

ORDERS FROM END OF OCTOBER TERM, 1975
THROUGH FEBRUARY 22, 1977

CASES DISMISSED IN VACATION

No. 75-6904. *MARTIN v. UNITED STATES*. C. A. 9th Cir. Certiorari dismissed August 2, 1976, under this Court's Rule 60.

No. 75-1896. *RING v. WADDINGTON, DIRECTOR OF MOTOR VEHICLES OF NEW JERSEY, ET AL.* Super. Ct. N. J. Certiorari dismissed August 4, 1976, under this Court's Rule 60.

No. 75-1751. *PEARLMAN v. UNITED STATES*. C. A. 8th Cir. Certiorari dismissed August 17, 1976, under this Court's Rule 60. Reported below: 538 F. 2d 332.

No. 76-5194. *DAVIS v. BREWER, WARDEN*. C. A. 8th Cir. Certiorari dismissed September 7, 1976, under this Court's Rule 60. Reported below: 538 F. 2d 332.

No. 76-328. *GRUNER ET AL. v. SUPERIOR COURT OF CALIFORNIA, COUNTY OF FRESNO*. Ct. App. Cal., 5th App. Dist. Certiorari dismissed September 27, 1976, under this Court's Rule 60.

No. 75-6914. *MAYES v. PICKETT*. C. A. 9th Cir. Certiorari dismissed September 27, 1976, under this Court's Rule 60. Reported below: 537 F. 2d 1080.

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Affirmed on Appeal

No. 75-1489. *BALZAC BROS., INC. v. WARING PRODUCTS DIVISION, DYNAMICS COMPANY OF AMERICA, ET AL.* Affirmed on appeal from D. C. P. R.

No. 75-1490. *ZIVIAK, ADMINISTRATOR v. UNITED STATES*. Affirmed on appeal from D. C. Mass. Reported below: 411 F. Supp. 416.

No. 75-1768. *WARD v. BOARD OF EXAMINERS OF ENGINEERS, ARCHITECTS AND SURVEYORS OF PUERTO RICO ET AL.* Affirmed on appeal from D. C. P. R. Reported below: 409 F. Supp. 1258.

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No. 75-6688. *ODOM v. CALDWELL*. Affirmed on appeal from D. C. N. D. Ga.

No. 75-1913. *HABRON ET AL. v. EPSTEIN, COMMISSIONER OF LABOR AND INDUSTRY OF MARYLAND, ET AL.* Affirmed on appeal from D. C. Md. MR. JUSTICE MARSHALL would note probable jurisdiction and set case for oral argument. Reported below: 412 F. Supp. 256.

Appeals Dismissed

No. 75-1386. *HADLEY v. NEW HAMPSHIRE*. Appeal from Sup. Ct. N. H. dismissed for want of substantial federal question. Reported below: 115 N. H. 541, 345 A. 2d 160.

No. 75-1408. *GIPSON v. TEXAS*. Appeal from Ct. Crim. App. Tex. dismissed for want of substantial federal question. Reported below: 529 S. W. 2d 778.

No. 75-1662. *WITZ, ADMINISTRATRIX v. RENNER REALTY CORP. ET AL.* Appeal from Ct. App. N. Y. dismissed for want of substantial federal question. Reported below: 38 N. Y. 2d 905, 346 N. E. 2d 555.

No. 75-1699. *HORODNER v. FISHER, COMMISSIONER, DEPARTMENT OF MOTOR VEHICLES OF NEW YORK, ET AL.* Appeal from Ct. App. N. Y. dismissed for want of substantial federal question. Reported below: 38 N. Y. 2d 680, 345 N. E. 2d 571.

No. 75-1734. *KUBO ET AL. v. AGRICULTURAL LABOR RELATIONS BOARD OF CALIFORNIA ET AL.*; and

No. 75-1754. *PANDOL & SONS ET AL. v. AGRICULTURAL LABOR RELATIONS BOARD OF CALIFORNIA ET AL.* Appeal from Sup. Ct. Cal. dismissed for want of substantial federal question. Reported below: 16 Cal. 3d 392, 546 P. 2d 687.

No. 75-1917. *IN RE ROBB*. Appeal from Sup. Ct. N. H. dismissed for want of substantial federal question. Reported below: 116 N. H. 134, 354 A. 2d 408.

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No. 75-1735. *WILLIAMS ET AL. v. JONES, APPRAISER OF ESCAMBIA COUNTY, ET AL.* Appeal from Sup. Ct. Fla. dismissed for want of substantial federal question. Reported below: 326 So. 2d 425.

No. 75-1818. *ADAMS v. HARRIS COUNTY, TEXAS.* Appeal from Ct. Civ. App. Tex., 14th Sup. Jud. Dist. dismissed for want of substantial federal question. Reported below: 530 S. W. 2d 606.

No. 75-6728. *SMITH ET UX. v. SPRADLING, DIRECTOR, DEPARTMENT OF REVENUE OF MISSOURI.* Appeal from Sup. Ct. Mo. dismissed for want of substantial federal question. Reported below: 532 S. W. 2d 202.

No. 75-6939. *TAYLOR v. ANDERSON.* Appeal from Ct. App. Ohio, Franklin County, dismissed for want of substantial federal question.

No. 76-32. *CITY OF BRAINERD ET AL. v. MINNESOTA STATE BOARD OF HEALTH.* Appeal from Sup. Ct. Minn. dismissed for want of substantial federal question. Reported below: 308 Minn. 24, 241 N. W. 2d 624.

No. 76-34. *SPECK RESTAURANT, INC. v. OREGON LIQUOR CONTROL COMMISSION.* Appeal from Ct. App. Ore. dismissed for want of substantial federal question. Reported below: 24 Ore. App. 337, 545 P. 2d 601.

No. 76-127. *ACS, ADMINISTRATRIX v. BRADY.* Appeal from Sup. Ct. Ind. dismissed for want of substantial federal question. Reported below: 264 Ind. 285, 342 N. E. 2d 837.

No. 76-142. *DICKSON ET AL. v. NEW HAMPSHIRE.* Appeal from Sup. Ct. N. H. dismissed for want of substantial federal question. Reported below: 116 N. H. 175, 355 A. 2d 822.

No. 76-149. *STATHES v. MARYLAND.* Appeal from Ct. Sp. App. Md. dismissed for want of substantial federal question. Reported below: 29 Md. App. 474, 349 A. 2d 254.

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No. 75-1452. *KIMBELL, INC., DBA FOODWAY FURR'S, INC., ET AL. v. EMPLOYMENT SECURITY COMMISSION OF NEW MEXICO ET AL.* Appeal from Sup. Ct. N. M. Motion of Chamber of Commerce of the United States for leave to file a brief as *amicus curiae* granted. Appeal dismissed for want of substantial federal question. MR. JUSTICE BRENNAN, MR. JUSTICE BLACKMUN, and MR. JUSTICE STEVENS would note probable jurisdiction and set case for oral argument.

No. 75-1581. *LEEMON v. ILLINOIS.* Appeal from App. Ct. Ill., 4th Dist., dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied. Reported below: 28 Ill. App. 3d 541, 328 N. E. 2d 645.

No. 75-1750. *DAYON v. DOWNE COMMUNICATIONS, INC., ET AL.* Appeal from Ct. App. N. Y. dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied. Reported below: 37 N. Y. 2d 903, 340 N. E. 2d 742.

No. 75-1793. *ALLEN ET VIR v. ST. LUKE'S HOSPITAL OF KANSAS CITY.* Appeal from Ct. App. Mo., Kansas City Dist., dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied. Reported below: 532 S. W. 2d 505.

No. 75-1879. *HAUPT v. MONTGOMERY COUNTY BAR ASSN. ET AL.* Appeal from Ct. App. Md. dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied. Reported below: 277 Md. 326, 353 A. 2d 629.

No. 75-6860. *BILLS v. HOLIDAY INNS OF AMERICA, INC., ET AL.* Appeal from C. A. 9th Cir. dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied.

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No. 75-6684. *Tewksbury v. California*. Appeal from Sup. Ct. Cal. dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied. Reported below: 15 Cal. 3d 953, 544 P. 2d 1335.

No. 75-6694. *Strickland et al. v. Tennessee*. Appeal from Sup. Ct. Tenn. dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied. Reported below: 532 S. W. 2d 912.

No. 75-6901. *Swigert et al. v. Miller et al.* Appeal from Ct. App. Ohio, Hamilton County, dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied.

No. 76-6. *Generes v. Stich et al.* Appeal from Ct. App. Cal., 3d App. Dist., dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied.

No. 76-5183. *House v. Welsh*. Appeal from Ct. App. Md. dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied.

No. 75-1670. *Levy et al. v. City of New York et al.* Appeal from Ct. App. N. Y. dismissed for want of substantial federal question. Mr. Justice Brennan and Mr. Justice Marshall would note probable jurisdiction and set case for oral argument. Reported below: 38 N. Y. 2d 653, 345 N. E. 2d 556.

No. 75-1807. *Stuart McGuire Co., Inc. v. Forst, Tax Commissioner, et al.* Appeal from Sup. Ct. Va. dismissed for want of substantial federal question. Mr. Justice Stewart would note probable jurisdiction and set case for oral argument.

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No. 75-1873. *URI ET AL. v. ALASKA*. Appeal from Sup. Ct. Alaska dismissed for want of jurisdiction. Reported below: 546 P. 2d 530.

No. 75-1878. *LANDGRAFF v. WAGNER ET AL.* Appeal from Ct. App. Ariz. dismissed for want of jurisdiction. Reported below: 26 Ariz. App. 49, 546 P. 2d 26.

No. 75-6940. *CROSS v. EU ET AL.* Appeal from D. C. N. D. Cal. dismissed for want of jurisdiction.

No. 76-38. *BRUCE ET AL. v. WICHITA STATE UNIVERSITY ET AL.* Appeal from Sup. Ct. Kan. dismissed for want of jurisdiction. Reported below: 219 Kan. 2, 547 P. 2d 1015.

No. 75-6744. *FIGUEROA v. DIRECTOR, NEW YORK CITY DEPARTMENT OF PERSONNEL, ET AL.* Appeal from Ct. App. N. Y. dismissed for want of substantial federal question. MR. JUSTICE BRENNAN would note probable jurisdiction and set case for oral argument. Reported below: 38 N. Y. 2d 533, 344 N. E. 2d 402.

No. 75-6853. *BROWNE v. MASSACHUSETTS*. Appeal from Dist. Ct., E. Middlesex County, Mass., dismissed for want of jurisdiction. *Costarelli v. Massachusetts*, 421 U. S. 193 (1975).

No. 76-107. *SMITH v. SMITH*. Appeal from Sup. Ct. Okla. dismissed for want of properly presented federal question.

No. 76-194. *WHITE, JUDGE v. CORRIGAN, PROSECUTING ATTORNEY OF CUYAHOGA COUNTY*. Appeal from Sup. Ct. Ohio, dismissed for want of properly presented federal question.

Vacated and Remanded on Appeal

No. 75-1672. *GUSTAFSON v. HOFFMAN ET AL.* Appeal from D. C. N. M. Judgment vacated and case remanded with directions to enter a fresh decree from which a timely

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appeal may be taken to the United States Court of Appeals for the Tenth Circuit.

No. 75-1881. MATHEWS, SECRETARY OF HEALTH, EDUCATION, AND WELFARE *v.* RHEYNARD. Appeal from D. C. W. D. Mich. Motion of appellee for leave to proceed *in forma pauperis* granted. Judgment vacated and case remanded for further consideration in light of *Mathews v. Lucas*, 427 U. S. 495 (1976).

Certiorari Granted—Vacated and Remanded

No. 75-1521. DOW CHEMICAL CO. *v.* LOCAL 14055, UNITED STEELWORKERS OF AMERICA, AFL-CIO, ET AL.;

No. 75-1609. CHAMBER OF COMMERCE OF THE UNITED STATES *v.* LOCAL 14055, UNITED STEELWORKERS OF AMERICA, AFL-CIO, ET AL.;

No. 75-1858. NATIONAL LABOR RELATIONS BOARD *v.* LOCAL 14055, UNITED STEELWORKERS OF AMERICA, AFL-CIO, ET AL. C. A. D. C. Cir. Certiorari granted, judgment vacated, and cases remanded with directions to remand to the National Labor Relations Board for reconsideration in light of intervening circumstances. Reported below: 173 U. S. App. D. C. 299, 524 F. 2d 853.

No. 75-1584. GREYHOUND LINES, INC. *v.* AMALGAMATED TRANSIT UNION, DIVISION 1384, AFL-CIO, ET AL. C. A. 9th Cir. Certiorari granted, judgment vacated, and case remanded for further consideration in light of *Buffalo Forge Co. v. United Steelworkers of America*, 428 U. S. 397 (1976). Reported below: 529 F. 2d 1073.

No. 75-6509. MIDDLETON *v.* SOUTH CAROLINA. Sup. Ct. S. C. Motion for leave to proceed *in forma pauperis* and certiorari granted. Judgment vacated and case remanded for further consideration in light of *Doyle v. Ohio*, 426 U. S. 610 (1976). Reported below: 266 S. C. 251, 222 S. E. 2d 763.

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No. 75-1677. CAREY, GOVERNOR OF NEW YORK, ET AL. *v.* ECHEVARRIA. C. A. 2d Cir. Certiorari granted, judgment vacated, and case remanded for consideration of question of mootness in light of intervening legislation. Reported below: 538 F. 2d 309.

No. 75-1756. LEBOWITZ *v.* FLORIDA. Dist. Ct. App. Fla., 3d Dist. Certiorari granted, judgment vacated, and case remanded for further consideration in light of *Doyle v. Ohio*, 426 U. S. 610 (1976). Reported below: 313 So. 2d 473.

No. 75-6766. COLLINS *v.* ARKANSAS; and

No. 75-6797. NEAL *v.* ARKANSAS. Sup. Ct. Ark. Motions for leave to proceed *in forma pauperis* and certiorari granted. Judgments vacated insofar as they leave undisturbed the death penalty imposed, and cases remanded for further consideration in light of *Gregg v. Georgia*, 428 U. S. 153 (1976); *Proffitt v. Florida*, 428 U. S. 242 (1976); *Jurek v. Texas*, 428 U. S. 262 (1976); *Woodson v. North Carolina*, 428 U. S. 280 (1976); and *Roberts v. Louisiana*, 428 U. S. 325 (1976). Reported below: No. 75-6766, 259 Ark. 8, 531 S. W. 2d 13; No. 75-6797, 259 Ark. 27, 531 S. W. 2d 17.

MR. JUSTICE BRENNAN, dissenting.

For the reasons stated in my dissenting opinion in *Gregg v. Georgia*, 428 U. S. 153, 227 (1976), the imposition and carrying out of the death penalty in these cases constitute cruel and unusual punishment in violation of the Eighth and Fourteenth Amendments. I would therefore grant certiorari in these cases and vacate the judgments insofar as they leave undisturbed the death sentences imposed.

MR. JUSTICE MARSHALL, dissenting.

Because I consider the death penalty to be a cruel and unusual punishment forbidden by the Eighth and Fourteenth Amendments, see *Gregg v. Georgia*, 428 U. S. 153, 231 (1976) (MARSHALL, J., dissenting), I would grant certiorari in these cases and vacate the judgments insofar as they leave undisturbed the sentences of death.

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No. 75-6819. WILLIAMS *v.* NORTH CAROLINA. Sup. Ct. N. C. Reported below: 289 N. C. 439, 222 S. E. 2d 242;

No. 75-6842. CARTER *v.* NORTH CAROLINA. Sup. Ct. N. C. Reported below: 289 N. C. 372, 222 S. E. 2d 222;

No. 75-6847. HUNT *v.* NORTH CAROLINA. Sup. Ct. N. C. Reported below: 289 N. C. 403, 222, S. E. 2d 234;

No. 75-6981. BUSH *v.* NORTH CAROLINA. Sup. Ct. N. C. Reported below: 289 N. C. 159, 221 S. E. 2d 333; and

No. 76-5168. DAVIS *v.* NORTH CAROLINA. Sup. Ct. N. C. Reported below: 289 N. C. 500, 223 S. E. 2d 296. Motions for leave to proceed *in forma pauperis* and certiorari granted. Judgments vacated insofar as they leave undisturbed the death penalty imposed, and cases remanded for further proceedings. *Woodson v. North Carolina*, 428 U. S. 280 (1976).

Vacated and Remanded After Certiorari Granted

No. 75-1462. DELAWARE REPUBLICAN STATE COMMITTEE ET AL. *v.* REDFEARN ET AL. C. A. 3d Cir. [Certiorari granted, 426 U. S. 919.] Judgment vacated and case remanded for further consideration in light of intervening legislation. Reported below: 524 F. 2d 1403.

Miscellaneous Orders

No. ———. PENNSYLVANIA PARENT ASSISTANCE AUTHORITY *v.* LEMON ET AL. C. A. 3d Cir. Motion for leave to dispense with printing petition denied. *Snider v. All State Administrators, Inc.*, 414 U. S. 685 (1974).

No. ———. SECOND AVENUE LIMITED DIVIDEND HOUSING ASSN. ET AL. *v.* HILLS, SECRETARY OF HOUSING AND URBAN DEVELOPMENT, ET AL. C. A. 6th Cir. Motion of petitioners for leave to proceed *in forma pauperis* or in the alternative to dispense with printing petition denied.

No. ———. RAY *v.* ROSE, WARDEN. C. A. 6th Cir. Motion for appointment of counsel to file petition for writ of certiorari denied.

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No. 36, Orig. TEXAS *v.* LOUISIANA, 426 U. S. 465. Petition of State of Texas for reconsideration denied.

No. 54, Orig. UNITED STATES *v.* FLORIDA ET AL. Defendants' exceptions to Report of Special Master on motion of defendants for leave to file counterclaim set for oral argument in due course. [For earlier orders herein, see, *e. g.*, 425 U. S. 931.]

No. 71, Orig. NEW YORK *v.* NEW JERSEY. Motion for leave to file bill of complaint denied. *Pennsylvania v. New Jersey*, 426 U. S. 660 (1976).

No. 72, Orig. SOUTH DAKOTA *v.* NEBRASKA. Motion for leave to file bill of complaint granted and State of Nebraska allowed 30 days in which to answer.

No. 74-1471. TSC INDUSTRIES, INC., ET AL. *v.* NORTHWAY, INC., 426 U. S. 438 (1976). Motion of respondent to retax costs denied. MR. JUSTICE BLACKMUN would grant the motion. MR. JUSTICE STEVENS took no part in the consideration or decision of this motion.

No. 74-6632. MOODY *v.* DAGGETT, WARDEN. C. A. 10th Cir. [Certiorari granted, 424 U. S. 942.] Motion of the Attorney General of Tennessee for leave to participate in oral argument as *amicus curiae* denied.

No. 75-442. POELKER, MAYOR OF ST. LOUIS, ET AL. *v.* DOE. C. A. 8th Cir. [Certiorari granted, 428 U. S. 909.] Motion of Americans United for Life, Inc., for leave to file brief as *amicus curiae* granted.

No. 75-492. ROSNER *v.* UNITED STATES, 427 U. S. 911. The Solicitor General is requested to file a response to petition for rehearing within 30 days.

No. 75-503. COOK ET AL. *v.* HUDSON ET AL. C. A. 5th Cir. [Certiorari granted, 424 U. S. 941.] Motion of National Education Assn. for leave to file brief as *amicus curiae* denied.

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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 PIPE-FITTERS OF NEW YORK AND VICINITY, LOCAL UNION No. 638. C. A. D. C. Cir. [Certiorari granted, 424 U. S. 908.] Motion of Chamber of Commerce of the United States for leave to file a brief as *amicus curiae* granted.

No. 75-823. BELCHER *v.* STENDEL ET AL. C. A. 6th Cir. [Certiorari granted, 425 U. S. 910.] Motion of American Civil Liberties Union et al. for leave to file a brief as *amici curiae* granted.

No. 75-839. WHALEN, COMMISSIONER OF HEALTH OF NEW YORK *v.* ROE ET AL. Appeal from D. C. S. D. N. Y. [Probable jurisdiction noted, 424 U. S. 907.] Motion of National Association of Mental Health et al. for leave to file a brief as *amici curiae* granted.

No. 75-904. BRUNSWICK CORP. *v.* PUEBLO BOWL-O-MAT, INC., ET AL. C. A. 3d Cir. [Certiorari granted, 424 U. S. 908.] Motion of Purex Corp. for leave to file a brief as *amicus curiae* granted. Motion of Procter & Gamble Co. and Clorox Co. for leave to file an opposition to motion of Purex Corp. for leave to file a brief as *amicus curiae* denied.

No. 75-1413. STANTON, ADMINISTRATOR, INDIANA DEPARTMENT OF PUBLIC WELFARE, ET AL. *v.* BOND ET AL. C. A. 7th Cir. [Certiorari granted, 426 U. S. 905.] Motion of Lawyers' Committee for Civil Rights Under Law for leave to file a brief as *amicus curiae* granted. MR. JUSTICE STEVENS took no part in the consideration or decision of this motion.

No. 75-1473. E. I. DU PONT DE NEMOURS & Co. ET AL. *v.* TRAIN, ADMINISTRATOR, ENVIRONMENTAL PROTECTION AGENCY; and

No. 75-1705. TRAIN, ADMINISTRATOR, ENVIRONMENTAL PROTECTION AGENCY *v.* E. I. DU PONT DE NEMOURS & Co. ET AL. C. A. 4th Cir. [Certiorari granted, 426 U. S. 947.] Mo-

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tion of Appalachian Power Co. et al. for leave to file a brief as *amici curiae* granted. MR. JUSTICE POWELL took no part in the consideration or decision of this motion.

No. 75-1510. WEATHERFORD ET AL. *v.* BURSEY. C. A. 4th Cir. [Certiorari granted, 426 U. S. 946.] Motion of respondent for leave to proceed further herein *in forma pauperis* granted.

No. 75-1674. KINGS COUNTY ET AL. *v.* SANTA ROSA BAND OF INDIANS ET AL. C. A. 9th Cir.;

No. 75-1710. RANKIN COUNTY BOARD OF EDUCATION ET AL. *v.* ADAMS ET AL. C. A. 5th Cir.; and

No. 75-6990. BALL *v.* DUNLAP, CHAIRMAN, RHODE ISLAND STATE PILOTAGE COMMISSION, ET AL. C. A. 1st Cir. The Solicitor General is invited to file a brief in each of these cases expressing the views of the United States.

No. 75-6927. GOMORI *v.* ARNOLD, WARDEN, ET AL.;

No. 76-5099. BROOKS *v.* SCISM, CHAIRMAN, NORTH CAROLINA PAROLE COMMISSION, ET AL.;

No. 76-5190. LINDSLEY *v.* ATTORNEY GENERAL OF PENNSYLVANIA ET AL.; and

No. 76-5222. HOLMES *v.* ISRAEL, WARDEN. Motions for leave to file petitions for writs of habeas corpus denied.

No. 75-1836. THOMPSON ET UX. *v.* SUPREME COURT OF ILLINOIS ET AL.;

No. 75-6499. LOVE *v.* GRAY, WARDEN;

No. 75-6581. MONTGOMERY *v.* NOEL, U. S. DISTRICT JUDGE;

No. 75-6917. WILLIAMS *v.* PHILLIPS ET AL.;

No. 75-6998. MORTON ET AL. *v.* UNITED STATES ET AL.;

No. 76-5155. GREEN *v.* HUNTER, U. S. DISTRICT JUDGE; and

No. 76-5195. GREEN *v.* WANGELIN, U. S. DISTRICT JUDGE. Motions for leave to file petitions for writs of mandamus denied.

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No. 75-6891. *FOSTER v. HARDY ET AL.* Motion for leave to file petition for writ of prohibition denied.

No. 75-1757. *CLANCEY v. UNITED STATES HOUSE OF REPRESENTATIVES ET AL.* Motion for leave to file petition for writ of prohibition and/or mandamus denied.

Probable Jurisdiction Noted or Postponed

No. 75-1513. *HOWLETT, SECRETARY OF STATE OF ILLINOIS v. LOVE.* Appeal from D. C. N. D. Ill. Probable jurisdiction noted.

No. 75-1812. *SHAFFER ET AL. v. HEITNER.* Appeal from Sup. Ct. Del. Probable jurisdiction noted. Reported below: 361 A. 2d 225.

No. 75-1861. *PATTERSON v. NEW YORK.* Appeal from Ct. App. N. Y. Probable jurisdiction noted. Reported below: 39 N. Y. 2d 288, 347 N. E. 2d 898.

No. 76-29. *COMPLETE AUTO TRANSIT, INC. v. BRADY, CHAIRMAN, MISSISSIPPI TAX COMMISSION.* Appeal from Sup. Ct. Miss. Probable jurisdiction noted. Reported below: 330 So. 2d 268.

No. 76-128. *MANDEL, GOVERNOR OF MARYLAND, ET AL. v. BRADLEY ET AL.* Appeal from D. C. Md. Probable jurisdiction noted.

No. 76-316. *BATES ET AL. v. STATE BAR OF ARIZONA.* Appeal from Sup. Ct. Ariz. Probable jurisdiction noted. Reported below: 113 Ariz. 394, 555 P. 2d 640.

No. 75-1691. *GUEST, PRESIDENT OF METHODIST HOSPITAL, ET AL. v. FITZPATRICK, DISTRICT ATTORNEY OF PHILADELPHIA, ET AL.; AND*

No. 75-1698. *WILLIAMSPORT HOSPITAL ET AL. v. FITZPATRICK, DISTRICT ATTORNEY OF PHILADELPHIA.* Appeals from D. C. E. D. Pa. Probable jurisdiction noted. Cases consolidated and a total of one hour allotted for oral argument. Reported below: 409 F. Supp. 818.

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No. 75-1704. *HOFFMANN, SECRETARY OF THE ARMY v. FIOTO*. Appeal from D. C. E. D. N. Y. Motion of appellee for leave to proceed *in forma pauperis* granted. Probable jurisdiction noted. Reported below: 409 F. Supp. 831.

No. 75-1707. *OHIO BUREAU OF EMPLOYMENT SERVICES ET AL. v. HODORY*. Appeal from D. C. N. D. Ohio. Motions of Chamber of Commerce of the United States, Republic Steel Corp., and United States Steel Corp. for leave to file briefs as *amici curiae* granted. Motions of Republic Steel Corp. and United States Steel Corp. for leave to intervene denied. Motion of appellee for leave to proceed *in forma pauperis* granted. Probable jurisdiction noted. Reported below: 408 F. Supp. 1016.

No. 76-63. *HOLSHOUSER, GOVERNOR OF NORTH CAROLINA, ET AL. v. WASHINGTON STATE APPLE ADVERTISING COMMISSION*. Appeal from D. C. E. D. N. C. Further consideration of question of jurisdiction postponed to hearing of case on the merits. Reported below: 408 F. Supp. 857.

Certiorari Granted

No. 75-1721. *UNITED STATES v. CHADWICK ET AL.* C. A. 1st Cir. Certiorari granted. Reported below: 532 F. 2d 773.

No. 75-1753. *SANTA FE INDUSTRIES, INC., ET AL. v. GREEN ET AL.* C. A. 2d Cir. Certiorari granted. Reported below: 533 F. 2d 1283 and 1309.

No. 75-1771. *COMMISSIONER OF INTERNAL REVENUE v. STANDARD LIFE & ACCIDENT INSURANCE Co.* C. A. 10th Cir. Certiorari granted. Reported below: 525 F. 2d 786.

No. 75-1693. *BLACKLEDGE, WARDEN, ET AL. v. ALLISON*. C. A. 4th Cir. Motion of respondent for leave to proceed *in forma pauperis* and certiorari granted. Reported below: 533 F. 2d 894.

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No. 75-1775. MASSACHUSETTS *v.* WESTCOTT. Sup. Jud. Ct. Mass. Certiorari granted. Reported below: — Mass. —, 344 N. E. 2d 411.

No. 75-1805. JEFFERS *v.* UNITED STATES. C. A. 7th Cir. Certiorari granted. Reported below: 532 F. 2d 1101.

No. 76-156. VENDO CO. *v.* LEKTRO-VEND CORP. ET AL. C. A. 7th Cir. Certiorari granted. Reported below: 545 F. 2d 1050.

No. 75-1344. SCARBOROUGH *v.* UNITED STATES. C. A. 4th Cir. Certiorari granted limited to Question No. 1 presented by the petition. Reported below: 539 F. 2d 331.

No. 75-1906. HENDERSON, CORRECTIONAL SUPERINTENDENT *v.* KIBBE. C. A. 2d Cir. Motion of respondent for leave to proceed *in forma pauperis* and certiorari granted. Reported below: 534 F. 2d 493.

No. 75-1870. E. I. DU PONT DE NEMOURS & Co. ET AL. *v.* COLLINS ET AL.; and

No. 75-1872. SECURITIES AND EXCHANGE COMMISSION *v.* COLLINS ET AL. C. A. 8th Cir. Certiorari granted, cases consolidated, and a total of one hour allotted for oral argument. Reported below: 532 F. 2d 584.

No. 75-5444. COKER *v.* GEORGIA. Sup. Ct. Ga. Motion for leave to proceed *in forma pauperis* and certiorari granted limited to Question No. 1 presented by the petition. Reported below: 234 Ga. 555, 216 S. E. 2d 782.

No. 75-6568. HANKERSON *v.* NORTH CAROLINA. Sup. Ct. N. C. Motion for leave to proceed *in forma pauperis* and certiorari granted. Reported below: 288 N. C. 632, 220 S. E. 2d 575.

No. 76-167. UNITED STATES *v.* RAMSEY ET AL. C. A. D. C. Cir. Motion of respondent James W. Kelly for leave to proceed *in forma pauperis* and certiorari granted. Reported below: 176 U. S. App. D. C. 67, 538 F. 2d 415.

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Certiorari Denied. (See also Nos. 75-1581, 75-1750, 75-1793, 75-1879, 75-6684, 75-6694, 75-6860, 75-6901, 76-6, and 76-5183, *supra.*)

No. 75-1073. *PENNSYLVANIA v. MACDONALD.* Sup. Ct. Pa. *Certiorari denied.* Reported below: 464 Pa. 435, 347 A. 2d 290.

No. 75-1258. *BLACKIE ET AL. v. BARRACK ET AL.;*

No. 75-1300. *TOUCHE ROSS & Co. v. BARRACK ET AL.;*
and

No. 75-1314. *ROBERTS ET AL. v. BARRACK ET AL.* C. A. 9th Cir. *Certiorari denied.* Reported below: 524 F. 2d 891.

No. 75-1303. *QANTAS AIRWAYS LTD. v. FOREMOST INTERNATIONAL TOURS, INC.* C. A. 9th Cir. *Certiorari denied.* Reported below: 525 F. 2d 281.

No. 75-1357. *CALIFORNIA v. SUPERIOR COURT OF CALIFORNIA, COUNTY OF MONO (ZOLNAY ET AL., REAL PARTIES IN INTEREST).* Sup. Ct. Cal. *Certiorari denied.* Reported below: 15 Cal. 3d 729, 542 P. 2d 1390.

No. 75-1373. *IRVING v. UNITED STATES.* C. A. 10th Cir. *Certiorari denied.*

No. 75-1392. *WELCH v. WELCH, AKA CONFER.* Ct. App. Cal., 4th App. Dist. *Certiorari denied.*

No. 75-1415. *MCGUIRE v. UNITED STATES.* C. A. 5th Cir. *Certiorari denied.*

No. 75-1423. *KENTUCKY UTILITIES Co. v. FEDERAL POWER COMMISSION.* C. A. D. C. Cir. *Certiorari denied.* Reported below: 174 U. S. App. D. C. 100, 529 F. 2d 342.

No. 75-1424. *CIOVACCO v. UNITED STATES.* C. A. 1st Cir. *Certiorari denied.* Reported below: 530 F. 2d 961.

No. 75-1444. *JOYCE v. UNITED STATES.* C. A. 7th Cir. *Certiorari denied.* Reported below: 529 F. 2d 529.

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No. 75-1432. *ABELL ET AL. v. UNITED STATES*. Ct. Cl. Certiorari denied. Reported below: 207 Ct. Cl. 207, 518 F. 2d 1369.

No. 75-1451. *SMITH v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 523 F. 2d 771.

No. 75-1454. *SANCHEZ ET AL. v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 521 F. 2d 244.

No. 75-1455. *DUFRESNE, AKA SUDLER, ET AL. v. SUDLER*. App. Ct. Ill., 2d Dist. Certiorari denied. Reported below: 28 Ill. App. 3d 1037, 328 N. E. 2d 909.

No. 75-1456. *LEMMONS v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 527 F. 2d 662.

No. 75-1463. *CABBLER v. SUPERINTENDENT, VIRGINIA STATE PENITENTIARY*. C. A. 4th Cir. Certiorari denied. Reported below: 528 F. 2d 1142.

No. 75-1465. *ATLANTIC TUBING & RUBBER CO. v. INTERNATIONAL ENGRAVING CO.* C. A. 1st Cir. Certiorari denied. Reported below: 528 F. 2d 1272.

No. 75-1472. *CHASE v. ESTELLE, CORRECTIONS DIRECTOR*. C. A. 5th Cir. Certiorari denied. Reported below: 526 F. 2d 1405.

No. 75-1475. *UNITED STATES STEEL CORP. v. UNITED STEELWORKERS OF AMERICA, AFL-CIO, ET AL.; and*

No. 75-1478. *UNITED STEELWORKERS OF AMERICA, AFL-CIO, ET AL. v. FORD ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 520 F. 2d 1043.

No. 75-1479. *LOCAL UNION No. 795, INTERNATIONAL LONGSHOREMEN'S ASSN., AFL-CIO, ET AL. v. McDONALD ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 525 F. 2d 1217.

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No. 75-1484. *LUBRANO v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 529 F. 2d 633.

No. 75-1486. *WHITAKER, AKA WITTAKER v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 529 F. 2d 1031.

No. 75-1487. *EVANS ET AL. v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 526 F. 2d 701.

No. 75-1494. *SCHENKER v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 529 F. 2d 96.

No. 75-1497. *ACUPUNCTURE CENTER OF WASHINGTON ET AL. v. USERY, SECRETARY OF LABOR, ET AL.* C. A. D. C. Cir. Certiorari denied. Reported below: 177 U. S. App. D. C. 367, 543 F. 2d 852.

No. 75-1499. *BUSSE v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 530 F. 2d 965.

No. 75-1501. *IVEY ET AL. v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 529 F. 2d 521.

No. 75-1505. *A. W. THOMPSON, INC. v. NATIONAL LABOR RELATIONS BOARD*. C. A. 5th Cir. Certiorari denied. Reported below: 525 F. 2d 870.

No. 75-1506. *HONDO DRILLING Co. v. NATIONAL LABOR RELATIONS BOARD*. C. A. 5th Cir. Certiorari denied. Reported below: 525 F. 2d 864.

