v.* MCCORGARY. Application for stay of mandate of the Supreme Court of Kansas pending timely filing and disposition of petition for writ of certiorari, presented to MR. JUSTICE WHITE, and by him referred to the Court, denied.

No. 54, Orig. UNITED STATES *v.* FLORIDA ET AL. Report of Special Master on motion of defendants for leave to file counterclaim received and ordered filed. Exceptions, if any, with supporting briefs to Report may be filed by the parties within 45 days. Reply briefs, if any, to such exceptions may be filed within 30 days. [For earlier orders herein, see, *e. g.*, 423 U. S. 1011.]

No. 64, Orig. NEW HAMPSHIRE *v.* MAINE. Motion of New Hampshire Commercial Fishermen's Assn. for leave to participate in oral argument as *amicus curiae* denied. [For earlier orders herein, see, *e. g.*, 424 U. S. 903.]

No. 74-1560. UNITED STATES *v.* MARTINEZ-FUERTE ET AL. C. A. 9th Cir. [Certiorari granted, 423 U. S. 822]; and

No. 75-5387. SIFUENTES *v.* UNITED STATES. C. A. 5th Cir. [Certiorari granted, 423 U. S. 945.] Motion of the Solicitor General to consolidate these cases for oral argument granted and a total of 80 minutes allotted for that purpose. Counsel for petitioner in No. 75-5387 will open the argument and 20 minutes allotted for that purpose. The Solicitor General is allotted 40 minutes

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for oral argument and counsel for respondent in No. 74-1560 allotted 20 minutes for oral argument.

No. 74-6632. MOODY *v.* DAGGETT, WARDEN. C. A. 10th Cir. [Certiorari granted, 424 U. S. 942.] Motion of petitioner for appointment of counsel granted, and it is ordered that Phylis Skloot Bamberger, of New York, N. Y., is appointed to serve as counsel for petitioner in this case.

No. 75-552. KLEPPE, SECRETARY OF THE INTERIOR, ET AL. *v.* SIERRA CLUB ET AL.; and

No. 75-561. AMERICAN ELECTRIC POWER SYSTEM ET AL. *v.* SIERRA CLUB ET AL. C. A. D. C. Cir. [Certiorari granted, 423 U. S. 1047.] Motion of John D. Dingell, Esquire, for leave to file a brief as *amicus curiae* denied.

No. 75-777. NATIONAL LABOR RELATIONS BOARD *v.* ENTERPRISE ASSOCIATION OF STEAM, HOT WATER, HYDRAULIC SPRINKLER, PNEUMATIC TUBE, ICE MACHINE & GENERAL PIPEFITTERS OF NEW YORK AND VICINITY, LOCAL UNION No. 638. C. A. D. C. Cir. [Certiorari granted, 424 U. S. 908.] Motion of Public Service Electric & Gas Co. et al, for leave to file a brief as *amici curiae* granted.

No. 75-929. ESTELLE, CORRECTIONS DIRECTOR, ET AL. *v.* GAMBLE. C. A. 5th Cir. [Certiorari granted, 424 U. S. 907.] Motion of respondent for leave to proceed further herein *in forma pauperis* granted. Motion for appointment of counsel granted, and it is ordered that Daniel K. Hedges, Esquire, of Houston, Tex., is appointed to serve as counsel for respondent in this case.

No. 75-1470. UDALL ET AL. *v.* BOWEN, GOVERNOR OF INDIANA, ET AL. Appeal from D. C. S. D. Ind. Motion to expedite consideration of appeal denied.

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No. 75-6445. GOLDBACH *v.* MCCARTHY, MEN'S COLONY SUPERINTENDENT;

No. 75-6448. FLETCHER *v.* SWEET, JUDGE; and

No. 75-6469. LEWIS *v.* WHITE, TRAINING CENTER SUPERINTENDENT. Motions for leave to file petitions for writs of habeas corpus denied.

No. 75-6220. PERRY *v.* UNITED STATES. Motion for leave to file petition for writ of mandamus denied.

Certiorari Granted

No. 75-978. E. I. DU PONT DE NEMOURS & CO. ET AL. *v.* TRAIN, ADMINISTRATOR, ENVIRONMENTAL PROTECTION AGENCY, ET AL. C. A. 4th Cir. Certiorari granted. Reported below: 528 F. 2d 1136.

No. 75-1278. MT. HEALTHY CITY SCHOOL DISTRICT BOARD OF EDUCATION *v.* DOYLE. C. A. 6th Cir. Certiorari granted. Reported below: 529 F. 2d 524.

No. 75-1053. JONES, DIRECTOR, DEPARTMENT OF WEIGHTS AND MEASURES, RIVERSIDE COUNTY *v.* RATH PACKING CO. ET AL.; and JONES, DIRECTOR, DEPARTMENT OF WEIGHTS AND MEASURES, RIVERSIDE COUNTY *v.* GENERAL MILLS, INC., ET AL. Motion of California District Attorneys Assn. for leave to file a brief as *amicus curiae* granted. Application for recall and stay of mandates and stay of enforcement of judgments of the United States Court of Appeals for the Ninth Circuit, presented to MR. JUSTICE REHNQUIST, and by him referred to the Court, denied.* Certiorari granted. The Solicitor General is invited to file a brief in this case expressing the views of the United States. Reported below: 530 F. 2d 1295 (first case); 530 F. 2d 1317 (second case).

*[REPORTER'S NOTE: This denial also includes No. 75-1052, *Wallace v. Rath Packing Co.*]

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Certiorari Denied. (See also Nos. 75-1210, 75-1212, and 75-6159, *supra*.)

No. 75-774. *BIG RIVERS ELECTRIC CORP. ET AL. v. ENVIRONMENTAL PROTECTION AGENCY ET AL.*; and

No. 75-787. *TENNESSEE VALLEY AUTHORITY v. ENVIRONMENTAL PROTECTION AGENCY ET AL.* C. A. 6th Cir. *Certiorari denied.* Reported below: 523 F. 2d 16.

No. 75-808. *NATELLI v. UNITED STATES.* C. A. 2d Cir. *Certiorari denied.* Reported below: 527 F. 2d 311.

No. 75-950. *CALIFORNIA v. HARRIS.* Sup. Ct. Cal. *Certiorari denied.* Reported below: 15 Cal. 3d 384, 540 P. 2d 632.

No. 75-957. *EVANS ET AL. v. FROMME ET AL.* C. A. 9th Cir. *Certiorari denied.*

No. 75-973. *UNITED TRANSPORTATION UNION LODGE No. 550 ET AL. v. ROCK ET AL.*; and

No. 75-1220. *NORFOLK & WESTERN RAILWAY Co. v. ROCK ET AL.* C. A. 4th Cir. *Certiorari denied.* Reported below: 532 F. 2d 336.

No. 75-977. *ACCURACY IN MEDIA, INC. v. FEDERAL COMMUNICATIONS COMMISSION ET AL.* C. A. D. C. Cir. *Certiorari denied.* Reported below: 172 U. S. App. D. C. 188, 521 F. 2d 288.

No. 75-989. *RUYLE ET AL. v. UNITED STATES.* C. A. 6th Cir. *Certiorari denied.* Reported below: 524 F. 2d 1133.

No. 75-1023. *BOARD OF EDUCATION OF THE CITY SCHOOL DISTRICT OF CINCINNATI ET AL. v. BRONSON ET AL.*; and

No. 75-1054. *OHIO STATE BOARD OF EDUCATION ET AL. v. BRONSON ET AL.* C. A. 6th Cir. *Certiorari denied.* Reported below: 525 F. 2d 344.

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No. 75-1029. *KENNECOTT COPPER CORP. v. TRAIN, ADMINISTRATOR, ENVIRONMENTAL PROTECTION AGENCY.* C. A. 9th Cir. Certiorari denied. Reported below: 526 F. 2d 1149.

No. 75-1041. *MT. SINAI HOSPITAL OF GREATER MIAMI, INC. v. MATHEWS, SECRETARY OF HEALTH, EDUCATION, AND WELFARE, ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 517 F. 2d 329 and 522 F. 2d 179.

No. 75-1048. *CHEVOOR v. UNITED STATES.* C. A. 1st Cir. Certiorari denied. Reported below: 526 F. 2d 178.

No. 75-1062. *GIGLIOTTI v. UNITED STATES.* C. A. 2d Cir. Certiorari denied.

No. 75-1070. *HAY v. UNITED STATES.* C. A. 10th Cir. Certiorari denied. Reported below: 527 F. 2d 990.

No. 75-1072. *BLANTON v. UNITED STATES.* C. A. 10th Cir. Certiorari denied.

No. 75-1074. *PICKETTE v. UNITED STATES.* C. A. 4th Cir. Certiorari denied. Reported below: 530 F. 2d 971.

No. 75-1081. *AMERICAN TOBACCO Co. v. RUSSELL ET AL.*; and

No. 75-1087. *TOBACCO WORKERS INTERNATIONAL UNION, AFL-CIO, LOCAL 192 v. RUSSELL ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 528 F. 2d 357.

No. 75-1091. *ROWELL v. UNITED STATES*;

No. 75-6118. *MATHEWSON v. UNITED STATES*; and

No. 75-6136. *KILLIAN v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. Reported below: 524 F. 2d 1268.

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No. 75-1102. *BOWEN, DBA SUBURBIA NEWS DELIVERY SERVICE, ET AL. v. NEW YORK NEWS, INC., ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 522 F. 2d 1242.

No. 75-1103. *LOCAL UNION NO. 2-477, OIL, CHEMICAL & ATOMIC WORKERS INTERNATIONAL UNION v. CONTINENTAL OIL CO.* C. A. 10th Cir. Certiorari denied. Reported below: 524 F. 2d 1048.

No. 75-1110. *BUFFA v. UNITED STATES.* C. A. 6th Cir. Certiorari denied. Reported below: 527 F. 2d 1164.

No. 75-1121. *UNITED STATES LINES, INC. v. SHELLMAN.* C. A. 9th Cir. Certiorari denied. Reported below: 528 F. 2d 675.

No. 75-1156. *DANNING, TRUSTEE, ET AL. v. LOEFFLER, TRUSTEE.* C. A. 9th Cir. Certiorari denied.

No. 75-1160. *D'ANGELO, PRESIDENT, LOUISIANA BOARD OF PHARMACY, ET AL. v. WEBB ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 524 F. 2d 239.

No. 75-1171. *LA SALLE NATIONAL BANK, TRUSTEE v. COUNTY BOARD OF SCHOOL TRUSTEES OF DUPAGE COUNTY ET AL.* Sup. Ct. Ill. Certiorari denied. Reported below: 61 Ill. 2d 524, 337 N. E. 2d 19.

No. 75-1173. *GATTO, ADMINISTRATOR v. CALUMET FLEXICORE CORP. ET AL.* Sup. Ct. Ill. Certiorari denied. Reported below: 61 Ill. 2d 513, 337 N. E. 2d 23.

No. 75-1178. *INDELICATO v. NEW YORK STATE BOARD OF PAROLE.* C. A. 2d Cir. Certiorari denied.

No. 75-1202. *A. L. v. G. R. H.* Ct. App. Ind. Certiorari denied. Reported below: — Ind. App. —, 325 N. E. 2d 501.

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No. 75-1180. DIVISION OF VOCATIONAL REHABILITATION, DEPARTMENT OF HEALTH AND REHABILITATIVE SERVICES OF FLORIDA, ET AL. *v.* THOMAS ET AL. Sup. Ct. Fla. Certiorari denied. Reported below: 324 So. 2d 89.

No. 75-1191. DEGUISEPPE *v.* BOARD OF FIRE AND POLICE COMMISSIONERS OF THE VILLAGE OF BELLWOOD ET AL. App. Ct. Ill., 1st Dist. Certiorari denied. Reported below: 30 Ill. App. 3d 352, 332 N. E. 2d 405.

No. 75-1205. AGGER, TRUSTEE IN BANKRUPTCY *v.* SEABOARD ALLIED MILLING CORP. ET AL. C. A. 1st Cir. Certiorari denied. Reported below: 526 F. 2d 23.

No. 75-1206. WEINER ET AL. *v.* LUCAS, U. S. DISTRICT JUDGE, ET AL. C. A. 9th Cir. Certiorari denied.

No. 75-1207. ALLANSON *v.* GEORGIA. Sup. Ct. Ga. Certiorari denied. Reported below: 235 Ga. 584, 221 S. E. 2d 3.

No. 75-1208. SCHUPPENHAUER *v.* PEOPLES GAS LIGHT & COKE Co. App. Ct. Ill., 1st Dist. Certiorari denied. Reported below: 30 Ill. App. 3d 607, 332 N. E. 2d 583.

No. 75-1214. LONG *v.* TEXAS. Ct. Crim. App. Tex. Certiorari denied. Reported below: 532 S. W. 2d 591.

No. 75-1227. SULLINS *v.* STATE BAR OF CALIFORNIA. Sup. Ct. Cal. Certiorari denied. Reported below: 15 Cal. 3d 609, 542 P. 2d 631.

No. 75-1228. HAIRSTON *v.* VIRGINIA. Sup. Ct. Va. Certiorari denied. Reported below: 216 Va. 387, 219 S. E. 2d 668.

No. 75-1241. MID-AMERICA TRANSPORTATION Co., INC. *v.* NATIONAL MARINE SERVICE, INC., ET AL. C. A. 8th Cir. Certiorari denied. Reported below: 526 F. 2d 629.

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No. 75-1232. *SMITH v. GEORGIA*. Ct. App. Ga. Certiorari denied. Reported below: 136 Ga. App. 17, 220 S. E. 2d 11.

No. 75-1257. *PEARSON v. NORTH CAROLINA*. Sup. Ct. N. C. Certiorari denied. Reported below: 288 N. C. 733, 220 S. E. 2d 352.

No. 75-1342. *PLASTILITE CORP. v. AIRLITE PLASTICS Co.* C. A. 8th Cir. Certiorari denied. Reported below: 526 F. 2d 1078.

No. 75-5895. *PRITCHETT ET AL. v. GEORGIA*. Ct. App. Ga. Certiorari denied. Reported below: 134 Ga. App. 254, 214 S. E. 2d 180.

No. 75-5922. *FERRIS v. ILLINOIS*. Sup. Ct. Ill. Certiorari denied.

No. 75-5943. *LAMB v. ILLINOIS*. Sup. Ct. Ill. Certiorari denied. Reported below: 61 Ill. 2d 383, 336 N. E. 2d 753.

No. 75-6010. *SIMONS v. UNITED STATES*. C. A. 2d Cir. Certiorari denied.

No. 75-6077. *MORGAN v. CALIFORNIA*. Sup. Ct. Cal. Certiorari denied.

No. 75-6082. *STIGER v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 529 F. 2d 528.

No. 75-6093. *LELAND v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 522 F. 2d 1279.

No. 75-6099. *LEWIS v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 524 F. 2d 991.

No. 75-6101. *McDOUGAL v. WEST VIRGINIA*. Sup. Ct. App. W. Va. Certiorari denied.

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No. 75-6102. *BURNETTE v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 524 F. 2d 29.

No. 75-6104. *MATHEWS v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 529 F. 2d 529.

No. 75-6109. *HILTON v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 521 F. 2d 164.

No. 75-6111. *TYLER v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 526 F. 2d 814.

No. 75-6113. *SANCHEZ ET AL. v. UNITED STATES*. C. A. 9th Cir. Certiorari denied.

No. 75-6117. *SIMMS v. UNITED STATES*. C. A. D. C. Cir. Certiorari denied. Reported below: 173 U. S. App. D. C. 129, 522 F. 2d 1344.

No. 75-6121. *CURTIS v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 524 F. 2d 238.

No. 75-6126. *HENRY v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 524 F. 2d 239.

No. 75-6134. *VECCHIARELLO v. UNITED STATES*. C. A. D. C. Cir. Certiorari denied.

No. 75-6141. *SIMMONS v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 529 F. 2d 526.

No. 75-6148. *TOWNES v. UNITED STATES*. C. A. 4th Cir. Certiorari denied.

No. 75-6153. *CAIN v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 519 F. 2d 1087.

No. 75-6154. *BLACK v. UNITED STATES*. C. A. 4th Cir. Certiorari denied.

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No. 75-6162. *HILL v. UNITED STATES*. C. A. 10th Cir. Certiorari denied. Reported below: 526 F. 2d 1019.

No. 75-6164. *MOSES v. UNITED STATES*. C. A. 3d Cir. Certiorari denied.

No. 75-6173. *COLLIER v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 530 F. 2d 978.

No. 75-6174. *HURLEY ET AL. v. UNITED STATES*. C. A. 9th Cir. Certiorari denied.

No. 75-6190. *LLOYD v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 529 F. 2d 527.

No. 75-6191. *STANLEY v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 526 F. 2d 814.

No. 75-6206. *MURPHY v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 527 F. 2d 645.

No. 75-6230. *COTTON v. TENNESSEE*. Sup. Ct. Tenn. Certiorari denied. Reported below: 532 S. W. 2d 912.

No. 75-6234. *McCOLLIN v. BRITT, PENITENTIARY SUPERINTENDENT*. C. A. 9th Cir. Certiorari denied.

No. 75-6243. *BROWN v. COWAN, PENITENTIARY SUPERINTENDENT*. C. A. 6th Cir. Certiorari denied. Reported below: 524 F. 2d 1405.

No. 75-6252. *ARCHULETA v. ARCHULETA*. Ct. App. D. C. Certiorari denied. Reported below: 345 A. 2d 157.

No. 75-6255. *SMITH v. ILLINOIS*. App. Ct. Ill., 1st Dist. Certiorari denied. Reported below: 31 Ill. App. 3d 423, 333 N. E. 2d 241.

No. 75-6260. *ADAMS v. HICKTON*. C. A. 3d Cir. Certiorari denied. Reported below: 524 F. 2d 1403.

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No. 75-6261. *TERRY v. GUNN, WARDEN*. C. A. 9th Cir. Certiorari denied.

No. 75-6263. *FLAMM v. REAL-BLT., INC., DBA PONDEROSA ACRES*. Sup. Ct. Mont. Certiorari denied. Reported below: 168 Mont. 351, 543 P. 2d 190.

No. 75-6267. *TYLER v. WYRICK, WARDEN*. C. A. 8th Cir. Certiorari denied.

No. 75-6271. *BROWN v. ILLINOIS*. Sup. Ct. Ill. Certiorari denied.

No. 75-6274. *WASHINGTON v. TEXAS*. C. A. 5th Cir. Certiorari denied. Reported below: 524 F. 2d 1231.

No. 75-6277. *OMERNICK v. DEPARTMENT OF NATURAL RESOURCES ET AL.* Sup. Ct. Wis. Certiorari denied. Reported below: 71 Wis. 2d 370, 238 N. W. 2d 114.

No. 75-6288. *WEBB v. OKLAHOMA*. Ct. Crim. App. Okla. Certiorari denied.

No. 75-6290. *BAZAKAS v. GAYNOR ET AL.* C. A. 1st Cir. Certiorari denied.

No. 75-6294. *REED v. DEL CHEMICAL CORP. ET AL.* Ct. App. Ore. Certiorari denied. Reported below: 23 Ore. App. 213, 541 P. 2d 1296.

No. 75-6299. *JACKSON v. JACKSON*. Sup. Ct. Mich. Certiorari denied.

No. 75-6304. *SMITH v. WARNE, CORRECTIONAL SUPERINTENDENT*. C. A. 2d Cir. Certiorari denied.

No. 75-6305. *PORZUCZEK, GUARDIAN v. TOWNER ET AL.* Ct. App. Cal., 1st App. Dist. Certiorari denied.

No. 75-6308. *MEIJER-OOSTERINK v. ESSO STANDARD EASTERN, INC.* C. A. 2d Cir. Certiorari denied.

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No. 75-6312. *HUNNICUTT v. ESTELLE, CORRECTIONS DIRECTOR*. C. A. 5th Cir. Certiorari denied. Reported below: 524 F. 2d 1230.

No. 75-6313. *JONES v. HENDERSON, WARDEN*. C. A. 5th Cir. Certiorari denied.

No. 75-6316. *FABRITZ v. MARYLAND*. Ct. App. Md. Certiorari denied. Reported below: 276 Md. 416, 348 A. 2d 275.

No. 75-6317. *HARMON v. ARIZONA*. Ct. App. Ariz. Certiorari denied. Reported below: 25 Ariz. App. 137, 541 P. 2d 600.

No. 75-6322. *BALAY v. NEW YORK*. App. Div., Sup. Ct. N. Y., 1st Jud. Dept. Certiorari denied. Reported below: 49 App. Div. 2d 838, 373 N. Y. S. 2d 590.

No. 75-6324. *PHILLIPS v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 526 F. 2d 590.

No. 75-6325. *DAWN, DBA GAME Co. v. STERLING DRUG, INC., ET AL.* C. A. 9th Cir. Certiorari denied.

No. 75-6384. *TAYLOR v. ALABAMA*. C. A. 5th Cir. Certiorari denied.

No. 75-6407. *RAYNER v. JOHN BUIST CHESTER HOSPITAL ET AL.* Sup. Ct. Tex. Certiorari denied.

No. 75-1033. *FAIRCHILD v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. MR. JUSTICE STEVENS took no part in the consideration or decision of this petition. Reported below: 526 F. 2d 185.

No. 75-201. *KAMERLING ET AL. v. O'HAGAN, FIRE COMMISSIONER, CITY OF NEW YORK*. C. A. 2d Cir. Certiorari denied. MR. JUSTICE STEVENS took no part in the consideration or decision of this petition. Reported below: 512 F. 2d 443.

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No. 74-1366. SCHAEFER ET AL. *v.* FIRST NATIONAL BANK OF LINCOLNWOOD ET AL.; and

No. 74-1407. RODMAN & RENSHAW *v.* SCHAEFER ET AL. C. A. 7th Cir. Certiorari denied. MR. JUSTICE STEVENS took no part in the consideration or decision of this petition. Reported below: 509 F. 2d 1287.

No. 75-1133. EHRET Co. *v.* EATON YALE & TOWNE, INC. C. A. 7th Cir. Certiorari denied. MR. JUSTICE STEVENS took no part in the consideration or decision of this petition. Reported below: 523 F. 2d 280.

No. 75-1154. COHEN *v.* ILLINOIS INSTITUTE OF TECHNOLOGY ET AL. C. A. 7th Cir. Certiorari denied. MR. JUSTICE STEVENS took no part in the consideration or decision of this petition. Reported below: 524 F. 2d 818.

No. 75-6074. D'AMBROSIO *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied. MR. JUSTICE STEVENS took no part in the consideration or decision of this petition. Reported below: 525 F. 2d 695.

No. 75-6314. CURL *v.* INTERNATIONAL BUSINESS MACHINES CORP. C. A. 5th Cir. Certiorari denied. MR. JUSTICE STEVENS took no part in the consideration or decision of this petition. Reported below: 517 F. 2d 212.

No. 75-118. NEW JERSEY *v.* PACE. Sup. Ct. N. J. Certiorari denied. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. MR. JUSTICE STEVENS took no part in the consideration or decision of this motion and petition. Reported below: 67 N. J. 222, 337 A. 2d 33.

No. 75-903. ALDENS, INC. *v.* KANE, ATTORNEY GENERAL OF PENNSYLVANIA. C. A. 3d Cir. Certiorari denied. MR. JUSTICE WHITE would grant certiorari. Reported below: 524 F. 2d 38.

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No. 75-1005. NATIONAL ORGANIZATION FOR WOMEN, INC., ET AL. *v.* UNITED STATES ET AL.; and

No. 75-1008. HARRIS ET AL. *v.* ALLEGHENY-LUDLUM INDUSTRIES, INC., ET AL. C. A. 5th Cir. Motion of petitioners in No. 75-1008 to defer consideration denied. Certiorari denied. Reported below: 517 F. 2d 826.

No. 75-1046. BARRETT ET AL. *v.* ZWEIBON ET AL.;

No. 75-1056. ZWEIBON ET AL. *v.* MITCHELL ET AL.; and

No. 75-1059. MITCHELL *v.* ZWEIBON ET AL. C. A. D. C. Cir. Certiorari denied. MR. JUSTICE REHNQUIST took no part in the consideration or decision of these petitions. Reported below: 170 U. S. App. D. C. 1, 516 F. 2d 594.

No. 75-1058. MITSUI SHINTAKU GINKO K. K., TOKYO *v.* DODGE ET AL. C. A. 9th Cir. Motions of Pacific Merchant Shipping Assn. and American Institute of Merchant Shipping for leave to file briefs as *amici curiae* granted. Certiorari denied. Reported below: 528 F. 2d 669.

No. 75-1084. DAVIS ET AL. *v.* BOARD OF SCHOOL COMMISSIONERS OF MOBILE COUNTY ET AL.; AND PARRISH ET AL. *v.* BOARD OF COMMISSIONERS OF THE ALABAMA STATE BAR ET AL. C. A. 5th Cir. Certiorari denied. MR. JUSTICE STEWART would grant certiorari. Reported below: 517 F. 2d 1044 (first case); 524 F. 2d 98 (second case).

No. 75-1229. HOPPER, WARDEN *v.* ALLEN. C. A. 5th Cir. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 524 F. 2d 1230.

No. 75-1292. KOEHLER, WARDEN *v.* CHISM. C. A. 6th Cir. Motion of respondent for leave to proceed *in*

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forma pauperis granted. Certiorari denied. Reported below: 527 F. 2d 612.

Rehearing Denied

No. 75-642. KEHOE *v.* UNITED STATES, 424 U. S. 909;

No. 75-707. SANDERS *v.* GEORGIA, 424 U. S. 931;

No. 75-953. HOWELL *v.* JONES, SHERIFF, 424 U. S. 916;

No. 75-5609. HUSTON *v.* CALIFORNIA, 424 U. S. 917;

No. 75-5652. RANSOM *v.* UNITED STATES, 424 U. S. 944;

No. 75-5869. CHATMAN *v.* UNITED STATES, 424 U. S. 922;

No. 75-5923. THOMAS *v.* SAVAGE, WARDEN, 424 U. S. 924;

No. 75-6008. DAWN, DBA GAME CO. *v.* STERLING DRUG, INC., ET AL., 424 U. S. 926;

No. 75-6031. DINSIO *v.* UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT, 424 U. S. 964;

No. 75-6051. GIESE *v.* HOLT, RINEHART & WINSTON, INC., ET AL., 424 U. S. 946;

No. 75-6058. WILLIAMS *v.* PHILLIPS ET AL., U. S. CIRCUIT JUDGES, 424 U. S. 941; and

No. 75-6140. THRASHER *v.* CALIFORNIA ADULT AUTHORITY ET AL., 424 U. S. 957. Petitions for rehearing denied.

No. 75-899. UNIVERSITY OF DELAWARE *v.* KEEGAN ET AL., 424 U. S. 934. Petition for rehearing denied. MR. JUSTICE STEVENS took no part in the consideration or decision of this petition.

No. 75-921. WILD *v.* RARIG ET AL., 424 U. S. 902. Petition for rehearing denied. MR. JUSTICE BLACKMUN took no part in the consideration or decision of this petition.

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Appeal Dismissed

No. 75-1493. MOORE, GOVERNOR OF WEST VIRGINIA *v.* MCCARTNEY, SECRETARY OF WEST VIRGINIA, ET AL. Sup. Ct. App. W. Va. Appeal dismissed for want of substantial federal question. Reported below: — W. Va. —, 223 S. E. 2d 607.

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Miscellaneous Order

No. 75-436. BUCKLEY ET AL. *v.* VALEO, SECRETARY OF THE UNITED STATES SENATE, ET AL.; and

No. 75-437. BUCKLEY ET AL. *v.* VALEO, SECRETARY OF THE UNITED STATES SENATE, ET AL., 424 U. S. 1. Motions of Jimmy Carter et al. for leave to intervene, recall and modification of judgment and other equitable relief, and to advance and expedite denied. Motion of Democratic National Committee for leave to file a brief as *amicus curiae* denied. MR. JUSTICE STEVENS took no part in the consideration or decision of these motions.

MR. JUSTICE POWELL, concurring.

I concur in the Court's denial of the petition to intervene. As these cases have been remanded to the Court of Appeals for the District of Columbia Circuit, jurisdiction with respect to relief sought by new parties at this time is vested in that court.

APRIL 26, 1976

Affirmed on Appeal

No. 75-93. TOWN OF SORRENTO MUNICIPAL DEMOCRATIC EXECUTIVE COMMITTEE ET AL. *v.* REINE ET AL. Affirmed on appeal from D. C. M. D. La. MR. JUSTICE POWELL and MR. JUSTICE REHNQUIST would note probable jurisdiction and set case for oral argument. Reported below: — F. Supp. —.

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No. 75-1470. UDALL ET AL. *v.* BOWEN, GOVERNOR OF INDIANA, ET AL. Affirmed on appeal from D. C. S. D. Ind. Reported below: 419 F. Supp. 746.

Appeals Dismissed

No. 75-898. SUTHERLAND ET AL. *v.* ILLINOIS. Appeal from Ct. App. Ill., 3d Dist., dismissed for want of substantial federal question. MR. JUSTICE BRENNAN, MR. JUSTICE MARSHALL, and MR. JUSTICE STEVENS would note probable jurisdiction and set case for oral argument. Reported below: 29 Ill. App. 3d 199, 329 N. E. 2d 820.

No. 75-1250. STANDARD OIL CO. *v.* SHARPE, MOTOR VEHICLE COMPTROLLER. Appeal from Sup. Ct. Miss. dismissed for want of substantial federal question. Reported below: 322 So. 2d 457.

No. 75-6296. HARRIS *v.* CITY OF COLUMBUS, OHIO. Appeal from Sup. Ct. Ohio dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied. Reported below: 44 Ohio St. 2d 89, 338 N. E. 2d 530.

Certiorari Granted—Vacated and Remanded. (See also No. 75-1106, *ante*, p. 460.)

No. 75-35. LASH, WARDEN, ET AL. *v.* AIKENS 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 *Baxter v. Palmigiano*, *ante*, p. 308. MR. JUSTICE STEVENS took no part in the consideration or decision of this motion and case. Reported below: 514 F. 2d 55.