No. 75-1508. *FEDDERS CORP. v. FEDERAL TRADE COMMISSION*. C. A. 2d Cir. Certiorari denied. Reported below: 529 F. 2d 1398.

No. 75-1514. *PESKIN v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 527 F. 2d 71.

No. 75-1520. *WANGRUD v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 533 F. 2d 495.

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No. 75-1517. *KWIEK v. BOARD OF FIRE & POLICE COMMISSIONERS OF VILLAGE OF SCHAUMBURG ET AL.* App. Ct. Ill., 1st Dist. Certiorari denied. Reported below: 30 Ill. App. 3d 1099, 339 N. E. 2d 46.

No. 75-1522. *KANTROWITZ v. MATHEWS, SECRETARY OF HEALTH, EDUCATION, AND WELFARE.* C. A. D. C. Cir. Certiorari denied. Reported below: 174 U. S. App. D. C. 182, 530 F. 2d 1034.

No. 75-1526. *BIEDENHARN REALTY Co., INC. v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. Reported below: 526 F. 2d 409.

No. 75-1528. *BAPTISTA v. UNITED STATES;* and

No. 75-1529. *HATHAWAY v. UNITED STATES.* C. A. 1st Cir. Certiorari denied. Reported below: 534 F. 2d 386.

No. 75-1530. *HORAN v. UNITED STATES.* C. A. 4th Cir. Certiorari denied. Reported below: 535 F. 2d 1251.

No. 75-1537. *BLITZ v. UNITED STATES.* C. A. 2d Cir. Certiorari denied. Reported below: 533 F. 2d 1329.

No. 75-1538. *MASTRANGELO ET AL. v. UNITED STATES.* C. A. 2d Cir. Certiorari denied. Reported below: 538 F. 2d 316.

No. 75-1540. *NATICK PAPERBOARD CORP. ET AL. v. MATHEWS, SECRETARY OF HEALTH, EDUCATION, AND WELFARE, ET AL.* C. A. 1st Cir. Certiorari denied. Reported below: 525 F. 2d 1103.

No. 75-1541. *HOFF ET AL. v. UNITED STATES;* and

No. 75-1554. *STOFESKY ET AL. v. UNITED STATES.* C. A. 2d Cir. Certiorari denied. Reported below: 527 F. 2d 237.

No. 75-1543. *MISSOURI PACIFIC RAILROAD Co. ET AL. v. WHITE ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 526 F. 2d 1406.

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No. 75-1544. *HARPER v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 530 F. 2d 828.

No. 75-1548. *WIENER v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 534 F. 2d 15.

No. 75-1555. *CONLEY v. HAMPTON, CHAIRMAN, CIVIL SERVICE COMMISSION, ET AL.* C. A. D. C. Cir. Certiorari denied. Reported below: 174 U. S. App. D. C. 241, 530 F. 2d 1093.

No. 75-1557. *YOKUM v. UNITED STATES*. Ct. Cl. Certiorari denied. Reported below: 208 Ct. Cl. 972, 529 F. 2d 532.

No. 75-1559. *PARNES ET UX. v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 536 F. 2d 474.

No. 75-1567. *HORTON v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 526 F. 2d 884.

No. 75-1568. *J. FRANK KELLY, INC., ET AL. v. SWINTON ET AL.* C. A. D. C. Cir. Certiorari denied. Reported below: 180 U. S. App. D. C. 216, 554 F. 2d 1075.

No. 75-1571. *ENTRINGER v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 532 F. 2d 634.

No. 75-1574. *DEFRANCIS v. BOSSIER CITY*. Ct. App. La., 2d Cir. Certiorari denied. Reported below: 322 So. 2d 333.

No. 75-1575. *KIRSCHKE v. CALIFORNIA*. Ct. App. Cal., 2d App. Dist. Certiorari denied. Reported below: 53 Cal. App. 3d 405, 125 Cal. Rptr. 680.

No. 75-1576. *RADETSKY v. UNITED STATES*. C. A. 10th Cir. Certiorari denied. Reported below: 535 F. 2d 556.

No. 75-1586. *ROGERS BROTHERS WHOLESALERS v. NATIONAL LABOR RELATIONS BOARD*. C. A. 5th Cir. Certiorari denied. Reported below: 526 F. 2d 354.

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No. 75-1577. *BRODERICK v. CATHOLIC UNIVERSITY OF AMERICA*; and

No. 75-1647. *GRANFIELD v. CATHOLIC UNIVERSITY OF AMERICA*. C. A. D. C. Cir. Certiorari denied. Reported below: 174 U. S. App. D. C. 183, 530 F. 2d 1035.

No. 75-1585. *McGUIRE v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 529 F. 2d 527.

No. 75-1587. *SNOW v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 529 F. 2d 224.

No. 75-1588. *WATHEN v. UNITED STATES*. Ct. Cl. Certiorari denied. Reported below: 208 Ct. Cl. 342, 527 F. 2d 1191.

No. 75-1590. *MIRANDA v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 526 F. 2d 1319.

No. 75-1591. *YOUNG v. TEXAS*. Ct. Crim. App. Tex. Certiorari denied. Reported below: 531 S. W. 2d 647.

No. 75-1593. *PERKAL v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 530 F. 2d 604.

No. 75-1594. *KENNEBEC LOG DRIVING Co. ET AL. v. UNITED STATES*. C. A. 1st Cir. Certiorari denied. Reported below: 530 F. 2d 446.

No. 75-1596. *GRUNDY ET AL. v. MANCHESTER INSURANCE & INDEMNITY Co.* Sup. Ct. Ky. Certiorari denied. Reported below: 531 S. W. 2d 493.

No. 75-1598. *GLOBAL MARINE DEVELOPMENT OF CALIFORNIA, INC. v. NATIONAL LABOR RELATIONS BOARD ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 528 F. 2d 92.

No. 75-1599. *ZAGER ET AL. v. USERY, SECRETARY OF LABOR*. C. A. 6th Cir. Certiorari denied. Reported below: 529 F. 2d 524.

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No. 75-1604. *SILVER BELL INDUSTRIES, INC. v. UNITED STATES ET AL.* C. A. 10th Cir. Certiorari denied.

No. 75-1615. *UTAH CAPITAL CORP. ET AL. v. UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA (SECURITIES AND EXCHANGE COMMISSION ET AL., REAL PARTIES IN INTEREST).* C. A. 9th Cir. Certiorari denied.

No. 75-1618. *MANNELLA v. UNITED STATES*; and

No. 75-1738. *ROSA v. UNITED STATES.* C. A. 3d Cir. Certiorari denied. Reported below: 535 F. 2d 1248.

No. 75-1619. *GIBSON ET AL. v. TEXAS.* Ct. Crim. App. Tex. Certiorari denied. Reported below: 532 S. W. 2d 69.

No. 75-1624. *STEARNS v. VETERANS OF FOREIGN WARS.* C. A. D. C. Cir. Certiorari denied. Reported below: 174 U. S. App. D. C. 78, 527 F. 2d 1387.

No. 75-1625. *ARLEN REALTY & DEVELOPMENT CORP. ET AL. v. CONDOR CORP.* C. A. 8th Cir. Certiorari denied. Reported below: 529 F. 2d 87.

No. 75-1626. *ASSOCIATED GENERAL CONTRACTORS OF AMERICA, INC., OREGON-COLUMBIA CHAPTER, ET AL. v. INTERNATIONAL UNION OF OPERATING ENGINEERS, LOCAL 701.* C. A. 9th Cir. Certiorari denied. Reported below: 529 F. 2d 1395.

No. 75-1627. *JACKSON COUNTY, MISSOURI, ET AL. v. PUBLIC SERVICE COMMISSION OF MISSOURI ET AL.* Sup. Ct. Mo. Certiorari denied. Reported below: 532 S. W. 2d 20.

No. 75-1629. *FERNANDEZ v. UNITED STATES.* C. A. 9th Cir. Certiorari denied.

No. 75-1630. *ANDERSON v. UNITED STATES.* C. A. 2d Cir. Certiorari denied. Reported below: 532 F. 2d 249.

No. 75-1632. *BIANCO v. UNITED STATES.* C. A. 2d Cir. Certiorari denied. Reported below: 534 F. 2d 501.

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No. 75-1631. *KIRKLAND ET AL. v. NEW YORK STATE DEPARTMENT OF CORRECTIONAL SERVICES ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 520 F. 2d 420.

No. 75-1633. *TURK v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. Reported below: 526 F. 2d 654.

No. 75-1634. *BLAKE v. CALIFORNIA.* Ct. App. Cal., 1st App. Dist. Certiorari denied.

No. 75-1636. *UNGAR ET AL. v. DUNKIN' DONUTS OF AMERICA, INC., ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 531 F. 2d 1211.

No. 75-1637. *WADE v. HENKENBERNS ET AL.* Ct. App. Ohio, Hamilton County. Certiorari denied.

No. 75-1639. *STEPPING STONE ENTERPRISES ET AL. v. ANDREWS ET AL.* C. A. 1st Cir. Certiorari denied. Reported below: 531 F. 2d 1.

No. 75-1640. *NATIONAL DYNAMICS CORP. ET AL. v. FEDERAL TRADE COMMISSION.* C. A. 2d Cir. Certiorari denied. Reported below: 538 F. 2d 312.

No. 75-1641. *WOODLAN v. UNITED STATES.* C. A. 6th Cir. Certiorari denied. Reported below: 527 F. 2d 608.

No. 75-1645. *DAVIS v. MARATHON OIL Co.* C. A. 6th Cir. Certiorari denied. Reported below: 528 F. 2d 395.

No. 75-1646. *SOCIEDAD CIVIL AGRICOLA E INDUSTRIAL HEIRS OF J. SERRALLES v. PUERTO RICO.* Sup. Ct. P. R. Certiorari denied. Reported below: — P. R. R. —.

No. 75-1650. *MR. STEAK, INC., ET AL. v. HELLERSTEIN.* C. A. 10th Cir. Certiorari denied. Reported below: 531 F. 2d 470.

No. 75-1651. *MATHESON, EXECUTOR v. UNITED STATES.* C. A. 2d Cir. Certiorari denied. Reported below: 532 F. 2d 809.

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No. 75-1652. *STONE v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 531 F. 2d 939.

No. 75-1656. *BEAN v. IOWA*. Sup. Ct. Iowa. Certiorari denied. Reported below: 239 N. W. 2d 556.

No. 75-1658. *WESTWOOD CHEMICAL, INC. v. PPG INDUSTRIES, INC.* C. A. 6th Cir. Certiorari denied. Reported below: 530 F. 2d 700.

No. 75-1659. *ROWLETT ET AL. v. UNITED STATES*; and
No. 75-6770. *PAULDINO v. UNITED STATES*. C. A. 10th Cir. Certiorari denied.

No. 75-1661. *VALLEY MOLD Co., INC. v. NATIONAL LABOR RELATIONS BOARD*. C. A. 6th Cir. Certiorari denied. Reported below: 530 F. 2d 693.

No. 75-1665. *CHESTNUTT CORP. ET AL. v. FOGEL ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 533 F. 2d 731.

No. 75-1669. *ILLMAN v. OHIO STATE BAR ASSN.* Sup. Ct. Ohio. Certiorari denied. Reported below: 45 Ohio St. 2d 159, 342 N. E. 2d 688.

No. 75-1671. *RICHARDSON v. COMMUNICATIONS WORKERS OF AMERICA, AFL-CIO, ET AL.* C. A. 8th Cir. Certiorari denied. Reported below: 530 F. 2d 126.

No. 75-1675. *ANTILLES INDUSTRIES, INC. v. GOVERNMENT OF THE VIRGIN ISLANDS ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 529 F. 2d 605.

No. 75-1676. *BOSCIA v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 535 F. 2d 1248.

No. 75-1679. *NENOFF, ANCILLARY ADMINISTRATRIX v. THOMPSON*. Ct. App. Ohio, Lucas County. Certiorari denied.

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No. 75-1680. *FATHEREE v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 534 F. 2d 330.

No. 75-1681. *MILLER v. STAG OIL PRODUCERS, INC.* Sup. Ct. Wyo. Certiorari denied.

No. 75-1682. *WILSON FREIGHT FORWARDING Co., AKA WILSON FREIGHT Co. v. BAUGHMAN ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 530 F. 2d 529.

No. 75-1683. *YELLOW FREIGHT SYSTEM, INC. v. OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION ET AL.* C. A. D. C. Cir. Certiorari denied. Reported below: 174 U. S. App. D. C. 243, 530 F. 2d 1095.

No. 75-1684. *CITY OF NEW YORK v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 538 F. 2d 308.

No. 75-1686. *LODGE 743, INTERNATIONAL ASSOCIATION OF MACHINISTS & AEROSPACE WORKERS, AFL-CIO, ET AL. v. NATIONAL LABOR RELATIONS BOARD; and*

No. 75-1729. *LODGE 743, INTERNATIONAL ASSOCIATION OF MACHINISTS & AEROSPACE WORKERS, AFL-CIO, ET AL. v. UNITED AIRCRAFT CORP.* C. A. 2d Cir. Certiorari denied. Reported below: 534 F. 2d 422.

No. 75-1688. *JONAL CORP. v. DISTRICT OF COLUMBIA*. C. A. D. C. Cir. Certiorari denied. Reported below: 175 U. S. App. D. C. 57, 533 F. 2d 1192.

No. 75-1689. *MAYFAIR CONSTRUCTION CORP. v. BODRICK ET AL.* Ct. App. N. Y. Certiorari denied. Reported below: 38 N. Y. 2d 926, 346 N. E. 2d 820.

No. 75-1694. *JONES ET AL. v. NEW YORK CITY HUMAN RESOURCES ADMINISTRATION ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 528 F. 2d 696.

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No. 75-1696. *KAZONIS v. UNITED STATES*. C. A. 1st Cir. Certiorari denied. Reported below: 530 F. 2d 962.

No. 75-1697. *GUNNING ET AL. v. GRAY ET AL.* Ct. App. Cal., 3d App. Dist. Certiorari denied.

No. 75-1700. *SMART v. TEXAS POWER & LIGHT CO. ET AL.*; and

No. 75-1701. *SMART v. TEXAS POWER & LIGHT CO. ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: No. 75-1700, 525 F. 2d 1211; No. 75-1701, 525 F. 2d 1209.

No. 75-1702. *BARRY ET AL. v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 528 F. 2d 1094.

No. 75-1703. *WRIGHT MOTORS, INC. v. NATIONAL LABOR RELATIONS BOARD*. C. A. 7th Cir. Certiorari denied. Reported below: 529 F. 2d 529.

No. 75-1708. *LUGO v. EMPLOYEES RETIREMENT FUND OF THE ILLUMINATION PRODUCTS INDUSTRY ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 529 F. 2d 251.

No. 75-1709. *PARKER v. BOORSTIN, LIBRARIAN OF CONGRESS, ET AL.* C. A. D. C. Cir. Certiorari denied.

No. 75-1711. *DANIELS ET AL., DBA HEART OF THE BLACK HILLS STATIONS v. FEDERAL COMMUNICATIONS COMMISSION ET AL.* C. A. D. C. Cir. Certiorari denied.

No. 75-1713. *PILGRIM EQUIPMENT Co., INC., ET AL. v. USERY, SECRETARY OF LABOR*. C. A. 5th Cir. Certiorari denied. Reported below: 527 F. 2d 1308.

No. 75-1714. *CARLSBERG MOBILE HOME PROPERTIES, LTD. — '72 v. SIBLEY ET AL.* Sup. Ct. Cal. Certiorari denied. Reported below: 16 Cal. 3d 442, 546 P. 2d 322.

No. 75-1717. *BANKING BOARD OF OKLAHOMA ET AL. v. NEEL ET AL.* Ct. Bank Review Okla. Certiorari denied.

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No. 75-1715. *LABIT v. SANTA FE MARINE, INC., ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 526 F. 2d 961.

No. 75-1718. *UNION PACIFIC RAILROAD Co. v. UNITED STATES.* Ct. Cl. Certiorari denied. Reported below: 208 Ct. Cl. 1, 524 F. 2d 1343.

No. 75-1720. *NAFTALIN v. UNITED STATES.* C. A. 8th Cir. Certiorari denied. Reported below: 534 F. 2d 770.

No. 75-1722. *FOLLIARD v. SEMLER, ADMINISTRATRIX, ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 538 F. 2d 121.

No. 75-1725. *MONTGOMERY COUNTY COMMUNITY ACTION AGENCY v. POWERS.* Ct. App. Ohio, Montgomery County. Certiorari denied.

No. 75-1727. *NANCE v. OREGON STATE SYSTEM OF HIGHER EDUCATION ET AL.* Ct. App. Ore. Certiorari denied. Reported below: 23 Ore. App. 558, 543 P. 2d 687.

No. 75-1730. *TWO TRACTS OF LAND CONTAINING A TOTAL OF 146.4 ACRES ET AL. v. TENNESSEE VALLEY AUTHORITY.* C. A. 6th Cir. Certiorari denied. Reported below: 532 F. 2d 1083.

No. 75-1732. *FIRST NATIONAL CITY BANK v. AMERICAN FIDELITY FIRE INSURANCE Co. ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 534 F. 2d 532.

No. 75-1733. *SIMON v. SIMON.* Dist. Ct. App. Fla., 3d Dist. Certiorari denied. Reported below: 317 So. 2d 83.

No. 75-1736. *APEX OIL Co. v. UNITED STATES.* C. A. 8th Cir. Certiorari denied. Reported below: 530 F. 2d 1291.

No. 75-1739. *DADE COUNTY CLASSROOM TEACHERS' ASSN., INC. v. NATIONAL EDUCATION ASSN.* C. A. 5th Cir. Certiorari denied. Reported below: 527 F. 2d 1388.

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No. 75-1742. *ZENITH LABORATORIES, INC. v. CARTER-WALLACE, INC.* C. A. 3d Cir. Certiorari denied. Reported below: 530 F. 2d 508.

No. 75-1746. *ALSBURY v. UNITED STATES POSTAL SERVICE ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 530 F. 2d 852.

No. 75-1747. *W. T. MAYFIELD SONS TRUCKING Co. v. UNITED STATES ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 525 F. 2d 692.

No. 75-1748. *DONAHEY v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. Reported below: 529 F. 2d 831.

No. 75-1752. *HILLIARD v. ARMCO STEEL CORP. ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 532 F. 2d 746.

No. 75-1758. *YPSILANTI PRESS, INC. v. NATIONAL LABOR RELATIONS BOARD.* C. A. 6th Cir. Certiorari denied. Reported below: 535 F. 2d 1256.

No. 75-1760. *HILTON v. UNITED STATES.* C. A. 3d Cir. Certiorari denied. Reported below: 534 F. 2d 556.

No. 75-1762. *KLEMOW v. TIME, INC.* Sup. Ct. Pa. Certiorari denied. Reported below: 466 Pa. 189, 352 A. 2d 12.

No. 75-1765. *RIEBSCHLAEGER v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. Reported below: 528 F. 2d 1031.

No. 75-1767. *Y. HATA & Co., LTD., ET AL. v. UNITED STATES.* C. A. 9th Cir. Certiorari denied. Reported below: 535 F. 2d 508.

No. 75-1769. *GREAT UNITED REALTY Co., INC. v. UNITED STATES ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 532 F. 2d 750.

No. 75-1770. *HURLEY v. ILLINOIS.* Sup. Ct. Ill. Certiorari denied. Reported below: 63 Ill. 2d 1, 345 N. E. 2d 97.

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No. 75-1773. *DESERT OUTDOOR ADVERTISING, INC. v. DEPARTMENT OF TRANSPORTATION OF CALIFORNIA*. Ct. App. Cal., 4th App. Dist. Certiorari denied.

No. 75-1774. *CIVIC AWARENESS OF AMERICA, LTD., ET AL. v. MATHEWS, SECRETARY OF HEALTH, EDUCATION, AND WELFARE, ET AL.* C. A. 7th Cir. Certiorari denied. Reported below: 532 F. 2d 756.

No. 75-1776. *LONG v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 533 F. 2d 505.

No. 75-1777. *CRAIG v. SUN OIL COMPANY OF PENNSYLVANIA ET AL.* C. A. 10th Cir. Certiorari denied. Reported below: 515 F. 2d 221.

No. 75-1778. *STANDARD OIL COMPANY OF CALIFORNIA ET AL. v. FLORIDA EX REL. SHEVIN, ATTORNEY GENERAL OF FLORIDA*. C. A. 5th Cir. Certiorari denied. Reported below: 526 F. 2d 266.

No. 75-1779. *CHESTNUT v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 533 F. 2d 40.

No. 75-1780. *METALLURGICAL EXOPRODUCTS CORP. v. PITTSBURGH METALS PURIFYING Co., INC.* C. A. 3d Cir. Certiorari denied. Reported below: 532 F. 2d 747.

No. 75-1781. *HEMINGWAY ET AL. v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 530 F. 2d 636.

No. 75-1783. *OAKLEY v. KNEFF*. Sup. Ct. Ky. Certiorari denied.

No. 75-1784. *HARDWICK ET AL. v. JACOBS*. C. A. 5th Cir. Certiorari denied. Reported below: 529 F. 2d 520.

No. 75-1785. *GROSS v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 535 F. 2d 1248.

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No. 75-1787. *SMOKE v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 535 F. 2d 1256.

No. 75-1788. *CAREY TRANSPORTATION, INC. v. TRIBOROUGH BRIDGE AND TUNNEL AUTHORITY*. Ct. App. N. Y. Certiorari denied. Reported below: 38 N. Y. 2d 545, 345 N. E. 2d 281.

No. 75-1789. *ASHMORE ET AL. v. GEORGIA*. Sup. Ct. Ga. Certiorari denied. Reported below: 236 Ga. 401, 224 S. E. 2d 334.

No. 75-1790. *BRACH v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 538 F. 2d 314.

No. 75-1791. *ARTHUR ANDERSEN & Co. v. KRAMER ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 534 F. 2d 1085.

No. 75-1792. *UNITED EQUITY CORP. ET AL. v. YOUNG PROPERTIES CORP. ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 534 F. 2d 847.

No. 75-1794. *EVER-READY, INC., ET AL. v. UNION CARBIDE CORP.* C. A. 7th Cir. Certiorari denied. Reported below: 531 F. 2d 366.

No. 75-1795. *STRAUBE v. LARSON ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 538 F. 2d 339.

No. 75-1800. *CALLAHAN ET AL. v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 534 F. 2d 763.

No. 75-1802. *REEVES v. UNITED STATES*; and

No. 75-6834. *BERRY v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 535 F. 2d 1256.

No. 75-1803. *HACKENBERGER, DBA RON'S TRUCKING SERVICE v. NATIONAL LABOR RELATIONS BOARD*. C. A. 6th Cir. Certiorari denied. Reported below: 531 F. 2d 364.

No. 75-1804. *DEFEIS ET AL. v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 530 F. 2d 14.

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No. 75-1806. *RATLEY v. UNITED STATES*. C. A. 10th Cir. Certiorari denied.

No. 75-1814. *RELLA VERDE APARTMENTS, INC., ET AL. v. ARIZONA ET AL.* Ct. App. Ariz. Certiorari denied. Reported below: 25 Ariz. App. 458, 544 P. 2d 675.

No. 75-1819. *CUTHBERTSON ET AL. v. CHARLOTTE-MECKLENBURG BOARD OF EDUCATION*. C. A. 4th Cir. Certiorari denied. Reported below: 535 F. 2d 1249.

No. 75-1820. *STRICKLIN ET AL. v. UNITED STATES*. C. A. 10th Cir. Certiorari denied. Reported below: 534 F. 2d 1386.

No. 75-1821. *ABBOTT LABORATORIES, ROSS LABORATORIES DIVISION v. NATIONAL LABOR RELATIONS BOARD*. C. A. 4th Cir. Certiorari denied. Reported below: 541 F. 2d 276.

No. 75-1822. *NEW ORLEANS PUBLIC SERVICE, INC. v. POWER DIVISION ASSN. ET AL.* C. A. 5th Cir. Certiorari denied.

No. 75-1823. *McFARLAND v. GEORGIA*. Ct. App. Ga. Certiorari denied. Reported below: 137 Ga. App 354, 223 S. E. 2d 739.

No. 75-1824. *MALAJALIAN v. UNITED STATES*. Ct. Cl. Certiorari denied. Reported below: 208 Ct. Cl. 957, 538 F. 2d 346.

No. 75-1825. *LITRELL v. UNITED STATES*. C. A. 8th Cir. Certiorari denied.

No. 75-1827. *GREENBERG v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 534 F. 2d 523.

No. 75-1828. *POLLUTRO v. UNITED STATES*. Ct. Cl. Certiorari denied. Reported below: 208 Ct. Cl. 1018, 529 F. 2d 533.

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No. 75-1829. INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS, LOCAL No. 12, AFL-CIO, ET AL. *v.* A-1 ELECTRIC SERVICE, INC. C. A. 10th Cir. Certiorari denied. Reported below: 535 F. 2d 1.

No. 75-1830. JANSSEN *v.* IOWA. Sup. Ct. Iowa. Certiorari denied. Reported below: 239 N.W. 2d 564.

No. 75-1834. IOWA MOVERS & WAREHOUSEMEN'S ASSN. *v.* BRIGGS, DIRECTOR, IOWA DEPARTMENT OF REVENUE, ET AL. Sup. Ct. Iowa. Certiorari denied. Reported below: 237 N. W. 2d 759.

No. 75-1835. LAMOUR-NADAL *v.* PUERTO RICO TOURIST DEVELOPMENT Co. C. A. 1st Cir. Certiorari denied.

No. 75-1837. PACKARD *v.* WELCH ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 534 F. 2d 333.

No. 75-1839. SPERL *v.* CALIFORNIA. Ct. App. Cal., 2d App. Dist. Certiorari denied. Reported below: 54 Cal. App. 3d 640, 126 Cal. Rptr. 907.

No. 75-1840. HAVILAND *v.* BUTZ, SECRETARY OF AGRICULTURE. C. A. D. C. Cir. Certiorari denied. Reported below: 177 U. S. App. D. C. 22, 543 F. 2d 169.

No. 75-1841. GREAT LAKES DREDGE & DOCK Co. *v.* DEPARTMENT OF TAXATION AND FINANCE OF NEW YORK. Ct. App. N. Y. Certiorari denied. Reported below: 39 N. Y. 2d 75, 346 N. E. 2d 796.

No. 75-1845. STRYKER ET AL. *v.* VILLAGE OF OAK PARK, ILL., ET AL. Sup. Ct. Ill. Certiorari denied. Reported below: 62 Ill. 2d 523, 343 N. E. 2d 919.

No. 75-1846. CMI CORP. *v.* LAKELAND CONSTRUCTION Co., INC., ET AL. C. A. 7th Cir. Certiorari denied. Reported below: 532 F. 2d 757.

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No. 75-1848. *JOHNSON v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 530 F. 2d 52.

No. 75-1849. *SPAIN v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 536 F. 2d 170.

No. 75-1850. *DONAHUE v. MASSACHUSETTS*. Sup. Jud. Ct. Mass. Certiorari denied. Reported below: — Mass. —, 344 N. E. 2d 886.

No. 75-1851. *DELLY v. MARYLAND*. Ct. Sp. App. Md. Certiorari denied. Reported below: 30 Md. App. 391, 352 A. 2d 331.

No. 75-1854. *FULTON MARKET COLD STORAGE CO. v. KORZEN, TREASURER OF COOK COUNTY*. Sup. Ct. Ill. Certiorari denied. Reported below: 62 Ill. 2d 443, 343 N. E. 2d 450.

No. 75-1855. *CATES v. BEAUREGARD ELECTRIC COOPERATIVE, INC., ET AL.* Sup. Ct. La. Certiorari denied. Reported below: 328 So. 2d 367.

No. 75-1856. *PONCIANO ET AL. v. UNITED FARM WORKERS ORGANIZING COMMITTEE ET AL.* Ct. App. Cal., 5th App. Dist. Certiorari denied.

No. 75-1857. *GABRIEL ET AL. v. LEVIN ET AL.* C. A. 2d Cir. Certiorari denied.

No. 75-1859. *TAYLOR v. LIBERAL MARKET, INC.* C. A. 6th Cir. Certiorari denied. Reported below: 529 F. 2d 526.

No. 75-1860. *JHIRAD v. FERRANDINA, U. S. MARSHAL*. C. A. 2d Cir. Certiorari denied. Reported below: 536 F. 2d 478.

No. 75-1863. *LEWIS v. LOUISIANA*. Sup. Ct. La. Certiorari denied. Reported below: 328 So. 2d 75.

No. 75-1866. *STONAKER v. GEORGIA*. Sup. Ct. Ga. Certiorari denied. Reported below: 236 Ga. 1, 222 S. E. 2d 354.

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No. 75-1876. *STOWERS ET AL. v. MAHON ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 526 F. 2d 1238.

No. 75-1877. *SKEEN ET UX. v. VALLEY BANK OF NEVADA.* C. A. 5th Cir. Certiorari denied. Reported below: 532 F. 2d 185.

No. 75-1880. *TITLE GUARANTEE CO., A SUBSIDIARY OF PIONEER NATIONAL TITLE INSURANCE CO., ET AL. v. NATIONAL LABOR RELATIONS BOARD.* C. A. 2d Cir. Certiorari denied. Reported below: 534 F. 2d 484.

No. 75-1885. *MCDONALD v. ALABAMA.* Ct. Crim. App. Ala. Certiorari denied. Reported below: 57 Ala. App. 529, 329 So. 2d 583.

No. 75-1888. *BRUBRAD CO. v. UNITED STATES POSTAL SERVICE.* C. A. 2d Cir. Certiorari denied. Reported below: 538 F. 2d 308.

No. 75-1889. *PENNSYLVANIA ET AL. v. INTERSTATE COMMERCE COMMISSION ET AL.* C. A. D. C. Cir. Certiorari denied. Reported below: 175 U. S. App. D. C. 263, 535 F. 2d 91.

No. 75-1890. *DIMITRI'S GOLDEN STAR, INC., ET AL. v. ARTHUR TREACHER'S FISH & CHIPS, INC.* C. A. 6th Cir. Certiorari denied. Reported below: 535 F. 2d 1254.

No. 75-1891. *WEINSTOCK v. CALIFORNIA.* Ct. App. Cal., 2d App. Dist. Certiorari denied.

No. 75-1895. *DOW CHEMICAL CO. v. UNITED STEELWORKERS OF AMERICA, AFL-CIO-CLC, ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 530 F. 2d 266.

No. 75-1898. *MARINE ENGINEERS BENEFICIAL ASSN., ASSOCIATED MARITIME OFFICERS, AFL-CIO v. JOHNSON ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 532 F. 2d 1074.

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No. 75-1897. *ROGERS v. BOARD OF TRUSTEES OF MCKENDREE COLLEGE ET AL.* C. A. 7th Cir. Certiorari denied. Reported below: 534 F. 2d 330.

No. 75-1901. *SLOAN v. CANADIAN JAVELIN, LTD., ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 538 F. 2d 313.

No. 75-1902. *LUTHER v. INTERNATIONAL ASSOCIATION OF BRIDGE, STRUCTURAL & ORNAMENTAL IRON WORKERS, LOCAL 16, ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 535 F. 2d 1250.

No. 75-1903. *INTERNATIONAL RAILWAYS OF CENTRAL AMERICA v. UNITED BRANDS Co.* C. A. 2d Cir. Certiorari denied. Reported below: 532 F. 2d 231.

No. 75-1904. *UNITED BROTHERHOOD OF CARPENTERS & JOINERS OF AMERICA, AFL-CIO, ET AL. v. NORANDA ALUMINUM, INC.* C. A. 8th Cir. Certiorari denied. Reported below: 528 F. 2d 1304.

No. 75-1907. *CHAVEZ v. TEXAS.* Sup. Ct. Tex. Certiorari denied. Reported below: 533 S. W. 2d 746.

No. 75-1908. *ROSEN ET AL. v. PUBLIC SERVICE ELECTRIC & GAS Co.* C. A. 3d Cir. Certiorari denied. Reported below: 527 F. 2d 645.

No. 75-1912. *DISTRICT UNEMPLOYMENT COMPENSATION BOARD v. BENJAMIN ROSE INSTITUTE.* Ct. App. D. C. Certiorari denied. Reported below: 355 A. 2d 569.

No. 75-1915. *DAVID v. CALIFORNIA ET AL.* C. A. 9th Cir. Certiorari denied.

No. 75-1921. *DREYFUS v. VON FINCK ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 534 F. 2d 24.

No. 75-6389. *McCLAIN v. UNITED STATES.* C. A. 9th Cir. Certiorari denied. Reported below: 531 F. 2d 431.

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No. 75-6425. *WOODSON, AKA RHYSHE v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 524 F. 2d 1404.

No. 75-6465. *SAFFOLD v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 525 F. 2d 692.

No. 75-6496. *ACOSTA DE EVANS v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 531 F. 2d 428.

No. 75-6497. *HERO v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 535 F. 2d 1244.

No. 75-6498. *HELKER v. NEW MEXICO*. Ct. App. N. M. Certiorari denied. Reported below: 88 N. M. 650, 545 P. 2d 1028.

No. 75-6506. *DUNHAM v. CALIFORNIA*. Sup. Ct. Cal. Certiorari denied. Reported below: 16 Cal. 3d 63, 545 P. 2d 255.

No. 75-6522. *OMERNICK ET UX. v. DEPARTMENT OF NATURAL RESOURCES ET AL.* Sup. Ct. Wis. Certiorari denied. Reported below: 71 Wis. 2d 370, 238 N. W. 2d 114.

No. 75-6523. *HOLMEN, AKA RAMSEY v. UNITED STATES*. C. A. 4th Cir. Certiorari denied.

No. 75-6524. *COLLINS v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 532 F. 2d 79.

No. 75-6526. *FIAALII v. UNITED STATES*. C. A. 10th Cir. Certiorari denied.

No. 75-6538. *PARKER v. UNITED STATES*. C. A. 8th Cir. Certiorari denied.

No. 75-6541. *UZIEL v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 535 F. 2d 1244.

No. 75-6544. *SCOTT v. FLORIDA*. Sup. Ct. Fla. Certiorari denied. Reported below: 326 So. 2d 165.

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No. 75-6548. *MORRISON v. UNITED STATES*. C. A. 1st Cir. Certiorari denied. Reported below: 531 F. 2d 1089.

No. 75-6553. *HACKETT v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 528 F. 2d 143.

No. 75-6557. *ANDERSON v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 528 F. 2d 590.

No. 75-6560. *NICHOLSON v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 525 F. 2d 1233.

No. 75-6561. *ROBINSON ET AL. v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 532 F. 2d 754.

No. 75-6566. *LEWIS v. UNITED STATES*. C. A. 8th Cir. Certiorari denied.

No. 75-6571. *KNIGHT v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 532 F. 2d 748.

No. 75-6573. *SMITH v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 532 F. 2d 748.

No. 75-6585. *WEINER ET AL. v. UNITED STATES*. C. A. 9th Cir. Certiorari denied.

No. 75-6586. *HANES v. SULLIVAN, PRISON COMMISSIONER*. C. A. 5th Cir. Certiorari denied. Reported below: 529 F. 2d 520.

No. 75-6587. *MORGAN v. CALIFORNIA*. Sup. Ct. Cal. Certiorari denied.

No. 75-6592. *ROSS v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 531 F. 2d 839.

No. 75-6594. *GRAHAM v. UNITED STATES*. C. A. 1st Cir. Certiorari denied. Reported below: 530 F. 2d 962.

No. 75-6599. *REA v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 532 F. 2d 147.

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No. 75-6600. *VIGIL v. IMMIGRATION AND NATURALIZATION SERVICE*. C. A. 9th Cir. Certiorari denied.

No. 75-6601. *ROBINSON v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 530 F. 2d 971.

No. 75-6604. *PRUITT v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 527 F. 2d 716.

No. 75-6606. *WILLIS v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 530 F. 2d 308.

No. 75-6607. *CARTER v. HARDY*. C. A. 5th Cir. Certiorari denied. Reported below: 526 F. 2d 314.

No. 75-6610. *PORTER ET AL. v. UNITED STATES ET AL.* C. A. 8th Cir. Certiorari denied.

No. 75-6612. *REISER v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 532 F. 2d 673.

No. 75-6614. *PANDELLI v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 529 F. 2d 1108.

No. 75-6617. *GOLIGHTLY v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 532 F. 2d 748.

No. 75-6618. *LEE v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 532 F. 2d 911.

No. 75-6619. *ALLEN v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 514 F. 2d 710, and 527 F. 2d 1373.

No. 75-6625. *POUNDS, AKA HORNSBY, ET AL. v. NEW YORK*. App. Div., Sup. Ct. N. Y., 1st Jud. Dept. Certiorari denied. Reported below: 50 App. Div. 2d 782, 377 N. Y. S. 2d 78.

No. 75-6628. *BYUS v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 529 F. 2d 1350.

No. 75-6632. *PALMER v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 529 F. 2d 1350.

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No. 75-6633. *GATES v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 528 F. 2d 1045.

No. 75-6643. *WILLIAMS v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 536 F. 2d 810.

No. 75-6644. *TRAMMELL v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 528 F. 2d 927.

No. 75-6646. *PALILLA v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 526 F. 2d 256.

No. 75-6649. *MARCHESANI v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 529 F. 2d 526.

No. 75-6651. *PEZZINO v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 535 F. 2d 483.

No. 75-6652. *MILLER ET AL. v. UNITED STATES*. C. A. 10th Cir. Certiorari denied. Reported below: 532 F. 2d 1335.

No. 75-6656. *LIEGGI v. IMMIGRATION AND NATURALIZATION SERVICE*. C. A. 7th Cir. Certiorari denied. Reported below: 529 F. 2d 530.

No. 75-6660. *ANDERSON v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 532 F. 2d 1218.

No. 75-6662. *WALKER v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 530 F. 2d 975.

No. 75-6663. *NUSSEN v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 531 F. 2d 15.

No. 75-6665. *BOCOOK v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 530 F. 2d 977.

No. 75-6668. *DOCKERY v. UNITED STATES ET AL.* C. A. 9th Cir. Certiorari denied.

No. 75-6670. *VARNADO v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 530 F. 2d 975.

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No. 75-6676. *JAMES v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 532 F. 2d 1161.

No. 75-6677. *BOSTIC v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 535 F. 2d 1248.

No. 75-6680. *FITZGERALD, PUBLIC ADMINISTRATOR OF NEW YORK COUNTY v. ZIM ISRAEL NAVIGATION CO. ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 538 F. 2d 309.

No. 75-6681. *ZATKO v. UNITED STATES*. C. A. 9th Cir. Certiorari denied.

No. 75-6683. *BARNES v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 538 F. 2d 569.

No. 75-6687. *HALE v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 529 F. 2d 527.

No. 75-6691. *BUDD v. UNITED STATES*. Ct. App. D. C. Certiorari denied. Reported below: 350 A. 2d 742.

No. 75-6693. *WEEKS v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 535 F. 2d 1251.

No. 75-6699. *JONES v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 534 F. 2d 1344.

No. 75-6700. *BOWSER v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 532 F. 2d 1318.

No. 75-6701. *PROUT v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 526 F. 2d 380 and 529 F. 2d 999.

No. 75-6702. *MONTGOMERY v. UNITED STATES*. C. A. 10th Cir. Certiorari denied.

No. 75-6706. *ALEWELT v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 532 F. 2d 1165.

No. 75-6708. *BURKHART v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 538 F. 2d 340.

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No. 75-6709. SELEDON *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 538 F. 2d 343.

No. 75-6710. WISHON *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 534 F. 2d 334.

No. 75-6712. BELL *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 530 F. 2d 974.

No. 75-6713. CACACE *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 529 F. 2d 1167.

No. 75-6714. HAIGHT *v.* UNITED STATES. Ct. Cl. Certiorari denied. Reported below: 209 Ct. Cl. 698, 538 F. 2d 346.

No. 75-6715. HARMAN *v.* UNITED STATES. Ct. App. D. C. Certiorari denied. Reported below: 351 A. 2d 504.

No. 75-6716. KEARNEY *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied. Reported below: 534 F. 2d 31.

No. 75-6717. KATO *v.* CALIFORNIA. Ct. App. Cal., 4th App. Dist. Certiorari denied.

No. 75-6720. GIDLEY ET AL. *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 527 F. 2d 1345.

No. 75-6722. BUCKLEY *v.* MISSISSIPPI. Sup. Ct. Miss. Certiorari denied.

No. 75-6723. SHADD *v.* THORNBURG ET AL. C. A. 3d Cir. Certiorari denied. Reported below: 530 F. 2d 965.

No. 75-6724. GRAY *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied. Reported below: 531 F. 2d 933.

No. 75-6726. SLATON *v.* UNITED STATES. Ct. App. D. C. Certiorari denied.

No. 75-6727. JOHNSON *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 525 F. 2d 692.

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No. 75-6729. *MEECE, AKA JOHNSON v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 530 F. 2d 975.

No. 75-6730. *WHITE v. IDAHO*. Sup. Ct. Idaho. Certiorari denied. Reported below: 97 Idaho 708, 551 P. 2d 1344.

No. 75-6731. *PILLIS v. UNITED STATES*. C. A. 4th Cir. Certiorari denied.

No. 75-6732. *BAKER v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 535 F. 2d 1251.

No. 75-6733. *ESPARZA-NEVAREZ v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 518 F. 2d 1405.

No. 75-6734. *BRIGGS v. MAGGIO, WARDEN*. C. A. 5th Cir. Certiorari denied.

No. 75-6735. *TROWERY ET AL. v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 532 F. 2d 1244.

No. 75-6736. *CARTER v. MASCO MECHANICAL CONTRACTORS, INC.* C. A. 5th Cir. Certiorari denied. Reported below: 529 F. 2d 520.

No. 75-6738. *OSBORNE v. UNITED STATES ET AL.* C. A. 6th Cir. Certiorari denied.

No. 75-6739. *TESAR v. ILLINOIS ATTORNEYS REGISTRATION COMMISSION*. C. A. 7th Cir. Certiorari denied. Reported below: 532 F. 2d 756.

No. 75-6740. *DINKINS v. ALABAMA*. C. A. 5th Cir. Certiorari denied. Reported below: 526 F. 2d 1268.

No. 75-6743. *MCCRANEY v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 535 F. 2d 1255.

No. 75-6745. *STEVENSON v. BREWER, WARDEN*. Sup. Ct. Iowa. Certiorari denied. Reported below: 240 N. W. 2d 449.

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No. 75-6746. *MORGAN v. REES, WARDEN*. C. A. 9th Cir. Certiorari denied.

No. 75-6748. *MARTINEZ v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 530 F. 2d 976.

No. 75-6749. *NOTO v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 535 F. 2d 1248.

No. 75-6750. *KAYE v. U. S. CIVIL SERVICE COMMISSION*. C. A. 9th Cir. Certiorari denied.

No. 75-6751. *WARREN v. AARON, WARDEN*. C. A. 7th Cir. Certiorari denied. Reported below: 525 F. 2d 696.

No. 75-6752. *MOODY v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 529 F. 2d 516.

No. 75-6753. *CARTANO v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 534 F. 2d 788.

No. 75-6754. *BONDS v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 526 F. 2d 331.

No. 75-6756. *ZATKO v. BROWN, GOVERNOR OF CALIFORNIA, ET AL.* C. A. 9th Cir. Certiorari denied.

No. 75-6757. *JOHNSON v. UNITED STATES*. C. A. 2d Cir. Certiorari denied.

No. 75-6758. *FRANZELLA v. SECRETARY OF HEALTH, EDUCATION, AND WELFARE*. C. A. 2d Cir. Certiorari denied.

No. 75-6759. *SCHLOBOHM v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 538 F. 2d 343.

No. 75-6760. *CARTER v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 532 F. 2d 752.

No. 75-6762. *SCHWARTZ v. COURT OF COMMON PLEAS OF PHILADELPHIA ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 530 F. 2d 965.

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No. 75-6761. *BURNETT v. UNITED STATES*. C. A. 8th Cir. Certiorari denied.

No. 75-6763. *SANCHEZ v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 519 F. 2d 1087.

No. 75-6764. *MCALLISTER v. MAGGIO, WARDEN*. C. A. 5th Cir. Certiorari denied. Reported below: 526 F. 2d 813.

No. 75-6765. *KUCHTA v. ALLSTATE INSURANCE Co.* C. A. 3d Cir. Certiorari denied. Reported below: 523 F. 2d 1051.

No. 75-6767. *MATHEWS v. MATHEWS*. Ct. App. Ga. Certiorari denied. Reported below: 136 Ga. App. 833, 222 S. E. 2d 609.

No. 75-6768. *HARMON v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 538 F. 2d 341.

No. 75-6769. *GLAZER v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 532 F. 2d 224.

No. 75-6771. *FOSTER v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 532 F. 2d 752.

No. 75-6772. *BRADSHAW v. SEA WORLD, INC., AKA MARINE PARK CORP., ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 538 F. 2d 334.

No. 75-6773. *LEE v. UNITED STATES*. C. A. D. C. Cir. Certiorari denied.

No. 75-6774. *CHRYSLER v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 533 F. 2d 1055.

No. 75-6775. *ALEJANDRO v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 527 F. 2d 423.

No. 75-6776. *KOWALSKI v. PARRATT, WARDEN*. C. A. 8th Cir. Certiorari denied. Reported below: 533 F. 2d 1071.

No. 75-6777. *JOHNSON v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 535 F. 2d 1248.

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No. 75-6778. *LACEY v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 530 F. 2d 821.

No. 75-6779. *ROBINSON v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 527 F. 2d 63.

No. 75-6780. *PATUTO v. COMMISSIONERS OF CIVIL SERVICE OF MASS. ET AL.* Sup. Jud. Ct. Mass. Certiorari denied. Reported below: 369 Mass. 166, 338 N. E. 2d 829.

No. 75-6781. *BAILEY v. HOLLEY, WARDEN, ET AL.* C. A. 7th Cir. Certiorari denied. Reported below: 530 F. 2d 169.

No. 75-6783. *SAMSON v. UNITED STATES*. C. A. 1st Cir. Certiorari denied. Reported below: 533 F. 2d 721.

No. 75-6784. *ROSA v. CONNECTICUT*. Sup. Ct. Conn. Certiorari denied. Reported below: 170 Conn. 417, 365 A. 2d 1135.

No. 75-6785. *MCABEE v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 532 F. 2d 752.

No. 75-6786. *ODEN v. MATHEWS, SECRETARY OF HEALTH, EDUCATION, AND WELFARE*. C. A. 6th Cir. Certiorari denied. Reported below: 524 F. 2d 1405.

No. 75-6789. *SMITH v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 532 F. 2d 751.

No. 75-6790. *MUNOZ v. CIVIL SERVICE COMMISSION OF ILLINOIS*. App. Ct. Ill., 1st Dist. Certiorari denied. Reported below: 32 Ill. App. 3d 1052, 337 N. E. 2d 344.

No. 75-6793. *MORRISON v. CALIFORNIA*. Ct. App. Cal., 1st App. Dist. Certiorari denied.

No. 75-6794. *TAYLOR v. UNITED STATES*; and

No. 75-6795. *HICKS v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 530 F. 2d 639.

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No. 75-6796. *MARCHESANI v. McCUNE, WARDEN*. C. A. 10th Cir. Certiorari denied. Reported below: 531 F. 2d 459.

No. 75-6798. *LITTLE v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 534 F. 2d 329.

No. 75-6799. *DANIELS v. LOUISIANA*. Sup. Ct. La. Certiorari denied. Reported below: 326 So. 2d 340.

No. 75-6801. *WILSON ET AL. v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 532 F. 2d 641.

No. 75-6802. *WILLIAMS v. WARD, CORRECTIONS COMMISSIONER*. C. A. 2d Cir. Certiorari denied.

No. 75-6803. *KLIMAS v. ARKANSAS*. Sup. Ct. Ark. Certiorari denied. Reported below: 259 Ark. 301, 534 S. W. 2d 202.

No. 75-6804. *ROSELL v. HAVENER, CORRECTIONAL SUPERINTENDENT*. C. A. 6th Cir. Certiorari denied. Reported below: 529 F. 2d 526.

No. 75-6806. *TODERO v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 534 F. 2d 334.

No. 75-6808. *PEREZ ET AL. v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 526 F. 2d 859.

No. 75-6810. *TRUJILLO v. STONE, CORRECTIONAL SUPERINTENDENT*. C. A. 9th Cir. Certiorari denied. Reported below: 538 F. 2d 339.

No. 75-6812. *BEAR KILLER v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 534 F. 2d 1253.

No. 75-6813. *BANNISTER, AKA CUDDY v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 535 F. 2d 1251.

No. 75-6814. *FRATUS v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 530 F. 2d 644.

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No. 75-6816. *WEILAND v. PARRATT, WARDEN*. C. A. 8th Cir. Certiorari denied. Reported below: 530 F. 2d 1284.

No. 75-6817. *SALVO v. AMERICAN INSTITUTE OF ARCHITECTS ET AL.* C. A. D. C. Cir. Certiorari denied. Reported below: 174 U. S. App. D. C. 242, 530 F. 2d 1094.

No. 75-6818. *PINKSTON v. WARDEN, STATEVILLE CORRECTIONAL CENTER*. C. A. 7th Cir. Certiorari denied. Reported below: 530 F. 2d 980.

No. 75-6820. *LOVE v. UNITED STATES*; and

No. 75-6986. *LYON v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 535 F. 2d 1152.

No. 75-6821. *MCDANIEL v. CALIFORNIA*. Sup. Ct. Cal. Certiorari denied.

No. 75-6822. *RAITPORT v. BANK & TRUST COMPANY OF OLD YORK ROAD ET AL.* C. A. 3d Cir. Certiorari denied.

No. 75-6823. *WATTS v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 532 F. 2d 1215.

No. 75-6825. *MULLINS v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 534 F. 2d 334.

No. 75-6826. *HOYT v. CALIFORNIA*. Ct. App. Cal., 2d App. Dist. Certiorari denied.

No. 75-6827. *HOLLINS v. UNITED STATES*; and

No. 75-6830. *HARRIS v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 534 F. 2d 1371.

No. 75-6828. *COLEMAN v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 532 F. 2d 1062.

No. 75-6831. *HENNING v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 538 F. 2d 341.

No. 75-6833. *WILLIAMS v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 530 F. 2d 1157.

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No. 75-6835. *WYDMAN v. KENTUCKY PAROLE BOARD ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 529 F. 2d 528.

No. 75-6836. *BISHOP v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. Reported below: 530 F. 2d 1156.

No. 75-6837. *HARRIS v. DIRECTOR, MARYLAND DIVISION OF CORRECTIONS.* C. A. 4th Cir. Certiorari denied.

No. 75-6838. *LEE v. NEW YORK.* App. Div., Sup. Ct. N. Y., 2d Jud. Dept. Certiorari denied. Reported below: 51 App. Div. 2d 557, 378 N. Y. S. 2d 735.

No. 75-6840. *MAGEE v. GUNN, WARDEN.* C. A. 9th Cir. Certiorari denied.

No. 75-6841. *HARRIEL v. STONE, WARDEN.* C. A. 9th Cir. Certiorari denied.

No. 75-6843. *BRANT v. UNITED STATES.* C. A. 3rd Cir. Certiorari denied. Reported below: 535 F. 2d 1248.

No. 75-6844. *BENAVIDES v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. Reported below: 531 F. 2d 573.

No. 75-6845. *CARDEN ET AL. v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. Reported below: 529 F. 2d 443.

No. 75-6846. *BUCK v. TENNESSEE.* Ct. Crim. App. Tenn. Certiorari denied.

No. 75-6848. *O'REILLY ET AL. v. ROBERT STIGWOOD GROUP, LTD., ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 530 F. 2d 1096.

No. 75-6850. *GARRETT v. MOBIL OIL CORP.* C. A. 8th Cir. Certiorari denied. Reported below: 531 F. 2d 892.

No. 75-6851. *HAYNES v. CALIFORNIA.* Ct. App. Cal., 3d App. Dist. Certiorari denied.

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No. 75-6854. *MOORE v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 538 F. 2d 342.

No. 75-6855. *TINDLE v. UNITED STATES*. C. A. D. C. Cir. Certiorari denied. Reported below: 175 U. S. App. D. C. 363, 535 F. 2d 1325.

No. 75-6856. *SANCHEZ v. HEGGIE, WARDEN*. C. A. 10th Cir. Certiorari denied. Reported below: 531 F. 2d 964.

No. 75-6857. *JOHNSON v. JOHNSON ET AL.* Ct. App. Mich. Certiorari denied.

No. 75-6858. *COX v. MISSISSIPPI*. Sup. Ct. Miss. Certiorari denied. Reported below: 326 So. 2d 794.

No. 75-6859. *KLIMKO v. VIRGINIA EMPLOYMENT COMMISSION*. Sup. Ct. Va. Certiorari denied. Reported below: 216 Va. 750, 222 S. E. 2d 559.

No. 75-6861. *LUNZ v. SMITH, CORRECTIONAL SUPERINTENDENT*. C. A. 2d Cir. Certiorari denied. Reported below: 533 F. 2d 1322.

No. 75-6862. *LUCCHETTI v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 533 F. 2d 28.

No. 75-6863. *BODEK v. DEPARTMENT OF THE TREASURY, BUREAU OF PUBLIC DEBT*. C. A. 2d Cir. Certiorari denied. Reported below: 532 F. 2d 277.

No. 75-6864. *HURD v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 532 F. 2d 185.

No. 75-6865. *JOHNSON v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 530 F. 2d 6.

No. 75-6868. *DORMU v. WALSH, ACTING CHAIRMAN, EQUAL EMPLOYMENT OPPORTUNITY COMMISSION, ET AL.* C. A. D. C. Cir. Certiorari denied. Reported below: 174 U. S. App. D. C. 241, 530 F. 2d 1093.

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No. 75-6869. *WELD-HARRINGTON v. CASE WESTERN RESERVE UNIVERSITY ET AL.* C. A. 6th Cir. Certiorari denied.

No. 75-6871. *SEPULVEDA v. IMMIGRATION AND NATURALIZATION SERVICE.* C. A. 9th Cir. Certiorari denied. Reported below: 538 F. 2d 338.

No. 75-6873. *WILLIAMS v. HOWARD UNIVERSITY.* C. A. D. C. Cir. Certiorari denied. Reported below: 174 U. S. App. D. C. 85, 528 F. 2d 658.

No. 75-6874. *WILSON v. UNITED STATES.* C. A. 9th Cir. Certiorari denied. Reported below: 535 F. 2d 521.

No. 75-6875. *MCALISTER v. CALIFORNIA.* Ct. App. Cal., 3d App. Dist. Certiorari denied. Reported below: 54 Cal. App. 3d 918, 126 Cal. Rptr. 881.

No. 75-6876. *DAVIS v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. Reported below: 528 F. 2d 926.

No. 75-6877. *GARNER v. UNITED STATES.* C. A. 6th Cir. Certiorari denied. Reported below: 529 F. 2d 962.

No. 75-6878. *ANDERSON v. REED, PENITENTIARY SUPERINTENDENT.* C. A. 5th Cir. Certiorari denied.

No. 75-6879. *HILLS v. MAGGIO, WARDEN.* C. A. 5th Cir. Certiorari denied. Reported below: 529 F. 2d 397.

No. 75-6880. *TOWNSEND, AKA MURPHY v. UNITED STATES.* C. A. 4th Cir. Certiorari denied. Reported below: 535 F. 2d 1251.

No. 75-6881. *CHESTER v. UNITED STATES; and*

No. 75-6882. *REYNOLDS v. UNITED STATES.* C. A. 2d Cir. Certiorari denied.

No. 75-6885. *SHEPPARD v. HUTTO, CORRECTION COMMISSIONER.* C. A. 8th Cir. Certiorari denied. Reported below: 535 F. 2d 449.

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No. 75-6883. *SOTELO v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 532 F. 2d 185.

No. 75-6884. *ARMSTEAD v. MAGGIO, WARDEN*. C. A. 5th Cir. Certiorari denied.

No. 75-6886. *MONTILLA v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 538 F. 2d 326.

No. 75-6887. *WILLIS v. TENNESSEE*. Ct. Crim. App. Tenn. Certiorari denied.

No. 75-6889. *GOMORI v. ARNOLD ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 533 F. 2d 871.

No. 75-6890. *WRIGHT v. WAINWRIGHT, SECRETARY, DEPARTMENT OF OFFENDER REHABILITATION OF FLORIDA*. C. A. 5th Cir. Certiorari denied. Reported below: 530 F. 2d 975.

No. 75-6893. *VACENDA v. INDIANA*. Sup. Ct. Ind. Certiorari denied. Reported below: 264 Ind. 101, 340 N. E. 2d 352.

No. 75-6896. *THANASOURAS v. POLICE BOARD, CITY OF CHICAGO, ET AL.* App. Ct. Ill., 1st Dist. Certiorari denied. Reported below: 33 Ill. App. 3d 1012, 339 N. E. 2d 504.

No. 75-6897. *MORGAN v. REES, WARDEN*. C. A. 9th Cir. Certiorari denied.

No. 75-6899. *PIERSON v. MAGGIO, WARDEN*. C. A. 5th Cir. Certiorari denied.

No. 75-6900. *ROBINSON v. MAGGIO, WARDEN*. C. A. 5th Cir. Certiorari denied.

No. 75-6903. *WOOTEN v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 534 F. 2d 329.

No. 75-6906. *SMITH v. CALIFORNIA*. C. A. 9th Cir. Certiorari denied.

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No. 75-6908. *IGLESIAS-CONTRERAS v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 538 F. 2d 341.

No. 75-6910. *APUZZO v. ROBERTSON*. Sup. Ct. Conn. Certiorari denied. Reported below: 170 Conn. 367, 365 A. 2d 824.

No. 75-6912. *ROBINSON v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 530 F. 2d 677.

No. 75-6913. *TYCZKOWSKI v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 535 F. 2d 1248.

No. 75-6915. *WALSH v. NEW YORK*. App. Term, Sup. Ct. N. Y., 2d and 11th Jud. Dists. Certiorari denied.

No. 75-6916. *CHICOINE v. VILLAGE OF MOGADORE*. C. A. 6th Cir. Certiorari denied. Reported below: 535 F. 2d 1253.

No. 75-6918. *TARKOWSKI v. SMART*. C. A. 7th Cir. Certiorari denied. Reported below: 530 F. 2d 980.

No. 75-6919. *CLAY v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 538 F. 2d 325.

No. 75-6920. *FLOYD v. UNITED STATES*. C. A. D. C. Cir. Certiorari denied. Reported below: 173 U. S. App. D. C. 95, 522 F. 2d 1310; 175 U. S. App. D. C. 337, 535 F. 2d 1299.

No. 75-6921. *JONES v. UNITED STATES*; and

No. 75-6946. *CARTER v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 538 F. 2d 575.

No. 75-6922. *MASON ET AL. v. BELIEU ET AL.* C. A. D. C. Cir. Certiorari denied. Reported below: 177 U. S. App. D. C. 68, 543 F. 2d 215.

No. 75-6924. *GAYE v. WAINWRIGHT, SECRETARY, DEPARTMENT OF OFFENDER REHABILITATION OF FLORIDA*. C. A. 5th Cir. Certiorari denied. Reported below: 529 F. 2d 520.

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No. 75-6925. *HAWKINS v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 529 F. 2d 521.

No. 75-6926. *CISTERNAS-ESTAY ET UX. v. IMMIGRATION AND NATURALIZATION SERVICE*. C. A. 3d Cir. Certiorari denied. Reported below: 531 F. 2d 155.

No. 75-6928. *McCOLGIN v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 535 F. 2d 471.

No. 75-6929. *GARDINER v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 531 F. 2d 953.

No. 75-6930. *MACKIE v. UNITED STATES*. Ct. Cl. Certiorari denied.

No. 75-6934. *MEAGHER, AKA MAYHER v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 531 F. 2d 752.

No. 75-6935. *DIXON v. ALABAMA*. Ct. Crim. App. Ala. Certiorari denied. Reported below: 57 Ala. App. 30, 325 So. 2d 546.

No. 75-6936. *DANTE v. ARIZONA*. Sup. Ct. Ariz. Certiorari denied. Reported below: See 25 Ariz. App. 150, 541 P. 2d 941.

No. 75-6937. *PEREZ v. MISSOURI*. Sup. Ct. Mo. Certiorari denied.

No. 75-6938. *BLACKFORD v. NATIONAL LABOR RELATIONS BOARD*. C. A. 6th Cir. Certiorari denied. Reported below: 527 F. 2d 612.

No. 75-6941. *WHITE v. HOPPER, WARDEN*. C. A. 5th Cir. Certiorari denied. Reported below: 532 F. 2d 185.

No. 75-6942. *MITCHELL ET UX. v. VILLAGER INDUSTRIES, INC.* Sup. Ct. Del. Certiorari denied. Reported below: 355 A. 2d 888.

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No. 75-6943. THOMAS *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 530 F. 2d 975.

No. 75-6947. RANGEL *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 534 F. 2d 147.

No. 75-6948. POINDEXTER *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 538 F. 2d 326.

No. 75-6949. CROMWELL, AKA HOWARD *v.* NEW YORK. Ct. App. N. Y. Certiorari denied.

No. 75-6950. IN RE MAYES. Ct. App. D. C. Certiorari denied.

No. 75-6951. CONKLIN *v.* HELGEMOE, WARDEN. C. A. 1st Cir. Certiorari denied. Reported below: 530 F. 2d 962.

No. 75-6952. REALE *v.* UNITED STATES. Ct. Cl. Certiorari denied. Reported below: 208 Ct. Cl. 1010, 529 F. 2d 533.

No. 75-6953. WILLIAMS *v.* NEW YORK. App. Div., Sup. Ct. N. Y., 2d Jud. Dept. Certiorari denied. Reported below: 50 App. Div. 2d 805, 375 N. Y. S. 2d 856.

No. 75-6956. CABRERA *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 534 F. 2d 334.

No. 75-6958. SIMMONS *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 536 F. 2d 827.

No. 75-6959. BURDEN *v.* MCKENNEY ET AL. C. A. 1st Cir. Certiorari denied. Reported below: 529 F. 2d 44.

No. 75-6960. TOBIAS *v.* OKLAHOMA. Ct. Crim. App. Okla. Certiorari denied.

No. 75-6961. FALKNER ET UX. *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 529 F. 2d 1350.

No. 75-6962. WOODS *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 528 F. 2d 927.

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No. 75-6963. *COHEN v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 530 F. 2d 43.

No. 75-6964. *HOLLAND v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 532 F. 2d 1373.

No. 75-6965. *ROBINSON v. BROWN, SUPERINTENDENT OF EDUCATION OF ALABAMA*. Sup. Ct. Ala. Certiorari denied. Reported below: 295 Ala. 297, 328 So. 2d 291.

No. 75-6966. *McNALLY v. PULITZER PUBLISHING CO. ET AL.* C. A. 8th Cir. Certiorari denied. Reported below: 532 F. 2d 69.

No. 75-6970. *NURSE v. UNITED STATES*. Ct. App. D. C. Certiorari denied.

No. 75-6972. *FOSTER v. COWAN, PENITENTIARY SUPERINTENDENT*. C. A. 6th Cir. Certiorari denied. Reported below: 535 F. 2d 1254.

No. 75-6973. *RUSSELL v. CITY OF PIERRE, SOUTH DAKOTA*. C. A. 8th Cir. Certiorari denied. Reported below: 530 F. 2d 791.

No. 75-6974. *WILLIAMS v. LAVALLEE, CORRECTIONAL SUPERINTENDENT*. C. A. 2d Cir. Certiorari denied.

No. 75-6975. *SCHREMP v. HALL ET AL.* C. A. D. C. Cir. Certiorari denied.

No. 75-6977. *TAYLOR ET AL. v. TAYLOR ET AL.* Sup. Ct. Wyo. Certiorari denied. Reported below: 544 P. 2d 464.

No. 75-6978. *BATES, DBA LITCHFIELD STEEL Co. v. SHUNK MANUFACTURING Co., INC.* Sup. Ct. Minn. Certiorari denied. Reported below: 307 Minn. 485, 238 N. W. 2d 619.

No. 75-6979. *MEADOR v. KENTUCKY*. Sup. Ct. Ky. Certiorari denied.

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No. 75-6982. *DUFFIELD v. CALIFORNIA*. Ct. App. Cal., 2d App. Dist. Certiorari denied.

No. 75-6983. *STOKES v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 535 F. 2d 1258.

No. 75-6984. *KRANCBERG v. REVLOON CORP.* C. A. 3d Cir. Certiorari denied. Reported below: 532 F. 2d 746.

No. 75-6988. *KAUP v. GUNN, WARDEN*. C. A. 9th Cir. Certiorari denied. Reported below: 538 F. 2d 336.

No. 75-6989. *WILSON v. NATIONAL LABOR RELATIONS BOARD*. C. A. 5th Cir. Certiorari denied. Reported below: 526 F. 2d 814.

No. 75-6991. *GRIFFIN v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 538 F. 2d 321.

No. 75-6993. *SALISBURY v. SOUTHERN NEW ENGLAND TELEPHONE Co., INC., ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 538 F. 2d 313.

No. 75-6994. *WOODS v. COMMISSIONER OF INTERNAL REVENUE*. C. A. 10th Cir. Certiorari denied.

No. 75-6995. *BROWN v. UNITED STATES*. C. A. D. C. Cir. Certiorari denied. Reported below: 175 U. S. App. D. C. 363, 535 F. 2d 1325.

No. 75-6996. *SEBASTIAN v. UNITED STATES ET AL.* C. A. 8th Cir. Certiorari denied. Reported below: 531 F. 2d 900.

No. 75-6999. *CALLOWAY v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 538 F. 2d 321.

No. 75-7000. *SMITH v. BORDENKIRCHER, WARDEN*. C. A. 4th Cir. Certiorari denied.

No. 75-7002. *HICKS v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 529 F. 2d 841.

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No. 75-7007. *WHITE v. UNITED STATES*. C. A. 10th Cir. Certiorari denied.

No. 75-7008. *ROLLIE v. UNITED STATES*. C. A. 10th Cir. Certiorari denied.

No. 75-7009. *LUCERO v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 538 F. 2d 342.

No. 75-7010. *NEAL v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 536 F. 2d 533.

No. 75-7011. *FOSTER v. ESTELLE, CORRECTIONS DIRECTOR*. C. A. 5th Cir. Certiorari denied.

No. 75-7013. *BORUSKI v. UNITED STATES ET AL.* C. A. 1st Cir. Certiorari denied. Reported below: 539 F. 2d 701.

No. 76-3. *GOUGH, TRUSTEE IN BANKRUPTCY v. ROSSMOOR CORP. ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 533 F. 2d 453.

No. 76-4. *SUN FINANCE & LOAN Co. v. KOSYDAR, TAX COMMISSIONER OF OHIO*. Sup. Ct. Ohio. Certiorari denied. Reported below: 45 Ohio St. 2d 283, 344 N. E. 2d 330.

No. 76-7. *GENERES v. TITLE INSURANCE & TRUST Co. ET AL.* Ct. App. Cal., 3d App. Dist. Certiorari denied.

No. 76-9. *KOLODZIEJ v. LOCAL 697, INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS*. C. A. 7th Cir. Certiorari denied. Reported below: 535 F. 2d 1257.

No. 76-12. *UPTON v. GEORGIA*. Sup. Ct. Ga. Certiorari denied. Reported below: 236 Ga. 770, 225 S. E. 28 258.

No. 76-13. *SNYDER, DBA J. S. N. Y., ET AL. v. L. BATLIN & SON, INC.* C. A. 2d Cir. Certiorari denied. Reported below: 536 F. 2d 486.

No. 76-16. *ROSARIO v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 531 F. 2d 1227.

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No. 76-14. CITY OF CHICAGO ET AL. *v.* SHAKMAN ET AL. C. A. 7th Cir. Certiorari denied. Reported below: 533 F. 2d 344.

No. 76-20. WARNER ET AL. *v.* BOARD OF TRUSTEES OF POLICE PENSION FUND OF NEW ORLEANS ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 528 F. 2d 505.

No. 76-26. BURNETTE *v.* TENNESSEE. Sup. Ct. Tenn. Certiorari denied. Reported below: See 536 S. W. 2d 353.

No. 76-36. YAMAHA INTERNATIONAL CORP. *v.* WHITEIS, DBA MOTOR SPORTS OF TULSA. C. A. 10th Cir. Certiorari denied. Reported below: 531 F. 2d 968.

No. 76-40. BITUMINOUS COAL OPERATORS' ASSN., INC., ET AL. *v.* KLEPPE, SECRETARY OF THE INTERIOR, ET AL. C. A. D. C. Cir. Certiorari denied. Reported below: 174 U. S. App. D. C. 328, 532 F. 2d 1403.

No. 76-41. BUCHMAN ET AL. *v.* AMERICAN FOAM RUBBER CORP. ET AL. C. A. 2d Cir. Certiorari denied. Reported below: 530 F. 2d 450.

No. 76-42. CASSESSO ET AL. *v.* MEACHUM, WARDEN, ET AL. C. A. 1st Cir. Certiorari denied. Reported below: 533 F. 2d 713.

No. 76-45. MONEY *v.* GEORGIA. Ct. App. Ga. Certiorari denied. Reported below: 137 Ga. App. 779, 224 S. E. 2d 783.

No. 76-48. SANKO STEAMSHIP Co., LTD. *v.* NEWFOUNDLAND REFINING Co., LTD., ET AL. C. A. 2d Cir. Certiorari denied. Reported below: 538 F. 2d 313.