No. 75-914. WALLACE ET AL. *v.* HOUSE, REGISTRAR OF VOTERS, ET AL. C. A. 5th Cir. Certiorari granted, judgment vacated, and case remanded for further consideration in light of *East Carroll Parish School Board v. Marshall*, 424 U. S. 636 (1976), and 89 Stat. 400, 42 U. S. C.

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§ 1973 *et seq.* (1970 ed., Supp. V). Reported below: 515 F. 2d 619.

No. 75-6106. *HILL v. UNITED STATES*. C. A. 6th Cir. Motion for leave to proceed *in forma pauperis* and certiorari granted. Upon representation of the Solicitor General set forth in his memorandum for the United States filed April 8, 1976, judgment vacated and case remanded for further consideration in light of position presently asserted by the Government. Reported below: 529 F. 2d 527.

*Miscellaneous Orders**

No. A-910. *FRY v. UNITED STATES*. C. A. 6th Cir. Application for pretrial bond and stay of trial, presented to MR. JUSTICE BRENNAN, and by him referred to the Court, denied.

No. A-923. *BERGER, COMMISSIONER, DEPARTMENT OF SOCIAL SERVICES OF NEW YORK v. KLEIN ET AL.* Application for stay of judgment of the United States District Court for the Eastern District of New York, presented to MR. JUSTICE MARSHALL, and by him referred to the Court, denied.

No. 31, Orig. *UTAH v. UNITED STATES*. Report of Special Master received and ordered filed. Exceptions, if any, with supporting briefs to Report may be filed by the parties within 45 days. Reply briefs, if any, to such exceptions may be filed within 30 days. MR. JUSTICE MARSHALL took no part in the consideration or decision of this order. [For earlier orders herein, see, *e. g.*, 420 U. S. 304.]

*For the Court's orders prescribing Bankruptcy Rules and Official Bankruptcy Forms and amendments thereto; amendments to the Federal Rules of Criminal Procedure; and Rules and Forms Governing Cases and Proceedings under 28 U. S. C. §§ 2254 and 2255, see *post*, pp. 1005, 1127, 1159, and 1169.

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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, 421 U. S. 987.] Motion of petitioners for leave to file supplemental brief after argument denied. MR. JUSTICE STEVENS took no part in the consideration or decision of this motion.

No. 75-5952. *TRIMBLE v. GORDON ET AL.* Appeal from Sup. Ct. Ill. [Probable jurisdiction noted, 424 U. S. 964.] Motion of appellees King et al. for leave to proceed further herein *in forma pauperis* granted. THE CHIEF JUSTICE, MR. JUSTICE BLACKMUN, MR. JUSTICE POWELL, and MR. JUSTICE REHNQUIST would deny the motion.

No. 75-6501. *BORUSKI v. REED, SECRETARY OF THE AIR FORCE.* Motion for leave to file petition for writ of habeas corpus denied.

Probable Jurisdiction Noted

No. 75-1153. *ABOOD ET AL. v. DETROIT BOARD OF EDUCATION ET AL.* Appeal from Ct. App. Mich. Probable jurisdiction noted. Reported below: 60 Mich. App. 92, 230 N. W. 2d 322.

No. 75-1255. *DOUGLAS, COMMISSIONER, VIRGINIA MARINE RESOURCES COMMISSION v. SEACOAST PRODUCTS, INC., ET AL.* Appeal from D. C. E. D. Va. Motion of Virginia Seafood Council et al. for leave to file a brief as *amici curiae* granted. Probable jurisdiction noted. The Solicitor General is invited to file a brief expressing the views of the United States. Reported below: — F. Supp. —.

No. 75-6289. *MOORE v. CITY OF EAST CLEVELAND, OHIO.* Appeal from Ct. App. Ohio, Cuyahoga County. Motion of appellant for leave to proceed *in forma pauperis* granted. Probable jurisdiction noted.

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Certiorari Granted

No. 75-1264. INTERNATIONAL UNION OF ELECTRICAL, RADIO & MACHINE WORKERS, AFL-CIO, LOCAL 790 *v.* ROBBINS & MYERS, INC., ET AL.; and

No. 75-1276. GUY *v.* ROBBINS & MYERS, INC. C. A. 6th Cir. Certiorari granted. Cases consolidated and a total of one hour allotted for oral argument. Reported below: 525 F. 2d 124.

Certiorari Denied. (See also No. 75-6296, *supra.*)

No. 75-875. McCLELLAN *v.* ILLINOIS. App. Ct. Ill., 1st Dist. Certiorari denied. Reported below: 29 Ill. App. 3d 712, 331 N. E. 2d 292.

No. 75-894. NATALE *v.* UNITED STATES; and

No. 75-1140. RUSSO *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. Reported below: 526 F. 2d 1160.

No. 75-962. GREEN *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 518 F. 2d 496 and 524 F. 2d 957.

No. 75-1006. BIDDY *v.* DIAMOND, SHERIFF, ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 516 F. 2d 118.

No. 75-1108. BORDEAUX *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied.

No. 75-1115. DEPAOLA ET AL. *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied.

No. 75-1155. BUCHANON *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied. Reported below: 529 F. 2d 1148.

No. 75-1172. FIDELITY & DEPOSIT COMPANY OF MARYLAND *v.* USAFORM HAIL POOL, INC., ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 523 F. 2d 744.

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No. 75-1021. CARPENTERS 46 COUNTY CONFERENCE BOARD ET AL. *v.* CONSTRUCTION INDUSTRY STABILIZATION COMMITTEE ET AL. Temp. Emerg. Ct. App. Certiorari denied. Reported below: See 522 F. 2d 637.

No. 75-1187. SELIKOFF *v.* COMMISSIONER OF CORRECTION OF NEW YORK. C. A. 2d Cir. Certiorari denied. Reported below: 524 F. 2d 650.

No. 75-1244. BOLKCOM ET AL. *v.* CARBORUNDUM Co. C. A. 6th Cir. Certiorari denied. Reported below: 523 F. 2d 492.

No. 75-1245. PAULEY ET AL., DBA ZIEBART AUTO TRUCK RUSTPROOFING *v.* ZIEBART PROCESS CORP. C. A. 4th Cir. Certiorari denied. Reported below: 530 F. 2d 969.

No. 75-1247. PERKINS *v.* SCREEN EXTRAS GUILD, INC. C. A. 9th Cir. Certiorari denied. Reported below: 526 F. 2d 67.

No. 75-1249. AMERICAN STEVEDORES, INC. *v.* OLAF PEDERSEN'S REDERI A/S. C. A. 2d Cir. Certiorari denied. Reported below: 527 F. 2d 1282.

No. 75-1254. WILLIAMS ET AL. *v.* AMERICAN AIRLINES, INC., ET AL. C. A. 7th Cir. Certiorari denied. Reported below: 526 F. 2d 757.

No. 75-1256. DARKS ET AL. *v.* TRANSOK PIPE LINE Co. Sup. Ct. Okla. Certiorari denied.

No. 75-1266. HARMAN ET AL. *v.* DIVERSIFIED MEDICAL INVESTMENTS CORP. ET AL. C. A. 10th Cir. Certiorari denied. Reported below: 524 F. 2d 361.

No. 75-1269. CALI *v.* JAPAN AIRLINES Co., LTD., ET AL. C. A. 2d Cir. Certiorari denied.

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No. 75-1272. *GEORGIA POWER CO. v. CIMARRON COAL CORP.* C. A. 6th Cir. Certiorari denied. Reported below: 526 F. 2d 101.

No. 75-1274. *WATKINS MOTOR LINES, INC., ET AL. v. ZERO REFRIGERATED LINES ET AL.* C. A. 7th Cir. Certiorari denied. Reported below: 525 F. 2d 538.

No. 75-1291. *CONVALESCENT CARE, INC. v. BATES, DIRECTOR, DEPARTMENT OF PUBLIC WELFARE, ET AL.* Ct. App. Ohio, Franklin County. Certiorari denied.

No. 75-1307. *SUMPTER v. INDIANA.* Sup. Ct. Ind. Certiorari denied. Reported below: 264 Ind. 117, 340 N. E. 2d 764.

No. 75-1322. *BELCHER v. ALABAMA.* Ct. Crim. App. Ala. Certiorari denied. Reported below: 56 Ala. App. 688, 325 So. 2d 195.

No. 75-5916. *BARNES v. UNITED STATES.* C. A. 3d Cir. Certiorari denied. Reported below: 523 F. 2d 1051.

No. 75-6036. *GAITHER, AKA KELLY v. UNITED STATES.* C. A. 4th Cir. Certiorari denied. Reported below: 527 F. 2d 456.

No. 75-6046. *ALEXANDER v. KRITZMAN ET AL.* C. A. 9th Cir. Certiorari denied.

No. 75-6071. *CARRILLO v. UNITED STATES.* C. A. 9th Cir. Certiorari denied.

No. 75-6085. *DICKINSON v. UNITED STATES.* C. A. 5th Cir. Certiorari denied.

No. 75-6105. *FERRETTI v. UNITED STATES.* C. A. 3d Cir. Certiorari denied. Reported below: 524 F. 2d 1403.

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No. 75-6125. *DAVIS v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 527 F. 2d 1110.

No. 75-6146. *FOX v. UNITED STATES*. C. A. 9th Cir. Certiorari denied.

No. 75-6155. *HICKS v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 524 F. 2d 1001.

No. 75-6172. *SOLIZ v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 525 F. 2d 952.

No. 75-6179. *COOPER v. UNITED STATES*. Ct. App. D. C. Certiorari denied.

No. 75-6187. *STEAD v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 528 F. 2d 257.

No. 75-6189. *LINDSEY v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 530 F. 2d 971.

No. 75-6195. *MITCHELL v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 526 F. 2d 814.

No. 75-6198. *PRECIADO-GOMEZ v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 529 F. 2d 935.

No. 75-6240. *HOWE ET UX. v. UNITED STATES*. C. A. 1st Cir. Certiorari denied. Reported below: 521 F. 2d 1397.

No. 75-6276. *DAVIS, AKA HARTSELL v. UNITED STATES*. C. A. 9th Cir. Certiorari denied.

No. 75-6333. *CHAPDELAINÉ v. TORRENCE, PRESIDENT, TENNESSEE STATE UNIVERSITY, ET AL.* Sup. Ct. Tenn. Certiorari denied. Reported below: 532 S. W. 2d 542.

No. 75-6335. *GLINTON v. NEW YORK*. Sup. Ct. N. Y., N. Y. County. Certiorari denied.

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No. 75-6339. *BERRY v. LOUISIANA*. Sup. Ct. La. Certiorari denied. Reported below: 324 So. 2d 822.

No. 75-6344. *COMBS v. TENNESSEE*. C. A. 6th Cir. Certiorari denied. Reported below: 530 F. 2d 695.

No. 75-6350. *MILLER v. BOMBARD, CORRECTIONAL SUPERINTENDENT*. C. A. 2d Cir. Certiorari denied.

No. 75-6351. *FULFORD v. LOUISIANA*. Sup. Ct. La. Certiorari denied. Reported below: 327 So. 2d 301.

No. 75-6355. *SIMMS v. CONNECTICUT*. Sup. Ct. Conn. Certiorari denied. Reported below: 170 Conn. 206, 365 A. 2d 821.

No. 75-6357. *HURST v. UNION CARBIDE CORPORATION, NUCLEAR DIVISION*. C. A. 6th Cir. Certiorari denied. Reported below: 529 F. 2d 525.

No. 75-6359. *DE LA CRUZ v. ESTELLE, CORRECTIONS DIRECTOR*. C. A. 5th Cir. Certiorari denied. Reported below: 526 F. 2d 1405.

No. 75-6361. *THOMAS v. CALIFORNIA*. Ct. App. Cal., 2d App. Dist. Certiorari denied.

No. 75-6366. *MAUCH v. FLEMMING ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 529 F. 2d 526.

No. 75-6368. *HALL v. BOSTIC ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 529 F. 2d 990.

No. 75-6370. *HOWARD v. MISSISSIPPI*. Sup. Ct. Miss. Certiorari denied. Reported below: 319 So. 2d 219.

No. 75-6379. *PHILLIPS v. OKLAHOMA ET AL.* Ct. Crim. App. Okla. Certiorari denied. Reported below: 546 P. 2d 1027.

No. 75-6387. *PATTERSON v. RICKETTS, SUPERINTENDENT, GEORGIA DIAGNOSTIC AND CLASSIFICATION CENTER*. C. A. 5th Cir. Certiorari denied.

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No. 75-6442. *McDONALD v. TENNESSEE*. Sup. Ct. Tenn. Certiorari denied. Reported below: 534 S. W. 2d 650.

No. 75-6461. *MAYNARD v. IOWA*. Sup. Ct. Iowa. Certiorari denied. Reported below: 232 N. W. 2d 265.

No. 75-6486. *DONNELLY v. SUFFOLK UNIVERSITY*. Ct. App. Mass. Certiorari denied. Reported below: — Mass. App. —, 337 N. E. 2d 920.

No. 75-1078. *FLORES v. UNITED STATES*. C. A. 5th Cir. Motions to substitute petition for writ of certiorari and to substitute counsel for petitioner granted. Certiorari denied. Reported below: 523 F. 2d 1054.

Rehearing Denied

No. 74-6503. *SELLERS v. UNITED STATES*, 424 U. S. 961. Petition for rehearing denied. MR. JUSTICE STEVENS took no part in the consideration or decision of this petition.

APRIL 30, 1976

Miscellaneous Orders

No. — — —. *CARTER ET AL. v. BUCKLEY ET AL.* Ct. App. D. C. Motion of appellants for relief *pendente lite* and to advance and expedite denied. MR. JUSTICE STEVENS took no part in the consideration or decision of these motions.

No. A-940. *HOWELL ET AL. v. DEBUSK ET AL.* D. C. N. D. Tex. Application for injunction, presented to the Court at 6:30 p. m., Thursday, April 29, 1976, denied.

MAY 3, 1976

Affirmed on Appeal

No. 75-1165. *AMERICAN TRUCKING ASSNS., INC. v. UNITED STATES ET AL.* Affirmed on appeal from D. C. D. C. Reported below: 425 F. Supp. 903.

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No. 75-1356. DRISKELL ET AL. *v.* EDWARDS, GOVERNOR OF LOUISIANA, ET AL. Affirmed on appeal from D. C. W. D. La. Reported below: 413 F. Supp. 974.

Appeals Dismissed

No. 75-1146. BRADLEY ET AL. *v.* LUNDING, CHAIRMAN, STATE BOARD OF ELECTIONS COMMISSIONERS, ET AL. Appeal from Sup. Ct. Ill. dismissed for want of substantial federal question.

No. 75-1316. CITY OF CANTON *v.* WHITMAN, DIRECTOR OF ENVIRONMENTAL PROTECTION. Appeal from Sup. Ct. Ohio dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied. Reported below: 44 Ohio St. 2d 62, 337 N. E. 2d 766.