No. 76-49. LISCHKO *v.* GALLI, SHERIFF. C. A. 9th Cir. Certiorari denied. Reported below: 534 F. 2d 333.

No. 76-50. CINCINNATI GAS & ELECTRIC Co. *v.* ABEL, DBA NEW RICHMOND BOATING CENTER. C. A. 6th Cir. Certiorari denied. Reported below: 533 F. 2d 1001.

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No. 76-54. *BOURGEOIS ET AL. v. SEAFARERS PENSION PLAN, AKA SEAFARERS WELFARE PLAN.* C. A. 5th Cir. Certiorari denied. Reported below: 530 F. 2d 973.

No. 76-59. *HARRAH'S CLUB v. BERNHARD.* Sup. Ct. Cal. Certiorari denied. Reported below: 16 Cal. 3d 313, 546 P. 2d 719.

No. 76-64. *ALCO-GRAVURE, INC. v. BALTIMORE & ANNAPOLIS RAILROAD CO. ET AL.; and*

No. 76-78. *BALTIMORE & ANNAPOLIS RAILROAD CO. ET AL. v. INTERSTATE COMMERCE COMMISSION ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 537 F. 2d 77.

No. 76-66. *HALL ET AL. v. GEORGIA.* Sup. Ct. Ga. Certiorari denied. Reported below: 236 Ga. 770, 225 S. E. 2d 258.

No. 76-68. *LEDFORD ET UX. v. UNITED STATES.* C. A. 9th Cir. Certiorari denied. Reported below: 538 F. 2d 336.

No. 76-69. *WALSH, TRUSTEE IN BANKRUPTCY v. UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA (BURROUGHS CORP., REAL PARTY IN INTEREST).* C. A. 9th Cir. Certiorari denied.

No. 76-76. *TOPIC ET AL. v. CIRCLE REALTY CO. ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 532 F. 2d 1273.

No. 76-80. *TRUCKDRIVERS, CHAUFFEURS & HELPERS, LOCAL UNION No. 100, INTERNATIONAL BROTHERHOOD OF TEAMSTERS, CHAUFFEURS, WAREHOUSEMEN & HELPERS OF AMERICA v. NATIONAL LABOR RELATIONS BOARD.* C. A. 6th Cir. Certiorari denied. Reported below: 532 F. 2d 569.

No. 76-83. *G. E. M. CORP., DBA GENE THOMAS CASCADE LOUNGE v. LIQUOR CONTROL COMMISSION OF OHIO.* Sup. Ct. Ohio. Certiorari denied.

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No. 76-84. SECURITY MUTUAL CASUALTY Co. *v.* CENTURY CASUALTY Co. C. A. 10th Cir. Certiorari denied. Reported below: 531 F. 2d 974.

No. 76-91. SOUND SHIP BUILDING CORP. *v.* BETHLEHEM STEEL CORP. C. A. 3d Cir. Certiorari denied. Reported below: 533 F. 2d 96.

No. 76-92. AMERICAN HONDA MOTOR Co., INC. *v.* CITY OF FARMERS BRANCH ET AL. Sup. Ct. Tex. Certiorari denied. Reported below: 537 S. W. 2d 454.

No. 76-93. ROVIN SALES Co. *v.* BOGDAN ET AL. C. A. 7th Cir. Certiorari denied.

No. 76-97. PETRYCKI *v.* YOUNGSTOWN & NORTHERN RAILROAD Co. C. A. 6th Cir. Certiorari denied. Reported below: 531 F. 2d 1363.

No. 76-102. RINGE *v.* UNITED STATES. Ct. Cl. Certiorari denied. Reported below: 209 Ct. Cl. 782, 538 F. 2d 348.

No. 76-108. MCDANNALD *v.* LEAGUE CITY. Sup. Ct. Tex. Certiorari denied.

No. 76-109. STEPHENS *v.* UNITED STATES; and

No. 75-6809. BRACKEEN *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 535 F. 2d 1256.

No. 76-110. PARK CITY UTAH CORP. *v.* RUSSELL ET UX. Sup. Ct. Utah. Certiorari denied. Reported below: 548 P. 2d 889.

No. 76-111. SALVUCCI *v.* NEW HAMPSHIRE JOCKEY CLUB, INC., ET AL. C. A. 1st Cir. Certiorari denied. Reported below: 530 F. 2d 962.

No. 76-114. SANTIAGO *v.* SUPREME COURT OF NEW YORK, KINGS COUNTY, ET AL. C. A. 2d Cir. Certiorari denied.

No. 76-116. STUART *v.* BUTLER ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 538 F. 2d 339.

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No. 76-117. MITCHELL ET AL. *v.* INGRAM, COMMISSIONER OF EDUCATION OF TENNESSEE, ET AL. Sup. Ct. Tenn. Certiorari denied.

No. 76-119. PICKENS *v.* WISCONSIN. Sup. Ct. Wis. Certiorari denied.

No. 76-121. SCOTT PAPER CO. *v.* WATKINS ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 530 F. 2d 1159.

No. 76-125. AMERICAN ELECTRO-COATINGS, INC. *v.* RANSBURG CORP. ET AL. C. A. 6th Cir. Certiorari denied. Reported below: 535 F. 2d 1253.

No. 76-131. HYNNING ET AL. *v.* BAKER ET AL. Sup. Ct. Va. Certiorari denied.

No. 76-133. FRUEHAUF CORP. *v.* TRUCK EQUIPMENT SERVICE Co. C. A. 8th Cir. Certiorari denied. Reported below: 536 F. 2d 1210.

No. 76-139. SHELL OIL CO. ET AL. *v.* GAS-A-TRON OF ARIZONA ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 534 F. 2d 1322.

No. 76-144. MATSUSHITA ELECTRIC CORPORATION OF AMERICA *v.* CITY OF FARMERS BRANCH ET AL. Sup. Ct. Tex. Certiorari denied. Reported below: 537 S. W. 2d 452.

No. 76-146. BURNS ET AL. *v.* CITY OF DES PERES ET AL. C. A. 8th Cir. Certiorari denied. Reported below: 534 F. 2d 103.

No. 76-148. BLOCK *v.* CONSINO ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 535 F. 2d 1165.

No. 76-150. BRAVY ET AL. *v.* TULLY, COMMISSIONER, DEPARTMENT OF TAXATION AND FINANCE OF NEW YORK, ET AL. C. A. 2d Cir. Certiorari denied. Reported below: 538 F. 2d 308.

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No. 76-151. *GLANTZ v. ASSOCIATION OF THE BAR OF THE CITY OF NEW YORK*. App. Div., Sup. Ct. N. Y., 1st Jud. Dept. Certiorari denied. Reported below: 50 App. Div. 2d 394, 378 N. Y. S. 2d 393.

No. 76-155. *ALLIED WITAN Co. v. ARO CORP.* C. A. 6th Cir. Certiorari denied. Reported below: 531 F. 2d 1368.

No. 76-168. *TERMAR NAVIGATION Co., INC. v. THE POLANICA ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 529 F. 2d 1166.

No. 76-170. *INTERNATIONAL UNION OF OPERATING ENGINEERS, LOCAL UNION No. 701 v. H. A. ANDERSEN Co., INC., ET AL.* Temp. Emerg. Ct. App. Certiorari denied.

No. 76-172. *KENNEDY ET AL. v. LEMON ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 535 F. 2d 1246.

No. 76-173. *DAILY MIRROR, INC. v. NEW YORK NEWS, INC., ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 533 F. 2d 53.

No. 76-192. *BARKER & BRATTON STEEL WORKS, INC. v. ST. PAUL FIRE & MARINE INSURANCE Co. ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 532 F. 2d 184.

No. 76-258. *BLOOM, ACTING COMPTROLLER OF THE CURRENCY v. INDEPENDENT BANKERS ASSOCIATION OF AMERICA ET AL.* C. A. D. C. Cir. Certiorari denied. Reported below: 175 U. S. App. D. C. 184, 534 F. 2d 921.

No. 76-5002. *MARTIN v. UNITED STATES.* C. A. 2d Cir. Certiorari denied. Reported below: 536 F. 2d 535.

No. 76-5007. *RAFERTY (RAFTREY) v. UNITED STATES.* C. A. 9th Cir. Certiorari denied. Reported below: 534 F. 2d 854.

No. 76-5010. *ZATKO v. IMMIGRATION AND NATURALIZATION SERVICE ET AL.* C. A. 9th Cir. Certiorari denied.

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No. 76-5011. *CHOWN v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 538 F. 2d 340.

No. 76-5012. *CROSSLAND v. COMMISSIONER OF INTERNAL REVENUE*. C. A. 2d Cir. Certiorari denied. Reported below: 535 F. 2d 1240.

No. 76-5013. *BAILEY v. ALABAMA*. C. A. 5th Cir. Certiorari denied.

No. 76-5015. *DEYOUNG v. MINNESOTA DEPARTMENT OF HIGHWAYS ET AL.* Sup. Ct. Minn. Certiorari denied. Reported below: 308 Minn. 158, 241 N. W. 2d 310.

No. 76-5017. *THOMAS v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 538 F. 2d 344.

No. 76-5018. *BUTLER v. FLORIDA*. Dist. Ct. App. Fla., 2d Dist. Certiorari denied. Reported below: 330 So. 2d 244.

No. 76-5019. *ROBINSON v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 531 F. 2d 1258.

No. 76-5021. *FEINGOLD v. FEINGOLD*. Super. Ct. Pa. Certiorari denied.

No. 76-5022. *BREWSTER v. FLORIDA*. C. A. 5th Cir. Certiorari denied. Reported below: 532 F. 2d 1373.

No. 76-5023. *BOECKENHAUPT v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 537 F. 2d 1182.

No. 76-5024. *MORENO v. ESTELLE, CORRECTIONS DIRECTOR*. C. A. 5th Cir. Certiorari denied. Reported below: 531 F. 2d 573.

No. 76-5027. *GINTER v. WISCONSIN*. C. A. 7th Cir. Certiorari denied.

No. 76-5028. *RAMIREZ-RICO v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 538 F. 2d 343.

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No. 76-5030. *BLACKBURN v. FLORIDA*. Dist. Ct. App. Fla., 4th Dist. Certiorari denied. Reported below: 314 So. 2d 634.

No. 76-5032. *FORTUNE ET AL. v. MULHERRIN ET AL.* C. A. 1st Cir. Certiorari denied. Reported below: 533 F. 2d 21.

No. 76-5033. *BATEMAN v. ARIZONA*. Sup. Ct. Ariz. Certiorari denied. Reported below: 113 Ariz. 107, 547 P. 2d 6.

No. 76-5036. *MAYS v. MISSISSIPPI*. Sup. Ct. Miss. Certiorari denied. Reported below: 329 So. 2d 65.

No. 76-5038. *HAYNES v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 538 F. 2d 341.

No. 76-5039. *PROSPARE WALTER L. v. CALIFORNIA*. Ct. App. Cal., 4th App. Dist. Certiorari denied.

No. 76-5045. *SIMMONS v. MARYLAND*. Ct. Sp. App. Md. Certiorari denied.

No. 76-5047. *PEREZ v. ESTELLE, CORRECTIONS DIRECTOR*. C. A. 5th Cir. Certiorari denied. Reported below: 532 F. 2d 185.

No. 76-5048. *PUTMON v. HENDERSON, CORRECTIONAL SUPERINTENDENT*. C. A. 2d Cir. Certiorari denied. Reported below: 525 F. 2d 683.

No. 76-5052. *JACOBSON v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 536 F. 2d 793.

No. 76-5057. *SCHERER v. POGUE, WARDEN, ET AL.* C. A. 9th Cir. Certiorari denied.

No. 76-5059. *ZAPATA v. WERNER, CORRECTIONS COMMISSIONER, ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 538 F. 2d 322.

No. 76-5061. *CAMPBELL v. CALIFORNIA*. C. A. 9th Cir. Certiorari denied.

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No. 76-5060. *GASAWAY v. GEORGIA*. Ct. App. Ga. Certiorari denied. Reported below: 137 Ga. App. 653, 224 S. E. 2d 772.

No. 76-5068. *TYLER ET UX. v. WESTINGHOUSE ELECTRIC CORP.* Sup. Ct. Va. Certiorari denied.

No. 76-5078. *MANNING v. PRINCETON CONSUMER DISCOUNT Co., INC., ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 533 F. 2d 102.

No. 76-5079. *STONE v. SCHMIDT ET AL.* C. A. 7th Cir. Certiorari denied. Reported below: 534 F. 2d 766.

No. 76-5087. *OCHENKOWSKI v. CORONA LIGHTING CORP.* Super. Ct. N. J. Certiorari denied.

No. 76-5098. *CARTER v. DOLCE ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 532 F. 2d 1373.

No. 76-5111. *BRAGG v. SINCLAIR REFINING Co. ET AL.* C. A. 7th Cir. Certiorari denied.

No. 76-5118. *WOLF v. BRIVIC ET AL.* App. Div., Sup. Ct. N. Y., 1st Jud. Dept. Certiorari denied. Reported below: 50 App. Div. 2d 539, 375 N. Y. S. 2d 1018.

No. 76-5123. *OCHENKOWSKI v. RUSSELL'S AUTO BODY.* Sup. Ct. N. J. Certiorari denied.

No. 76-5127. *WHITE v. CALIFORNIA.* Ct. App. Cal., 2d App. Dist. Certiorari denied.

No. 76-5131. *BRYAN v. JONES, SHERIFF, ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 530 F. 2d 1210.

No. 76-5134. *HOHENSEE v. MUIR.* C. A. 3d Cir. Certiorari denied.

No. 76-5141. *WILLIAMS v. CONNECTICUT.* Sup. Ct. Conn. Certiorari denied. Reported below: 170 Conn. 618, 368 A. 2d 140.

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No. 76-5149. FREEMAN *v.* GRABHAM ET AL. Sup. Ct. Ind. Certiorari denied.

No. 76-5159. BUTCHER *v.* PENNSYLVANIA. Sup. Ct. Pa. Certiorari denied.

No. 76-5162. CHAMBERS ET AL. *v.* ESTELLE, CORRECTIONS DIRECTOR. C. A. 5th Cir. Certiorari denied. Reported below: 532 F. 2d 1373.

No. 76-5165. HOHENSEE *v.* TIGUE ET AL. C. A. 3d Cir. Certiorari denied. Reported below: 530 F. 2d 964.

No. 76-5173. GRIGGS *v.* KLOSS ET AL. C. A. 9th Cir. Certiorari denied.

No. 75-1416. PEVAR *v.* ROBERTS ET AL. Sup. Ct. Del. Motion of respondent Donald A. Roberts for leave to proceed *in forma pauperis* granted. Certiorari denied. MR. JUSTICE BRENNAN and MR. JUSTICE WHITE would grant certiorari. Reported below: 349 A. 2d 866.

No. 75-1425. NORTHERN HELEX CO. *v.* UNITED STATES. Ct. Cl. Motion of the Bar Association of the District of Columbia for leave to file a brief as *amicus curiae* granted. Certiorari denied. Reported below: 207 Ct. Cl. 862, 524 F. 2d 707.

No. 75-1468. M. MORRIN & SON Co., INC. *v.* BURGESS CONSTRUCTION Co. ET AL. C. A. 10th Cir. Motion of Utah Chapter of Associated General Contractors of America for leave to file a brief as *amicus curiae* granted. Motions of Colorado Contractors Assn., Inc., and Associated General Contractors of Wyoming, Inc., for leave to file briefs as *amici curiae* denied. Certiorari denied. MR. JUSTICE WHITE took no part in the consideration or decision of these motions and this petition. Reported below: 526 F. 2d 108.

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No. 75-1502. ECEE, INC., ET AL. *v.* FEDERAL POWER COMMISSION. C. A. 5th Cir. Certiorari denied. MR. JUSTICE STEWART took no part in the consideration or decision of this petition. Reported below: 526 F. 2d 1270.

No. 75-1853. BOISE CASCADE CORP. ET AL. *v.* UNITED STATES. Ct. Cl. Certiorari denied. MR. JUSTICE STEWART took no part in the consideration or decision of this petition. Reported below: 208 Ct. Cl. 619, 530 F. 2d 1367.

No. 75-1871. GENERAL FOODS CORP. *v.* UNITED STATES. Ct. Cl. Certiorari denied. MR. JUSTICE STEWART took no part in the consideration or decision of this petition. Reported below: 208 Ct. Cl. 606, 530 F. 2d 923.

No. 75-1533. CANADA *v.* UNITED STATES. C. A. 9th Cir. Motion of Anne Belle Welsh for leave to join in petition for certiorari denied. Motion to strike brief for respondent and certiorari denied. Reported below: 527 F. 2d 1374.

No. 75-1545. KANSAS *v.* McCORGARY. Sup. Ct. Kan. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 218 Kan. 358, 543 P. 2d 952.

No. 75-1616. ROBINSON, WARDEN *v.* CHESNEY. C. A. 2d Cir. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 538 F. 2d 308.

No. 75-1724. SUPERIOR COURT OF NEW HAMPSHIRE, ROCKINGHAM COUNTY *v.* ROYAL. C. A. 1st Cir. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 531 F. 2d 1084.

No. 75-1764. AYTCH, PRISONS SUPERINTENDENT *v.* WALTON. Sup. Ct. Pa. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 466 Pa. 172, 352 A. 2d 4.

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No. 76-47. *NEW YORK v. BAKER*. Ct. App. N. Y. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 39 N. Y. 2d 923, 352 N. E. 2d 879.

No. 76-189. *WYRICK, WARDEN v. THOMAS*. C. A. 8th Cir. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 535 F. 2d 407.

No. 75-1556. *PUBLIC SERVICE COMMISSION OF NEW YORK v. FEDERAL POWER COMMISSION ET AL.*; and

No. 75-1565. *ASSOCIATED GAS DISTRIBUTORS v. FEDERAL POWER COMMISSION ET AL.* C. A. D. C. Cir. Certiorari denied. MR. JUSTICE STEWART and MR. JUSTICE POWELL took no part in the consideration or decision of these petitions. Reported below: 177 U. S. App. D. C. 389, 543 F. 2d 874.

No. 75-1620. *GILMORE v. WEYERHAEUSER CO. ET AL.* C. A. 9th Cir. Certiorari denied. MR. JUSTICE STEWART and MR. JUSTICE BLACKMUN would grant certiorari. THE CHIEF JUSTICE took no part in the consideration or decision of this petition. Reported below: 528 F. 2d 957.

No. 75-1621. *SLOVAK v. ADMINISTRATOR, FEDERAL AVIATION ADMINISTRATION*. C. A. D. C. Cir. Motion to strike memorandum for respondent and certiorari denied. Reported below: 173 U. S. App. D. C. 129, 522 F. 2d 1344.

No. 75-1622. *BATON ROUGE MARINE CONTRACTORS, INC. v. FEDERAL MARITIME COMMISSION ET AL.* C. A. D. C. Cir. Certiorari denied. MR. JUSTICE BLACKMUN took no part in the consideration or decision of this petition. Reported below: 174 U. S. App. D. C. 210, 530 F. 2d 1062.

No. 75-1865. *CARNES ET AL. v. SMITH ET AL.* Sup. Ct. Ga. Certiorari denied. MR. JUSTICE BLACKMUN took no part in the consideration or decision of this petition. Reported below: 236 Ga. 30, 222 S. E. 2d 322.

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No. 76-5166. SMITH, ADMINISTRATRIX *v.* EMORY UNIVERSITY ET AL. Ct. App. Ga. Certiorari denied. MR. JUSTICE BLACKMUN took no part in the consideration or decision of this petition. Reported below: 137 Ga. App. 785, 225 S. E. 2d 63.

No. 75-1642. ABRAMS *v.* COMMUNITY REDEVELOPMENT AGENCY OF LOS ANGELES. Sup. Ct. Cal. Certiorari denied. MR. JUSTICE BLACKMUN would grant certiorari. Reported below: 15 Cal. 3d 813, 543 P. 2d 905.

No. 75-1716. BLANCHARD ET AL. *v.* JOHNSON ET AL. C. A. 6th Cir. Certiorari denied. MR. JUSTICE BLACKMUN would grant certiorari. Reported below: 532 F. 2d 1074.

No. 76-160. MARINE DEVELOPMENT CORP. *v.* HEIMAN ET AL.; and

No. 76-161. MEDLIN MARINE, INC. *v.* HEIMAN ET AL. C. A. 8th Cir. Certiorari denied. MR. JUSTICE BLACKMUN would grant certiorari. Reported below: 534 F. 2d 332.

No. 75-1664. DUFAULT ET AL., DBA DIMENSION *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 529 F. 2d 521.

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

Petitioners were convicted of mailing obscene materials in violation of 18 U. S. C. § 1461. I adhere to the view that this statute is "clearly overbroad and unconstitutional on its face," see, *e. g.*, *Millican v. United States*, 418 U. S. 947, 948 (1974) (BRENNAN, J., dissenting from denial of certiorari), quoting *United States v. Orito*, 413 U. S. 139, 148 (1973) (BRENNAN, J., dissenting). I therefore would grant certiorari and reverse.

No. 75-1731. CARTER *v.* AMERICAN BAR ASSN. ET AL. C. A. 1st Cir. Certiorari denied. MR. JUSTICE POWELL took no part in the consideration or decision of this petition.

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No. 75-1678. *FEDERAL POWER COMMISSION v. MISSISSIPPI PUBLIC SERVICE COMMISSION ET AL.* C. A. 5th Cir. Certiorari denied. MR. JUSTICE WHITE and MR. JUSTICE MARSHALL would grant certiorari. MR. JUSTICE STEWART and MR. JUSTICE POWELL took no part in the consideration or decision of this petition. Reported below: 522 F. 2d 1345.

No. 75-6791. *SENER v. GENERAL MOTORS CORP.* C. A. 6th Cir. Certiorari denied. MR. JUSTICE POWELL took no part in the consideration or decision of this petition. Reported below: 532 F. 2d 511.

No. 75-1743. *DOYLE ET AL. v. SHEEHAN.* C. A. 1st Cir. Certiorari denied. MR. JUSTICE STEWART would grant certiorari. Reported below: 529 F. 2d 38.

No. 75-1744. *E-T INDUSTRIES, INC. v. WHITTAKER CORP. 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 636.

No. 75-1786. *FEED SERVICE CORP. v. KENT FEEDS, INC., ET AL.* C. A. 7th Cir. Certiorari denied. MR. JUSTICE STEVENS took no part in the consideration or decision of this petition. Reported below: 528 F. 2d 756.

No. 76-57. *FIRST NATIONAL BANK OF CHICAGO v. GOLDMAN.* 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 10.

No. 75-1759. *JOHNSON, A MINOR, BY MILLER v. WHITTIER, COMMISSIONER OF EDUCATION OF KANSAS, ET AL.* C. A. 10th Cir. Certiorari denied. MR. JUSTICE MARSHALL took no part in the consideration or decision of this petition.

No. 75-1801. *NORTH CAROLINA v. CHAS. PFIZER & Co., INC., ET AL.* C. A. 4th Cir. Certiorari denied. MR. JUSTICE WHITE took no part in the consideration or decision of this petition. Reported below: 537 F. 2d 67.

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No. 75-1832. MITCHELL ET UX. *v.* FORD MOTOR Co. C. A. 1st Cir. Motion for certification of question of law to the Supreme Court of New Hampshire and certiorari denied. Reported below: 533 F. 2d 19.

No. 75-1900. CONTINENTAL ILLINOIS NATIONAL BANK & TRUST COMPANY OF CHICAGO *v.* LIGNOUL, COMMISSIONER OF BANKS AND TRUST COMPANIES OF ILLINOIS; and

No. 76-17. FIRST NATIONAL BANK OF CHICAGO *v.* LIGNOUL, COMMISSIONER OF BANKS AND TRUST COMPANIES OF ILLINOIS. C. A. 7th Cir. Motion of Independent Community Banks in Illinois for leave to file a brief as *amicus curiae* in No. 75-1900 granted. Certiorari denied. Reported below: 536 F. 2d 176.

No. 75-1909. LUCAS ET AL. *v.* RIVERS; and

No. 75-6792. RIVERS *v.* LUCAS ET AL. C. A. 6th Cir. Motion of respondent in No. 75-1909 for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 529 F. 2d 526.

No. 75-1920. UNITED STATES *v.* LONG ET AL. C. A. 4th Cir. Certiorari denied. MR. JUSTICE BRENNAN, MR. JUSTICE STEWART, and MR. JUSTICE MARSHALL would grant certiorari. Reported below: 537 F. 2d 1151.

No. 75-6641. PALMER *v.* ILLINOIS. Sup. Ct. Ill. Certiorari denied. MR. JUSTICE BRENNAN, MR. JUSTICE STEWART, and MR. JUSTICE MARSHALL would grant certiorari. Reported below: 62 Ill. 2d 261, 342 N. E. 2d 353.

No. 75-6642. VICKERS *v.* MCKENZIE, WARDEN. Sup. Ct. App. W. Va. Certiorari denied. MR. JUSTICE BRENNAN would grant certiorari.

No. 75-6782. DOUGLAS *v.* FLORIDA. Sup. Ct. Fla. Certiorari denied. Reported below: 328 So. 2d 18.

MR. JUSTICE BRENNAN, dissenting.

For the reasons stated in my dissenting opinion in *Gregg v. Georgia*, 428 U. S. 153, 227 (1976), the imposition and carry-

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ing out of the death penalty in this case constitute cruel and unusual punishment in violation of the Eighth and Fourteenth Amendments. I would therefore grant certiorari in this case and vacate the judgment insofar as it leaves undisturbed the death sentence imposed.

MR. JUSTICE MARSHALL, dissenting.

Because I consider the death penalty to be a cruel and unusual punishment forbidden by the Eighth and Fourteenth Amendments, see *Gregg v. Georgia*, 428 U. S. 153, 231 (1976) (MARSHALL, J., dissenting), I would grant certiorari in this case and vacate the judgment insofar as it leaves undisturbed the sentence of death.

No. 75-6824. JAMES *v.* UNITED STATES. Ct. App. D. C. Certiorari denied. MR. JUSTICE BRENNAN and MR. JUSTICE MARSHALL would grant certiorari. Reported below: 350 A. 2d 748.

No. 76-28. GOLDEN ET AL. *v.* BISCAYNE BAY YACHT CLUB ET AL. C. A. 5th Cir. Motion of Anti-Defamation League of B'nai B'rith for leave to file a brief as *amicus curiae* and certiorari denied. MR. JUSTICE BRENNAN and MR. JUSTICE MARSHALL would grant certiorari. Reported below: 530 F. 2d 16.

No. 76-71. LOS ANGELES TIMES, A DIVISION OF TIMES MIRROR Co., ET AL. *v.* HARTLEY. Ct. App. Cal., 2d App. Dist. Motion of American Newspaper Publishers Assn. for leave to file a brief as *amicus curiae* granted. It appearing that the judgment of the court below is not final as required by 28 U. S. C. § 1257, certiorari denied.

No. 76-5016. BUNTS *v.* UNITED STATES. C. A. 9th Cir. Motions of Larry Joseph Rouse and Antonio Alanis Lopes, Jr., for leave to join in petition for certiorari and certiorari denied.

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Rehearing Denied

No. 74-1488. KLEPPE, SECRETARY OF THE INTERIOR *v.* NEW MEXICO ET AL., 426 U. S. 529;

No. 74-1542. UNION ELECTRIC Co. *v.* ENVIRONMENTAL PROTECTION AGENCY ET AL., 427 U. S. 246;

No. 74-5196. HOUSE *v.* GEORGIA, 428 U. S. 910;

No. 74-6168. HALLMAN *v.* FLORIDA, 428 U. S. 911;

No. 74-6207. ROSS *v.* GEORGIA, 428 U. S. 910;

No. 74-6377. SULLIVAN *v.* FLORIDA, 428 U. S. 911;

No. 74-6547. MOORE *v.* GEORGIA, 428 U. S. 910;

No. 74-6557. MCCORQUODALE *v.* GEORGIA, 428 U. S. 910;

No. 74-6563. SAWYER *v.* FLORIDA, 428 U. S. 911;

No. 74-6717. ALFORD *v.* FLORIDA, 428 U. S. 912;

No. 74-6736. JARRELL *v.* GEORGIA, 428 U. S. 910;

No. 75-252. MEACHUM, CORRECTIONAL SUPERINTENDENT, ET AL. *v.* FANO ET AL., 427 U. S. 215;

No. 75-292. SERBIAN EASTERN ORTHODOX DIOCESE FOR THE UNITED STATES AND CANADA ET AL. *v.* MILIVOJEVICH ET AL., 426 U. S. 696;

No. 75-312. YOUNG, MAYOR OF DETROIT, ET AL. *v.* AMERICAN MINI THEATRES, INC., ET AL., 427 U. S. 50;

No. 75-928. ESTELLE, CORRECTIONS DIRECTOR, ET AL. *v.* JUSTICE, U. S. DISTRICT JUDGE, ET AL., 426 U. S. 925;

No. 75-974. WEST PENN POWER Co. *v.* TRAIN, ADMINISTRATOR, ENVIRONMENTAL PROTECTION AGENCY, 426 U. S. 947;

No. 75-1162. WINTERS BATTERY MANUFACTURING Co. *v.* USERY, SECRETARY OF LABOR, 425 U. S. 991;

No. 75-1219. SEXTON *v.* SIMON, SECRETARY OF THE TREASURY, ET AL., 425 U. S. 973;

No. 75-1233. REA EXPRESS, INC. *v.* CIVIL AERONAUTICS BOARD ET AL., 426 U. S. 906;

No. 75-1363. ALESSIO *v.* UNITED STATES, 426 U. S. 948;

No. 75-1429. YEE *v.* YEE ET AL., 426 U. S. 911; and

No. 75-1466. BOSTON HOME & SCHOOL ASSN. *v.* MORGAN ET AL., 426 U. S. 935. Petitions for rehearing denied.

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No. 75-1477. *LITTLE ET AL. v. OKLAHOMA ET AL.*, 427 U. S. 904;

No. 75-1480. *BANNERT v. AMERICAN CAN CO.*, 426 U. S. 942;

No. 75-1550. *VORBECK ET AL. v. MCNEAL ET AL.*, 426 U. S. 943;

No. 75-1592. *DAVIS v. DAVIS*, 426 U. S. 943;

No. 75-1608. *WHITNEY v. BRANN ET VIR*, 426 U. S. 922;

No. 75-5022. *MITCHELL v. GEORGIA*, 428 U. S. 910;

No. 75-5209. *SPENKELINK v. FLORIDA*, 428 U. S. 911;

No. 75-5817. *SMITH v. ESTELLE, CORRECTIONS DIRECTOR*, 427 U. S. 905;

No. 75-6250. *SMITH, AKA MACHETTI v. GEORGIA*, 428 U. S. 910;

No. 75-6483. *JACKSON v. UNITED STATES*, 426 U. S. 951;

No. 75-6536. *MASON v. GEORGIA*, 428 U. S. 910;

No. 75-6577. *CORTO v. CALIFORNIA*, 426 U. S. 910;

No. 75-6596. *ALVORD v. FLORIDA*, 428 U. S. 923;

No. 75-6605. *WHITE v. GUILD*, 426 U. S. 915;

No. 75-6653. *PULLIAM v. GEORGIA*, 428 U. S. 911;

No. 75-6666. *HOHENSEE ET AL. v. GRIER ET AL.*, 426 U. S. 940;

No. 75-6669. *MITCHELL v. NEW HAMPSHIRE*, 426 U. S. 940; and

No. 75-6787. *MAYOLA v. ALABAMA*, 426 U. S. 933. Petitions for rehearing denied.

No. 74-958. *UNITED STATES ET AL. v. JANIS*, 428 U. S. 433; and

No. 75-1558. *NATIONAL HOCKEY LEAGUE ET AL. v. METROPOLITAN HOCKEY CLUB, INC., ET AL.*, 427 U. S. 639. Petitions for rehearing denied. MR. JUSTICE STEVENS took no part in the consideration or decision of these petitions.

No. 74-1055. *STONE, WARDEN v. POWELL*, 428 U. S. 465; and

No. 74-1222. *WOLFF, WARDEN v. RICE*, 428 U. S. 465. Petitions for rehearing and/or modification denied.

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No. 74-6257. GREGG *v.* GEORGIA, 428 U. S. 153;
No. 75-5394. JUREK *v.* TEXAS, 428 U. S. 262; and
No. 75-5706. PROFFITT *v.* FLORIDA, 428 U. S. 242. Petitions for rehearing denied. Order entered by MR. JUSTICE POWELL on July 22, 1976, staying issuance of mandates in these cases is vacated.

No. 75-510. FLINT RIDGE DEVELOPMENT Co. *v.* SCENIC RIVERS ASSOCIATION OF OKLAHOMA ET AL., 426 U. S. 776;

No. 75-545. HILLS, SECRETARY OF HOUSING AND URBAN DEVELOPMENT, ET AL. *v.* SCENIC RIVERS ASSOCIATION OF OKLAHOMA ET AL., 426 U. S. 776; and

No. 75-1015. RALSTON PURINA Co. ET AL. *v.* LOUISVILLE & NASHVILLE RAILROAD Co. ET AL., 426 U. S. 476. Petitions for rehearing denied. MR. JUSTICE POWELL took no part in the consideration or decision of these petitions.

No. 75-1294. BOHACK CORP. *v.* GENERAL WAREHOUSEMEN'S UNION, LOCAL No. 852, 425 U. S. 966; and

No. 75-6432. ROCHA *v.* UNITED STATES, 426 U. S. 923. Motions for leave to file petitions for rehearing denied.

No. 75-1348. GUSTIN *v.* STEGALL ET AL., 425 U. S. 974. Motion of petitioner for leave to proceed further herein *in forma pauperis* granted. Petition for rehearing denied.

Assignment Order

An order of THE CHIEF JUSTICE designating and assigning Mr. Justice Clark (retired) to perform judicial duties in the United States Court of Appeals for the Third Circuit for the purpose of hearing the following cases: *Hartman v. Rosenlieb*; *Hartman v. United States*; *Brobeck v. United States*; *Hartman v. Alexander*; *United States v. Adams*; *Bowser v. Commissioner of Internal Revenue*; and *Cupp v. Commissioner of Internal Revenue*, and for such additional time as may be required to complete unfinished business, pursuant to 28 U. S. C. § 294 (a), is ordered entered on the minutes of this Court, pursuant to 28 U. S. C. § 295.

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Certiorari Denied

No. 76-484. *MCCARTHY ET AL. v. CARTER ET AL.*; and *MCCARTHY v. FEDERAL COMMUNICATIONS COMMISSION*. Petition for certiorari before judgment to C. A. D. C. Cir. denied.

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Dismissal Under Rule 60

No. 75-1894. *UNITED MINE WORKERS OF AMERICA ET AL. v. WINDSOR POWER HOUSE COAL CO.* C. A. 4th Cir. Certiorari dismissed under this Court's Rule 60. Reported below: 530 F. 2d 312.