Certiorari Granted—Vacated and Remanded

No. 75-5898. BEASLEY *v.* UNITED STATES. C. A. 5th Cir. Motion for leave to proceed *in forma pauperis* and certiorari granted. Upon representation of the Solicitor General set forth in his memorandum for the United States, filed April 14, 1976, judgment vacated and case remanded for further consideration in light of the position presently asserted by the Government. Reported below: 519 F. 2d 233.

No. 75-6217. RIGGINS *v.* UNITED STATES. C. A. 5th Cir. Motion for leave to proceed *in forma pauperis* and certiorari granted. Upon representation of the Solicitor General set forth in his memorandum for the United States, filed April 27, 1976, judgment vacated and case remanded for further consideration in light of position presently asserted by the Government. Reported below: 521 F. 2d 812.

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Miscellaneous Orders

No. 67, Orig. IDAHO EX REL. ANDRUS, GOVERNOR OF IDAHO, ET AL. *v.* OREGON ET AL. Motion of Izaak Walton League of America, Inc., et al. for leave to file brief as *amici curiae* granted. Motion for leave to file bill of complaint set for oral argument in due course. [For earlier order herein, see 423 U. S. 813.]

No. 74-753. UNITED STATES *v.* TESTAN ET AL., 424 U. S. 392. Motion of respondents to retax costs denied. MR. JUSTICE STEVENS took no part in the consideration or decision of this motion.

No. 75-342. FEDERAL POWER COMMISSION *v.* CONWAY CORP. ET AL. C. A. D. C. Cir. [Certiorari granted, 423 U. S. 945.] Motion of Commonwealth Edison Co. for leave to file a brief as *amicus curiae* denied.

No. 75-1303. QANTAS AIRWAYS, LTD. *v.* FOREMOST INTERNATIONAL TOURS, INC. C. A. 9th Cir. The Solicitor General is invited to file a brief in this case expressing the views of the United States.

No. 75-6394. CHILEMBWE *v.* UNITED STATES COURT OF APPEALS FOR THE EIGHTH CIRCUIT ET AL. Motion for leave to file petition for writ of mandamus denied.

Probable Jurisdiction Noted

No. 75-1197. MATHEWS, SECRETARY OF HEALTH, EDUCATION, AND WELFARE *v.* DE CASTRO. Appeal from D. C. N. D. Ill. Probable jurisdiction noted. Reported below: 403 F. Supp. 23.

Certiorari Granted

No. 75-871. MANSON, CORRECTION COMMISSIONER *v.* BRATHWAITE. C. A. 2d Cir. Motion of respondent for leave to proceed *in forma pauperis* and certiorari granted. Reported below: 527 F. 2d 363.

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Certiorari Denied. (See also No. 75-1316, *supra*.)

No. 75-1016. *LEONARD v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 524 F. 2d 1076.

No. 75-1075. *GONZALEZ v. TEXAS*. Ct. Crim. App. Tex. Certiorari denied. Reported below: 528 S. W. 2d 133.

No. 75-1167. *McHALE v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 529 F. 2d 527.

No. 75-1177. *HOFFMAN ET AL. v. HOFFMAN ET VIR.* Sup. Ct. Ill. Certiorari denied. Reported below: 61 Ill. 2d 569, 338 N. E. 2d 862.

No. 75-1189. *MOORE v. RUMSFELD, SECRETARY OF DEFENSE, ET AL.* C. A. 10th Cir. Certiorari denied.

No. 75-1192. *TUCKER ET AL. v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 526 F. 2d 279.

No. 75-1209. *UNITED TRANSPORTATION UNION v. HARRISON ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 530 F. 2d 558.

No. 75-1224. *WORLD MARKET CENTERS, INC. v. HARDIN*. C. A. 10th Cir. Certiorari denied.

No. 75-1265. *NAJANICK v. PENNSYLVANIA*. Super. Ct. Pa. Certiorari denied. Reported below: 233 Pa. Super. 708, 339 A. 2d 815.

No. 75-1268. *BROWN v. BARNETT ET AL.* Sup. Ct. Miss. Certiorari denied.

No. 75-1281. *TRI TERMINAL CORP. v. BOROUGH OF EDGEWATER*. Sup. Ct. N. J. Certiorari denied. Reported below: 68 N. J. 405, 346 A. 2d 396.

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No. 75-1283. LEAGUE OF UNITED LATIN AMERICAN CITIZENS *v.* LO-VACA GATHERING CO. ET AL. Ct. Civ. App. Tex., 4th Sup. Jud. Dist. Certiorari denied. Reported below: 527 S. W. 2d 507.

No. 75-1284. SPECTOR FREIGHT SYSTEM, INC., OF ILLINOIS *v.* SCHWARTZ. Sup. Ct. Minn. Certiorari denied. Reported below: 306 Minn. 564, 237 N. W. 2d 385.

No. 75-1287. ANCHORAGE OFFICE BUILDING CO. ET AL. *v.* WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY. C. A. D. C. Cir. Certiorari denied. Reported below: 174 U. S. App. D. C. 69, 527 F. 2d 852.

No. 75-1288. NUNNALLY *v.* GEORGIA. Sup. Ct. Ga. Certiorari denied. Reported below: 235 Ga. 693, 221 S. E. 2d 547.

No. 75-1302. MAHNKE *v.* MASSACHUSETTS. Sup. Jud. Ct. Mass. Certiorari denied. Reported below: — Mass. —, 335 N. E. 2d 660.

No. 75-1306. HAGA *v.* WASHINGTON. Ct. App. Wash. Certiorari denied. Reported below: 13 Wash. App. 630, 536 P. 2d 648.

No. 75-1309. RICHARDSON *v.* HOWARD UNIVERSITY. C. A. D. C. Cir. Certiorari denied. Reported below: 174 U. S. App. D. C. 77, 527 F. 2d 1386.

No. 75-1311. PACIFIC COAST AGRICULTURAL EXPORT ASSN. ET AL. *v.* SUNKIST GROWERS, INC., ET AL.; and

No. 75-1325. SUNKIST GROWERS, INC. *v.* PACIFIC COAST AGRICULTURAL EXPORT ASSN. ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 526 F. 2d 1196.

No. 75-1321. CRAWFORD ET UX. *v.* SECURITY NATIONAL BANK. Ct. App. Cal., 1st App. Dist. Certiorari denied.

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No. 75-1329. INTERNATIONAL BROTHERHOOD OF TEAMSTERS, CHAUFFEURS, WAREHOUSEMEN & HELPERS OF AMERICA *v.* TEAMSTERS LOCAL 701 ET AL. C. A. 3d Cir. Certiorari denied. Reported below: 524 F. 2d 1404.

No. 75-1336. RAWSON, AKA MERRILL *v.* WILBEE. C. A. 10th Cir. Certiorari denied.

No. 75-1350. SZEKELY *v.* MATHEWS, SECRETARY OF HEALTH, EDUCATION, AND WELFARE. C. A. 5th Cir. Certiorari denied. Reported below: 517 F. 2d 345.

No. 75-1362. OLSEN *v.* TERRITORY OF GUAM. Petition for certiorari before judgment to C. A. 9th Cir. Certiorari denied.

No. 75-1387. MONONGAHELA APPLIANCE Co. *v.* COMMUNITY BANK & TRUST, N. A. C. A. 4th Cir. Certiorari denied. Reported below: 532 F. 2d 751.

No. 75-5425. RIDDICK ET AL. *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied. Reported below: 519 F. 2d 645.

No. 75-6124. SCARDINO *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. Reported below: 526 F. 2d 517.

No. 75-6135. REALE *v.* VIRGINIA. Sup. Ct. Va. Certiorari denied.

No. 75-6137. JOHNSON *v.* NEW YORK. C. A. 2d Cir. Certiorari denied.

No. 75-6147. McNAMARA *v.* GRIFFITH, PRISONS SUPERINTENDENT. C. A. 5th Cir. Certiorari denied. Reported below: 525 F. 2d 691.

No. 75-6235. JONES ET AL. *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 528 F. 2d 303.

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No. 75-6171. *JOHNSON v. UNITED STATES*;
No. 75-6177. *BURGIN v. UNITED STATES*; and
No. 75-6225. *BRIDGEMAN v. UNITED STATES*. C. A.
D. C. Cir. Certiorari denied. Reported below: 173
U. S. App. D. C. 150, 523 F. 2d 1099.

No. 75-6193. *CORBINS v. UNITED STATES*. C. A. 5th
Cir. Certiorari denied. Reported below: 525 F. 2d 692.

No. 75-6196. *AVILES v. UNITED STATES*. C. A. 2d
Cir. Certiorari denied.

No. 75-6200. *BATTE v. UNITED STATES*. C. A. 9th
Cir. Certiorari denied.

No. 75-6209. *REYNOLDS v. UNITED STATES*. C. A. 6th
Cir. Certiorari denied.

No. 75-6210. *GARRISON v. UNITED STATES*. C. A. 7th
Cir. Certiorari denied. Reported below: 529 F. 2d 529.

No. 75-6222. *CARTER v. UNITED STATES*. C. A. 8th
Cir. Certiorari denied. Reported below: 528 F. 2d 844.

No. 75-6269. *CELANI v. MATHEWS, SECRETARY, DE-
PARTMENT OF HEALTH, EDUCATION, AND WELFARE*. C. A.
4th Cir. Certiorari denied.

No. 75-6343. *GRAVINA v. SWITZERLAND ET AL.* C. A.
1st Cir. Certiorari denied.

No. 75-6372. *JOHNSON v. WAINWRIGHT, SECRETARY,
DEPARTMENT OF OFFENDER REHABILITATION OF FLORIDA*
C. A. 5th Cir. Certiorari denied. Reported below: 523
F. 2d 1253.

No. 75-6375. *SMITH v. DEPARTMENT OF PUBLIC
WORKS, COUNTY OF WESTCHESTER*. App. Div., Sup. Ct.
N. Y., 2d Jud. Dept. Certiorari denied. Reported be-
low: 49 App. Div. 2d 893, 373 N. Y. S. 2d 230.

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No. 75-6386. *STIFEL v. LINDHORST ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 529 F. 2d 512.

No. 75-6388. *KIZZEE v. ESTELLE, CORRECTIONS DIRECTOR.* C. A. 5th Cir. Certiorari denied. Reported below: 525 F. 2d 691.

No. 75-6393. *BABERSON v. MISSISSIPPI.* Sup. Ct. Miss. Certiorari denied. Reported below: 322 So. 2d 758.

No. 75-6397. *LYON v. CALIFORNIA.* C. A. 9th Cir. Certiorari denied.

No. 75-6402. *HAYES v. LOUISIANA.* Sup. Ct. La. Certiorari denied. Reported below: 324 So. 2d 421.

No. 75-6403. *MITCHELL v. HENDERSON, WARDEN.* C. A. 5th Cir. Certiorari denied. Reported below: 529 F. 2d 1030.

No. 75-6405. *SMITH v. FLORIDA.* Dist. Ct. App. Fla., 1st Dist. Certiorari denied. Reported below: 316 So. 2d 75.

No. 75-6406. *COOK v. ESTELLE, CORRECTIONS DIRECTOR.* C. A. 5th Cir. Certiorari denied.

No. 75-6409. *MANFREDI v. ROYAL INSURANCE Co., LTD., ET AL.* C. A. 3d Cir. Certiorari denied.

No. 75-6414. *FRANKLIN v. WYRICK, WARDEN.* C. A. 8th Cir. Certiorari denied. Reported below: 529 F. 2d 79.

No. 75-6420. *BONNELL v. KENTUCKY.* C. A. 6th Cir. Certiorari denied.

No. 75-6440. *CLARK v. CONNECTICUT.* Sup. Ct. Conn. Certiorari denied. Reported below: 170 Conn. 273, 365 A. 2d 1167.

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No. 75-917. *HOSTROP v. BOARD OF JUNIOR COLLEGE DISTRICT No. 515 ET AL.*; and

No. 75-1035. *BOARD OF JUNIOR COLLEGE DISTRICT No. 515 ET AL. v. HOSTROP*. C. A. 7th Cir. Certiorari denied. MR. JUSTICE STEVENS took no part in the consideration or decision of these petitions. Reported below: 523 F. 2d 569.

No. 75-1186. *BROMBERG v. CHAIRMAN, U. S. CIVIL SERVICE COMMISSION, ET AL.* C. A. 7th Cir. Certiorari denied. MR. JUSTICE STEVENS took no part in the consideration or decision of this petition. Reported below: 526 F. 2d 592.

No. 75-983. *LILES ET AL. v. OREGON*. Ct. App. Ore. Certiorari denied. Reported below: 22 Ore. App. 132, 537 P. 2d 1182.

MR. JUSTICE STEVENS, concurring in the denial of certiorari.

The question we must first decide when acting on a petition for certiorari is whether we should set the case for full briefing and oral argument and thereafter decide the merits. Nothing in MR. JUSTICE BRENNAN's opinion dissenting from the denial of certiorari in this case persuades me that any purpose would be served by such argument.¹ For there is no reason to believe that the

¹ His quotation of the standard of obscenity applied by the trial judge in this case supports the argument made in his dissent in *Paris Adult Theatre I v. Slaton*, 413 U. S. 49, 73, that there has been a failure to define standards which will give adequate guidance to the lower state and federal courts in making obscenity determinations with any degree of predictable consistency. I do not understand him to be using the quotation as a separate argument for granting certiorari in this particular case because the Oregon Court of Appeals did not consider the constitutionality of that standard, but held instead that petitioners had not properly preserved this claim under Oregon law.

majority of the Court which decided *Miller v. California*, 413 U. S. 15, is any less adamant than the minority. Accordingly, regardless of how I might vote on the merits after full argument, it would be pointless to grant certiorari in case after case of this character only to have *Miller* reaffirmed time after time.

Since my dissenting Brethren have recognized the force of this reasoning in the past,² I believe they also could properly vote to deny certiorari in this case without acting inconsistently with their principled views on the merits. In all events, until a valid reason for voting to grant one of these petitions is put forward, I shall continue to vote to deny. In the interest of conserving scarce law library space, I shall not repeat this explanation every time I cast such a vote.

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

Petitioners were convicted of selling obscene motion picture films in violation of the recently enacted provisions of Oregon Laws 1973, c. 699, § 4, now codified as Ore. Rev. Stat. § 167.087 (1975). Section 4 provides in pertinent part:

“(1) A person commits the crime of disseminating obscene material if he knowingly makes, exhibits, sells, delivers or provides, or offers or agrees to make, exhibit, sell, deliver or provide, or has in his possession with intent to exhibit, sell, deliver or provide any obscene writing, picture, motion picture, films, slides, drawings or other visual reproduction.

“(2) As used in subsection (1) of this section, matter is obscene if:

² *Ratner v. United States*, 423 U. S. 898, 900 n. (BRENNAN, J., dissenting); *Sandquist v. California*, 423 U. S. 900, 902 n. (BRENNAN, J., dissenting).

- “(a) It depicts or describes in a patently offensive manner sadomasochistic abuse or sexual conduct;
“(b) The average person applying contemporary state standards would find the work, taken as a whole, appeals to the prurient interest in sex; and
“(c) Taken as a whole, it lacks serious literary, artistic, political or scientific value.”