Miscellaneous Order

No. A-269. *FIRST NATIONAL BANK OF BOSTON ET AL. v. BELLOTTI, ATTORNEY GENERAL OF MASSACHUSETTS*. Sup. Ct. Jud. Mass. Application for stay, presented to Mr. Justice BRENNAN, and by him referred to the Court, denied.

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Affirmed on Appeal

No. 75-1572. *APACHE COUNTY ET AL. v. UNITED STATES ET AL.* Affirmed on appeal from D. C. Ariz. Reported below: 417 F. Supp. 13.

No. 75-1911. *AHEARN ET AL. v. DI GRAZIA, POLICE COMMISSIONER OF BOSTON*. Affirmed on appeal from D. C. Mass. Reported below: 412 F. Supp. 638.

No. 76-224. *SILVERMAN, ADMINISTRATOR, ET AL. v. BROWNING ET AL.* Affirmed on appeal from D. C. Conn. Mr. Justice STEVENS would note probable jurisdiction and set case for oral argument. Reported below: 414 F. Supp. 80.

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Appeals Dismissed

No. 75-1446. *CHARGER INVESTMENTS, INC., DBA SQUIRE, ET AL. v. CORBETT, CHIEF OF POLICE OF REVERE, ET AL.* Appeal from Sup. Jud. Ct. Mass. dismissed for failure to file notice of appeal within time provided by this Court's Rule 11 and 28 U. S. C. § 2101. Reported below: 369 Mass. 138, 338 N. E. 2d 816.

No. 75-1815. *GABRIEL v. UNITED STATES ET AL.* Appeal from D. C. N. J. dismissed for failure to file notice of appeal within time provided by this Court's Rule 11 and 28 U. S. C. § 2101. Reported below: 416 F. Supp. 810.

No. 75-6583. *RIVERA v. DELAWARE.* Appeal from Sup. Ct. Del. dismissed for want of substantial federal question. MR. JUSTICE STEVENS would note probable jurisdiction and set case for oral argument. Reported below: 351 A. 2d 561.

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

Appellant was convicted by a jury of murder in the second degree, in Delaware Superior Court. The Delaware Supreme Court reversed and remanded with instructions to strike the murder conviction but to enter a judgment of conviction for manslaughter; the constitutionality of a Delaware statute that requires a criminal defendant raising an insanity defense to prove mental illness or defect by a preponderance of the evidence was sustained. The relevant sections of the Delaware Code provide:

“§ 401. Defendant's mental illness or mental defect

“(a) In any prosecution for an offense, it is an affirmative defense that, at the time of the conduct charged, as a result of mental illness or mental defect, the accused lacked substantial capacity to appreciate the wrongfulness of his conduct or lacked sufficient willpower to choose whether he would do the act or refrain from doing it.

“(b) If the defendant prevails in establishing the affirmative defense provided in subsection (a) of this section, the trier of facts shall return a verdict of ‘not guilty by reason of insanity.’”

“§ 304. Defendant’s affirmative defenses; prove by preponderance of evidence.

“(a) When a defense declared by this Criminal Code or by another statute to be an affirmative defense is raised at trial, the defendant has the burden of establishing it by a preponderance of the evidence.” Del. Code Ann., Tit. 11, § 401 (1975).

The Delaware Supreme Court held that *Leland v. Oregon*, 343 U. S. 790 (1952), required its conclusion, because *Leland* “has not been overruled by *Mullaney* [v. *Wilbur*, 421 U. S. 684 (1975)], . . . either expressly or implicitly.” 351 A. 2d 561, 562 (1976). Because I believe this case presents the substantial federal question whether *Leland* can be reconciled with our recent holdings in *In re Winship*, 397 U. S. 358 (1970), and *Mullaney v. Wilbur*, *supra*, I would note probable jurisdiction and set the case for oral argument.

In *Mullaney*, we considered a Maine rule that placed upon a criminal defendant charged with murder the burden of proving by a preponderance of the evidence that he had acted in the heat of passion on sudden impulse in order to reduce the homicide to manslaughter. We concluded that this rule did not comport with the due process requirement, as defined in *In re Winship*, *supra*, at 361–364, that the prosecution must prove beyond a reasonable doubt every fact necessary to constitute the crime charged. In reaching this conclusion, my Brother POWELL’s opinion for the Court pointed out that, in 1895, this Court considered and conclusively rejected the practice, accepted in several jurisdictions, of requiring the defendant to negate the presumption that he acted with malice aforethought. 421 U. S., at 694–696. *Davis v. United States*, 160 U. S. 469 (1895), the

decision referred to, held in the context of a federal murder prosecution that the prosecution must shoulder the burden of proving the accused was sane at the time of the commission of the crime. This was so, the Court concluded, because "the crime of murder necessarily involves the possession by the accused of such mental capacity as will render him criminally responsible for his acts." *Id.*, at 485. It is thus clear, following *Davis*, at least in the context of federal criminal procedure, that the accused's sanity is an ingredient of *mens rea*, an element of the crime which the prosecution must prove beyond a reasonable doubt.

Leland v. Oregon presented the same question in the context of a state rule requiring an accused to prove his insanity beyond a reasonable doubt. *Leland* refused to extend the holding of *Davis* to the States based on reluctance "to interfere with Oregon's determination of its policy with respect to the burden of proof on the issue of sanity since we cannot say that policy violates generally accepted concepts of basic standards of justice." 343 U. S., at 799. In effect, the Court concluded that *Davis* was not a constitutional holding, but rather prescribed a policy necessary to achieve uniformity in federal prosecutions. 343 U. S., at 797-798.

My Brother REHNQUIST's concurring opinion in *Mullaney*, in which THE CHIEF JUSTICE joined, would distinguish *Leland* on the basis that the issue of insanity as a defense to a criminal charge is considered by the jury only *after* it has found that all elements of the offense, including *mens rea*, are proved beyond a reasonable doubt. Although that concurring opinion concedes that "evidence relevant to insanity as defined by state law may also be relevant to whether the required *mens rea* was present, [it states that] the existence or nonexistence of legal insanity bears no necessary relationship to the existence or nonexistence of the required mental elements of the crime." 421 U. S., at 705-706.

I do not think that the logic of this view is self-evident.

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Like the state rule invalidated in *Mullaney*, which implied malice unless the accused negated it, the plea of insanity, whether or not the State chooses to characterize it as an affirmative defense, relates to the accused's state of mind, an essential element of the crime, and bears upon the appropriate form of punishment. Nor is it sufficient after *Mullaney* to say, as the Court did in *Leland*, that a State may characterize the insanity defense as it chooses. We said in *Mullaney* that the requirement of *Winship* that the State prove all elements of the crime was one of substance, not limited to "a State's definition of the elements of a crime" 421 U. S., at 699 n. 24.

The Court's summary disposition of this case is especially inappropriate since *Hicks v. Miranda*, 422 U. S. 332 (1975), accords that disposition precedential weight. See also *Colorado Springs Amusements v. Rizzo*, 428 U. S. 913 (1976) (BRENNAN, J., dissenting). Given the transparent erosion of *Leland* by *Winship* and *Mullaney*, the question whether *Leland* has continuing validity surely merits full briefing and oral argument.

No. 76-5248. MARTINEZ *v.* BUCYRUS-ERIE CO. ET AL. Appeal from Sup. Ct. Ariz. dismissed for want of substantial federal question. Reported below: 113 Ariz. 119, 547 P. 2d 473.

Vacated and Remanded on Appeal

No. 75-1628. THELKELD ET AL. *v.* ROBBINSDALE FEDERATION OF TEACHERS, LOCAL 872, ET AL. Appeal from Sup. Ct. Minn. Judgment vacated and case remanded for further consideration in light of Chapter 102 of 1976 Session Laws of Minnesota. *Fusari v. Steinberg*, 419 U. S. 379 (1975); *Defenderfer v. Central Baptist Church*, 404 U. S. 412 (1972). Reported below: 307 Minn. 96, 239 N. W. 2d 437.

Certiorari Granted—Reversed and Remanded. (See No. 75-1667, *ante*, p. 10; and No. 75-1867, *ante*, p. 14.)

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Certiorari Granted—Vacated and Remanded. (See also No. 75-1534, *ante*, p. 1; No. 75-1535, *ante*, p. 5; and No. 75-1547, *ante*, p. 6.)

No. 75-1782. AFW FABRIC CORP. ET AL. *v.* MARSHEL ET AL. C. A. 2d Cir. Certiorari granted, judgment vacated, and case remanded to consider whether case is moot. Reported below: 533 F. 2d 1277 and 1309.

Miscellaneous Orders

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.] Motion of Barnes Hospital for leave to file a brief as *amicus curiae* denied.

No. 75-442. POELKER, MAYOR OF ST. LOUIS, ET AL. *v.* DOE. C. A. 8th Cir. [Certiorari granted, 428 U. S. 909]; and

No. 75-1440. MAHER, COMMISSIONER OF SOCIAL SERVICES OF CONNECTICUT *v.* ROE ET AL. Appeal from D. C. Conn. [Probable jurisdiction noted, 428 U. S. 908.] Motion of American Public Health Assn. et al. for leave to file a brief as *amici curiae* granted.

No. 75-503. COOK ET AL. *v.* HUDSON ET AL. C. A. 5th Cir. [Certiorari granted, 424 U. S. 941.] Motion of petitioners for divided argument denied.

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, 425 U. S. 990.] Motion of NAACP Legal Defense & Educational Fund, Inc., for leave to file a brief as *amicus curiae* granted.

No. 75-708. MARKS ET AL. *v.* UNITED STATES. C. A. 9th Cir. [Certiorari granted, 424 U. S. 942.] Motion of Citizens for Decency Through Law, Inc., for leave to file a brief as *amicus curiae* denied.

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No. 75-804. *FARMER v. UNITED BROTHERHOOD OF CARPENTERS & JOINERS OF AMERICA, LOCAL 25, ET AL.* Ct. App. Cal., 2d App. Dist. [Certiorari granted, *sub nom. Hill v. United Brotherhood of Carpenters & Joiners of America, Local 25, et al.*, 423 U. S. 1086.] Motion of the Solicitor General for leave to participate in oral argument as *amicus curiae* granted and 15 additional minutes allotted for that purpose. Petitioner also allotted 15 additional minutes for oral argument.

No. 75-909. *ENVIRONMENTAL PROTECTION AGENCY v. BROWN, GOVERNOR OF CALIFORNIA, ET AL.*; and *ENVIRONMENTAL PROTECTION AGENCY v. ARIZONA ET AL.* C. A. 9th Cir.;

No. 75-960. *ENVIRONMENTAL PROTECTION AGENCY v. MARYLAND ET AL.* C. A. 4th Cir.;

No. 75-1050. *VIRGINIA EX REL. AIR POLLUTION CONTROL BOARD v. TRAIN, ADMINISTRATOR, ENVIRONMENTAL PROTECTION AGENCY.* C. A. D. C. Cir.; and

No. 75-1055. *TRAIN, ADMINISTRATOR, ENVIRONMENTAL PROTECTION AGENCY v. DISTRICT OF COLUMBIA ET AL.* C. A. D. C. Cir. [Certiorari granted, 426 U. S. 904.] Motion of Natural Resources Defense Council, Inc., for leave to file a brief as *amicus curiae* denied.

No. 75-1064. *KREMENS, HOSPITAL DIRECTOR, ET AL. v. BARTLEY ET AL.* Appeal from D. C. E. D. Pa. [Probable jurisdiction noted, 424 U. S. 964.] Motion for reconsideration of denial of leave to file an *amicus curiae* brief on behalf of the Supreme Court of Pennsylvania granted, and it is ordered that the motion for leave to file be granted and the brief filed.

No. 76-188. *GOURLEY, DIRECTOR, DIVISION OF FAMILY SERVICES OF MISSOURI, ET AL. v. LEWIS.* C. A. 8th Cir. The Solicitor General is invited to file a brief in this case expressing the views of the United States.

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No. 76-239. BAMFORD ET AL. *v.* GARRETT ET AL. C. A. 3d Cir. Motion of Pennsylvania State Association of County Commissioners for leave to file a brief as *amicus curiae* denied.

No. 76-5317. GREEN *v.* WYRICK, WARDEN;

No. 76-5369. WHITE ET AL. *v.* HENDERSON, WARDEN; and

No. 76-5379. GRISMORE *v.* PUTNAM, WARDEN. Motions for leave to file petitions for writs of habeas corpus denied.

Probable Jurisdiction Noted

No. 75-1868. NATIONAL GEOGRAPHIC SOCIETY *v.* CALIFORNIA BOARD OF EQUALIZATION. Appeal from Sup. Ct. Cal. Probable jurisdiction noted. THE CHIEF JUSTICE took no part in the consideration or decision of this matter. Reported below: 16 Cal. 3d 637, 547 P. 2d 458.

No. 76-180. SMITH, ADMINISTRATOR, NEW YORK CITY HUMAN RESOURCES ADMINISTRATION, ET AL. *v.* ORGANIZATION OF FOSTER FAMILIES FOR EQUALITY & REFORM ET AL.;

No. 76-183. SHAPIRO, EXECUTIVE DIRECTOR, NEW YORK STATE BOARD OF SOCIAL WELFARE, ET AL. *v.* ORGANIZATION OF FOSTER FAMILIES FOR EQUALITY & REFORM ET AL.;

No. 76-5193. RODRIGUEZ ET AL. *v.* ORGANIZATION OF FOSTER FAMILIES FOR EQUALITY & REFORM ET AL.; and

No. 76-5200. GANDY ET AL. *v.* ORGANIZATION OF FOSTER FAMILIES FOR EQUALITY & REFORM ET AL. Appeals from D. C. S. D. N. Y. Motions of appellants for leave to proceed *in forma pauperis* in Nos. 76-5193 and 76-5200 granted. Probable jurisdiction noted, cases consolidated, and a total of one and one-half hours allotted for oral argument. Reported below: 418 F. Supp. 277.

Certiorari Granted

No. 75-1578. WAINWRIGHT, SECRETARY, DEPARTMENT OF OFFENDER REHABILITATION OF FLORIDA *v.* SYKES. C. A. 5th Cir. Motion of respondent for leave to proceed *in forma pauperis* and certiorari granted. Reported below: 528 F. 2d 522.

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No. 75-1844. UNITED STATES *v.* LOVASCO. C. A. 8th Cir. Motion of respondent for leave to proceed *in forma pauperis* and certiorari granted. Reported below: 532 F. 2d 59.

Certiorari Denied

No. 75-1450. DEPARTMENT OF SOCIAL SERVICES OF IOWA ET AL. *v.* WEST HEIGHT MANOR, INC.; and BURNS, COMMISSIONER, DEPARTMENT OF SOCIAL SERVICES OF IOWA, ET AL. *v.* HUTCHISON NURSING HOME, INC., ET AL. Sup. Ct. Iowa. Certiorari denied. Reported below: 236 N. W. 2d 307 (first case) and 312 (second case).

No. 75-1531. WHITE *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 535 F. 2d 1251.

No. 75-1597. BROWN ET AL. *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 525 F. 2d 1256.

No. 75-1606. LACY *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 526 F. 2d 814.

No. 75-1685. KOLIOS *v.* IMMIGRATION AND NATURALIZATION SERVICE. C. A. 1st Cir. Certiorari denied. Reported below: 532 F. 2d 786.

No. 75-1852. BANKS *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 531 F. 2d 1336.

No. 75-1869. CHITTENDEN *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 530 F. 2d 41.

No. 75-6849. HORAN *v.* WALLACE. C. A. D. C. Cir. Certiorari denied. Reported below: 174 U. S. App. D. C. 241, 530 F. 2d 1093.

No. 75-6945. NICHOLSON *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 538 F. 2d 342.

No. 75-6997. RAMIREZ *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 533 F. 2d 138.

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No. 76-33. *ATKINSON ET AL. v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 539 F. 2d 706.

No. 76-58. *SLOAN ET AL. v. SECURITIES AND EXCHANGE COMMISSION ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 535 F. 2d 676.

No. 76-70. *STREET v. UNITED STATES*. C. A. 1st Cir. Certiorari denied.

No. 76-82. *FAMOUS FOODS, INC. v. GENERAL FOODS CORP.* C. A. 3d Cir. Certiorari denied. Reported below: 538 F. 2d 319.

No. 76-90. *WESTERN SHOSHONE LEGAL DEFENSE & EDUCATION ASSN. ET AL. v. UNITED STATES ET AL.* Ct. Cl. Certiorari denied. Reported below: 209 Ct. Cl. 43, 531 F. 2d 495.

No. 76-115. *BERNABEI v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 538 F. 2d 329.

No. 76-129. *LEVY v. UNITED STATES*. Ct. Cl. Certiorari denied. Reported below: 210 Ct. Cl. 97, 535 F. 2d 47.

No. 76-132. *MICHELMAN, TRUSTEE IN BANKRUPTCY v. CLARK-SCHWEBEL FIBER GLASS CORP. ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 534 F. 2d 1036.

No. 76-147. *WILLIAMS v. MARYLAND*. Ct. Sp. App. Md. Certiorari denied.

No. 76-178. *SCARRELLA ET AL. v. MIDWEST FEDERAL SAVINGS & LOAN ASSOCIATION OF MINNEAPOLIS ET AL.* C. A. 8th Cir. Certiorari denied. Reported below: 536 F. 2d 1207.

No. 76-182. *BENEFICIAL FINANCE CO. OF GARY, INC. v. ALLEN*. C. A. 7th Cir. Certiorari denied. Reported below: 531 F. 2d 797.

No. 76-187. *BACHE & Co., INC. v. SEYMOUR*. C. A. 2d Cir. Certiorari denied. Reported below: 538 F. 2d 313.

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No. 76-193. *MORITT v. NADJARI ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 538 F. 2d 312.

No. 76-196. *BRABANT v. CITY OF SEATTLE ET AL.* Sup. Ct. Wash. Certiorari denied. Reported below: 86 Wash. 2d 698, 548 P. 2d 320.

No. 76-197. *MOHASCO INDUSTRIES, INC., ET AL. v. SPOUND ET AL.* C. A. 1st Cir. Certiorari denied. Reported below: 534 F. 2d 404.

No. 76-218. *SILVOLA v. COLORADO.* Sup. Ct. Colo. Certiorari denied. Reported below: 190 Colo. 363, 547 P. 2d 1283.

No. 76-219. *INTERNATIONAL TELEPHONE & TELEGRAPH CORP. v. RAYCHEM CORP.* C. A. 1st Cir. Certiorari denied. Reported below: 538 F. 2d 453.

No. 76-223. *LANE v. LANE.* App. Ct. Ill., 1st Dist. Certiorari denied. Reported below: 35 Ill. App. 3d 276, 340 N. E. 2d 705.

No. 76-225. *REINHART v. PENNSYLVANIA.* Sup. Ct. Pa. Certiorari denied. Reported below: 466 Pa. 591, 353 A. 2d 848.

No. 76-233. *OTTO v. CITY OF DAYTON.* Sup. Ct. Ohio. Certiorari denied.

No. 76-236. *SHERARD v. SHELTON, DIRECTOR, WAYNE COUNTY DEPARTMENT OF SOCIAL SERVICES.* Sup. Ct. Mich. Certiorari denied.

No. 76-240. *RYDER v. DALLAS & MAVIS FORWARDING Co., INC.* C. A. 3d Cir. Certiorari denied. Reported below: 538 F. 2d 320.

No. 76-243. *ALLIED CHEMICAL CORP. ET AL. v. DAIFLON, INC.* C. A. 10th Cir. Certiorari denied. Reported below: 534 F. 2d 221.

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No. 76-244. UNITED PACIFIC INSURANCE Co. *v.* MGM GRAND HOTEL, INC. C. A. 9th Cir. Certiorari denied. Reported below: 533 F. 2d 486.

No. 76-247. GRUSS ET AL. *v.* CURTIS PUBLISHING Co. C. A. 2d Cir. Certiorari denied. Reported below: 534 F. 2d 1396.

No. 76-250. FATHER FLANAGAN'S BOYS' HOME *v.* MILLARD SCHOOL DISTRICT ET AL. Sup. Ct. Neb. Certiorari denied. Reported below: 196 Neb. 299, 242 N. W. 2d 637.

No. 76-282. SMART *v.* JONES, SHERIFF, ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 530 F. 2d 64.

No. 76-5003. TUCKER *v.* GRAY ET AL. C. A. 6th Cir. Certiorari denied. Reported below: 538 F. 2d 329.

No. 76-5009. ROBINSON *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied. Reported below: 538 F. 2d 321.

No. 76-5020. SCHERER *v.* THOMPSON, U. S. DISTRICT JUDGE. C. A. 9th Cir. Certiorari denied.

No. 76-5049. BALES *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 538 F. 2d 325.

No. 76-5058. SHADD *v.* UNITED STATES ET AL. C. A. 3d Cir. Certiorari denied. Reported below: 535 F. 2d 1247.

No. 76-5064. REED *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 529 F. 2d 1239.

No. 76-5066. THOMPSON *v.* HARDING ET AL. C. A. 3d Cir. Certiorari denied.

No. 76-5067. WILLIAMS *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied.

No. 76-5070. HANKS *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 538 F. 2d 341.

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No. 76-5071. *GELLIS v. GROOMS*, U. S. DISTRICT JUDGE. C. A. 5th Cir. Certiorari denied. Reported below: 526 F. 2d 813.

No. 76-5074. *BURKE v. SUPREME COURT ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 538 F. 2d 308.

No. 76-5102. *ADAMS v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 538 F. 2d 329.

No. 76-5104. *ENDERS v. AMERICAN PATENT SEARCH CO. ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 535 F. 2d 1085.

No. 76-5122. *ROMAN v. CALIFORNIA*. Ct. App. Cal., 4th App. Dist. Certiorari denied.

No. 76-5133. *BARBOSA v. WHITESIDE ET AL.* C. A. 5th Cir. Certiorari denied.

No. 76-5136. *COLLINS v. MICHIGAN*. Ct. App. Mich. Certiorari denied. Reported below: 52 Mich. App. 332, 217 N. W. 2d 119.

No. 76-5139. *CALISE v. CALIFORNIA*. Ct. App. Cal., 2d App. Dist. Certiorari denied. Reported below: — Cal. App. 3d —, — Cal. Rptr. —.

No. 76-5145. *D'AGOSTINO v. FLORIDA*. Dist. Ct. App. Fla., 4th Dist. Certiorari denied.

No. 76-5151. *SCOTT v. VIRGINIA*. Sup. Ct. Va. Certiorari denied.

No. 76-5204. *HOSKINS v. CALIFORNIA*. Ct. App. Cal., 4th App. Dist. Certiorari denied.

No. 76-5209. *HAYES v. BORDENKIRCHER, PENITENTIARY SUPERINTENDENT*. C. A. 6th Cir. Certiorari denied. Reported below: 535 F. 2d 351.

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No. 76-5205. *COLLINS v. EGELER, WARDEN*. C. A. 6th Cir. Certiorari denied. Reported below: 539 F. 2d 597.

No. 76-5214. *MIERA v. AARON*. C. A. 10th Cir. Certiorari denied.

No. 76-5215. *BOYD v. NEW YORK*. App. Div., Sup. Ct. N. Y., 1st Jud. Dept. Certiorari denied. Reported below: 52 App. Div. 2d 1096, 384 N. Y. S. 2d 712.

No. 76-5217. *JOHNSON v. UNITED STATES*. Ct. Cl. Certiorari denied. Reported below: 208 Ct. Cl. 409, 527 F. 2d 1209.

No. 76-5218. *JOHNSON v. HAVENER, CORRECTIONAL SUPERINTENDENT*. C. A. 6th Cir. Certiorari denied. Reported below: 534 F. 2d 1232.

No. 76-5230. *BOYER v. BOYER*. Sup. Ct. Ohio. Certiorari denied. Reported below: 46 Ohio St. 2d 83, 346 N. E. 2d 286.

No. 76-5232. *BROWNING v. VIRGINIA*. Sup. Ct. Va. Certiorari denied.

No. 76-5243. *WESTBERRY v. OLIVER, WARDEN, ET AL.* C. A. 1st Cir. Certiorari denied. Reported below: 535 F. 2d 1333.

No. 76-5290. *THOMAS v. ALABAMA*. Ct. Crim. App. Ala. Certiorari denied. Reported below: 332 So. 2d 168.

No. 76-5331. *EPPS v. SMITH, WARDEN*. C. A. 2d Cir. Certiorari denied.

No. 75-1420. *ROUNDHOUSE CONSTRUCTION CORP. v. TELESCO MASONS SUPPLIES Co. ET AL.* Sup. Ct. Conn. Certiorari denied, it appearing that judgment below rests upon an adequate state ground. THE CHIEF JUSTICE, MR. JUSTICE WHITE, and MR. JUSTICE BLACKMUN would grant certiorari. Reported below: 170 Conn. 155, 365 A. 2d 393.

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No. 75-1354. *TRANS WORLD AIRLINES, INC. v. DAY ET AL.* C. A. 2d Cir. Certiorari denied. MR. JUSTICE BLACKMUN would grant certiorari. Reported below: 528 F. 2d 31.

No. 75-1447. *BERGER, COMMISSIONER, DEPARTMENT OF SOCIAL SERVICES OF NEW YORK v. AITCHISON.* C. A. 2d Cir. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 538 F. 2d 307.

No. 76-101. *DEMOCRATIC NATIONAL COMMITTEE v. FEDERAL COMMUNICATIONS COMMISSION ET AL.*; and

No. 76-205. *CHISHOLM ET AL. v. FEDERAL COMMUNICATIONS COMMISSION ET AL.* C. A. D. C. Cir. Certiorari denied. MR. JUSTICE WHITE would grant certiorari. Reported below: 176 U. S. App. D. C. 1, 538 F. 2d 349.

No. 76-470. *SOCIALIST WORKERS PARTY ET AL. v. UNITED STATES ET AL.* C. A. D. C. Cir. Motion to expedite consideration with Nos. 76-101 and 76-205, immediately *supra*, granted. Certiorari denied.

No. 76-5080. *MILLER v. SEARS, ROEBUCK & Co. ET AL.* Sup. Ct. Okla. Certiorari denied. MR. JUSTICE POWELL took no part in the consideration or decision of this petition. Reported below: 550 P. 2d 1330.

Rehearing Denied

No. 74-6065. *SELMAN v. LOUISIANA*, 428 U. S. 906;

No. 75-5844. *ROBERTS v. LOUISIANA*, 428 U. S. 325;

No. 75-6067. *WATTS v. LOUISIANA*, 428 U. S. 906; and

No. 75-6123. *WASHINGTON v. LOUISIANA*, 428 U. S. 906.

Petition for rehearing denied.

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Affirmed on Appeal

No. 75-6429. *THOMPSON v. HENSLEY, DISTRICT ATTORNEY, NINTH JUDICIAL DISTRICT OF NEW MEXICO, ET AL.*

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Appeal from D. C. N. M. Motion of appellant for leave to proceed *in forma pauperis* granted. Without indicating any views on the constitutionality of N. M. Stat. Ann. § 34-2-5 (1953), judgment affirmed insofar as it upholds the constitutionality of N. M. Stat. Ann. § 34-2-18 (1953).

Appeals Dismissed

No. 75-1638. KELL ET AL. *v.* CHILIVIS, REVENUE COMMISSIONER OF GEORGIA, ET AL. Appeal from Sup. Ct. Ga. dismissed for want of substantial federal question. Reported below: 236 Ga. 226, 223 S. E. 2d 117.

No. 76-165. RESTAURANT INDUSTRIES CORP. ET AL. *v.* BYLICKI ET AL. Appeal from Sup. Ct. Fla. dismissed for want of substantial federal question. Reported below: 336 So. 2d 107.

No. 76-281. HUB THEATRES, INC., ET AL. *v.* MASSACHUSETTS PORT AUTHORITY. Appeal from Sup. Jud. Ct. Mass. dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied. Reported below: — Mass. —, 346 N. E. 2d 371.

Certiorari Granted—Vacated and Remanded. (See also No. 75-1692, *ante*, p. 20.)

No. 75-1657. NORTH CAROLINA *v.* FEDERAL POWER COMMISSION ET AL. C. A. D. C. Cir. Certiorari granted, judgment vacated, and case remanded for further consideration in light of Pub. L. 94-407, 82 Stat. 906. MR. JUSTICE POWELL took no part in the consideration or decision of this case. Reported below: 174 U. S. App. D. C. 475, 533 F. 2d 702.

Miscellaneous Orders

No. 67, Orig. IDAHO EX REL. ANDRUS, GOVERNOR OF IDAHO, ET AL. *v.* OREGON ET AL. Motion of Columbia River Fishermen's Protective Union for leave to file a brief as *amicus curiae* granted. [For earlier orders herein, see, *e. g.*, 425 U. S. 957.]

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No. A-864 (O. T. 1975). HILLS, SECRETARY OF HOUSING AND URBAN DEVELOPMENT, ET AL. *v.* COOPERATIVE SERVICES, INC., ET AL. C. A. D. C. Cir. Motion to vacate or amend stay entered by THE CHIEF JUSTICE on April 15, 1976, denied.

No. A-218 (76-5094). PRITCHARD *v.* AULT, COMMISSIONER, DEPARTMENT OF OFFENDER REHABILITATION, ET AL. C. A. 5th Cir. Application for bail, presented to MR. JUSTICE BLACKMUN, and by him referred to the Court, denied.

No. A-259. HILLS, SECRETARY OF HOUSING AND URBAN DEVELOPMENT ET AL. *v.* UNDERWOOD ET AL. Application for stay of judgment of the United States District for the District of Columbia, entered June 8, 1976, presented to THE CHIEF JUSTICE, and by him referred to the Court, granted pending further order of the Court. Reported below: 414 F. Supp. 526.

No. A-263. HANSON ET AL. *v.* UNITED STATES ET AL. C. A. 8th Cir. Application for preliminary injunction, presented to MR. JUSTICE BLACKMUN, and by him referred to the Court, denied. MR. JUSTICE BLACKMUN took no part in the consideration or decision of this application.

No. 75-73. BELLOTTI, ATTORNEY GENERAL OF MASSACHUSETTS, ET AL. *v.* BAIRD ET AL.; and

No. 75-109. HUNERWADEL *v.* BAIRD ET AL., 428 U. S. 132. Motions to vacate order [in No. A-69] entered by MR. JUSTICE BRENNAN on July 30, 1976, denied.

No. 75-661. UNITED STATES *v.* ANTELOPE ET AL. C. A. 9th Cir. [Certiorari granted, 424 U. S. 907.] Motions of respondents for leave to proceed further herein *in forma pauperis* granted. Motions for appointment of counsel granted, and it is ordered that John W. Walker, Esquire, of Moscow, Idaho, serve as counsel for respondents Leonard Francis Davison and William Andrew Davison, and that

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Allen V. Bowles, Esquire, of Moscow, Idaho, serve as counsel for respondent Antelope in this case.

No. 75-1397. JUDICE ET AL., JUDGES *v.* VAIL ET AL. Appeal from D. C. S. D. N. Y. [Probable jurisdiction noted, 426 U. S. 946.] Motion of New York Consumer Protection Board for leave to file a brief as *amicus curiae* granted.

No. 76-156. VENDO Co. *v.* LEKTRO-VEND CORP. ET AL. C. A. 7th Cir. [Certiorari granted, *ante*, p. 815.] Motion of petitioner to accelerate briefing schedule and to advance oral argument denied.

No. 76-303. STAMATINOS *v.* MEHRTENS, U. S. DISTRICT JUDGE, ET AL. Motion for leave to file petition for writ of mandamus and other relief denied.

Probable Jurisdiction Noted

No. 76-260. LEFKOWITZ, ATTORNEY GENERAL OF NEW YORK *v.* CUNNINGHAM ET AL. Appeal from D. C. S. D. N. Y. Probable jurisdiction noted. Reported below: 420 F. Supp. 1004.

Certiorari Granted

No. 76-15. CONTINENTAL T. V., INC., ET AL. *v.* GTE SYLVANIA, INC. C. A. 9th Cir. Certiorari granted. Reported below: 537 F. 2d 980.

No. 76-37. VORCHHEIMER *v.* SCHOOL DISTRICT OF PHILADELPHIA ET AL. C. A. 3d Cir. Certiorari granted. Reported below: 532 F. 2d 880.

No. 75-6909. MANESS *v.* WAINWRIGHT, SECRETARY, DEPARTMENT OF OFFENDER REHABILITATION OF FLORIDA. C. A. 5th Cir. Motion for leave to proceed *in forma pauperis* and certiorari granted. Reported below: 512 F. 2d 88.

No. 75-6933. BROWN *v.* OHIO. Ct. App. Ohio, Cuyahoga County. Motion for leave to proceed *in forma pauperis* and certiorari granted.

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Certiorari Denied. (See also No. 76-281, *supra*.)

No. 75-1799. BOARD OF EDUCATION OF INDEPENDENT SCHOOL DISTRICT NO. 53 OF OKLAHOMA COUNTY *v.* BOARD OF EDUCATION OF INDEPENDENT SCHOOL DISTRICT NO. 52 OF OKLAHOMA COUNTY ET AL. C. A. 10th Cir. *Certiorari* denied. Reported below: 532 F. 2d 730.

No. 75-1833. MEYERS ET AL. *v.* UNITED STATES. C. A. 7th Cir. *Certiorari* denied. Reported below: 529 F. 2d 1033.

No. 75-1862. ADVOCATES FOR THE ARTS ET AL. *v.* THOMSON, GOVERNOR OF NEW HAMPSHIRE, ET AL. C. A. 1st Cir. *Certiorari* denied. Reported below: 532 F. 2d 792.

No. 75-1893. TORTORELLO *v.* UNITED STATES. C. A. 2d Cir. *Certiorari* denied. Reported below: 533 F. 2d 809.

No. 75-6675. HAWTHORNE *v.* UNITED STATES. C. A. 3d Cir. *Certiorari* denied. Reported below: 532 F. 2d 318.

No. 75-6800. FIGUEROA *v.* UNITED STATES. C. A. 9th Cir. *Certiorari* denied. Reported below: 534 F. 2d 334.

No. 75-6805. BROWN *v.* UNITED STATES. C. A. 3d Cir. *Certiorari* denied. Reported below: 535 F. 2d 1248.

No. 75-6807. WILLIAMS *v.* UNITED STATES. C. A. 8th Cir. *Certiorari* denied. Reported below: 534 F. 2d 119.

No. 75-6867. PRYOR *v.* TENNESSEE. Sup. Ct. Tenn. *Certiorari* denied.

No. 75-6931. MARTIN-PLASCENCIA, AKA HERNANDEZ *v.* UNITED STATES. C. A. 9th Cir. *Certiorari* denied. Reported below: 532 F. 2d 1316.

No. 75-6969. LEE, AKA CARTER *v.* UNITED STATES. C. A. 4th Cir. *Certiorari* denied. Reported below: 540 F. 2d 1205.

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No. 75-7012. *KATZ v. UNITED STATES*. C. A. 10th Cir. Certiorari denied. Reported below: 535 F. 2d 593.

No. 76-8. *BAMFORD v. FEDERAL COMMUNICATIONS COMMISSION*. C. A. D. C. Cir. Certiorari denied. Reported below: 175 U. S. App. D. C. 250, 535 F. 2d 78.

No. 76-21. *BERTUCCI ET AL. v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 532 F. 2d 1144.

No. 76-22. *FRUCHTMAN v. KENTON, WARDEN*. C. A. 9th Cir. Certiorari denied. Reported below: 531 F. 2d 946.

No. 76-23. *PATRIARCA v. TAYLOR ET AL.* C. A. 1st Cir. Certiorari denied.

No. 76-25. *DOULIN v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 538 F. 2d 466.

No. 76-27. *NAPLES v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 535 F. 2d 1255.

No. 76-51. *GOODFRIEND WESTERN CORP., DBA WRANGLER WRANCH v. NATIONAL LABOR RELATIONS BOARD ET AL.* C. A. 1st Cir. Certiorari denied. Reported below: 535 F. 2d 145.

No. 76-55. *CENTRAL BANK v. SMITH, COMPTROLLER OF THE CURRENCY, ET AL.* C. A. 7th Cir. Certiorari denied. Reported below: 532 F. 2d 37.

No. 76-87. *WHITELEY v. UNITED STATES*. Ct. Cl. Certiorari denied. Reported below: 209 Ct. Cl. 702, 538 F. 2d 346.

No. 76-88. *POGUE, WARDEN v. AZBILL*. C. A. 9th Cir. Certiorari denied. Reported below: 534 F. 2d 195.

No. 76-123. *DONKIN'S (A CALIFORNIA CORPORATION) v. NATIONAL LABOR RELATIONS BOARD*. C. A. 9th Cir. Certiorari denied. Reported below: 532 F. 2d 138.

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No. 76-134. *McMAHON v. UNITED STATES*. C. A. D. C. Cir. Certiorari denied. Reported below: 174 U. S. App. D. C. 241, 530 F. 2d 1093.

No. 76-137. *DAVIS v. HECHT ET AL., COMMISSIONERS, BOARD OF ELECTIONS OF DUTCHESS COUNTY*. App. Div., Sup. Ct. N. Y., 2d Jud. Dept. Certiorari denied. Reported below: 51 App. Div. 2d 743, 379 N. Y. S. 2d 388.

No. 76-138. *GOFF v. MATHEWS, SECRETARY OF HEALTH, EDUCATION, AND WELFARE*. C. A. 2d Cir. Certiorari denied. Reported below: 538 F. 2d 309.

No. 76-163. *SERVICE PARTS, INC., ET AL. v. SAF-GARD PRODUCTS, INC., ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 532 F. 2d 1266.

No. 76-171. *SMITH ET UX. v. JARAMILLO, DIRECTOR, DEPARTMENT OF ALCOHOL BEVERAGE CONTROL OF NEW MEXICO*. Sup. Ct. N. M. Certiorari denied.

No. 76-186. *RESTAURANT INDUSTRIES CORP. ET AL. v. BYLICKI ET AL.* Sup. Ct. Fla. Certiorari denied. Reported below: 336 So. 2d 107.

No. 76-207. *SZIMA v. NEW JERSEY*. Sup. Ct. N. J. Certiorari denied. Reported below: 70 N. J. 196, 358 A. 2d 773.

No. 76-226. *CRATEO, INC. v. INTERMARK, INC., ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 536 F. 2d 862.

No. 76-241. *OCEAN SANDS HOLDING CORP. v. VIRGINIA DEPARTMENT OF TAXATION*. Sup. Ct. Va. Certiorari denied.

No. 76-248. *HUGHES v. DEMPSEY-TEGELER & Co., INC., ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 534 F. 2d 156.

No. 76-266. *GRIFFIN v. ZURZ, JUDGE, ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 535 F. 2d 1254.

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No. 76-269. *JENNINGS v. CADDO PARISH SCHOOL BOARD ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 531 F. 2d 1331.

No. 76-285. *O/Y FINNLINES, LTD., ET AL. v. BUTLER.* C. A. 4th Cir. Certiorari denied. Reported below: 537 F. 2d 1205.

No. 76-295. *HICKS ET AL. v. UNIROYAL, INC.* C. A. 5th Cir. Certiorari denied. Reported below: 531 F. 2d 573.

No. 76-297. *TURZILLO ET AL. v. P & Z MERGENTIME.* C. A. D. C. Cir. Certiorari denied. Reported below: 174 U. S. App. D. C. 318, 532 F. 2d 1393.

No. 76-298. *STOLBERG v. MEMBERS OF THE BOARD OF TRUSTEES FOR THE STATE COLLEGES OF CONNECTICUT ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 541 F. 2d 890.

No. 76-305. *PROGRESSIVE ENTERPRISES, INC. v. NEW ENGLAND MUTUAL LIFE INSURANCE Co.* C. A. 4th Cir. Certiorari denied. Reported below: 538 F. 2d 1057.

No. 76-313. *GROSSMAN v. BERNARDS TOWNSHIP BOARD OF EDUCATION.* C. A. 3d Cir. Certiorari denied. Reported below: 538 F. 2d 319.

No. 76-5026. *WILSON v. UNITED STATES.* C. A. 6th Cir. Certiorari denied. Reported below: 532 F. 2d 755.

No. 76-5034. *DEVERSE v. UNITED STATES.* C. A. 8th Cir. Certiorari denied. Reported below: 536 F. 2d 804.

No. 76-5042. *SHATNEY v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. Reported below: 532 F. 2d 185.

No. 76-5043. *RIVERA DE GOMEZ v. KISSINGER, SECRETARY OF STATE, ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 534 F. 2d 518.

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No. 75-5046. *GARCIA v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 528 F. 2d 580.

No. 76-5050. *THERIAULT v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 531 F. 2d 281.

No. 76-5054. *TORRES-RIOS v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 534 F. 2d 865.

No. 76-5069. *DOVE v. SECRETARY OF HEALTH, EDUCATION, AND WELFARE*. C. A. 6th Cir. Certiorari denied. Reported below: 535 F. 2d 1254.

No. 76-5081. *SISK v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 538 F. 2d 343.

No. 76-5108. *HASKINS v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 536 F. 2d 775.

No. 76-5117. *WARGO v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 539 F. 2d 719.

No. 76-5150. *JACKSON v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 538 F. 2d 330.

No. 76-5156. *HARRISON v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 535 F. 2d 658.

No. 76-5223. *AUSTIN v. McMILLAN, U. S. DISTRICT JUDGE*. C. A. 4th Cir. Certiorari denied.

No. 76-5225. *KISSEL v. LABOR AND INDUSTRIAL RELATIONS APPEAL BOARD ET AL.* Sup. Ct. Hawaii. Certiorari denied. Reported below: 57 Haw. 37, 549 P. 2d 470.

No. 76-5235. *MAGGITT v. WYRICK, WARDEN*. C. A. 8th Cir. Certiorari denied. Reported below: 533 F. 2d 383.

No. 76-5244. *WATKINS v. GRAY, WARDEN*. C. A. 7th Cir. Certiorari denied. Reported below: 535 F. 2d 1258.

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No. 76-5252. *BYNUM v. MARYLAND*. Ct. App. Md. Certiorari denied. Reported below: 277 Md. 703, 357 A. 2d 339.

No. 76-5256. *MORGAN v. CALIFORNIA*. Sup. Ct. Cal. Certiorari denied.

No. 76-5264. *PANNELL v. MARYLAND*. Ct. Sp. App. Md. Certiorari denied.

No. 76-5265. *RALPH v. MARYLAND*. Ct. Sp. App. Md. Certiorari denied.

No. 76-5271. *JACKSON v. CALIFORNIA*. Ct. App. Cal., 2d App. Dist. Certiorari denied.

No. 76-5279. *MCCRARY v. NEW YORK*. App. Div., Sup. Ct. N. Y., 1st Jud. Dept. Certiorari denied. Reported below: 53 App. Div. 2d 587, 384 N. Y. S. 2d 1006.

No. 76-5286. *STEVENS v. WASHINGTON*. Ct. App. Wash. Certiorari denied.

No. 76-5288. *COOK v. FLORIDA*. Dist. Ct. App. Fla., 2d Dist. Certiorari denied.

No. 76-5293. *DURHAM v. HOPPER, WARDEN*. C. A. 5th Cir. Certiorari denied. Reported below: 532 F. 2d 184.

No. 76-5294. *CLARK v. CITY OF DANVILLE*. Sup. Ct. Ill. Certiorari denied. Reported below: 63 Ill. 2d 408, 348 N. E. 2d 844.

No. 76-5302. *WHITE v. WYRICK, WARDEN*. C. A. 8th Cir. Certiorari denied.

No. 75-1737. *UNITED STATES v. PORTILLO-REYES*. C. A. 9th Cir. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. THE CHIEF JUSTICE and MR. JUSTICE BLACKMUN would grant certiorari. Reported below: 529 F. 2d 844.

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No. 75-1719. *CARLYLE ET AL. v. UNITED STATES*;
No. 75-6636. *EVANS v. UNITED STATES*;
No. 75-6645. *NORDSTROM ET AL. v. UNITED STATES*;
No. 75-6741. *MIZE v. UNITED STATES*; and
No. 75-6985. *CROUCH v. UNITED STATES*. C. A. 7th Cir.
Certiorari denied. MR. JUSTICE STEVENS took no part in the
consideration or decision of these petitions. Reported below:
528 F. 2d 625.

No. 75-1811. *IN RE ALLIS*. C. A. 9th Cir. Certiorari
denied. MR. JUSTICE BRENNAN and MR. JUSTICE STEWART
would grant certiorari. Reported below: 531 F. 2d 1391.

No. 75-6494. *KAREN v. CALIFORNIA*. Ct. App. Cal., 2d
App. Dist. Certiorari denied.

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

At the beginning of his trial for manslaughter, petitioner,
who acted as his own counsel throughout the trial, asked the
judge to provide him with civilian clothes. He represented
that he had been in jail for five years and had no suitable
civilian clothing. Although there is some suggestion that
petitioner might have been able to obtain suitable clothes,¹
the trial court did not reject his request for that reason.²
Rather, it held that petitioner's appearance before the jury
in clothes labeled "L. A. CO. JAIL" was "proper." Petitioner
objected.

¹ Brief for Respondent 27-28. Petitioner's mother was in the court-
room and other relatives resided in the community. Their presence
cannot excuse the State from meeting its responsibility to petitioner, who
was over 21 and had been a prisoner for five years. Cf. Administrative
Office of the United States Courts, Guidelines for the Administration of
the Criminal Justice Act, c. 2, p. 8 (1975) (determination of eligibility
for appointed counsel to be made without reference to resources of
defendant's family).

² The trial court also did not find, as the appellate court suggested,
see Brief for Petitioner, Ex. A, pp. 31-32, that petitioner had available
civilian clothes which he considered unsuitable.

Only five months ago, this Court unanimously recognized that an accused's appearance before a jury in identifiable jail clothes could deprive him of his fundamental right to a fair trial by undermining the presumption of innocence:

"[T]he constant reminder of the accused's condition implicit in such distinctive, identifiable attire may affect a juror's judgment. The defendant's clothing is so likely to be a continuing influence throughout the trial that, not unlike placing a jury in the custody of deputy sheriffs who were also witnesses for the prosecution, an unacceptable risk is presented of impermissible factors coming into play." *Estelle v. Williams*, 425 U. S. 501, 504-505 (1976).

Under *Estelle*, the trial court's ruling that clean jail clothes are "proper" attire for trial is clearly wrong.

That petitioner asked that the State supply him with clothes, rather than that he be allowed to wear clothes of his own, cannot justify the trial court's ruling. In a system aspiring toward the ideal of equal justice under law, indigence cannot be allowed to deprive an accused of that presumption of innocence which "lies at the foundation of the administration of our criminal law." *Id.*, at 503, quoting *Coffin v. United States*, 156 U. S. 432, 453 (1895). "There can be no equal justice where the kind of trial a man gets depends on the amount of money he has." *Griffin v. Illinois*, 351 U. S. 12, 19 (1956).

The California Court of Appeal correctly assumed that the trial court's ruling was erroneous. It held, however, that the error was "harmless beyond a reasonable doubt." *Chapman v. California*, 386 U. S. 18, 24 (1967). In essence, the appellate court reasoned that petitioner was not harmed by his appearance in jail clothing because he was also deprived of the presumption of innocence by other actions taken by the trial court. Specifically, the Court of Appeal recognized that the California procedure of permitting a manslaughter

defendant³ to be tried on an information alleging murder, allowing the prosecutor to argue to the jury that a murder was committed, and instructing the jury on the elements of first- and second-degree murder, inevitably taints the defendant in the eyes of the jury. The appellate court felt constrained to approve this procedure because of California Supreme Court precedent:⁴

“By following the California Supreme Court mandate and permitting defendant to be tried on an information alleging murder, by receiving evidence of murder, and by its instructions to the jury, the trial court informed it that this was not the run-of-the-mill defendant. The damage done by defendant’s appearance in jail clothing was accomplished by a procedure held valid by our Supreme Court. Any error in denying defendant’s motion for civilian clothing thus did not further prejudice him.”

This reasoning transforms the harmless-error rule of *Chapman* into the legal equivalent of the doctrine that two wrongs make a right.

This Court has never passed on the prejudicial and unnecessary⁵ procedure that the appellate court thought rendered

³ Petitioner’s first trial for murder resulted in a conviction of second-degree murder. That conviction was reversed on appeal. His second trial resulted in a voluntary manslaughter conviction, which was also reversed. His third trial ended with another voluntary manslaughter conviction. The appellate court reduced that conviction to involuntary manslaughter because of an error in jury instructions. The judgment of guilty of involuntary manslaughter is before us on the present petition.

⁴ See *People v. McFarlane*, 138 Cal. 481, 71 P. 568 (1903), cited in *In re McCartney*, 64 Cal. 2d 830, 415 P. 2d 782 (1966). *McCartney* relied on *McFarlane* for the proposition that a defendant whose manslaughter conviction on a murder information had been reversed could be retried for manslaughter despite the running of the statute of limitations for that crime.

⁵ The California Court of Appeal noted:

“The result sought by the awkward approach is obtainable without the

the error here harmless. But in *Price v. Georgia*, 398 U. S. 323 (1970), we did reject a harmless claim in a case almost identical to petitioner's. In *Price*, the defendant's first trial had ended in an acquittal on a murder charge and a conviction on a manslaughter charge; the conviction was reversed on appeal. The defendant then was retried on the murder charge and again convicted only of manslaughter. The State argued that any error in retrying the defendant for murder was harmless in light of the fact that he was acquitted of the murder charge at the second trial. That argument was rejected, in part because the defendant had improperly been made to suffer the trauma and risk of a second murder trial. But the Court considered "perhaps of more importance" the fact that it could not "determine whether or not the murder charge against petitioner induced the jury to find him guilty of the less serious offense of voluntary manslaughter rather than to continue to debate his innocence. See *United States ex rel. Hetenyi v. Wilkins*, 348 F. 2d 844 (CA2 1965), cert. denied, 383 U. S. 913 (1966)." *Id.*, at 331-332. Although there is no possibility here that the jury compromised on the manslaughter conviction since it was instructed that it could return no verdict higher than manslaughter, a similar flaw inheres in the California procedure. It is simply impossible to say that submitting to the jury a heinous crime for which petitioner was not on trial and of which he could not have been convicted might not have "induced the jury to find him guilty of the less serious offense of voluntary manslaughter rather than to continue to debate his innocence."

I would grant the writ of certiorari.

confusion and prejudice flowing from it. Where there is a reversed conviction of an offense included in a greater charge, the information can be amended accordingly and the jury instructed that for the purposes of the particular case the lesser offense is defined to include the ultimate facts which constitute the definition of the greater crime originally alleged."

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No. 75-6839. *HEBERT v. SOUTHERN PACIFIC TRANSPORTATION Co.* C. A. 5th Cir. Certiorari denied. Reported below: 526 F. 2d 936.

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

Petitioner Hebert instituted this suit under the Federal Employers' Liability Act (FELA), 35 Stat. 65, as amended, 45 U. S. C. §§ 51-60. He allegedly sustained disabling injuries in a fall while at work in 1969. Respondent-defendant Southern Pacific Transportation Company, a common carrier by rail, filed a motion for summary judgment on the ground that Hebert was not "employed by such carrier," within the liability-imposing language of § 51. The District Court, relying specifically on *Kelley v. Southern Pacific Co.*, 486 F. 2d 1084 (CA9 1973), and despite the then-outstanding grant of certiorari in that case by this Court, 416 U. S. 935 (1974), sustained the motion. It held that at the time of his injury petitioner Hebert was an employee of Southern Pacific Transport Company, a trucking company wholly owned by the respondent railroad, and was not an employee of the respondent, and that *Kelley* "appears to be on all fours" with Hebert's case.

Kelley, however, as decided by the Ninth Circuit and as so relied on by the District Court, did not survive unscathed. This Court thereafter vacated the judgment of the Ninth Circuit and sent the case back "with instructions to remand the case to the District Court for further findings in accordance with this opinion." 419 U. S. 318, 332 (1974). Although I dissented from the Court's opinion, *id.*, at 341, as did Mr. Justice Douglas and Mr. Justice BRENNAN, *id.*, at 333,¹ the Court in *Kelley* appears to have set forth standards for the trier of fact to apply in determining whether an injured plaintiff, although technically employed by the carrier's wholly owned trucking company, is nevertheless en-

¹ MR. JUSTICE STEWART concurred in the judgment. 419 U. S., at 332.

titled to coverage under the FELA. The Court concluded that the District Court in Kelley's case had applied erroneous standards and that the Court of Appeals should have remanded and not reversed. As I read the Court's opinion, it determined that what was dispositive in a situation of this kind was whether a master-servant relationship existed between the defendant railroad and the claimant, *id.*, at 323, and that the resolution of this issue ultimately depended on the employer's control or right to control the conduct of the claimant-employee. The Court, in elaboration, set forth three methods by which employment for FELA purposes could be established.²

The interesting and significant fact is that upon the remand to the District Court claimant Kelley *prevailed* under the subservant theory approved by this Court. The trial court found that the unloading operation "was the responsibility" of the railroad; that the carrier "supplied the necessary ramps and working area"; that its employees were required to check safety aspects daily and "to make all necessary repairs"; that the railroad "had the right to control the physical conduct of the [trucking company's] employees"; that the trucking company "was acting as the servant" of the carrier "when performing the unloading operations"; and that Kelley "was in fact a subservant of a servant" of the carrier when he was injured. The trial court then concluded that Kelley was covered by the FELA. See File No. C-45344 AJZ (ND Cal.), order entered Sept. 3, 1975.³

² "First, the employee could be serving as the borrowed servant of the railroad at the time of his injury. . . . Second, he could be deemed to be acting for two masters simultaneously. . . . Finally, he could be a subservant of a company that was in turn a servant of the railroad." *Id.*, at 324.

³ The District Court's decision was appealed to the United States Court of Appeals for the Ninth Circuit, but the appeal was later dismissed pursuant to Fed. Rule App. Proc. 42 (b). *Kelley v. Southern Pacific Co.*, No. 75-3818, order entered Aug. 18, 1976. This voluntary dismissal means,

In petitioner Hebert's case, the District Court made its findings *prior* to this Court's *Kelley* decision and, in so doing, regarded as "[d]irectly on point" and as "on all fours" the very ruling of the Court of Appeals in *Kelley* that thereafter was vacated by this Court. And on that remand the injured claimant has prevailed.

It is true, of course, that the Court of Appeals (but not the District Court) in the present case had before it the precedent of this Court's decision in *Kelley*. It said that this Court "approved the approach of the Ninth Circuit," rather than the "more liberal approach taken by the Fourth Circuit in *Smith v. Norfolk & W. Ry.*, 407 F. 2d 501 (4th Cir.), cert. denied, 395 U. S. 979," and that "there is no necessity for a remand" because the trial court "accurately forecast the law and correctly applied the now-affirmed standard to the undisputed facts of this case." 526 F. 2d 936, 937 (CA5 1976). I read the District Court's findings, however, as directly focused on the technical employment of Hebert by the trucking company. But that technical employment proved not to be sufficient and dispositive in *Kelley*.

I cannot equate a trial court's flat reliance on a Court of Appeals opinion subsequently discredited by this Court as an end to the matter. It seems to me that Hebert, like *Kelley*, is entitled to have the trial court consider his employment relationship to the respondent carrier in the light of the standards enunciated by this Court in its subsequent *Kelley* decision, untainted by other standards that it thought were controlling and that were thereafter held to be incorrect. To deny Hebert what *Kelley* received is to do him a judicial injustice. It may be that on remand Hebert would not prevail. In my view, however, he is entitled to the opportunity to make his case.

of course, that *Kelley* finally recovered under the criteria set out in this Court's opinion.

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I, therefore, dissent from the denial of certiorari. I would grant the petition, vacate the judgment, and remand the case to the United States Court of Appeals for the Fifth Circuit, with directions to remand to the United States District Court for the Eastern District of Louisiana for reconsideration in light of the intervening decision in *Kelley v. Southern Pacific Co.*, 419 U. S. 318 (1974).

No. 75-6894. *SCHUER v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. MR. JUSTICE BRENNAN, MR. JUSTICE STEWART, and MR. JUSTICE MARSHALL would grant certiorari. Reported below: 532 F. 2d 756.

No. 76-145. *CARPENTERS DISTRICT COUNCIL OF SOUTHERN COLORADO ET AL. v. REID BURTON CONSTRUCTION, INC.* C. A. 10th Cir. Certiorari denied. MR. JUSTICE BRENNAN, MR. JUSTICE STEWART, and MR. JUSTICE MARSHALL would grant certiorari. Reported below: 535 F. 2d 598.

No. 76-191. *ANSCHUL v. SITMAR CRUISES, INC.* C. A. 7th Cir. Certiorari denied. MR. JUSTICE STEWART, MR. JUSTICE MARSHALL, and MR. JUSTICE POWELL would grant certiorari. Reported below: 544 F. 2d 1364.

No. 76-5044. *MARTINEZ v. UNITED STATES*. C. A. 9th Cir. Motion of Michael Olmo for leave to join in petition and certiorari denied. Reported below: 536 F. 2d 886.

No. 76-5114. *IN RE K, A MINOR, BY ATCHLEY*. Sup. Ct. Tex. Certiorari denied. MR. JUSTICE STEWART and MR. JUSTICE WHITE would grant certiorari. Reported below: 535 S. W. 2d 168.

No. 76-5175. *C. v. F. ET AL.* Ct. App. Ore. Motion of Child Advocacy Project et al. for leave to file a brief as *amici curiae* granted. Certiorari denied. MR. JUSTICE STEWART would grant certiorari. Reported below: 24 Ore. App. 601, 547 P. 2d 175.

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Assignment Orders

Orders of THE CHIEF JUSTICE designating and assigning Mr. Justice Clark (retired) to perform judicial duties in the United States Court of Appeals for the Second Circuit for the periods April 11 to April 15, 1977; May 9, 10, 12, and 13, 1977; and June 13 to June 15, 1977, and for such additional time as may be required to complete unfinished business, pursuant to 28 U. S. C. § 294 (a), are ordered entered on the minutes of this Court, pursuant to 28 U. S. C. § 295.

OCTOBER 29, 1976

Miscellaneous Order

No. A-342. MCCARTHY ET AL. *v.* CONTESSA ET AL., NEW YORK STATE BOARD OF ELECTIONS. Application for stay of judgment of the Court of Appeals of New York, dated October 28, 1976, presented to MR. JUSTICE MARSHALL, and by him referred to the Court, denied.

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Affirmed on Appeal

No. 76-287. HOWELL ET AL. *v.* DEBUSK ET AL. Affirmed on appeal from D. C. N. D. Tex.

Appeals Dismissed

No. 75-1886. TEXAS EX REL. VOGTSBERGER *v.* CITY OF WICHITA FALLS. Appeal from Sup. Ct. Tex. dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied. Reported below: 533 S. W. 2d 927.

No. 76-67. PUBLIC UTILITY DISTRICT No. 1 OF DOUGLAS COUNTY, WASHINGTON *v.* MADDEN ET UX. Appeal from C. A. 9th Cir. dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied. Reported below: 538 F. 2d 338.

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No. 76-5343. *RIDLEY v. VIRGINIA*. Appeal from Sup. Ct. Va. dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied.

No. 76-338. *BALLENTINE ET AL. v. WILLINGHAM ET AL.* Appeal from Sup. Ct. Ga. dismissed for want of substantial federal question. Reported below: 237 Ga. 60, 226 S. E. 2d 593.

No. 76-5029. *HAMILTON v. FLORIDA*. Appeal from Sup. Ct. Fla. dismissed for want of substantial federal question. Reported below: 329 So. 2d 283.

No. 76-5301. *SILVER v. LARSON FORD SALES, INC.* Appeal from Sup. Ct. Utah dismissed for want of substantial federal question. Reported below: 551 P. 2d 233.

Certiorari Granted—Vacated and Remanded

No. 75-1883. *UNITED STATES v. JACOBS, AKA KRAMER*. C. A. 2d Cir. Certiorari granted, judgment vacated, and case remanded for further consideration in light of *United States v. Mandujano*, 425 U. S. 564 (1976). Reported below: 531 F. 2d 87.

MR. JUSTICE STEVENS, concurring.

My original reaction to the proposal to vacate and remand in the light of *United States v. Mandujano*, 425 U. S. 564, was exactly that expressed by MR. JUSTICE MARSHALL in dissent. For as a Circuit Judge I had the experience of trying to decipher similar Delphic orders, and I agree completely that a constitutional holding is not controlling on a question involving nothing more than an exercise of an appellate court's supervisory power. Nevertheless, there is an omission in the Court of Appeals opinion which makes it appropriate for that court to re-examine its holding.

As the concurring opinions by MR. JUSTICE BRENNAN and MR. JUSTICE STEWART in *Mandujano* demonstrate, the fact that the prosecutor may have erred in failing to give a

grand jury witness adequate warnings does not lead inexorably to the conclusion that the witness cannot be prosecuted for perjury. Cf. *United States v. Knox*, 396 U. S. 77, 82. The Court of Appeals opinion seems to assume that the conclusion necessarily follows from the premise. Since I think it would be appropriate for that court to address that precise point in the first instance, I acquiesce in the remand.

MR. JUSTICE STEWART, dissenting.

As MR. JUSTICE MARSHALL explains, this order of the Court is little short of irrational. While our heavy caseload necessarily leads us sometimes to dispose of cases summarily, it must never lead us to dispose of any case irresponsibly. Yet I fear precisely that has happened here.

The Court of Appeals to which this case is now remanded cannot but find this order totally incomprehensible.

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

"In the interest of uniformity in criminal procedure within the circuit," the Court of Appeals affirmed the District Court's decision to suppress respondent's grand jury testimony.* The Court of Appeals explicitly disclaimed a constitutional basis for its holding. Its action was taken "pursuant to [its] supervisory function." 531 F.2d 87, 90 (1976).

There is no reason to expect the Court of Appeals to reach a different result in light of our decision in *United States v. Mandujano*, 425 U. S. 564 (1976). Our holding that respondent would not have had a constitutional right to have her testimony suppressed simply has no bearing on a lower court

*The Court of Appeals determined that it is the universal practice of United States Attorneys in the Second Circuit to warn a grand jury witness who is the target of an investigation. Respondent was called before the grand jury by a Strike Force attorney operating in the Eastern District of New York but based in Washington. She received no warning.

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decision which did not assume the existence of such a constitutional right. And it is clear that the well-established supervisory power of the courts of appeals over the district courts in their respective jurisdictions is not limited to enforcing constitutional rights. See, *e. g.*, *Cupp v. Naughten*, 414 U. S. 141, 146 (1973); *Barker v. Wingo*, 407 U. S. 514, 530 n. 29 (1972); *United States v. Thomas*, 146 U. S. App. D. C. 101, 109-111, 449 F. 2d 1177, 1185-1187 (1971) (en banc); cf., *e. g.*, *Ristaino v. Ross*, 424 U. S. 589, 597 n. 9 (1976); *Murphy v. Florida*, 421 U. S. 794, 797-798 (1975); *id.*, at 804 (BURGER, C. J., concurring).

Accepting the Government's suggestion that we vacate and remand so that the Court of Appeals can reconsider its decision in light of an irrelevant case is a waste of the time of two courts. I respectfully dissent.

No. 76-126. CHASE MANHATTAN BANK *v.* SAILBOAT APARTMENT CORP. ET AL. Dist. Ct. App. Fla., 3d Dist. Certiorari granted, judgment vacated, and case remanded for a determination of whether petitioner has waived protection of the venue provision of the National Bank Act, 12 U. S. C. § 94. See *National Bank v. Associates of Obstetrics*, 425 U. S. 460 (1976). Reported below: 334 So. 2d 604.

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

The Court's action in this case is not supported by the precedent on which it relies. In *National Bank v. Associates of Obstetrics*, 425 U. S. 460, the Utah Supreme Court erroneously held that 12 U. S. C. § 94 was "permissive and not exclusive." We remanded because that court had not reached the waiver issue in its previous opinion. In the present case, however, the state courts have given no explanation for their rejection of petitioner's venue claim. A remand in this case can only rest on the unwarranted assumption that the state courts relied on some ground other than waiver. The pre-

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sumption, however, should be that the state courts recognized and relied on the strongest argument in favor of their holding—in this case, the waiver argument.*

I am therefore unable to concur in the Court's summary action in this case. Since this case is unworthy of plenary review, I would deny certiorari.

No. 76-5006. *McCALL v. NORTH CAROLINA*; and

No. 76-5208. *McKENNA v. NORTH CAROLINA*. Sup. Ct. N. C. Motions for leave to proceed *in forma pauperis* and certiorari granted. Judgments vacated insofar as they leave undisturbed the death penalty imposed, and cases remanded for further proceedings. *Woodson v. North Carolina*, 428 U. S. 280 (1976). Reported below: No. 76-5006, 289 N. C. 512, 223 S. E. 2d 303; No. 76-5208, 289 N. C. 668, 224 S. E. 2d 537.

Certiorari Granted—Reversed. (See No. 75-1666, *ante*, p. 24.)

Certiorari Granted—Reversed and Remanded. (See No. 75-1726, *ante*, p. 28.)

Miscellaneous Orders

No. A-301. *ENOMOTO, CORRECTIONS DIRECTOR, ET AL. v. WRIGHT ET AL.* Application for stay of execution and enforcement of judgment of the United States District Court for the Northern District of California, entered September 30, 1976, presented to MR. JUSTICE REHNQUIST, and by him referred to the Court, granted.

No. A-306. *BOARD OF CURATORS OF THE UNIVERSITY OF MISSOURI ET AL. v. HOROWITZ.* Application for stay of man-

*The waiver argument is based on the conduct of petitioner's alleged corporate alter ego. Apparently the Court finds some possible merit in this argument; otherwise, it would simply reject the argument summarily as it did the "local action" argument in *National Bank*, 425 U. S., at 461 n.

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date of the United States Court of Appeals for the Eighth Circuit, entered September 9, 1976, presented to MR. JUSTICE BLACKMUN, and by him referred to the Court, granted pending timely filing and disposition of petition for writ of certiorari.

No. D-60. IN RE DISBARMENT OF HOFFER. It is ordered that Harry Hoffer, of Merrick, N. Y., be suspended from the practice of law in this Court and that a rule issue, returnable within 40 days, requiring him to show cause why he should not be disbarred from the practice of law in this Court.

No. D-61. IN RE DISBARMENT OF HEMLOCK. It is ordered that Alfred J. Hemlock, of New York, N. Y., be suspended from the practice of law in this Court and that a rule issue, returnable within 40 days, requiring him to show cause why he should not be disbarred from the practice of law in this Court.

No. D-62. IN RE DISBARMENT OF PERSKY. It is ordered that Robert S. Persky, of New York, N. Y., be suspended from the practice of law in this Court and that a rule issue, returnable within 40 days, requiring him to show cause why he should not be disbarred from the practice of law in this Court.

No. D-63. IN RE DISBARMENT OF SMILEY. It is ordered that Morton H. Smiley, of New York, N. Y., be suspended from the practice of law in this Court and that a rule issue, returnable within 40 days, requiring him to show cause why he should not be disbarred from the practice of law in this Court.

No. D-64. IN RE DISBARMENT OF WASSERMAN. It is ordered that Jack Seymour Wasserman, of New York, N. Y., be suspended from the practice of law in this Court and that a rule issue, returnable within 40 days, requiring him to show cause why he should not be disbarred from the practice of law in this Court.

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No. D-65. *IN RE DISBARMENT OF GALLANT*. It is ordered that Samuel Gallant, of Westport, Conn., be suspended from the practice of law in this Court and that a rule issue, returnable within 40 days, requiring him to show cause why he should not be disbarred from the practice of law in this Court.

No. D-66. *IN RE DISBARMENT OF SEFFERN*. It is ordered that John J. Seffern, of New York, N. Y., be suspended from the practice of law in this Court and that a rule issue, returnable within 40 days, requiring him to show cause why he should not be disbarred from the practice of law in this Court.

No. D-67. *IN RE DISBARMENT OF MEYER*. It is ordered that Allen A. Meyer, Jr., of New York, N. Y., be suspended from the practice of law in this Court and that a rule issue, returnable within 40 days, requiring him to show cause why he should not be disbarred from the practice of law in this Court.

No. 71-6625. *HOLT v. CITY OF RICHMOND ET AL.*, 408 U. S. 931. Motion to dissolve injunction granted by this Court on April 24, 1972 [406 U. S. 903], granted. MR. JUSTICE POWELL took no part in the consideration or decision of this motion.

No. 75-503. *COOK ET AL. v. HUDSON ET AL.* C. A. 5th Cir. [Certiorari granted, 424 U. S. 941.] Motion of National Education Assn. to reconsider order [*ante*, p. 810] denying leave to file brief as *amicus curiae* granted, and it is now ordered that motion for leave to file be granted and brief filed.

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.*; and

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.* [Certiorari granted, 425 U. S. 990.] Motion of National Railway Labor Conference for leave to file a brief as *amicus curiae* granted.

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No. 75-811. SUPERIOR COURT OF THE DISTRICT OF COLUMBIA ET AL. *v.* PALMORE ET AL.; and SWAIN, REFORMATORY SUPERINTENDENT *v.* PRESSLEY. C. A. D. C. Cir. [Certiorari granted, 424 U. S. 907.] Motion of the Solicitor General to vacate and remand judgment in *Superior Court of the District of Columbia v. Palmore* granted and cause remanded for further consideration in light of *Stone v. Powell*, 428 U. S. 465 (1976). Remainder of case shall remain on docket of this Court and is now captioned *Swain, Reformatory Superintendent v. Pressley*.