The judgments of conviction were affirmed by the Oregon Court of Appeals, 22 Ore. App. 132, 537 P. 2d 1182, and a timely petition for review was subsequently denied by the Oregon Supreme Court.

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, Oregon Laws 1973, c. 699, § 4, is constitutionally overbroad and therefore invalid on its face. For the reasons stated in my dissent in *Miller v. California*, 413 U. S. 15, 47 (1973), I would therefore grant certiorari and, since the judgment of the Oregon Court of Appeals was rendered after *Miller*, reverse. In that circumstance, I have no occasion to consider whether the other question presented by petitioners merits plenary review. See *Heller v. New York*, 413 U. S. 483, 495 (1973) (BRENNAN, J., dissenting).

I note that this case particularly exemplifies the difficulty and arbitrariness inherent in any attempt to articulate a standard of obscenity. I need only quote the standard as applied by the judge before whom petitioners’ case was tried:

“‘Well, what is patently offensive?’

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“‘And, frankly, I had to kind of apply my own standard, which, I believe, corresponds with the standards of the community. And the standard probably, simply stated and boiled down, is the same one that was taught to me by my mother from the day I was a small child. If there was something of which I would not want her to know, then don’t do it. Pretty simple.

“‘Applying that standard I would think that I wouldn’t get any quarrel out of anyone in this room, that they wouldn’t want their mothers sitting next to them while they looked at either one of those movies. They are patently offensive.’”
Pet. for Cert. 8–9.

No. 75–1242. *CITY OF EUCLID v. ROYAL AMERICAN CORP. ET AL.* Ct. App. Ohio, Cuyahoga County. Certiorari denied. MR. JUSTICE STEWART and MR. JUSTICE WHITE would grant certiorari.

No. 75–1294. *BOHACK CORP. v. GENERAL WAREHOUSEMEN’S UNION, LOCAL NO. 852.* C. A. 2d Cir. Certiorari denied. MR. JUSTICE STEWART, MR. JUSTICE WHITE, and MR. JUSTICE BLACKMUN would grant certiorari.

No. 75–5986. *SEDGWICK v. UNITED STATES.* Ct. App. D. C. Certiorari denied. MR. JUSTICE BRENNAN, MR. JUSTICE STEWART, and MR. JUSTICE MARSHALL would grant certiorari. Reported below: 345 A. 2d 465.

Rehearing Denied

No. 75–869. *ROBERTS v. CIVIL AERONAUTICS BOARD,* 424 U. S. 966;

No. 75–5984. *BAKER v. RUMSFELD, SECRETARY OF DEFENSE,* 424 U. S. 972; and

No. 75–6228. *POGUE v. GOVERNMENT EMPLOYEES INSURANCE Co., ante,* p. 915. Petitions for rehearing denied.

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Affirmed on Appeal

No. 75-6079. CASH *v.* MATHEWS, SECRETARY OF HEALTH, EDUCATION, AND WELFARE, ET AL. Affirmed on appeal from D. C. N. D. Ga. Reported below: 407 F. Supp. 34.

Appeals Dismissed

No. 75-926. WALTERS *v.* CALIFORNIA. Appeal from Ct. App. Cal., 4th App. Dist., dismissed for want of substantial federal question.

No. 75-1279. ESTEVA *v.* BOARDMAN. Appeal from Sup. Ct. Fla. dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied. Reported below: 323 So. 2d 259.

No. 75-1360. FRANCIS *v.* CHRYSLER CORP. ET AL. Appeal from Sup. Ct. Ohio dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied. Reported below: 44 Ohio St. 2d 229, 339 N. E. 2d 826.

Certiorari Granted—Vacated and Remanded

No. 74-5806. NEWMAN *v.* HENDERSON, WARDEN. C. A. 5th Cir. Motion for leave to proceed *in forma pauperis* and certiorari granted. Judgment vacated and case remanded for further consideration in light of *Lefkowitz v. Newsome*, 420 U. S. 283, 292 n. 9, and *Francis v. Henderson, ante*, at 542 n. 5. MR. JUSTICE STEVENS took no part in the consideration or decision of this case. Reported below: 496 F. 2d 896.

No. 75-700. UNITED STATES ET AL. *v.* BEATTIE. C. A. 2d. Cir. Certiorari granted. Judgment vacated and case

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remanded for further consideration in light of *Fisher v. United States* and *United States v. Kasmir, ante*, p. 391. Reported below: 522 F. 2d 267.

Miscellaneous Orders

No. A-847 (75-1365). *WHEELER v. FLORIDA*. Dist. Ct. App. Fla., 4th Dist. Application for stay of mandate and of proceedings in Florida state courts, presented to MR. JUSTICE MARSHALL, and by him referred to the Court, denied. Reported below: 311 So. 2d 713.

No. A-945. *MULLENAX v. UNITED STATES*. Application for recall and stay of mandate of the United States Court of Appeals for the Second Circuit, presented to MR. JUSTICE BRENNAN, and by him referred to the Court, denied.

No. D-58. *IN RE DISBARMENT OF TARBOX*. It having been reported to the Court that Robert Earl Tarbox, of San Francisco, Cal., has been disbarred from the practice of law by the Supreme Court of California, and this Court by order of October 14, 1975 [423 U. S. 888], having suspended the said Robert Earl Tarbox 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 Robert Earl Tarbox 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. 75-915. *BOUNDS, CORRECTION COMMISSIONER, ET AL. v. SMITH ET AL.* C. A. 4th Cir. [Certiorari granted, *ante*, p. 910.] Motion for appointment of counsel granted, and it is ordered that Barry Nakell, Esquire, of Chapel Hill, N. C., is appointed to serve as counsel for respondents in this case.

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No. 75-777. NATIONAL LABOR RELATIONS BOARD *v.* ENTERPRISE ASSOCIATION OF STEAM, HOT WATER, HYDRAULIC SPRINKLER, PNEUMATIC TUBE, ICE MACHINE & GENERAL PIPEFITTERS OF NEW YORK AND VICINITY, LOCAL UNION No. 638. C. A. D. C. Cir. [Certiorari granted, 424 U. S. 908.] Motions for Air-Conditioning & Refrigeration Institute et al. and Associated General Contractors of America, Inc., et al. for leave to file briefs as *amici curiae* granted.

No. 75-804. HILL *v.* UNITED BROTHERHOOD OF CARPENTERS & JOINERS OF AMERICA, LOCAL 25, ET AL. Ct. App. Cal., 2d App. Dist. [Certiorari granted, 423 U. S. 1086.] Motion of respondents to vacate judgment and remand case for a determination of whether present action survives death of petitioner on January 28, 1976, denied.

No. 75-946. CITY OF MADISON, JOINT SCHOOL DISTRICT No. 8, ET AL. *v.* WISCONSIN EMPLOYMENT RELATIONS COMMISSION ET AL. Appeal from Sup. Ct. Wis. [Probable jurisdiction noted, 424 U. S. 941.] Motion of Public Service Research Council for leave to file a brief as *amicus curiae* granted.

No. 75-1181. BATTERTON, SECRETARY, DEPARTMENT OF HUMAN RESOURCES OF MARYLAND, ET AL. *v.* FRANCIS ET AL.; and

No. 75-1182. CHAMBER OF COMMERCE OF THE UNITED STATES *v.* FRANCIS ET AL. C. A. 4th Cir. The Solicitor General is invited to file a brief in these cases expressing the views of the United States.

No. 75-1248. CATALDO *v.* UNITED STATES. Motion for leave to file petition for writ for certiorari denied.

No. 75-6631. HOWARD *v.* MAGGIO, WARDEN. Motion for leave to file petition for writ of habeas corpus denied.

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No. 75-6247. LLACA-ORBIZ *v.* HALBERT, U. S. DISTRICT JUDGE, ET AL. Motion for leave to file petition for writ of prohibition and/or mandamus denied.

Probable Jurisdiction Noted

No. 75-1262. UNITED STATES ET AL. *v.* COUNTY OF FRESNO; and UNITED STATES ET AL. *v.* COUNTY OF TUOLUMNE. Appeal from Ct. App. Cal., 5th App. Dist. Probable jurisdiction noted. Reported below: 50 Cal. App. 3d 633, 123 Cal. Rptr. 548 (first case).

Certiorari Granted

No. 75-1198. NOLDE BROS., INC. *v.* LOCAL No. 358, BAKERY & CONFECTIONERY WORKERS UNION, AFL-CIO. C. A. 4th Cir. Certiorari granted. Reported below: 530 F. 2d 548.

No. 75-1267. BAYSIDE ENTERPRISES, INC., ET AL. *v.* NATIONAL LABOR RELATIONS BOARD. C. A. 1st Cir. Certiorari granted. Reported below: 527 F. 2d 436.

Certiorari Denied. (See also Nos. 75-1279 and 75-1360, *supra.*)

No. 75-407. BEATTIE *v.* UNITED STATES ET AL. C. A. 2d Cir. Certiorari denied. Reported below: 522 F. 2d 267.

No. 75-873. AVRECH *v.* SECRETARY OF THE NAVY. C. A. D. C. Cir. Certiorari denied. Reported below: 171 U. S. App. D. C. 368, 520 F. 2d 100.

No. 75-941. DIAZ-MARTINEZ *v.* UNITED STATES; and No. 75-6223. BERMUDEZ *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. Reported below: 526 F. 2d 89.

No. 75-1001. HODAS *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. Reported below: 535 F. 2d 1244.

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No. 75-1018. COLUMBIA PICTURES INDUSTRIES, INC. *v.* POSTER EXCHANGE, INC. C. A. 5th Cir. Certiorari denied. Reported below: 517 F. 2d 117.

No. 75-1020. DALLAL *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. Reported below: 535 F. 2d 1243.

No. 75-1027. POCONO INTERNATIONAL CORP. ET AL. *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. Reported below: 527 F. 2d 165.

No. 75-1032. TROTTA *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. Reported below: 525 F. 2d 1096.

No. 75-1040. STEINBERG *v.* UNITED STATES; and
No. 75-6242. CAPO *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. Reported below: 525 F. 2d 1126.

No. 75-1066. SANTIAGO ET AL. *v.* IMMIGRATION AND NATURALIZATION SERVICE. C. A. 9th Cir. Certiorari denied. Reported below: 526 F. 2d 488.

No. 75-1089. CHOATE *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 527 F. 2d 748.

No. 75-1093. WATSON *v.* UNITED STATES. C. A. D. C. Cir. Certiorari denied. Reported below: 174 U. S. App. D. C. 71, 527 F. 2d 854.

No. 75-1094. SUPERIOR OIL CO. *v.* FEDERAL POWER COMMISSION. C. A. 5th Cir. Certiorari denied. Reported below: 519 F. 2d 31.

No. 75-1104. CARON *v.* NORTH CAROLINA. Sup. Ct. N. C. Certiorari denied. Reported below: 288 N. C. 467, 219 S. E. 2d 68.

No. 75-1109. WOODRUFF ET AL. *v.* UNITED STATES ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 524 F. 2d 504.

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No. 75-1135. *PAQUIN ET UX. v. CRONK ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 519 F. 2d 1105, and see 522 F. 2d 1270.

No. 75-1136. *SHARP v. UNITED STATES.* C. A. 9th Cir. Certiorari denied.

No. 75-1139. *SANTIAGO v. UNITED STATES.* C. A. 2d Cir. Certiorari denied. Reported below: 528 F. 2d 1130.

No. 75-1141. *REESE v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. Reported below: 525 F. 2d 692.

No. 75-1145. *McKitty v. UNITED STATES.* C. A. 3d Cir. Certiorari denied. Reported below: 527 F. 2d 645.

No. 75-1149. *QUARLES v. UNITED STATES.* Ct. App. D. C. Certiorari denied. Reported below: 349 A. 2d 690.

No. 75-1151. *NICHOLSON v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. Reported below: 525 F. 2d 1233.

No. 75-1183. *EDWARDS v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. Reported below: 519 F. 2d 1137.

No. 75-1185. *McNULTY v. UNITED STATES.* C. A. 9th Cir. Certiorari denied. Reported below: 528 F. 2d 1223.

No. 75-1199. *JANSEN v. DANN, COMMISSIONER OF PATENTS AND TRADEMARKS.* C. C. P. A. Certiorari denied. Reported below: 525 F. 2d 1059.

No. 75-1204. *GALL ET UX. v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. Reported below: 521 F. 2d 878.

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No. 75-1211. OWENSBORO-DAVISS COUNTY HOSPITAL, INC., ET AL. *v.* USERY, SECRETARY OF LABOR. C. A. 6th Cir. Certiorari denied. Reported below: 523 F. 2d 1013.

No. 75-1219. SEXTON *v.* SIMON, SECRETARY OF THE TREASURY, ET AL. C. A. 6th Cir. Certiorari denied. Reported below: 523 F. 2d 1311.

No. 75-1222. KRAUT ET AL. *v.* COMMISSIONER OF INTERNAL REVENUE. C. A. 2d Cir. Certiorari denied. Reported below: 527 F. 2d 1014.

No. 75-1223. BURGLIN ET AL. *v.* KLEPPE, SECRETARY OF THE INTERIOR, ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 527 F. 2d 486.

No. 75-1225. MARKERT *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied. Reported below: 528 F. 2d 773.

No. 75-1235. HOUSTON *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 529 F. 2d 527.

No. 75-1236. ZAMMAS *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied.

No. 75-1237. AETNA CASUALTY & SURETY Co. *v.* UNITED STATES. Ct. Cl. Certiorari denied. Reported below: 208 Ct. Cl. 515, 526 F. 2d 1127.

No. 75-1239. BASTONE *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied. Reported below: 526 F. 2d 971.

No. 75-1251. DARDEN *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 530 F. 2d 977.

No. 75-1263. INTERNATIONAL ASSOCIATION OF MACHINISTS & AEROSPACE WORKERS (AFL-CIO) ET AL. *v.* UNITED AIRCRAFT CORP. Sup. Ct. Conn. Certiorari denied. Reported below: 169 Conn. 473, 363 A. 2d 1068.

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No. 75-1286. *PITT RIVER TRIBE OF INDIANS v. PACIFIC GAS & ELECTRIC CO. ET AL.* Ct. App. Cal., 3d App. Dist. Certiorari denied.

No. 75-1319. *HADDAD v. UNITED STATES.* C. A. 6th Cir. Certiorari denied. Reported below: 527 F. 2d 537.

No. 75-1327. *METRO BOLT & FASTENER CORP. v. COATS ET UX.* Ct. App. Tenn. Certiorari denied.

No. 75-1330. *MIELKE ET AL. v. SINGARA GROTTO, INC., ET AL.* Ct. App. Ohio, Erie County. Certiorari denied.

No. 75-1334. *W & W FERTILIZER CORP. v. UNITED STATES.* Ct. Cl. Certiorari denied. Reported below: 208 Ct. Cl. 443, 527 F. 2d 621.

No. 75-1337. *GIRARD v. 94TH STREET & 5TH AVENUE CORP. ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 530 F. 2d 66.

No. 75-1340. *DIXIE PLYWOOD Co. v. THE FEDERAL LAKES ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 525 F. 2d 691.

No. 75-1341. *FOUKE v. TEXAS.* Ct. Crim. App. Tex. Certiorari denied. Reported below: 529 S. W. 2d 772.

No. 75-1343. *QUIROZ v. ARIZONA.* Sup. Ct. Ariz. Certiorari denied.

No. 75-1345. *KENT NURSING HOME v. OFFICE OF SPECIAL STATE PROSECUTOR FOR HEALTH AND SOCIAL SERVICES ET AL.* Ct. App. N. Y. Certiorari denied. Reported below: 38 N. Y. 2d 260, 342 N. E. 2d 518.

No. 75-1348. *GUSTIN v. STEGALL ET AL.* Ct. App. D. C. Certiorari denied. Reported below: 347 A. 2d 917.

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No. 75-1352. *BEHRING CORP. v. BENNETT ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 525 F. 2d 1202.

No. 75-1358. *PARKER v. MOTOROLA, INC.* C. A. 5th Cir. Certiorari denied. Reported below: 524 F. 2d 518.

No. 75-1359. *DEMOCRATIC EXECUTIVE COMMITTEE OF COLUMBIANA COUNTY ET AL. v. BROWN, SECRETARY OF STATE OF OHIO.* C. A. 6th Cir. Certiorari denied. Reported below: 530 F. 2d 977.

No. 75-1361. *CELLA ET UX. v. PARTENREEDEREI MS RAVENNA ET AL.* C. A. 1st Cir. Certiorari denied. Reported below: 529 F. 2d 15.

No. 75-1369. *UNION PLANTERS NATIONAL BANK OF MEMPHIS v. AZTEC PROPERTIES, INC.* Sup. Ct. Tenn. Certiorari denied. Reported below: 530 S. W. 2d 756.

No. 75-1371. *INTERNATIONAL BROTHERHOOD OF TEAMSTERS, CHAUFFEURS, WAREHOUSEMEN & HELPERS OF AMERICA v. GREAT COASTAL EXPRESS, INC.* C. A. 4th Cir. Certiorari denied. Reported below: 511 F. 2d 839.

No. 75-1375. *FEDERAL COMMERCE & NAVIGATION Co., LTD. v. THE MARATHONIAN ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 528 F. 2d 907.

No. 75-1376. *PRUDENTIAL INSURANCE COMPANY OF AMERICA v. NATIONAL LABOR RELATIONS BOARD ET AL.* C. A. 6th. Certiorari denied. Reported below: 529 F. 2d 66.

No. 75-1388. *GEORGE v. WAKE COUNTY OPPORTUNITIES, INC.* Ct. App. N. C. Certiorari denied. Reported below: 26 N. C. App. 732, 217 S. E. 2d 128.

No. 75-1398. *WOLFER ET UX. v. THALER ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 525 F. 2d 977.

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No. 75-1417. *HUMANE SOCIETY OF AUSTIN AND TRAVIS COUNTY v. AUSTIN NATIONAL BANK, EXECUTOR, ET AL.* Sup. Ct. Tex. Certiorari denied. Reported below: 531 S. W. 2d 574.

No. 75-1422. *DIAMOND M DRILLING Co. v. GUEHO.* C. A. 5th Cir. Certiorari denied. Reported below: 524 F. 2d 986.

No. 75-1434. *WALLACE CLARK & Co., INC. v. ACHE-SON INDUSTRIES, INC.* C. A. 2d Cir. Certiorari denied. Reported below: 532 F. 2d 846.

No. 75-5586. *GURULE v. UNITED STATES.* C. A. 10th Cir. Certiorari denied. Reported below: 522 F. 2d 20.

No. 75-6116. *SANDERS v. GEORGIA.* Sup. Ct. Ga. Certiorari denied. Reported below: 235 Ga. 425, 219 S. E. 2d 768.

No. 75-6144. *HOLSEY v. MURRAY, U. S. DISTRICT JUDGE.* C. A. 4th Cir. Certiorari denied.

No. 75-6149. *WOLFISH v. UNITED STATES.* C. A. 2d Cir. Certiorari denied.

No. 75-6152. *PRESTON, AKA RILLA v. GRAY, WARDEN.* Sup. Ct. Wis. Certiorari denied.

No. 75-6158. *GARAFOLA v. UNITED STATES.* C. A. 1st Cir. Certiorari denied. Reported below: 530 F. 2d 961.

No. 75-6166. *WILLIAMS ET AL. v. DIRECTOR, PATUX-ENT INSTITUTION.* Ct. App. Md. Certiorari denied. Reported below: 276 Md. 272, 347 A. 2d 179.

No. 75-6170. *LUJAN v. UNITED STATES* C. A. 5th Cir. Certiorari denied. Reported below: 525 F. 2d 878.

No. 75-6184. *DOBY v. TEXAS.* C. A. 5th Cir. Certiorari denied. Reported below: 523 F. 2d 1053.

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No. 75-6212. *BARRETT v. SMITH ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 530 F. 2d 829.

No. 75-6216. *WILLIAMS v. FLORIDA.* Dist. Ct. App. Fla., 1st Dist. Certiorari denied. Reported below: 322 So. 2d 676.

No. 75-6236. *MOORE v. CALIFORNIA.* Ct. App. Cal., 2d App. Dist. Certiorari denied. Reported below: 51 Cal. App. 3d 610, 124 Cal. Rptr. 290.

No. 75-6237. *BURNETT ET AL. v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. Reported below: 526 F. 2d 911.

No. 75-6239. *DOUGLAS v. UNITED STATES.* C. A. 8th Cir. Certiorari denied. Reported below: 529 F. 2d 1353.

No. 75-6241. *ISAAC v. UNITED STATES.* C. A. 4th Cir. Certiorari denied. Reported below: 530 F. 2d 968.

No. 75-6245. *ENTREKIN v. UNITED STATES.* C. A. 8th Cir. Certiorari denied.

No. 75-6248. *MORROW ET AL. v. UNITED STATES.* C. A. 4th Cir. Certiorari denied. Reported below: 530 F. 2d 971.

No. 75-6249. *GONZALEZ-DIAZ v. UNITED STATES.* C. A. 9th Cir. Certiorari denied. Reported below: 528 F. 2d 925.

No. 75-6251. *VYMETALIK v. SECRETARY OF COMMERCE.* C. A. D. C. Cir. Certiorari denied. Reported below: 173 U. S. App. D. C. 129, 522 F. 2d 1344.

No. 75-6256. *ROCHA-LOPEZ v. UNITED STATES.* C. A. 9th Cir. Certiorari denied. Reported below: 527 F. 2d 476.

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No. 75-6266. *TREMARCO v. ATTORNEY GENERAL OF THE UNITED STATES ET AL.* C. A. 2d Cir. Certiorari denied.

No. 75-6268. *YOUNG v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. Reported below: 526 F. 2d 814.

No. 75-6273. *MCCORMICK v. FARMERS HOME ADMINISTRATION ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 523 F. 2d 1051.

No. 75-6278. *MILLER v. UNITED STATES.* C. A. 10th Cir. Certiorari denied.

No. 75-6279. *ZITZER v. UNITED STATES.* C. A. 9th Cir. Certiorari denied.

No. 75-6280. *MAPP v. UNITED STATES.* C. A. 3d Cir. Certiorari denied. Reported below: 530 F. 2d 964.

No. 75-6282. *HUGHES v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. Reported below: 525 F. 2d 1406.

No. 75-6283. *BLANKENSHIP v. UNITED STATES.* C. A. 4th Cir. Certiorari denied.

No. 75-6284. *MONTOYA-GONZALES v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. Reported below: 521 F. 2d 812.

No. 75-6287. *SHRIVER v. UNITED STATES.* C. A. 10th Cir. Certiorari denied.

No. 75-6291. *DANDAR v. UNITED STATES.* C. A. 3d Cir. Certiorari denied. Reported below: 530 F. 2d 965.

No. 75-6292. *DOWS v. UNITED STATES.* C. A. 9th Cir. Certiorari denied.

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No. 75-6293. *FALCO v. UNITED STATES*. C. A. 9th Cir. Certiorari denied.

No. 75-6295. *EITEL v. UNITED STATES*. C. A. 10th Cir. Certiorari denied.

No. 75-6302. *EDWARDS v. UNITED STATES*. C. A. 4th Cir. Certiorari denied.

No. 75-6307. *HANSEN v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 529 F. 2d 530.

No. 75-6309. *ESTREMERA v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 531 F. 2d 1103.

No. 75-6310. *LEAL v. UNITED STATES*. C. A. 9th Cir. Certiorari denied.

No. 75-6319. *HURT v. STRICKLAND, CORRECTIONAL SUPERINTENDENT*. Ct. App. D. C. Certiorari denied.

No. 75-6326. *COE v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 530 F. 2d 965.

No. 75-6396. *CLODFELTER ET UX. v. COMMISSIONER OF INTERNAL REVENUE*. C. A. 9th Cir. Certiorari denied. Reported below: 527 F. 2d 754.

No. 75-6400. *MARTINEZ v. CALIFORNIA*. Ct. App. Cal., 2d App. Dist. Certiorari denied.

No. 75-6423. *ALEXANDER v. SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES*. Ct. App. Cal., 3d App. Dist. Certiorari denied.

No. 75-6427. *TYLER v. SWENSON, WARDEN*. C. A. 8th Cir. Certiorari denied. Reported below: 527 F. 2d 876.

No. 75-6430. *CARTER v. ESTELLE, CORRECTIONS DIRECTOR*. C. A. 5th Cir. Certiorari denied.

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No. 75-6443. *HARDWICK v. ANDERSON, SHERIFF, ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 526 F. 2d 813.

No. 75-6447. *YOUNG v. WARDEN, MARYLAND PENITENTIARY.* C. A. 4th Cir. Certiorari denied. Reported below: 532 F. 2d 753.

No. 75-6450. *BURAS v. CHEVRON OIL CO. ET AL.* C. A. 5th Cir. Certiorari denied.

No. 75-6455. *THOMPSON v. ZAHRADNICK, PENITENTIARY SUPERINTENDENT.* C. A. 4th Cir. Certiorari denied.

No. 75-6459. *OCHENKOWSKI v. A. Z. FORD, INC., ET AL.* Super. Ct. N. J. Certiorari denied.

No. 75-6472. *MCREYNOLDS v. ZAHRADNICK, PENITENTIARY SUPERINTENDENT.* C. A. 4th Cir. Certiorari denied.

No. 75-6473. *BISHOP v. WAINWRIGHT, SECRETARY, DEPARTMENT OF OFFENDER REHABILITATION OF FLORIDA.* C. A. 5th Cir. Certiorari denied. Reported below: 511 F. 2d 664.

No. 75-6474. *FREEMAN v. TENNESSEE.* Sup. Ct. Tenn. Certiorari denied.

No. 75-6475. *TRAMMELL v. ALABAMA.* C. A. 5th Cir. Certiorari denied. Reported below: 523 F. 2d 1054.

No. 75-6476. *COOK v. GRAY, WARDEN.* C. A. 7th Cir. Certiorari denied. Reported below: 530 F. 2d 133.

No. 75-6482. *HARRISON, AKA PARNELL v. ILLINOIS.* Sup. Ct. Ill. Certiorari denied.

No. 75-6485. *SHEELEY v. TEXAS.* Ct. Crim. App. Tex. Certiorari denied. Reported below: 530 S. W. 2d 108.

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No. 75-6487. LUDWIN, TRUSTEE *v.* HOLYOKE MUTUAL FIRE INSURANCE Co. ET AL. Ct. App. Mass. Certiorari denied.

No. 75-6488. CARTER *v.* MARYLAND. C. A. 4th Cir. Certiorari denied. Reported below: 532 F. 2d 749.

No. 75-6489. KAPLAN *v.* CONTINENTAL CAN Co. ET AL. C. A. 3d Cir. Certiorari denied. Reported below: 515 F. 2d 506.

No. 75-6500. RHOTEN *v.* VIRGINIA. Cir. Ct. Chesterfield County, Va. Certiorari denied.

No. 75-6502. WASHINGTON *v.* HENDERSON, WARDEN. C. A. 5th Cir. Certiorari denied. Reported below: 529 F. 2d 522.

No. 75-6542. BIBBS *v.* WYRICK, WARDEN. C. A. 8th Cir. Certiorari denied. Reported below: 526 F. 2d 226.

No. 75-6554. WHITTEN *v.* ANCHOR MOTOR FREIGHT, INC., ET AL. C. A. 6th Cir. Certiorari denied. Reported below: 521 F. 2d 1335.

No. 74-1264. MADISON ET VIR *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. MR. JUSTICE STEVENS took no part in the consideration or decision of this petition. Reported below: 511 F. 2d 1399.

No. 74-6643. LEWIS *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. MR. JUSTICE STEVENS took no part in the consideration or decision of this petition. Reported below: 510 F. 2d 1406.

No. 75-1405. MARSHALL FIELD & Co. *v.* SHOUP. C. A. 7th Cir. Certiorari denied. MR. JUSTICE STEVENS took no part in the consideration or decision of this petition. Reported below: 532 F. 2d 756.

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No. 74-6532. *GURULE v. UNITED STATES*. C. A. 10th Cir. Certiorari denied. MR. JUSTICE STEVENS took no part in the consideration or decision of this petition.

No. 75-5541. *SANDERS v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. MR. JUSTICE STEVENS took no part in the consideration or decision of this petition. Reported below: 525 F. 2d 694.

No. 75-490. *MATHENY v. ALABAMA*. Ct. Crim. App. Ala. Certiorari denied. MR. JUSTICE STEVENS took no part in the consideration or decision of this petition. Reported below: 55 Ala. App. 119, 313 So. 2d 547.

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

Petitioner was convicted in the Circuit Court for Montgomery County, Ala., of violating Ala. Code Tit. 14, § 374 (4) (Supp. 1973). That law provides in pertinent part:

“(1) Every person who, with knowledge of its contents, . . . has in his possession with intent to sell or commercially distribute, or to give away or offer to give away, any obscene printed or written matter or material . . . shall be guilty of a misdemeanor and, upon conviction, shall be imprisoned in the county jail, or sentenced to hard labor for the county, for not more than one year, and may be fined not more than two thousand dollars for each offense, or be both so imprisoned and fined in the discretion of the court.

“(2) Every person who, with knowledge of its contents, has in his possession any obscene printed or written matter or material . . . shall be guilty of a misdemeanor and, upon conviction, shall be imprisoned in the county jail, or sentenced to hard labor for the county, for not more than six months,

or may be fined not more than five hundred dollars for each offense, or be both so imprisoned and fined in the discretion of the court."

Under § 374 (3):

"'Obscene' means lewd, lascivious, filthy and pornographic and that to the average person, applying contemporary community standards, its dominant theme taken as a whole appeals to prurient interest."

The indictment filed against petitioner charged him with three counts of violating § 374. The first count charged petitioner with selling a magazine primarily containing photographs of nude women. Genitals were exposed in some of the photographs. Count 2 of the indictment charged petitioner with selling an unillustrated short novel containing descriptions of sexual acts. The third count of the indictment charged the sale of another unillustrated short novel also containing descriptions of sexual acts.