No. 75-1153. ABOOD ET AL. *v.* DETROIT BOARD OF EDUCATION ET AL. Appeal from Ct. App. Mich. [Probable jurisdiction noted, 425 U. S. 949.] Motion of American Federation of Labor & Congress of Industrial Organizations et al. for leave to file a brief as *amici curiae* denied.

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, 425 U. S. 970.] Motion of appellees for divided argument 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., ET AL. C. A. 6th Cir. [Certiorari granted, 425 U. S. 950.] Motion of petitioners for divided argument granted.

No. 75-1397. JUDICE ET AL., JUDGES *v.* VAIL ET AL. Appeal from D. C. S. D. N. Y. [Probable jurisdiction noted, 426 U. S. 946.] Motion of New York State Consumer Protection Board for leave to present oral argument as *amicus curiae* denied.

No. 76-229. ALPHIN ET AL *v.* HENSON ET AL. C. A. 4th Cir. Motion to defer consideration granted.

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No. 75-1407. TRAINOR, DIRECTOR, ILLINOIS DEPARTMENT OF PUBLIC AID, ET AL. *v.* HERNANDEZ ET UX. Appeal from D. C. N. D. Ill. [Probable jurisdiction noted, 426 U. S. 918.] Motion of State's Attorney for Cook County for divided argument granted.

No. 75-1413. STANTON, ADMINISTRATOR, INDIANA DEPARTMENT OF PUBLIC WELFARE, ET AL. *v.* BOND ET AL. C. A. 7th Cir. [Certiorari granted, 426 U. S. 905.] Motion of the State of Illinois for leave to file an untimely brief as *amicus curiae* denied.

No. 75-1439. SMITH *v.* UNITED STATES. C. A. 8th Cir. [Certiorari granted, 426 U. S. 946.] Motion of Citizens for Decency Through Law, Inc., for leave to file a brief as *amicus curiae* granted.

No. 75-1510. WEATHERFORD, AGENT OF THE SOUTH CAROLINA ENFORCEMENT DIVISION, ET AL. *v.* BURSEY. C. A. 4th Cir. [Certiorari granted, 426 U. S. 946.] Motion of the Solicitor General for leave to participate in oral argument as *amicus curiae* granted and 15 additional minutes allotted for that purpose. Respondent granted 15 additional minutes for oral argument.

No. 75-1805. JEFFERS *v.* UNITED STATES. C. A. 7th Cir. [Certiorari granted, *ante*, p. 815.] Motion of petitioner for appointment of counsel granted, and it is ordered that Stephan Bower, Esquire, of Kentland, Ind., is appointed to serve as counsel for petitioner in this case.

No. 76-167. UNITED STATES *v.* RAMSEY ET AL. C. A. D. C. Cir. [Certiorari granted, *ante*, p. 815.] Motion of respondent James W. Kelly for appointment of counsel granted, and it is ordered that Irving R. M. Panzer, Esquire, of Washington, D. C., is appointed to serve as counsel for respondent James W. Kelly in this case.

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No. 75-1404. DO-RIGHT AUTO SALES ET AL. *v.* UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT ET AL. Motion for leave to file petition for writ of mandamus and/or prohibition denied.

No. 76-257. RATCLIFF *v.* UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF TEXAS. Motion for leave to file petition for writ of mandamus denied.

No. 76-348. JENNEMAN ET UX. *v.* DAWSON ET AL., JUDGES. Motion for leave to file petition for writ of prohibition denied.

Probable Jurisdiction Noted

No. 76-208. NYQUIST, COMMISSIONER OF EDUCATION OF NEW YORK, ET AL. *v.* MAUCLET ET AL. Appeal from D. C. W. D. and D. C. E. D. N. Y. Probable jurisdiction noted. Reported below: 406 F. Supp. 1233.

Certiorari Granted

No. 76-120. UNITED STATES *v.* MARTIN LINEN SUPPLY CO. ET AL. C. A. 5th Cir. Certiorari granted. Reported below: 534 F. 2d 585.

No. 76-333. UNITED AIR LINES, INC. *v.* EVANS. C. A. 7th Cir. Certiorari granted. Reported below: 534 F. 2d 1247.

No. 76-5382. DARDEN *v.* FLORIDA. Sup. Ct. Fla. Motion for leave to proceed *in forma pauperis* and certiorari granted. Reported below: 329 So. 2d 287.

Certiorari Denied. (See also Nos. 75-1886, 76-67, and 76-5343, *supra.*)

No. 75-1280. BARKET *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied. Reported below: 530 F. 2d 181.

No. 75-1623. BROWN *v.* LUNDGREN, WARDEN. C. A. 5th Cir. Certiorari denied. Reported below: 528 F. 2d 1050.

No. 75-1761. HILTON *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied. Reported below: 532 F. 2d 748.

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No. 75-1766. *FLEISHMAN v. McFEE ET AL.* Ct. App. Cal., 2d App. Dist. Certiorari denied.

No. 75-1808. *CALVO v. FLORIDA.* Dist. Ct. App. Fla., 3d Dist. Certiorari denied, Reported below: 313 So. 2d 39.

No. 75-1831. *ROBINSON ET AL. v. UNITED STATES.* C. A. 5th Cir. Certiorari denied, Reported below: 531 F. 2d 574.

No. 75-1905. *MULLENAX v. UNITED STATES*; and
No. 75-1910. *FORD v. UNITED STATES.* C. A. 2d Cir. Certiorari denied. Reported below: 538 F. 2d 314.

No. 75-1916. *BALLARD v. UNITED STATES.* C. A. 8th Cir. Certiorari denied. Reported below: 535 F. 2d 400.

No. 75-6747. *FRANKOS v. LAVALLEE, CORRECTIONAL SUPERINTENDENT, ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 535 F. 2d 1346.

No. 75-6815. *BROWN v. LOUISIANA.* Sup. Ct. La. Certiorari denied. Reported below: 326 So. 2d 839.

No. 75-6829. *BRADLEY v. UNITED STATES.* C. A. 2d Cir. Certiorari denied. Reported below: 538 F. 2d 315.

No. 75-6870. *BRADLEY v. GEORGIA.* Ct. App. Ga. Certiorari denied. Reported below: 137 Ga. App. 670, 224 S. E. 2d 778.

No. 75-6892. *DELANEY v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. Reported below: 530 F. 2d 975.

No. 75-6902. *BOWEN v. CALIFORNIA.* Ct. App. Cal., 2d App. Dist. Certiorari denied.

No. 75-6923. *MORRIS v. SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES.* Ct. App. Cal., 2d App. Dist. Certiorari denied.

No. 75-6932. *ZEIDMAN v. UNITED STATES.* C. A. 7th Cir. Certiorari denied. Reported below: 535 F. 2d 1257.

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No. 75-6954. *SCRIVENS v. MAGGIO, WARDEN*. C. A. 5th Cir. Certiorari denied. Reported below: 525 F. 2d 1263.

No. 75-6967. *HOLSEY v. WATKINS, U. S. DISTRICT JUDGE, ET AL.* C. A. 4th Cir. Certiorari denied.

No. 75-6976. *LOWERY v. MARYLAND*. C. A. 4th Cir. Certiorari denied. Reported below: 532 F. 2d 750.

No. 75-6980. *DAVIS ET AL. v. DIRECTOR, PATUXENT INSTITUTION*. Ct. Spec. App. Md. Certiorari denied. Reported below: 29 Md. App. 705, 351 A. 2d 905.

No. 75-6987. *THOMAS v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 538 F. 2d 343.

No. 75-7004. *BRADY ET AL. v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 531 F. 2d 573.

No. 75-7006. *ESKEW v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 538 F. 2d 335.

No. 76-1. *TAYLOR v. UNITED STATES*; and

No. 76-11. *HALL v. UNITED STATES*. C. A. 10th Cir. Certiorari denied. Reported below: 536 F. 2d 313.

No. 76-2. *GRIFFIN ET AL. v. UNITED STATES*. Temp. Emerg. Ct. App. Certiorari denied. Reported below: 537 F. 2d 1130.

No. 76-30. *DIACO ET AL. v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 538 F. 2d 321.

No. 76-31. *EISNER v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 533 F. 2d 987.

No. 76-35. *CHEW ET AL. v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 534 F. 2d 334.

No. 76-43. *CITY OF PHILADELPHIA ET AL. v. RUMSFELD, SECRETARY OF DEFENSE, ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 535 F. 2d 1245.

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No. 76-44. *McMURTREY v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 534 F. 2d 1321.

No. 76-46. *AMERICAN TOBACCO CO. ET AL. v. PATTERSON ET AL.*; and

No. 76-56. *TOBACCO WORKERS' INTERNATIONAL UNION ET AL. v. PATTERSON ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 535 F. 2d 257.

No. 76-52. *ARTEAGA-LIMONES v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 529 F. 2d 1183.

No. 76-53. *LARUE ET UX. v. UNITED STATES ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 538 F. 2d 336.

No. 76-74. *FALES v. MATHEWS, SECRETARY OF HEALTH, EDUCATION, AND WELFARE*. C. A. 6th Cir. Certiorari denied. Reported below: 529 F. 2d 525.

No. 76-79. *WOLF v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 535 F. 2d 476.

No. 76-89. *NAPOLI v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 530 F. 2d 1198.

No. 76-118. *HOUSE v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 532 F. 2d 185.

No. 76-140. *KENT CORP. v. NATIONAL LABOR RELATIONS BOARD ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 530 F. 2d 612.

No. 76-154. *BOOK ET AL. v. NATIONAL LABOR RELATIONS BOARD ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 532 F. 2d 877.

No. 76-181. *BIDERMAN ET AL. v. HILLS, SECRETARY OF HOUSING AND URBAN DEVELOPMENT*. C. A. 9th Cir. Certiorari denied. Reported below: 536 F. 2d 820.

No. 76-199. *OLK v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 536 F. 2d 876.

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No. 76-209. COMMON CARRIER CONFERENCE-IRREGULAR ROUTE ET AL. *v.* UNITED STATES ET AL. C. A. D. C. Cir. Certiorari denied. Reported below: 175 U. S. App. D. C. 244, 534 F. 2d 981.

No. 76-210. SPIVEY *v.* GEORGIA. Ct. App. Ga. Certiorari denied. Reported below: 138 Ga. App. 298, 226 S. E. 2d 104.

No. 76-217. STONE ET UX. *v.* UNITED STATES ET AL. C. A. 2d Cir. Certiorari denied. Reported below: 538 F. 2d 314.

No. 76-222. ESTATE OF THALHEIMER ET AL. *v.* COMMISSIONER OF INTERNAL REVENUE. C. A. 4th Cir. Certiorari denied. Reported below: 532 F. 2d 751.

No. 76-227. PACIFIC FM, INC., DBA RADIO STATION K-101 *v.* NATIONAL LABOR RELATIONS BOARD. C. A. 9th Cir. Certiorari denied. Reported below: 538 F. 2d 337.

No. 76-251. SUDLER, NOW DUFRESNE *v.* SUDLER. App. Ct. Ill., 2d Dist. Certiorari denied. Reported below: 35 Ill. App. 3d 917, 342 N. E. 2d 772.

No. 76-253. BERGH *v.* WASHINGTON ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 535 F. 2d 505.

No. 76-262. GOLDSTEIN *v.* CALIFORNIA. Ct. App. Cal., 2d App. Dist. Certiorari denied.

No. 76-275. BAND-AGE, INC. *v.* NATIONAL LABOR RELATIONS BOARD. C. A. 1st Cir. Certiorari denied. Reported below: 539 F. 2d 701.

No. 76-277. DALEY *v.* ROSE AVIATION, INC. C. A. 9th Cir. Certiorari denied. Reported below: 534 F. 2d 333.

No. 76-280. FORSTER ET AL. *v.* UNITED STATES. Ct. Cl. Certiorari denied. Reported below: 209 Ct. Cl. 733, 538 F. 2d 347.

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No. 76-299. SAALFRANK *v.* PARKVIEW MEMORIAL HOSPITAL, INC. C. A. 6th Cir. Certiorari denied. Reported below: 533 F. 2d 325.

No. 76-300. GARGER ET AL. *v.* NEW JERSEY ET AL. Sup. Ct. N. J. Certiorari denied. Reported below: 70 N. J. 10, 355 A. 2d 647.

No. 76-311. LOUISIANA BANK & TRUST COMPANY OF CROWLEY, LOUISIANA *v.* EMPLOYERS LIABILITY ASSURANCE CORP., LTD. C. A. 5th Cir. Certiorari denied. Reported below: 533 F. 2d 290.

No. 76-322. GENE SLAGLE, INC., ET AL. *v.* GENERAL TELEPHONE COMPANY OF OHIO ET AL. Sup. Ct. Ohio. Certiorari denied. Reported below: 46 Ohio St. 2d 124, 346 N. E. 2d 790.

No. 76-324. STEINMAN *v.* NADJARI ET AL. App. Div., Sup. Ct. N. Y., 2d Jud. Dist. Certiorari denied. Reported below: 49 App. Div. 2d 456, 375 N. Y. S. 2d 622.

No. 76-340. VAN DE KAMP, DISTRICT ATTORNEY OF LOS ANGELES COUNTY, ET AL. *v.* PROJECTION ROOM THEATER ET AL. Sup. Ct. Cal. Certiorari denied. Reported below: 17 Cal. 3d 42, 550 P. 2d 600.

No. 76-341. CALIFORNIA DEPARTMENT OF WATER RESOURCES *v.* OROVILLE-WYANDOTTE IRRIGATION DISTRICT. C. A. 9th Cir. Certiorari denied. Reported below: 536 F. 2d 304.

No. 76-350. ATLANTIC IMPROVEMENT CORP. *v.* CITY OF NEW YORK. Ct. App. N. Y. Certiorari denied. Reported below: 39 N. Y. 2d 905, 352 N. E. 2d 587.

No. 76-360. FRIEDLANDER *v.* KENTUCKY BAR ASSN. Sup. Ct. Ky. Certiorari denied. Reported below: 536 S. W. 2d 454.

No. 76-362. QUARLES *v.* QUARLES. Ct. App. D. C. Certiorari denied. Reported below: 353 A. 2d 285.

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No. 76-364. *WOODRUFF ET AL. v. AIR PROPERTIES G., INC., ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 538 F. 2d 279.

No. 76-393. *O'CONNOR v. STATE TAX COMMISSION OF NEW YORK.* Ct. App. N. Y. Certiorari denied.

No. 76-5001. *MIYAKI v. UNITED STATES.* C. A. 9th Cir. Certiorari denied. Reported below: 538 F. 2d 342.

No. 76-5005. *BUNN v. UNITED STATES.* C. A. 8th Cir. Certiorari denied. Reported below: 535 F. 2d 1077.

No. 76-5008. *GRIFFIN v. UNITED STATES;* and

No. 76-5128. *MONTANO v. UNITED STATES.* C. A. 9th Cir. Certiorari denied. Reported below: 538 F. 2d 336.

No. 76-5014. *ARMENTO v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. Reported below: 532 F. 2d 1374.

No. 76-5025. *KIMMONS v. FLORIDA.* Dist. Ct. App. Fla., 1st Dist. Certiorari denied. Reported below: 322 So. 2d 36.

No. 76-5031. *GONZALEZ-BENITEZ v. UNITED STATES.* C. A. 9th Cir. Certiorari denied. Reported below: 537 F. 2d 1051.

No. 76-5051. *MAHAR v. GEORGIA.* Ct. App. Ga. Certiorari denied. Reported below: 137 Ga. App. 116, 223 S. E. 2d 204.

No. 76-5055. *WEATHERALL v. WISCONSIN.* Sup. Ct. Wis. Certiorari denied. Reported below: 73 Wis. 2d 22, 242 N. W. 2d 220.

No. 76-5056. *PAYDEN v. UNITED STATES.* C. A. 2d Cir. Certiorari denied. Reported below: 536 F. 2d 541.

No. 76-5063. *HURT v. LORTON COMPLEX ET AL.* C. A. D. C. Cir. Certiorari denied.

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No. 76-5065. *NEWMAN v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 538 F. 2d 342.

No. 76-5072. *POLLACK v. UNITED STATES*. C. A. D. C. Cir. Certiorari denied. Reported below: 175 U. S. App. D. C. 227, 534 F. 2d 964.

No. 76-5075. *FLINT v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 534 F. 2d 58.

No. 76-5076. *GARZA v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 531 F. 2d 309.

No. 76-5083. *PHILLIPS v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 533 F. 2d 369.

No. 76-5088. *MARSHALL v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 532 F. 2d 410.

No. 76-5091. *WRIGHT v. UNITED STATES*. C. A. 1st Cir. Certiorari denied. Reported below: 537 F. 2d 1144.

No. 76-5093. *MARTINEZ v. ESTELLE, CORRECTIONS DIRECTOR*. C. A. 5th Cir. Certiorari denied. Reported below: 527 F. 2d 1330.

No. 76-5095. *ALVAREZ v. TEXAS*. Ct. Crim. App. Tex. Certiorari denied. Reported below: 536 S. W. 2d 357.

No. 76-5096. *OLSEN v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 536 F. 2d 993.

No. 76-5097. *OWENS v. SIGLER, CHAIRMAN, U. S. BOARD OF PAROLE, ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 536 F. 2d 388.

No. 76-5100. *HARRIS v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 534 F. 2d 1405.

No. 76-5106. *RINI v. GEORGIA*. Sup. Ct. Ga. Certiorari denied. Reported below: 236 Ga. 715, 225 S. E. 2d 234.

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No. 76-5107. *COLLIER v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 538 F. 2d 321.

No. 76-5112. *REYES v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 532 F. 2d 185.

No. 76-5113. *HAILEY v. VIRGINIA*. Sup. Ct. Va. Certiorari denied.

No. 76-5115. *RAINES v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 536 F. 2d 796.

No. 76-5120. *BENNETT v. UNITED STATES*. C. A. 10th Cir. Certiorari denied. Reported below: 539 F. 2d 45.

No. 76-5121. *HERRON v. UNITED STATES*; and

No. 76-5124. *TOBIN v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 538 F. 2d 326.

No. 76-5126. *GRAHAM v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 538 F. 2d 261.

No. 76-5138. *KARNES v. UNITED STATES*. C. A. 10th Cir. Certiorari denied.

No. 76-5142. *BARRERA v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 532 F. 2d 1374.

No. 76-5158. *DANIEL v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 535 F. 2d 658.

No. 76-5161. *ZATKO v. UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA*. C. A. 9th Cir. Certiorari denied.

No. 76-5163. *SMITH v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 520 F. 2d 544.

No. 76-5169. *NORMAN v. UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF WASHINGTON ET AL.* C. A. 9th Cir. Certiorari denied.

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No. 76-5170. *LAMBRECHT v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 539 F. 2d 719.

No. 76-5171. *CASIMIRO-BENITEZ v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 533 F. 2d 1121.

No. 76-5180. *SPENCER v. UNITED STATES*. C. A. 9th Cir. Certiorari denied.

No. 76-5191. *HARPER v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 533 F. 2d 1134.

No. 76-5197. *WILLIAMS v. DISTRICT OF COLUMBIA BOARD OF APPEALS AND REVIEW*. Ct. App. D. C. Certiorari denied.

No. 76-5198. *CRESPO-GUERRERO v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 539 F. 2d 719.

No. 76-5201. *GOODMAN v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 532 F. 2d 1373.

No. 76-5202. *GUTIERREZ-GUTIERREZ v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 539 F. 2d 719.

No. 76-5219. *HUBBARD v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 538 F. 2d 321.

No. 76-5246. *HOUSTON v. NEW YORK*. App. Div., Sup. Ct. N. Y., 1st Jud. Dept. Certiorari denied. Reported below: 52 App. Div. 2d 758, 382 N. Y. S. 2d 213.

No. 76-5247. *SOTO v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 539 F. 2d 719.

No. 76-5270. *SANTOS-FIGUEROA v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 535 F. 2d 198.

No. 76-5274. *JOKINEN v. HENWOOD ET AL.* C. A. 6th Cir. Certiorari denied.

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No. 76-5285. *MARTINI v. REPUBLIC STEEL CORP. ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 532 F. 2d 1079.

No. 76-5298. *WELTON v. NORENBURG.* Ct. Civ. App. Tex., 9th Sup. Jud. Dist. Certiorari denied.

No. 76-5303. *WATSON v. WARDEN, VIRGINIA STATE PENITENTIARY.* Sup. Ct. Va. Certiorari denied.

No. 76-5314. *LEE v. WAINWRIGHT, SECRETARY, DEPARTMENT OF OFFENDER REHABILITATION OF FLORIDA.* C. A. 5th Cir. Certiorari denied. Reported below: 532 F. 2d 184.

No. 76-5318. *DIOQUINO v. WORKMEN'S COMPENSATION APPEAL BOARD OF CALIFORNIA ET AL.* Ct. App. Cal., 1st App. Dist. Certiorari denied. Reported below: 61 Cal. App. 3d 254, 132 Cal. Rptr. 505.

No. 76-5323. *MATTINGLY v. INDUSTRIAL COMMISSION OF ILLINOIS ET AL.* Sup. Ct. Ill. Certiorari denied. Reported below: 62 Ill. 2d 504, 343 N. E. 2d 449.

No. 76-5335. *RICH v. CALIFORNIA.* Ct. App. Cal., 2d App. Dist. Certiorari denied.

No. 76-5337. *STATHAS v. COX ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 539 F. 2d 711.

No. 76-5342. *BATES v. LITCHFIELD INDEPENDENT REVIEW ET AL.* Dist. Ct. Minn., 8th Jud. Dist. Certiorari denied.

No. 76-5345. *KINSLEY v. MALLAR, CHAIRMAN, STATE BOARD OF WORKMEN'S COMPENSATION, ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 530 F. 2d 974.

No. 76-5346. *CHESSON v. VIRGINIA.* Sup. Ct. Va. Certiorari denied. Reported below: 216 Va. 827, 223 S. E. 2d 923.

No. 76-5353. *MELNYCZENKO v. HEWITT, CORRECTIONAL SUPERINTENDENT.* C. A. 3d Cir. Certiorari denied.

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No. 76-5363. *JENNINGS v. DILLARD ET AL.* C. A. 7th Cir. Certiorari denied.

No. 76-5365. *SENSABAUGH v. ESTELLE, CORRECTIONS DIRECTOR.* C. A. 5th Cir. Certiorari denied. Reported below: 534 F. 2d 1405.

No. 76-5366. *DEBOES v. CALIFORNIA.* Ct. App. Cal., 2d App. Dist. Certiorari denied.

No. 76-5371. *STEFANICK v. PLANTE ET AL.* C. A. 8th Cir. Certiorari denied.

No. 76-5374. *CARTER v. UNITED STATES POSTAL SERVICE ET AL.* C. A. 2d Cir. Certiorari denied.

No. 76-5376. *ALERS v. TOLEDO ET AL.* C. A. 1st Cir. Certiorari denied.

No. 76-5384. *MENA v. GEORGIA.* Ct. App. Ga. Certiorari denied. Reported below: 138 Ga. App. 722, 227 S. E. 2d 411.

No. 76-5385. *POWELL v. TEXAS.* Ct. Crim. App. Tex. Certiorari denied. Reported below: 538 S. W. 2d 617.

No. 76-5426. *CANNON ET AL. v. JOHNSON, EXECUTIVE DIRECTOR, BOARD OF PROBATION AND PAROLE.* C. A. 3d Cir. Certiorari denied. Reported below: 536 F. 2d 1013.

No. 76-5432. *CRUTCHFIELD v. OKLAHOMA.* Ct. Crim. App. Okla. Certiorari denied. Reported below: 553 P. 2d 504.

No. 75-1600. *THEVIS ET AL. v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. Reported below: 526 F. 2d 989.

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

Petitioners were convicted of mailing obscene materials in violation of 18 U. S. C. § 1461. I adhere to the view that this statute is "clearly overbroad and unconstitutional on its face." See, *e. g.*, *Millican v. United States*, 418 U. S. 947, 948 (1974) (BRENNAN, J., dissenting from denial of certiorari),

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quoting *United States v. Orito*, 413 U. S. 139, 148 (1973) (BRENNAN, J., dissenting). I therefore would grant certiorari and reverse.

No. 75-1826. AIR LINE EMPLOYEES ASSOCIATION, INTERNATIONAL *v.* EVANS. Sup. Ct. Ga. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 236 Ga. 661, 225 S. E. 2d 34.

No. 75-1842. CALIFORNIA *v.* RAMEY. Sup. Ct. Cal. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 16 Cal. 3d 263, 545 P. 2d 1333.

No. 75-1918. SALERNO *v.* UNITED STATES. C. A. 5th Cir. Motion of petitioner to strike memorandum for the United States and certiorari denied. Reported below: 532 F. 2d 185.

No. 75-6895. DOLEMAN *v.* VIRGINIA. Sup. Ct. Va. Certiorari denied. MR. JUSTICE BRENNAN would grant certiorari.

No. 76-112. WEYERHAEUSER CO. ET AL. *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. MR. JUSTICE STEWART and MR. JUSTICE WHITE would grant certiorari. Reported below: 538 F. 2d 1363.

No. 76-5332. RICE *v.* GENUNG'S, INC. App. Sess., Super. Ct. Conn. Certiorari denied. MR. JUSTICE STEWART and MR. JUSTICE WHITE would grant certiorari.

No. 76-185. CONFEDERATED SALISH AND KOOTENAI TRIBES OF FLATHEAD INDIAN RESERVATION ET AL. *v.* NAMEN ET AL. C. A. 9th Cir. Motions of Montana Inter-Tribal Policy Board and Lummi Indian Tribe et al. for leave to file briefs as *amici curiae* granted. Certiorari denied. Reported below: 534 F. 2d 1376.

No. 76-204. FEINBERG *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: 535 F. 2d 1004.

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No. 76-221. *NATHAN v. UNITED STATES*. C. A. 2d Cir. Motion to vacate and remand and certiorari denied. Reported below: 536 F. 2d 988.

No. 76-270. *HAKIM v. COMMISSIONER OF INTERNAL REVENUE*. Petition for certiorari and other relief before judgment to C. A. 6th Cir. denied.

No. 76-293. *TAYLOR v. TENNESSEE*. Ct. Crim. App. Tenn. Certiorari denied.

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

Petitioner was convicted after a jury trial in Sullivan County Criminal Court, Tenn., of exhibiting two allegedly obscene motion pictures in violation of Tenn. Code Ann. § 39-3013 (A) (1975), which provides in pertinent part:

"It shall be unlawful to knowingly send or cause to be sent, or bring or cause to be brought, into this state for sale, distribution, exhibition, or display, or in this state to prepare for distribution, publish, print, exhibit, distribute, or offer to distribute, or to possess with intent to distribute or to exhibit or offer to distribute any obscene matter."

As used in that section,

"(A) 'Obscene' means (1) that the average person applying contemporary community standards, would find that the work, taken as a whole, appeals to the prurient interest; (2) that the work depicts or describes, in a patently offensive way, sexual conduct; and (3) that the work, taken as a whole, lacks serious literary, artistic, political, or scientific value.

"(C) 'Matter' means any book, magazine, newspaper, or other printed or written material or any picture, drawing, photograph, motion picture film, or other pictorial representation, or any statue, figure, device, theatrical production or live performance, or any recording, tran-

scription, or mechanical, chemical or electrical reproduction, or any other article, equipment, machine or material that is obscene as defined by §§ 39-3010—39-3022.

“(E) ‘Distribute’ as used above means to transfer possession of, whether with or without consideration.

“(F) ‘Knowingly’ as used above means having actual or constructive knowledge of the subject matter. A person shall be deemed to have constructive knowledge of the contents if he has knowledge of facts which would put a reasonable and prudent man on notice as to the suspect nature of the material.” § 39-3010.

The Tennessee Court of Criminal Appeals affirmed the conviction and the Tennessee Supreme Court, which in an earlier case had held the motion pictures involved to be obscene within the meaning of the statute, *Taylor v. State ex rel. Kirkpatrick*, 529 S. W. 2d 692, 699 (1975), refused review.

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, Tenn. Code Ann. § 39-3013 (A) is constitutionally overbroad and therefore invalid on its face. For the reasons stated in my dissent in *Miller v. California*, 413 U. S. 15, 47 (1973), I would therefore grant certiorari, vacate the judgment, and remand the case for further proceedings not inconsistent with my dissent in *Paris Adult Theatre I*, *supra*. See *Wasserman v. Municipal Court of Alhambra Judicial District*, 413 U. S. 911 (1973) (BRENNAN, J., dissenting). In that circumstance, I have no occasion to consider whether the other questions presented in this case merit plenary review. See *Heller v. New York*, 413 U. S. 483, 495 (1973) (BRENNAN, J., dissenting).

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No. 76-307. *WOLERY v. OHIO*. Sup. Ct. Ohio. Motion of Association of Trial Lawyers of America for leave to file a brief as *amicus curiae* granted. Certiorari denied. Reported below: 46 Ohio St. 2d 316, 348 N. E. 2d 351.

No. 76-377. *PEPLINSKI v. NORTH CAROLINA*; and

No. 76-5392. *SMITH v. NORTH CAROLINA*. Sup. Ct. N. C. The death penalty having been vacated by the Supreme Court of North Carolina, certiorari denied. Reported below: No. 76-377, 290 N. C. 236, 225 S. E. 2d 568; No. 76-5392, 290 N. C. 148, 226 S. E. 2d 10.

No. 76-5284. *SPENCER v. GEORGIA*; and

No. 76-5373. *SMITH, AKA MACHETTI v. GEORGIA*. Sup. Ct. Ga. Certiorari denied. MR. JUSTICE BRENNAN and MR. JUSTICE MARSHALL would grant certiorari and vacate judgments insofar as they leave undisturbed the sentence of death. See *Gregg v. Georgia*, 428 U. S. 153, 227 (1976) (BRENNAN, J., dissenting); *id.*, at 231 (MARSHALL, J., dissenting). Reported below: No. 76-5284, 236 Ga. 697, 224 S. E. 2d 910; No. 76-5373, 236 Ga. 12, 222 S. E. 2d 308.

No. 76-5326. *DUKES v. WAITKEVITCH ET AL.* C. A. 1st Cir. Certiorari denied. Reported below: 536 F. 2d 469.

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

The Court today refuses to review the Court of Appeals' conclusion that a black male charged with raping a white female in the racially troubled city of Boston is not entitled to have prospective jurors questioned about racial prejudice. I do not believe that the Court of Appeals' holding is justified by last Term's decision in *Ristaino v. Ross*, 424 U. S. 589 (1976).

Charges of interracial rape have long played a major role in the mythology of racial prejudice. See, e. g., *Powell v.*

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Alabama, 287 U. S. 45 (1932); G. Allport, *The Nature of Prejudice* 349-355 (1958). When such a charge is made, especially in a city where racial conflict is close to the surface, it blinks reality to conclude, as the Court was able to find in *Ristaino*, that "[t]he circumstances . . . did not suggest a significant likelihood that racial prejudice might infect [petitioner's] trial." 424 U. S., at 598. Thus, under the standard set forth in *Ristaino*, this defendant was entitled to assure himself that the jury would consider only the evidence, not his race and the race of the alleged victim, when it determined his fate.

By refusing to review this conviction the Court does not, of course, endorse the Court of Appeals' understanding of *Ristaino*. It does, however, add to the lengthening " 'epitaph for those "essential demands of fairness" recognized by this Court 40 years ago in *Aldridge* [v. *United States*, 283 U. S. 308 (1931)].' " *Id.*, at 599 (MARSHALL, J., dissenting), quoting *Ross v. Massachusetts*, 414 U. S. 1080, 1085 (1973) (MARSHALL, J., dissenting from denial of certiorari). By failing to respond to those demands, the Court empties of meaning the promise of *Aldridge* and of our recent decision in *Ham v. South Carolina*, 409 U. S. 524 (1973). That promise is the fundamental guaranty of a fair trial before an impartial jury.

I respectfully dissent.

Rehearing Denied

No. 75-734. SMITH ET AL. v. TROYAN ET AL., 426 U. S. 934;

No. 75-1501. IVEY ET AL. v. UNITED STATES, *ante*, p. 818;

No. 75-6922. MASON ET AL. v. BELIEU ET AL., *ante*, p. 852;

No. 76-5030. BLACKBURN v. FLORIDA, *ante*, p. 864; and

No. 76-5078. MANNING v. PRINCETON CONSUMER DISCOUNT Co., INC., ET AL., *ante*, p. 865. Petitions for rehearing denied.

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Assignment Orders

Orders of THE CHIEF JUSTICE designating and assigning Mr. Justice Clark (retired) to perform judicial duties in the United States Court of Appeals for the Fourth Circuit from December 6 to December 9, 1976, and in the United States Court of Appeals for the Eighth Circuit from February 14 to February 18, 1977, and for such additional time as may be required to complete unfinished business, pursuant to 28 U. S. C. § 294 (a), are ordered entered on the minutes of this Court, pursuant to 28 U. S. C. § 295.

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Dismissal Under Rule 60

No. 76-5103. DAWSON *v.* UNITED STATES. C. A. 4th Cir. Certiorari dismissed under this Court's Rule 60. Reported below: 538 F. 2d 325.

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Affirmed on Appeal

No. 76-65. REPUBLICAN PARTY OF SHELBY COUNTY *v.* DIXON ET AL. Affirmed on appeal from D. C. W. D. Tenn. MR. JUSTICE REHNQUIST and MR. JUSTICE STEVENS would note probable jurisdiction and set case for oral argument. Reported below: 412 F. Supp. 1036.

Appeal Dismissed

No. 76-103. RIOS ET AL. *v.* JONES, DIRECTOR, DEPARTMENT OF PERSONNEL OF ILLINOIS, ET AL. Appeal from Sup. Ct. Ill. dismissed for want of substantial federal question. MR. JUSTICE BRENNAN would note probable jurisdiction and set case for oral argument. Reported below: 63 Ill. 2d 488, 348 N. E. 2d 825.

Certiorari Granted—Vacated and Remanded

No. 74-996. UNITED STATES *v.* DATA PRODUCTS CORP. C. A. 9th Cir. Certiorari granted, judgment vacated, and case

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remanded for further consideration in light of *United States v. Foster Lumber Co.*, *ante*, p. 32.

Miscellaneous Orders

No. A-187 (76-326). HINSHAW *v.* SUPERIOR COURT OF CALIFORNIA, COUNTY OF ORANGE. Ct. App. Cal., 4th App. Dist. Application for stay, presented to MR. JUSTICE MARSHALL, and by him referred to the Court, denied.

No. A-339. MINNESOTA PUBLIC INTEREST RESEARCH GROUP *v.* SECRETARY OF AGRICULTURE ET AL. Application to recall and stay mandate of the United States Court of Appeals for the Eighth Circuit, presented to MR. JUSTICE BLACKMUN, and by him referred to the Court, denied. MR. JUSTICE BRENNAN would grant the application. Motion to dispense with printing appendix to petition for certiorari granted. MR. JUSTICE BLACKMUN took no part in the consideration or decision of this application and motion.