Upon inquiry to the trial court, petitioner's jury was instructed that it could "return a verdict as to either one of the counts in the indictment." Record 100. The jury subsequently returned the general verdict: "We the jury find the Defendant guilty." *Id.*, at 102. Petitioner was adjudged guilty by the trial court and ultimately sentenced to six months of imprisonment and assessed a fine of \$500. The judgment and sentence were affirmed by the Alabama Court of Criminal Appeals. 55 Ala. App. 119, 313 So. 2d 547 (1975). A petition for writ of certiorari was denied by the Alabama Supreme Court. 294 Ala. 765, 313 So. 2d 552 (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, tested by that constitutional standard, § 374 (4), as it incorporates the definition of obscene material in § 374 (3), is constitutionally overbroad and therefore invalid on its face. For the reasons stated in my dissent in *Miller v. California*, 413 U. S. 15, 47 (1973), I would therefore grant certiorari and, since the judgment of the Alabama Court of Criminal Appeals was rendered after *Miller*, reverse, petitioner's conviction being invalid on all counts. In that circumstance, I have no occasion to consider whether the question of vagueness presented by petitioner merits plenary review. See *Heller v. New York*, 413 U. S. 483, 494-495 (1973) (BRENNAN, J., dissenting).

Even accepting the Court's decision in *Miller v. California*, *supra*, and the obscenity standards there set forth, petitioner's conviction should be set aside. It is this Court's duty independently to review the fact of obscenity necessary to petitioner's conviction. See *Jenkins v. Georgia*, 418 U. S. 153 (1974). Under *Miller*, a work may not be obscene unless it "depicts . . . , in a patently offensive way, sexual conduct." 413 U. S., at 24. While exhibition of the genitals may constitute sexual conduct, such exhibition must be patently offensive and lewd, *id.*, at 25. "[N]udity alone is not enough to make material legally obscene under the *Miller* standards." *Jenkins v. Georgia*, *supra*, at 161. Tested by those standards, the material involved in Count 1, merely containing photographs of nude women, is clearly not obscene. This being so, a conviction of petitioner based only on Count 1 of the indictment cannot stand. Because of the general nature of the jury's verdict, in the light of the trial court's instruction to the jury, it is entirely possible that petitioner's conviction did indeed rest solely on the first

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count. In accordance with the Court's decision in *Bachellar v. Maryland*, 397 U. S. 564 (1970), therefore, petitioner's conviction should be set aside.

No. 75-1351. BERGER, COMMISSIONER, DEPARTMENT OF SOCIAL SERVICES OF NEW YORK *v.* BARTON ET AL. Ct. App. N. Y. Motion of respondents Barton et al. for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 38 N. Y. 2d 785, 345 N. E. 2d 339.

Rehearing Denied

No. 75-643. ALLEN *v.* UNITED STATES, 423 U. S. 1072;

No. 75-792. NORTHSIDE REALTY ASSOCIATES, INC., ET AL. *v.* UNITED STATES, 424 U. S. 977;

No. 75-896. DOE ET AL. *v.* COMMONWEALTH'S ATTORNEY FOR THE CITY OF RICHMOND ET AL., *ante*, p. 901;

No. 75-897. ENSLIN *v.* NORTH CAROLINA, *ante*, p. 903;

No. 75-911. WARD *v.* UNITED STATES, 424 U. S. 966;

No. 75-912. SLINGERLAND *v.* UNITED STATES, 424 U. S. 966;

No. 75-1128. PHOENIX NEWSPAPERS, INC., ET AL. *v.* CHURCH, *ante*, p. 908;

No. 75-5696. ROBERSON *v.* UNITED STATES, *ante*, p. 917;

No. 75-6108. HARDY *v.* OHIO, 424 U. S. 960;

No. 75-6188. LENNON *v.* CLARK ET AL., 424 U. S. 975; and

No. 75-6219. BOONE *v.* KANSAS, *ante*, p. 915. Petitions for rehearing denied.

No. 74-891. PAUL, CHIEF OF POLICE, LOUISVILLE, ET AL. *v.* DAVIS, 424 U. S. 693. Petition for rehearing denied. MR. JUSTICE STEVENS took no part in the consideration or decision of this petition.

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No. 74-1042. ERNST & ERNST *v.* HOCHFELDER ET AL.,
ante, p. 185;

No. 75-821. BUSH *v.* UNITED STATES, 424 U. S. 977;
and

No. 75-5054. GRIFFIN *v.* VICTOR ET AL., 424 U. S. 976.
Petitions for rehearing denied. MR. JUSTICE STEVENS
took no part in the consideration or decision of these
petitions.

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Affirmed on Appeal

No. 75-624. JONES, DIRECTOR, DIVISION OF FAMILY
SERVICES OF UTAH, ET AL. *v.* T. H. Appeal from D. C.
Utah. Motion of appellee for leave to proceed *in forma*
pauperis granted. Without indicating any views on
whether the District Court's decision on the constitu-
tional issue was sound, judgment affirmed insofar as it
invalidated the challenged regulation of the Utah Divi-
sion of Family Services as inconsistent with the Social
Security Act. THE CHIEF JUSTICE and MR. JUSTICE
REHNQUIST would note probable jurisdiction and set
case for oral argument. Reported below: 425 F. Supp.
873.

Appeals Dismissed

No. 75-6178. FAIRCLOTH *v.* OLD NATIONAL BANK OF
WASHINGTON. Appeal from Sup. Ct. Wash. dismissed
for want of substantial federal question. MR. JUSTICE
BRENNAN and MR. JUSTICE STEVENS would note probable
jurisdiction and set case for oral argument. Reported
below: 86 Wash. 2d 1, 541 P. 2d 362.

No. 75-6543. WONG *v.* BOARD OF TRUSTEES, CALIFOR-
NIA STATE UNIVERSITY AND COLLEGES. Appeal from Ct.
App. Cal., 1st App. Dist., dismissed for want of sub-
stantial federal question. MR. JUSTICE BRENNAN and

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MR. JUSTICE WHITE would note probable jurisdiction and set case for oral argument.

Certiorari Granted—Vacated and Remanded

No. 74-1650. ENVIRONMENTAL PROTECTION AGENCY *v.* ST. JOE MINERALS CORP. C. A. 3d Cir. Certiorari granted, judgment vacated, and case remanded with instructions to dismiss cause as moot. Reported below: 508 F. 2d 743.

No. 75-182. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION *v.* JERSEY CENTRAL POWER & LIGHT CO. ET AL. C. A. 3d Cir. Certiorari granted, judgment vacated, and case remanded for further consideration in light of *Franks v. Bowman Transportation Co., Inc.*, 424 U. S. 747. MR. JUSTICE STEVENS took no part in the consideration or decision of this case. Reported below: 508 F. 2d 687.

No. 75-649. MATHEWS, SECRETARY OF HEALTH, EDUCATION, AND WELFARE *v.* MATTERN ET AL. C. A. 3d Cir. Motion of respondents for leave to proceed *in forma pauperis* granted. Certiorari granted, judgment vacated, and case remanded for further consideration in light of *Mathews v. Eldridge*, 424 U. S. 319. Reported below: 519 F. 2d 150.

No. 75-1234. MATHEWS, SECRETARY OF HEALTH, EDUCATION, AND WELFARE *v.* ELLIOTT ET AL. C. A. 9th Cir. Motion of respondents for leave to proceed *in forma pauperis* granted. Certiorari granted, judgment vacated, and case remanded for further consideration in light of *Mathews v. Eldridge*, 424 U. S. 319. Reported below: — F. 2d —.

Certiorari Granted—Affirmed in Part, Vacated in Part, and Remanded. (See Nos. 75-1097 and 75-1243, *ante*, p. 800.)

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Miscellaneous Orders

No. A-864. HILLS, SECRETARY OF HOUSING AND URBAN DEVELOPMENT, ET AL. *v.* COOPERATIVE SERVICES, INC., ET AL. D. C. D. C. Motion to vacate or amend stay order heretofore entered by THE CHIEF JUSTICE denied.

No. A-925. RICHTER ET AL. *v.* REECE, DIRECTOR, DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL OF CALIFORNIA, ET AL. Sup. Ct. Cal. Application for stay, presented to MR. JUSTICE BRENNAN, and by him referred to the Court, denied.

No. A-981 (75-6788). HOWELL *v.* MISSISSIPPI STATE PROBATION AND PAROLE BOARD; and BROOKS *v.* MISSISSIPPI STATE PROBATION AND PAROLE BOARD. Application for stay of mandate of Supreme Court of Mississippi, presented to MR. JUSTICE BRENNAN, and by him referred to the Court, denied. Reported below: 330 So. 2d 565 (first case); 330 So. 2d 567 (second case).

No. A-985. SHAPIRO, EXECUTIVE DIRECTOR, NEW YORK STATE BOARD OF SOCIAL WELFARE, ET AL. *v.* ORGANIZATION OF FOSTER FAMILIES FOR EQUALITY AND REFORM ET AL.;

No. A-986. GANDY ET AL. *v.* ORGANIZATION OF FOSTER FAMILIES FOR EQUALITY AND REFORM ET AL.;

No. A-987. DUMPSON, ADMINISTRATOR, NEW YORK CITY HUMAN RESOURCES ADMINISTRATION, ET AL. *v.* ORGANIZATION OF FOSTER FAMILIES FOR EQUALITY AND REFORM ET AL.; and

No. A-988. RODRIGUEZ ET AL. *v.* ORGANIZATION OF FOSTER FAMILIES FOR EQUALITY AND REFORM ET AL. Applications for stay of judgment and order of the United States District Court for the Southern District of New York, presented to MR. JUSTICE MARSHALL, and

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by him referred to the Court, granted pending timely docketing of an appeal or appeals with this Court.

No. 74-611. UNITED STATES *v.* KASMIR ET AL., *ante*, p. 391. Motion of respondents regarding assessment of costs denied. MR. JUSTICE STEVENS took no part in the consideration or decision of this motion.

No. 74-1589. GENERAL ELECTRIC CO. *v.* GILBERT ET AL.; and

No. 74-1590. GILBERT ET AL. *v.* GENERAL ELECTRIC CO. C. A. 4th Cir. [Certiorari granted, 423 U. S. 822.] Cases restored to calendar for reargument.

No. 75-1354. TRANS WORLD AIRLINES, INC. *v.* DAY ET AL. C. A. 2d Cir. The Solicitor General is invited to file a brief in this case expressing the views of the United States.

No. 75-6667. SMILEY *v.* FIRTH, U. S. DISTRICT JUDGE. Motion for leave to file petition for writ of habeas corpus denied.

No. 75-6556. CARTER *v.* SEALS, U. S. DISTRICT JUDGE. Motion for leave to file petition for writ of mandamus denied.

No. 75-6528. FOSTER *v.* GALLAWA ET AL. Motion for leave to file petition for writ of prohibition and/or mandamus denied.

Certiorari Granted

No. 75-562. ROSEBUD SIOUX TRIBE *v.* KNEIP, GOVERNOR OF SOUTH DAKOTA, ET AL. C. A. 8th Cir. Motions of Association of American Indian Affairs, Inc., et al. and Covelo Indian Community of Round Valley Reservation for leave to file briefs as *amici curiae* granted. Certiorari granted. Reported below: 521 F. 2d 87.

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No. 75-636. INTERNATIONAL BROTHERHOOD OF TEAMSTERS *v.* UNITED STATES ET AL.; and

No. 75-672. T. I. M. E.-DC, INC. *v.* UNITED STATES ET AL. C. A. 5th Cir. Certiorari granted, cases consolidated, and a total of one and one-half hours allotted for oral argument. Reported below: 517 F. 2d 299.

No. 75-651. TEAMSTERS LOCAL UNION 657 *v.* RODRIGUEZ ET AL.; TEAMSTERS LOCAL UNION 657 *v.* HERRERA ET AL.; and TEAMSTERS LOCAL UNION 657 *v.* RESENDIS ET AL.;

No. 75-715. SOUTHERN CONFERENCE OF TEAMSTERS *v.* RODRIGUEZ ET AL.; SOUTHERN CONFERENCE OF TEAMSTERS *v.* HERRERA ET AL.; and SOUTHERN CONFERENCE OF TEAMSTERS *v.* RESENDIS ET AL.; and

No. 75-718. EAST TEXAS MOTOR FREIGHT SYSTEM *v.* RODRIGUEZ ET AL. C. A. 5th Cir. Certiorari granted, cases consolidated, and a total of one and one-half hours allotted for oral argument. Reported below: Nos. 75-651 and 75-715, 505 F. 2d 40, 66, and 69; No. 75-718, 505 F. 2d 40.

No. 75-1221. UNITED STATES *v.* CONSUMER LIFE INSURANCE Co. Ct. Cl. Reported below: 207 Ct. Cl. 638, 524 F. 2d 1167;

No. 75-1260. FIRST RAILROAD & BANKING COMPANY OF GEORGIA *v.* UNITED STATES. C. A. 5th Cir. Reported below: 514 F. 2d 675; and

No. 75-1285. UNITED STATES *v.* PENN SECURITY LIFE INSURANCE Co. Ct. Cl. Reported below: 207 Ct. Cl. 594, 524 F. 2d 1155. Certiorari granted, cases consolidated, and a total of one and one-half hours allotted for oral argument.

No. 75-6527. INGRAHAM ET AL. *v.* WRIGHT ET AL. C. A. 5th Cir. Motion for leave to proceed *in forma pauperis* granted. Certiorari granted limited to Questions 1 and 2, presented by the petition, which read as follows:

1. "Does the infliction of severe corporal punishment

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upon public school students, absent notice of the charges for which punishment is to be inflicted and an opportunity to be heard, violate the due process clause of the Fourteenth Amendment?"

2. "Does the cruel and unusual punishment clause of the Eighth Amendment apply to the administration of discipline through severe corporal punishment inflicted by public school teachers and administrators upon public school children?"

Reported below: 525 F. 2d 909.

Certiorari Denied

No. 73-1287. *REPUBLIC OF CUBA ET AL. v. SAKS & Co. et al.*; and

No. 73-1289. *SAKS & Co. ET AL. v. REPUBLIC OF CUBA ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 485 F. 2d 1355.

No. 75-720. *LEE WAY MOTOR FREIGHT, INC., ET AL. v. RESENDIS ET AL.*; and *YELLOW FREIGHT SYSTEM, INC. v. HERRERA ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 505 F. 2d 69 (first case); 505 F. 2d 66 (second case).

No. 75-1122. *HENNY v. UNITED STATES.* C. A. 9th Cir. Certiorari denied. Reported below: 527 F. 2d 479.

No. 75-1132. *CANON v. UNITED STATES.* C. A. 9th Cir. Certiorari denied.

No. 75-1138. *PROTHRO v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. Reported below: 525 F. 2d 692.

No. 75-1164. *VICKERY v. ESTELLE, CORRECTIONS DIRECTOR.* C. A. 5th Cir. Certiorari denied. Reported below: 524 F. 2d 239.

No. 75-1162. *WINTERS BATTERY MANUFACTURING Co. v. USERY, SECRETARY OF LABOR.* C. A. 6th Cir. Certiorari denied. Reported below: 531 F. 2d 317.

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No. 75-1152. *SEMINARA v. UNITED STATES*. C. A. 2d Cir. Certiorari denied.

No. 75-1215. *FREEDMAN v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 529 F. 2d 543.

No. 75-1216. *NATIONAL ASSOCIATION of RADIOTELEPHONE SYSTEMS v. FEDERAL COMMUNICATIONS COMMISSION ET AL.* C. A. D. C. Cir. Certiorari denied. Reported below: 173 U. S. App. D. C. 413, 525 F. 2d 630.

No. 75-1246. *STAR BROADCASTING, INC., ET AL. v. FEDERAL COMMUNICATIONS COMMISSION ET AL.* C. A. D. C. Cir. Certiorari denied. Reported below: 174 U. S. App. D. C. 70, 527 F. 2d 853.

No. 75-1252. *WAMP ET AL. v. CHATTANOOGA HOUSING AUTHORITY ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 527 F. 2d 595.

No. 75-1253. *PERRY v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 529 F. 2d 518.

No. 75-1271. *ATCHISON, TOPEKA & SANTA FE RAILWAY Co. v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 525 F. 2d 1184.

No. 75-1282. *LAU v. LEVI, ATTORNEY GENERAL*. C. A. 6th Cir. Certiorari denied. Reported below: 524 F. 2d 1405.

No. 75-1333. *PARAMOUNT CONVALESCENT CENTER, INC. v. DEPARTMENT OF HEALTH CARE SERVICES ET AL.* Sup. Ct. Cal. Reported below: 15 Cal. 3d 489, 542 P. 2d 1.

No. 75-1381. *PADUANO ET AL. v. COMMISSIONER OF INTERNAL REVENUE*. C. A. 2d Cir. Certiorari denied.

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No. 75-1338. *MASCHHOFF v. INTERNATIONAL UNION, UNITED AUTOMOBILE, AEROSPACE & AGRICULTURAL IMPLEMENT WORKERS OF AMERICA, UAW, ET AL.* C. A. 6th Cir. Certiorari denied.

No. 75-1395. *HEAD v. KORSHAK, DIRECTOR, DEPARTMENT OF REVENUE, CITY OF CHICAGO, ET AL.* Sup. Ct. Ill. Certiorari denied. Reported below: 62 Ill. 2d 226, 341 N. E. 2d 706.

No. 75-1401. *SWEENEY v. LENTINI ET AL.* C. A. 4th Cir. Certiorari denied.

No. 75-1403. *DIRK v. AMERICAN PRESIDENT LINES, LTD.* Ct. App. Cal., 1st App. Dist. Certiorari denied.

No. 75-1406. *ELIOPULOS v. HILDYARD ET AL.* Ct. App. Colo. Certiorari denied.

No. 75-1409. *ST. REGIS PAPER Co. v. McMILLEN, U. S. DISTRICT JUDGE, ET AL.* C. A. 7th Cir. Certiorari denied.

No. 75-1492. *RHOADES v. ROCHEZ BROS., INC.* C. A. 3d Cir. Certiorari denied. Reported below: 527 F. 2d 891.

No. 75-1500. *NORTH AMERICAN COMPANY FOR LIFE & HEALTH INSURANCE ET AL. v. ANN ARBOR TRUST Co.* C. A. 6th Cir. Certiorari denied. Reported below: 527 F. 2d 526.

No. 75-1560. *GRAHAM v. WILSON.* C. A. D. C. Cir. Certiorari denied.

No. 75-6207. *KITCHENS v. HOPPER, WARDEN.* C. A. 5th Cir. Certiorari denied. Reported below: 523 F. 2d 1053.

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No. 75-6194. *CASTILLO v. ESTELLE, CORRECTIONS DIRECTOR*. C. A. 5th Cir. Certiorari denied.

No. 75-6253. *COOPER v. ILLINOIS*. App. Ct. Ill., 1st Dist. Certiorari denied. Reported below: 30 Ill. App. 3d 326, 332 N. E. 2d 453.

No. 75-6254. *ETTEN v. ILLINOIS*. App. Ct. Ill., 1st Dist. Certiorari denied. Reported below: 29 Ill. App. 3d 842, 331 N. E. 2d 270.

No. 75-6259. *HORSTED v. WAINWRIGHT, SECRETARY, DEPARTMENT OF OFFENDER REHABILITATION OF FLORIDA*. C. A. 5th Cir. Certiorari denied. Reported below: 524 F. 2d 1230.

No. 75-6281. *QUIGG v. CRIST, WARDEN*. Sup. Ct. Mont. Certiorari denied. Reported below: 168 Mont. 512, 544 P. 2d 441.

No. 75-6286. *GIBSON v. VIRGINIA*. Sup. Ct. Va. Certiorari denied. Reported below: 216 Va. 412, 219 S. E. 2d 845.

No. 75-6301. *SMITH v. UNITED STATES*. C. A. 9th Cir. Certiorari denied.

No. 75-6315. *WESLEY v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 521 F. 2d 1400.

No. 75-6318. *TUCKER v. UNITED STATES*. C. A. 6th Cir. Certiorari denied.

No. 75-6327. *MASINO v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 530 F. 2d 965.

No. 75-6329. *GLENOS ET AL. v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 524 F. 2d 441.

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No. 75-6331. GONZALEZ-RODRIGUEZ *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied.

No. 75-6332. RAYGOZA *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 528 F. 2d 464.

No. 75-6336. O'DONNELL *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 534 F. 2d 659.

No. 75-6337. GARCIA *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 526 F. 2d 814.

No. 75-6342. CROWLEY *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied. Reported below: 529 F. 2d 1066.

No. 75-6347. O'LEARY *v.* RUTTLE, DIRECTOR, INTERNAL REVENUE SERVICE CENTER, ET AL. C. A. 6th Cir. Certiorari denied. Reported below: 529 F. 2d 526.

No. 75-6348. MILLS *v.* UNITED STATES DISTRICT COURT ET AL. C. A. D. C. Cir. Certiorari denied.

No. 75-6352. ALVAREZ *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 525 F. 2d 980.

No. 75-6353. LOPEZ-LOPEZ *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied.

No. 75-6354. BOBO *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied.

No. 75-6363. CLAY *v.* HENDERSON, WARDEN, ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 524 F. 2d 921.

No. 75-6365. PETTY ET UX. *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied.

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No. 75-6373. *THOMAS v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 531 F. 2d 419.

No. 75-6374. *RIZZO v. UNITED STATES*. C. A. 9th Cir. Certiorari denied.

No. 75-6381. *CURRIE v. UNITED STATES*. C. A. 9th Cir. Certiorari denied.

No. 75-6383. *WATTS v. UNITED STATES*. C. A. 4th Cir. Certiorari denied.

No. 75-6390. *BROWN ET AL. v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 529 F. 2d 517.

No. 75-6398. *BEATHUNE v. UNITED STATES*. C. A. 10th Cir. Certiorari denied. Reported below: 527 F. 2d 696.

No. 75-6457. *CHAPARRO v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 528 F. 2d 926.

No. 75-6477. *RODRIGUEZ-CAMACHO v. IMMIGRATION AND NATURALIZATION SERVICE*. C. A. 9th Cir. Certiorari denied.

No. 75-6495. *JACKSON v. OFFICE OF THE UNITED STATES MAGISTRATE ET AL.* C. A. 9th Cir. Certiorari denied.

No. 75-6520. *MCBRIDE v. REED, PENITENTIARY SUPERINTENDENT*. C. A. 5th Cir. Certiorari denied. Reported below: 524 F. 2d 238.

No. 75-6529. *KIRKMAN v. VIRGINIA*. Sup. Ct. Va. Certiorari denied.

No. 75-6533. *WRIGHT v. NEW YORK*. App. Div., Sup. Ct. N. Y., 1st Jud. Dept. Certiorari denied.

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No. 75-6534. *CARTER v. MARYLAND*. Ct. Sp. App. Md. Certiorari denied.

No. 75-6535. *SWANSON v. ESTELLE*, CORRECTIONS DIRECTOR. C. A. 5th Cir. Certiorari denied. Reported below: 523 F. 2d 1250.

No. 75-6545. *RAITPORT v. COMMERCIAL BANKS LOCATED WITHIN THIS DISTRICT AS A CLASS ET AL.* C. A. 2d Cir. Certiorari denied.

No. 75-6551. *STEWART v. LOUISIANA*. Sup. Ct. La. Certiorari denied. Reported below: 325 So. 2d 819 and 828.

No. 75-6552. *IRBY v. MISSOURI*. C. A. 8th Cir. Certiorari denied.

No. 75-6555. *DELEO v. WARDEN, NEVADA STATE PRISON*. Sup. Ct. Nev. Certiorari denied.

No. 75-6569. *McGEEHAN v. WAINWRIGHT*, SECRETARY, DEPARTMENT OF OFFENDER REHABILITATION OF FLORIDA. C. A. 5th Cir. Certiorari denied. Reported below: 526 F. 2d 397.

No. 75-6672. *CASTRO v. REGAN*, PRISON SUPERINTENDENT. C. A. 3d Cir. Certiorari denied. Reported below: 525 F. 2d 1157.

No. 75-6695. *JOHNSON v. JOHNSON*, CORRECTIONAL SUPERINTENDENT. C. A. 3d Cir. Certiorari denied. Reported below: 531 F. 2d 169.

No. 74-1064. *WATERS ET AL. v. WISCONSIN STEEL WORKS OF INTERNATIONAL HARVESTER CO. ET AL.*; and

No. 74-1350. *UNITED ORDER OF AMERICAN BRICKLAYERS & STONE MASONS, LOCAL 21 v. WATERS ET AL.* C. A. 7th Cir. Certiorari denied. MR. JUSTICE STEVENS

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took no part in the consideration or decision of these petitions. Reported below: 502 F. 2d 1309.

No. 74-1349. LOCAL 862, INTERNATIONAL UNION, UNITED AUTOMOBILE, AEROSPACE & AGRICULTURAL IMPLEMENT WORKERS OF AMERICA *v.* FORD MOTOR CO. ET AL. C. A. 6th Cir. Certiorari denied. MR. JUSTICE STEVENS took no part in the consideration or decision of this petition. Reported below: 510 F. 2d 939.

No. 75-465. JERSEY CENTRAL POWER & LIGHT CO. *v.* EQUAL EMPLOYMENT OPPORTUNITY COMMISSION ET AL. C. A. 3d Cir. Certiorari denied. MR. JUSTICE STEVENS took no part in the consideration or decision of this petition. Reported below: 508 F. 2d 687.

No. 75-1174. TIME, INC. *v.* VIRGIL. C. A. 9th Cir. Certiorari denied. MR. JUSTICE BRENNAN and MR. JUSTICE STEWART would grant certiorari. Reported below: 527 F. 2d 1122.

No. 75-1226. SLEPICOFF, DBA GRADUATE ENTERPRISES *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 524 F. 2d 1244.

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

Petitioner was convicted after jury trial in the United States District Court for the Middle District of Florida of mailing obscene advertisements in violation of 18 U. S. C. § 1461. That section provides in pertinent part:

“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.

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"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 Fifth Circuit affirmed. 524 F. 2d 1244.

I adhere to my dissent in *United States v. Orito*, 413 U. S. 139, 147 (1973), in which, speaking of 18 U. S. C. § 1462, which is similar in scope to § 1461, I expressed the view that "[w]hatever the extent of the Federal Government's power to bar the distribution of allegedly obscene material to juveniles or the offensive exposure of such material to unconsenting adults, the statute before us is clearly overbroad and unconstitutional on its face." 413 U. S., at 147-148. For the reasons stated in my dissent in *Miller v. California*, 413 U. S. 15, 47 (1973), I would therefore grant certiorari, and, since the judgment of the Court of Appeals for the Fifth Circuit was rendered after *Orito*, reverse.

In these circumstances, I have no occasion to consider whether the other questions presented by petitioner merit plenary review. See *Heller v. New York*, 413 U. S. 483, 494 (1973) (BRENNAN, J., dissenting).

No. 75-1240. *RODRIGUEZ ET AL. v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. MR. JUSTICE BRENNAN, MR. JUSTICE STEWART, and MR. JUSTICE MARSHALL would grant certiorari. Reported below: 529 F. 2d 530.

No. 75-1270. *ASSOCIATED DRY GOODS CORP. v. COMMISSIONER OF TAXATION OF MINNESOTA*. Sup. Ct. Minn. Certiorari denied. MR. JUSTICE BLACKMUN took no part in the consideration or decision of this petition. Reported below: 306 Minn. 532, 235 N. W. 2d 821.

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No. 75-1427. AIR LINE PILOTS ASSOCIATION, INTERNATIONAL *v.* WELLS ET AL. C. A. 5th Cir. Motion of respondent Wells for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 517 F. 2d 132 and 522 F. 2d 707.

Rehearing Denied

No. 75-1024. CITIZENS FOR PARENTAL RIGHTS ET AL. *v.* SAN MATEO COUNTY BOARD OF EDUCATION ET AL., *ante*, p. 908;

No. 75-1038. DIAMOND NATIONAL CORP. *v.* STATE BOARD OF EQUALIZATION OF CALIFORNIA, *ante*, p. 268;

No. 75-1061. WESTERN GRAIN CO. *v.* ALABAMA, 424 U. S. 960;

No. 75-1068. LEA ASSOCIATES, INC. *v.* UNITED STATES, *ante*, p. 912;

No. 75-1169. GABRIEL *v.* LEVIN ET AL., *ante*, p. 913;

No. 75-5895. PRITCHETT ET AL. *v.* GEORGIA, *ante*, p. 938;

No. 75-6384. TAYLOR *v.* ALABAMA, *ante*, p. 942; and

No. 75-6442. McDONALD *v.* TENNESSEE, *ante*, p. 955.
Petitions for rehearing denied.

No. 75-1163. SHADE *v.* PUBLIC UTILITIES COMMISSION OF CALIFORNIA ET AL., *ante*, p. 928. Petition for rehearing denied. MR. JUSTICE BLACKMUN took no part in the consideration or decision of this petition.

No. 75-6024. MORGAN *v.* UNITED STATES, *ante*, p. 905.
Motion for leave to file petition for rehearing denied.

MAY 25, 1976

Dismissal Under Rule 60

No. 75-6620. WHITE *v.* CITY OF NORFOLK. Sup. Ct. Va. Certiorari dismissed under this Court's Rule 60.

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MAY 27, 1976

Dismissal Under Rule 60

No. 75-6454. ALLEN *v.* UNITED STATES. C. A. 3d Cir. Certiorari dismissed under this Court's Rule 60. Reported below: 532 F. 2d 748.

BANKRUPTCY RULES AND OFFICIAL
BANKRUPTCY FORMS

Effective August 1, 1976

The Bankruptcy Rules and Official Bankruptcy Forms were promulgated by the Supreme Court of the United States on April 28, 1975, pursuant to 28 U. S. C. § 2075, and were reported in the Chapter in This Volume. Pursuant to the same law, for the first time of transmittal, see page p. 1001. The Judicial Conference recommended in its last letter to the Congress that these rules and forms become effective on August 1, 1976, as provided in paragraph 2 of the Court's orders, post, pp. 1005 and 1007.

For further information on Bankruptcy Rules and Forms, see, e. g., 28 U. S. C. 1001.