No. A-346. BUCKLEY ET AL. *v.* McRAE ET AL. Application for stay of order of the United States District Court for the Eastern District of New York, entered October 22, 1976, presented to MR. JUSTICE MARSHALL, and by him referred to the Court, denied.

No. A-371 (75-1440). MAHER, COMMISSIONER OF SOCIAL SERVICES OF CONNECTICUT *v.* ROE ET AL. Appeal from D. C. Conn. [Probable jurisdiction noted, 428 U. S. 908.] Application for stay of judgment, presented to MR. JUSTICE MARSHALL, and by him referred to the Court, denied.

No. D-68. IN RE DISBARMENT OF HONOROFF. It is ordered that Alvin Eugene Honoroff, of Los Angeles, Cal., be suspended from the practice of law in this Court and that a rule issue, returnable within 40 days, requiring him to show cause why he should not be disbarred from the practice of law in this Court.

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No. D-69. *IN RE DISBARMENT OF LUNDY*. It is ordered that Rayfield Lundy, of Compton, Cal., be suspended from the practice of law in this Court and that a rule issue, returnable within 40 days, requiring him to show cause why he should not be disbarred from the practice of law in this Court.

No. D-70. *IN RE DISBARMENT OF WEBER*. It is ordered that Jerome Weber, of Beverly Hills, Cal., be suspended from the practice of law in this Court and that a rule issue, returnable within 40 days, requiring him to show cause why he should not be disbarred from the practice of law in this Court.

No. D-71. *IN RE DISBARMENT OF MASON*. It is ordered that Richard W. Mason, Jr., of Kansas City, Mo., be suspended from the practice of law in this Court and that a rule issue, returnable within 40 days, requiring him to show cause why he should not be disbarred from the practice of law in this Court.

No. D-72. *IN RE DISBARMENT OF MANER*. It is ordered that Charles A. Maner, Sr., of Knoxville, Tenn., be suspended from the practice of law in this Court and that a rule issue, returnable within 40 days, requiring him to show cause why he should not be disbarred from the practice of law in this Court.

No. D-73. *IN RE DISBARMENT OF MCGOVERN*. It is ordered that John J. McGovern, of Rockville, Md., be suspended from the practice of law in this Court and that a rule issue, returnable within 40 days, requiring him to show cause why he should not be disbarred from the practice of law in this Court.

No. D-74. *IN RE DISBARMENT OF FOSTER*. It is ordered that T. Russell Foster, of Charleston, S. C., be suspended from the practice of law in this Court and that a rule issue, returnable within 40 days, requiring him to show cause why he should not be disbarred from the practice of law in this Court.

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No. D-75. *IN RE DISBARMENT OF PLENTY*. It is ordered that G. Richard Plenty, Jr., of Washington, D. C., be suspended from the practice of law in this Court and that a rule issue, returnable within 40 days, requiring him to show cause why he should not be disbarred from the practice of law in this Court.

No. D-76. *IN RE DISBARMENT OF THOMPSON*. It is ordered that Frederick Thompson, of Woodbury, N. J., be suspended from the practice of law in this Court and that a rule issue, returnable within 40 days, requiring him to show cause why he should not be disbarred from the practice of law in this Court.

No. D-77. *IN RE DISBARMENT OF LACINAK*. It is ordered that Michael A. Lacinak, of Cincinnati, Ohio, be suspended from the practice of law in this Court and that a rule issue, returnable within 40 days, requiring him to show cause why he should not be disbarred from the practice of law in this Court.

No. D-78. *IN RE DISBARMENT OF MOORE*. It is ordered that Earl H. Moore, Jr., of Dayton, Ohio, be suspended from the practice of law in this Court and that a rule issue, returnable within 40 days, requiring him to show cause why he should not be disbarred from the practice of law in this Court.

No. D-79. *IN RE DISBARMENT OF MOORE*. It is ordered that Forrest P. Moore, of Logan, Ohio, be suspended from the practice of law in this Court and that a rule issue, returnable within 40 days, requiring him to show cause why he should not be disbarred from the practice of law in this Court.

No. 75-503. *COOK ET AL. v. HUDSON ET AL.* C. A. 5th Cir. [Certiorari granted, 424 U. S. 941.] Motion of petitioners for leave to file supplemental brief after argument granted.

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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, INC. *v.* RODRIGUEZ ET AL. C. A. 5th Cir. [Certiorari granted, 425 U. S. 990.] Motion of NAACP Legal Defense & Educational Fund, Inc., for leave to file a brief as *amicus curiae* 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, 425 U. S. 933.] Motion of American Iron and Steel Institute for leave to participate in oral argument as *amicus curiae* denied. MR. JUSTICE POWELL took no part in the consideration or decision of this motion.

No. 75-1805. JEFFERS *v.* UNITED STATES. C. A. 7th Cir. [Certiorari granted, *ante*, p. 815.] Motion of petitioner for leave to proceed further herein *in forma pauperis* granted.

No. 76-5297. HAWKINS *v.* ESTELLE, CORRECTIONS DIRECTOR. Motion for leave to file petition for writ of habeas corpus denied.

Certiorari Granted

No. 76-357. LINMARK ASSOCIATES, INC., ET AL. *v.* TOWNSHIP OF WILLINGBORO ET AL. C. A. 3d Cir. Certiorari granted. Reported below: 535 F. 2d 786.

No. 76-404. ILLINOIS BRICK CO. ET AL. *v.* ILLINOIS ET AL. C. A. 7th Cir. Certiorari granted. Reported below: 536 F. 2d 1163.

No. 76-5206. ROBERTS *v.* LOUISIANA. Sup. Ct. La. Motion for leave to proceed *in forma pauperis* and certiorari granted. Reported below: 331 So. 2d 11.

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No. 75-1181. *BATTERTON, SECRETARY, DEPARTMENT OF HUMAN RESOURCES OF MARYLAND, ET AL. v. FRANCIS ET AL.* C. A. 4th Cir. Motion of respondent Robert Francis for leave to proceed *in forma pauperis* and certiorari granted. Reported below: 529 F. 2d 514 and 515.

No. 76-5306. *DOBBERT v. FLORIDA.* Sup. Ct. Fla. Motion for leave to proceed *in forma pauperis* and certiorari granted. Reported below: 328 So. 2d 433.

Certiorari Denied

No. 75-1673. *SUGG, AKA SANITORA v. ILLINOIS.* App. Ct. Ill., 1st Dist. Certiorari denied.

No. 75-1740. *ATKINS v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. Reported below: 528 F. 2d 1352.

No. 75-1847. *HAMMOND v. UNITED STATES;* and
No. 76-5178. *THOMPSON v. UNITED STATES.* C. A. 6th Cir. Certiorari denied. Reported below: 533 F. 2d 1006.

No. 75-6832. *DOWDY v. NEW YORK.* App. Div., Sup. Ct. N. Y., 2d Jud. Dept. Certiorari denied.

No. 76-24. *ROSENBRUCH v. AMERICAN EXPORT ISBRANDTSEN LINES, INC.* C. A. 2d Cir. Certiorari denied. Reported below: 543 F. 2d 967.

No. 76-77. *HARRIS v. UNITED STATES.* C. A. 6th Cir. Certiorari denied. Reported below: 535 F. 2d 1255.

No. 76-95. *HERNANDEZ v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. Reported below: 532 F. 2d 185.

No. 76-96. *ZELDIN v. UNITED STATES.* C. A. 9th Cir. Certiorari denied. Reported below: 548 F. 2d 782.

No. 76-106. *LIBRACH v. UNITED STATES.* C. A. 8th Cir. Certiorari denied. Reported below: 536 F. 2d 1228.

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No. 76-113. *FELDMAN v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 535 F. 2d 1175.

No. 76-122. *FIELD v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 532 F. 2d 404.

No. 76-124. *MADRID v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 531 F. 2d 1329.

No. 76-214. *CALNETICS CORP. ET AL. v. VOLKSWAGEN OF AMERICA, INC., ET AL.*; and

No. 76-379. *VOLKSWAGEN OF AMERICA, INC., ET AL. v. CALNETICS CORP. ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 532 F. 2d 674.

No. 76-238. *NATIONAL FARMERS' ORGANIZATION, INC. v. UNITED STATES ET AL.* C. A. 8th Cir. Certiorari denied. Reported below: 534 F. 2d 113.

No. 76-261. *ROGERS v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 534 F. 2d 1134.

No. 76-286. *ROBINSON v. HENDERSON, CORRECTIONAL SUPERINTENDENT, ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 538 F. 2d 313.

No. 76-319. *MICKUNAS v. KLEPPE, SECRETARY OF THE INTERIOR, ET AL.* C. A. 9th Cir. Certiorari denied.

No. 76-368. *MARKHAM v. SWAILS ET AL.* Ct. App. N. C. Certiorari denied. Reported below: 29 N. C. App. 205, 223 S. E. 2d 920.

No. 76-371. *WOOD v. STARK TRI-COUNTY BUILDING TRADES COUNCIL ET AL.* C. A. 6th Cir. Certiorari denied.

No. 76-375. *SONDEREGGER v. SAGITTARIUS PRODUCTIONS, INC., ET AL.* Ct. App. Cal., 2d App. Dist. Certiorari denied.

No. 76-378. *BROCKINGTON v. NEW JERSEY*. Super. Ct. N. J. Certiorari denied. Reported below: 140 N. J. Super. 422, 356 A. 2d 430.

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No. 76-386. *HICKLAND v. HICKLAND*. Ct. App. N. Y. Certiorari denied. Reported below: 39 N. Y. 2d 1, 346 N. E. 2d 243.

No. 76-390. *ICI AMERICA, INC. v. MORAINÉ PRODUCTS*; and

No. 76-391. *MORAINÉ PRODUCTS v. ICI AMERICA, INC.* C. A. 7th Cir. Certiorari denied. Reported below: 538 F. 2d 134.

No. 76-392. *FIRST NATIONAL BANK IN ST. LOUIS v. KOSTMAN, COMMISSIONER OF FINANCE OF MISSOURI*. C. A. 8th Cir. Certiorari denied. Reported below: 538 F. 2d 219.

No. 76-396. *WRIGHT v. SOUTHWESTERN LIFE INSURANCE Co.* C. A. 5th Cir. Certiorari denied. Reported below: 536 F. 2d 389.

No. 76-397. *ALLRIGHT MISSOURI, INC., ET AL. v. CIVIC PLAZA REDEVELOPMENT CORP. ET AL.* Sup. Ct. Mo. Certiorari denied. Reported below: 538 S. W. 2d 320.

No. 76-5035. *MORGAN v. UNITED STATES*; and

No. 76-5196. *WILLIAMS v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 538 F. 2d 344.

No. 76-5037. *STIDHAM v. SWENSON, WARDEN*. C. A. 8th Cir. Certiorari denied.

No. 76-5053. *HARRIS ET AL. v. UNITED STATES*. C. A. 10th Cir. Certiorari denied. Reported below: 534 F. 2d 207.

No. 76-5077. *MARI v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 526 F. 2d 117.

No. 76-5085. *GARCIA v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 531 F. 2d 1303.

No. 76-5086. *NEUMANN v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 539 F. 2d 713.

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No. 76-5089. *PAYNE v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 539 F. 2d 713.

No. 76-5090. *BOWERS v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 534 F. 2d 186.

No. 76-5094. *PRITCHARD v. AULT, COMMISSIONER, DEPARTMENT OF OFFENDER REHABILITATION, ET AL.* C. A. 5th Cir. Certiorari denied.

No. 76-5105. *BELLE v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 537 F. 2d 979.

No. 76-5109. *HOLLOWAY v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 535 F. 2d 1257.

No. 76-5116. *FRANCISCO v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 536 F. 2d 1293.

No. 76-5147. *JINES v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 536 F. 2d 1255.

No. 76-5148. *DEMASE v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 538 F. 2d 340.

No. 76-5154. *DIAZ v. FLORIDA*. Dist. Ct. App. Fla., 3d Dist. Certiorari denied. Reported below: 323 So. 2d 289.

No. 76-5160. *TERRY v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 532 F. 2d 753.

No. 76-5172. *KLONER v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 535 F. 2d 730.

No. 76-5177. *PATTERSON v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 528 F. 2d 1037.

No. 76-5207. *ZATKO v. CALIFORNIA*. Sup. Ct. Cal. Certiorari denied.

No. 76-5261. *HARLIN v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 539 F. 2d 679.

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No. 76-5262. *TROTTER v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 538 F. 2d 217.

No. 76-5266. *SCHRECK v. RAUCH, WARDEN*. C. A. 9th Cir. Certiorari denied. Reported below: 539 F. 2d 718.

No. 76-5372. *RODRIGUEZ v. BUTLER, CORRECTIONAL SUPERINTENDENT*. C. A. 2d Cir. Certiorari denied. Reported below: 536 F. 2d 982.

No. 76-5381. *WALKER v. INDIANA*. Sup. Ct. Ind. Certiorari denied. Reported below: 265 Ind. 8, 349 N. E. 2d 161.

No. 76-5393. *TEAGUE v. CALIFORNIA*. Ct. App. Cal., 3d App. Dist. Certiorari denied.

No. 76-5394. *CLARK v. RODRIGUEZ*. C. A. 10th Cir. Certiorari denied.

No. 76-5399. *DONLEY v. SCOTT*. C. A. 9th Cir. Certiorari denied. Reported below: 539 F. 2d 717.

No. 76-5400. *DAVIS v. POMARS ET AL.* C. A. 2d Cir. Certiorari denied.

No. 76-5409. *WALKER v. MASSACHUSETTS*. Sup. Jud. Ct. Mass. Certiorari denied. Reported below: — Mass. —, 350 N. E. 2d 678.

No. 76-5410. *MCNAMARA v. WAINWRIGHT, SECRETARY, DEPARTMENT OF OFFENDER REHABILITATION OF FLORIDA*. C. A. 5th Cir. Certiorari denied. Reported below: 532 F. 2d 1373.

No. 76-5412. *JOHNSON v. OKLAHOMA*. Ct. Crim. App. Okla. Certiorari denied. Reported below: 554 P. 2d 51.

No. 76-5417. *ALEXANDER v. MISSISSIPPI*. Sup. Ct. Miss. Certiorari denied. Reported below: 336 So. 2d 768.

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No. 76-5418. *ZATKO v. UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA*. C. A. 9th Cir. Certiorari denied.

No. 76-5421. *SMITH v. MASSACHUSETTS*. Sup. Jud. Ct. Mass. Certiorari denied. Reported below: — Mass. —, 348 N. E. 2d 101.

No. 76-5422. *ZATKO v. CALIFORNIA*. Sup. Ct. Cal. Certiorari denied.

No. 76-5429. *GOOD v. COURT OF COMMON PLEAS*. C. A. 3d Cir. Certiorari denied. Reported below: 538 F. 2d 322.

No. 76-5430. *FORRESTER v. LEVINE, INDUSTRIAL COMMISSIONER OF NEW YORK*. App. Div., Sup. Ct. N. Y., 3d Jud. Dept. Certiorari denied. Reported below: 51 App. Div. 2d 1077, 381 N. Y. S. 2d 149.

No. 76-5431. *STEVENSON ET AL. v. REED ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 530 F. 2d 1207.

No. 76-5450. *PETERS v. MICHIGAN*. Sup. Ct. Mich. Certiorari denied. Reported below: 397 Mich. 360, 244 N. W. 2d 898.

No. 76-5517. *BURY v. FLORIDA DEPARTMENT OF COMMERCE ET AL.* Dist. Ct. App. Fla., 2d Dist. Certiorari denied. Reported below: 323 So. 2d 699.

No. 76-98. *BARANOV ET AL. v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 538 F. 2d 325.

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

Petitioners were convicted of mailing obscene materials in violation of 18 U. S. C. § 1461. I adhere to the view that this statute is “‘clearly overbroad and unconstitutional on its face.’” See, *e. g.*, *Millican v. United States*, 418 U. S. 947, 948 (1974) (BRENNAN, J., dissenting), quoting *United States*

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v. *Orito*, 413 U. S. 139, 148 (1973) (BRENNAN, J., dissenting). I therefore would grant certiorari and reverse.

No. 76-291. PORTER COUNTY CHAPTER OF THE IZAAK WALTON LEAGUE OF AMERICA, INC., ET AL. v. NUCLEAR REGULATORY 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: 533 F. 2d 1011.

No. 76-309. SIDLE v. MAJORS. C. A. 7th Cir. Certiorari denied. Reported below: 536 F. 2d 1156.

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

This case presents the question whether the Indiana motor vehicle guest statute violates the Equal Protection Clause of the Fourteenth Amendment.¹ Forty-seven years ago *Silver v. Silver*, 280 U. S. 117 (1929), held that a Connecticut guest statute, providing that no person carried gratuitously as a guest in a motor vehicle might recover from the owner or operator for injuries caused by its negligent operation, was not in conflict with the Equal Protection Clause because of the distinction it made between passengers so carried and those in other classes of vehicles. The Court's rationale was that "it is not so evident that no grounds exist for the distinction that we can say *a priori* that the classification is one forbidden as without basis, and arbitrary." *Id.*, at 123. But under today's equal protection jurisprudence the classification must satisfy the standard of rational-

¹ The Indiana statute, Ind. Code § 9-3-3-1 (1973), provides: "*Guest of owner of operator—Right to damages.*—The owner, operator, or person responsible for the operation of a motor vehicle shall not be liable for loss or damage arising from injuries to or death of a guest, while being transported without payment therefor, in or upon such motor vehicle, resulting from the operation thereof, unless such injuries or death are caused by the wanton or wilful misconduct of such operator, owner, or person responsible for the operation of such motor vehicle."

ity, and the Court of Appeals in the instant case was of the view that the classification made by the Indiana statute could not be sustained under that standard: "We can find no necessary rational relation to a legitimate state interest . . . that would require us to sustain the legislation." 536 F. 2d 1156, 1159 (CA7 1976).

Within only the past five years high courts of no less than 17 States have examined or re-examined their automobile guest statutes challenged as denying equal protection, and almost one-half of those courts have struck down their State's statutes as unconstitutional under both the Federal and State Constitutions.² This conflict of view might rea-

² These decisions are the culmination of many years of controversy over guest statutes. See, e. g., W. Prosser, *Law of Torts* 186-187 (4th ed. 1971); Note, *The Present Status of Automobile Guest Statutes*, 59 *Cornell L. Rev.* 659 (1974); Lascher, *Hard Laws Make Bad Cases—Lots of Them (The California Guest Statute)*, 9 *Santa Clara Law. J.* 1 (1968); White, *The Liability of an Automobile Driver to a Non-paying Passenger*, 20 *Va. L. Rev.* 326 (1934).

Cases in which guest statutes have been held unconstitutional are: *McGeehan v. Bunch*, 88 N. M. 308, 540 P. 2d 238 (1975) (unconstitutional under both federal and state law); *Laakonen v. Eighth Judicial District Court*, 91 Nev. 506, 538 P. 2d 574 (1975) (unconstitutional under both federal and state law); *Manistee Bank & Trust Co. v. McGowan*, 394 Mich. 655, 232 N. W. 2d 636 (1975) (unconstitutional under state law); *Primes v. Tyler*, 43 Ohio St. 2d 195, 331 N. E. 2d 723 (1975) (unconstitutional under both federal and state law); *Thompson v. Hagan*, 96 Idaho 19, 523 P. 2d 1365 (1974) (unconstitutional under both federal and state law); *Henry v. Bauder*, 213 Kan. 751, 518 P. 2d 362 (1974) (unconstitutional under both federal and state law); *Johnson v. Hassett*, 217 N. W. 2d 771 (ND 1974) (unconstitutional under state law); *Brown v. Merlo*, 8 Cal. 3d 855, 506 P. 2d 212 (1973) (unconstitutional under both federal and state law).

Cases in which guest statutes have been held constitutional are: *Sidle v. Majors*, — Ind. —, 341 N. E. 2d 763 (1976) (on certified question to the Indiana Supreme Court from the Court of Appeals for the Seventh Circuit in the instant case); *Behrns v. Burke*, — S. D. —, 229 N. W. 2d 86 (1975); *White v. Hughes*, 257 Ark. 627, 519 S. W. 2d 70, dismissed for want of substantial federal question, 423 U. S. 805 (1975); *Richardson*

sonably lead bench and bar to expect that this Court would grant review of a case that afforded an opportunity to re-examine *Silver* in light of today's rationality standard. But two Terms ago we summarily dismissed an appeal from the Utah Supreme Court sustaining the constitutionality of the Utah guest statute, which provides that a person injured while being transported gratuitously in any vehicle on a Utah public highway may not recover from the owner, driver, or person responsible for the operation of the vehicle, unless the injury was proximately caused by the intoxication or willful misconduct of the defendant. *Cannon v. Oviatt*, 419 U. S. 810 (1974). Today the Court denies the application for certiorari in this case involving the constitutionality of the Indiana guest statute, which is similar but not identical to the Utah statute. I respectfully dissent from the denial.

The Court of Appeals, despite its considered view that the Indiana statute was unconstitutional, sustained the statute because *Hicks v. Miranda*, 422 U. S. 332 (1975), decided a year after the summary dismissal in *Cannon v. Oviatt*, held that state and lower federal courts are as bound by our summary dispositions of appeals as by our dispositions after plenary consideration. 536 F. 2d, at 1160. Thus, even though the summary dismissal of *Cannon v. Oviatt* was made in the face of widespread conflict among state courts on the

v. *Hansen*, 186 Colo. 346, 527 P. 2d 536 (1974); *Duerst v. Limbocker*, 269 Ore. 252, 525 P. 2d 99 (1974); *Cannon v. Oviatt*, 520 P. 2d 883 (Utah), dismissed for want of substantial federal question, 419 U. S. 810 (1974); *Keasling v. Thompson*, 217 N. W. 2d 687 (Iowa 1974); *Justice v. Gatchell*, 325 A. 2d 97 (Del. 1974); *Tisko v. Harrison*, 500 S. W. 2d 565 (Tex. Civ. App. 1973); *Delany v. Badame*, 49 Ill. 2d 168, 274 N. E. 2d 353 (1971).

One Federal Court of Appeals, sitting in admiralty, has refused to follow a state boat guest statute, but on statutory and common-law rather than constitutional grounds. *St. Hilaire Moye v. Henderson*, 496 F. 2d 973, 979-982 (CA8 1974).

impact of the Equal Protection Clause upon their guest statutes, was made without the benefit of briefs or oral argument on the merits, and was announced without opinion or even citation to *Silver* or any other precedent,³ the Court denies certiorari in this case and perforce brings to a halt any further dialogue in either state or federal courts. This consequence of *Hicks v. Miranda* was anticipated in my dissent from denial of certiorari in *Colorado Springs Amusements, Ltd. v. Rizzo*, 428 U. S. 913 (1976). It is a consequence that must bode ill for developing constitutional jurisprudence. If significant constitutional issues are to be decided summarily without any briefing or oral argument, and with only momentary and offhanded Conference discussion, and if these summary dispositions nevertheless bind the courts of the 50 States and all lower federal courts, respect for our constitutional decisionmaking must inevitably be impaired.

When *Cannon v. Oviatt* was summarily dismissed, it is fair to say that not only legal scholars, judges of state and lower federal courts, and practicing attorneys, but also Members of this Court, assumed that summary dispositions without opinion did not have the same precedential force as decisions rendered with opinion after plenary consideration—indeed it was properly perceived that behind our summary dispositions of appeals lie many of the same considerations that account for denials of certiorari. See, e. g., *Ohio ex rel. Eaton v. Price*, 360 U. S. 246 (1959); Frankfurter & Landis, *The Business of the Supreme Court at October Term, 1929*, 44 Harv. L. Rev. 1, 12-14 (1930); P. Bator, P. Mishkin, D. Shapiro, & H. Wechsler, *Hart & Wechsler's The Federal*

³ Perhaps the Utah and Indiana statutes can be distinguished, for "it may safely be said that there are as many different guest laws as there are acts." W. Prosser, *Law of Torts* 187 (4th ed. 1971). However, the Court of Appeals was in no position to say whether *Cannon* might be inapplicable for that reason since our bare dismissal gives not the slightest hint of the ground of the dismissal.

Courts and the Federal System 648-649 (2d ed. 1973); R. Stern & E. Gressman, *Supreme Court Practice* 195, 230-232 (4th ed. 1969).⁴ Had the Court foreseen that *Hicks*, decided a year later, would convert the *Cannon* dismissal into an iron-clad holding compelling the Court of Appeals in this case to abandon its own considered view of the merits, it seems probable that at the very least the Court, because of the doubts widely shared as to the continuing vitality of *Silver v. Silver*, would have given more thought to the propriety, even desirability, of a summary dismissal. I can say that I certainly would have done so.

Hicks has now eliminated from the consideration of appeals the desirable latitude each of us formerly had to weigh, as in the case of petitions for certiorari, whether the issue presented is sufficiently important to merit plenary review, and whether in any event the question might better be addressed after we have had the benefit of the views of other courts. Particularly unfortunate, I think, is the inevitability that *Hicks* will prematurely cut off, as it has in the case of these guest statutes, consideration of important and evolving federal constitutional questions by the state and lower federal courts. It frequently happens that difficult constitutional issues go through a valuable maturing process, and this Court and developing jurisprudence generally profit enormously from the accumulated wisdom of various courts that have considered the issues in a number of contexts and from a number of angles. *Hicks*, however, now mandates that summary dispositions must be followed as fully binding

⁴ A much commented upon example of a certiorari-like dismissal of a state court appeal is *Naim v. Naim*, 350 U. S. 985 (1956), dismissing 197 Va. 734, 90 S. E. 2d 849, which upheld the Virginia miscegenation statute later invalidated in *Loving v. Virginia*, 388 U. S. 1 (1967). For comment, compare H. Wechsler, *Principles, Politics, and Fundamental Law* 46-47 (1961), with A. Bickel, *The Least Dangerous Branch* 174 (1962), and Pollack, *The Supreme Court and the States: Reflections on Boynton v. Virginia*, 49 Calif. L. Rev. 15, 45 n. 79 (1961).

precedents by state and lower federal courts, regardless of the maturity of the issue, and regardless of the fact that even when the issue is before us for the first time, our disposition is made without opinion, without briefing or oral argument, and after only the most cursory Conference discussion.

The interaction of *Hicks v. Miranda* and *Cannon v. Oviatt* upon the ferment in state courts over the constitutionality of automobile guest statutes reveals yet another reason for granting certiorari in this case. The operation of the *Hicks* rule on our review of state-court decisions concerning state statutes has an inevitable, and I think heretofore unappreciated, bias in favor of upholding those statutes: the state-court decisions, cited in n. 2, *supra*, striking down guest statutes held them to be unconstitutional under both the Federal Constitution and their own State Constitutions. Any attempt by this Court to review those decisions would have failed, since the decisions also rested on an adequate state ground. *Minnesota v. National Tea Co.*, 309 U. S. 551 (1940). In practical effect, therefore, only a state-court decision sustaining a state statute against federal constitutional challenge could be a vehicle for review, which, as in *Cannon v. Oviatt*, would probably be by appeal and not by certiorari. 28 U. S. C. § 1257 (2). Since our practice of treating appeals similarly to petitions for certiorari has resulted in a number of dismissals that would probably not have been entered if the appeals had been treated fully and seriously on their merits, it follows that these dismissals have had an inevitable tendency to leave intact statutes that might not have survived plenary review in this Court.

Today's denial again leaves undisturbed, because of *Hicks*, a decision upholding a statute whose constitutionality is patently open to serious debate. This undesirable and, I must believe, largely unintended result should convince the Court that *Hicks* should be re-examined. At the very least,

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since *Cannon v. Oviatt* is not a precedent binding on us, *Edelman v. Jordan*, 415 U. S. 651, 671 (1974), the petition should be granted so that we may give plenary consideration to the constitutional issue that has stirred such conflict among state and lower federal courts.

No. 76-342. *OLSON FARMS, INC. v. UNITED STATES ET AL.* C. A. 10th Cir. Certiorari denied. MR. JUSTICE STEVENS took no part in the consideration or decision of this petition. Reported below: 540 F. 2d 459.

No. 76-372. *MICHIGAN v. JOHNSON.* Sup. Ct. Mich. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied, it appearing that judgment below rests on adequate state grounds. Reported below: 396 Mich. 424, 240 N. W. 2d 729.

No. 76-395. *SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT v. SALAZAR.* C. A. 9th Cir. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 538 F. 2d 269.

No. 76-5358. *HENRY v. FLORIDA.* Sup. Ct. Fla. Certiorari denied. MR. JUSTICE BRENNAN and MR. JUSTICE MARSHALL would grant certiorari and vacate judgment insofar as it leaves undisturbed the sentence of death. See *Gregg v. Georgia*, 428 U. S. 153, 227 (1976) (BRENNAN, J., dissenting); *id.*, at 231 (MARSHALL, J., dissenting). Reported below: 328 So. 2d 430.

Rehearing Denied

No. 75-1490. *ZIVIAK, ADMINISTRATOR v. UNITED STATES,* *ante*, p. 801;

No. 75-6878. *ANDERSON v. REED, PENITENTIARY SUPERINTENDENT,* *ante*, p. 850;

No. 75-6918. *TARKOWSKI v. SMART,* *ante*, p. 852; and

No. 76-5023. *BOECKENHAUPT v. UNITED STATES,* *ante*, p. 863. Petitions for rehearing denied.

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No. 76-5027. *GINTER v. WISCONSIN*, *ante*, p. 863. Petition for rehearing denied.

NOVEMBER 9, 1976

Dismissal Under Rule 60

No. 75-1919. *CALIFORNIA ET AL. v. UNITED STATES ENVIRONMENTAL PROTECTION AGENCY ET AL.* C. A. 9th Cir. Certiorari dismissed under this Court's Rule 60. Reported below: 534 F. 2d 150.

NOVEMBER 10, 1976

Miscellaneous Order

No. A-387. *OKLAHOMA PUBLISHING CO. v. DISTRICT COURT IN AND FOR OKLAHOMA COUNTY ET AL.* Application for stay of order of the District Court in and for Oklahoma County, filed August 4, 1976, presented to MR. JUSTICE WHITE, and by him referred to the Court, denied for failure to comply with Rule 27 of this Court, but without prejudice to reapplying for an appropriate order should compliance with Rule 27 be effected.

NOVEMBER 11, 1976

Dismissal Under Rule 60

No. 76-135. *HANKISH v. UNITED STATES.* C. A. 4th Cir. Certiorari dismissed under this Court's Rule 60. Reported below: 538 F. 2d 325.

NOVEMBER 12, 1976

Miscellaneous Order

No. A-384. *MOREAU ET AL. v. TONRY ET AL.* Application to vacate stay orders heretofore entered by the United States Court of Appeals for the Fifth Circuit, entered on November 3 and 4, 1976, presented to MR. JUSTICE POWELL, and by him referred to the Court, denied.

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Affirmed on Appeal

No. 76-213. *DORGAN, STATE TAX COMMISSIONER OF NORTH DAKOTA, ET AL. v. UNITED STATES ET AL.* Affirmed on appeal from D. C. N. D. Reported below: 413 F. Supp. 173.

Appeals Dismissed

No. 76-440. *HYLAND, HALL & Co., ET AL. v. CITY OF MADISON ET AL.* Appeal from Sup. Ct. Wis. dismissed for want of jurisdiction, it appearing that there is no final judgment of the highest court of a state wherein a judgment could be had as required by 28 U. S. C. § 1257. Reported below: 73 Wis. 2d 364, 243 N. W. 2d 422.

No. 76-5267. *GORMALLY v. STATE BOARD OF ELECTIONS.* Appeal from Sup. Ct. R. I. dismissed for want of substantial federal question. Reported below: 117 R. I. 905, 362 A. 2d 156.

Miscellaneous Orders

No. A-367. *COMPANY v. UNITED STATES.* Application for bail pending appeal in the United States Court of Appeals for the Sixth Circuit, presented to MR. JUSTICE STEWART, and by him referred to the Court, denied. Reported below: 541 F. 2d 618.

No. A-375. *REGENTS OF THE UNIVERSITY OF CALIFORNIA v. BAKKE.* Application to stay execution and enforcement of mandate of the Supreme Court of California, presented to MR. JUSTICE REHNQUIST, and by him referred to the Court, granted for a period of 30 days. If petition for writ of certiorari is filed within 30 days, stay is to remain in effect pending disposition of case in this Court.

No. D-80. *IN RE DISBARMENT OF KATES.* It is ordered that Robert A. Kates, of Cleveland Heights, Ohio, be suspended from the practice of law in this Court and that a rule

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issue, returnable within 40 days, requiring him to show cause why he should not be disbarred from the practice of law in this Court.

No. D-81. *IN RE DISBARMENT OF DARROW*. It is ordered that Charles M. Darrow, of Painesville, Ohio, be suspended from the practice of law in this Court and that a rule issue, returnable within 40 days, requiring him to show cause why he should not be disbarred from the practice of law in this Court.

No. D-82. *IN RE DISBARMENT OF KOCH*. It is ordered that Karl A. Koch, of Woodstock, Ill., be suspended from the practice of law in this Court and that a rule issue, returnable within 40 days, requiring him to show cause why he should not be disbarred from the practice of law in this Court.

No. D-83. *IN RE DISBARMENT OF BRIN*. It is ordered that E. Stanley Brin, of Edina, Minn., be suspended from the practice of law in this Court and that a rule issue, returnable within 40 days, requiring him to show cause why he should not be disbarred from the practice of law in this Court.

No. D-84. *IN RE DISBARMENT OF EDELSTEIN*. It is ordered that Alan Earl Edelstein, of Chicago, Ill., be suspended from the practice of law in this Court and that a rule issue, returnable within 40 days, requiring him to show cause why he should not be disbarred from the practice of law in this Court.

No. D-85. *IN RE DISBARMENT OF ROTHBART*. It is ordered that Charles J. Rothbart, of Northglenn, Colo., be suspended from the practice of law in this Court and that a rule issue, returnable within 40 days, requiring him to show cause why he should not be disbarred from the practice of law in this Court.

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No. D-86. *IN RE DISBARMENT OF KUTA*. It is ordered that Frank John Kuta, of Chicago, Ill., be suspended from the practice of law in this Court and that a rule issue, returnable within 40 days, requiring him to show cause why he should not be disbarred from the practice of law in this Court.

No. D-87. *IN RE DISBARMENT OF COHEN*. It is ordered that David Saul Cohen, of Glenview, Ill., be suspended from the practice of law in this Court and that a rule issue, returnable within 40 days, requiring him to show cause why he should not be disbarred from the practice of law in this Court.

No. D-88. *IN RE DISBARMENT OF NOWAK*. It is ordered that Joseph W. Nowak, of Calumet City, Ill., be suspended from the practice of law in this Court and that a rule issue, returnable within 40 days, requiring him to show cause why he should not be disbarred from the practice of law in this Court.

No. D-89. *IN RE DISBARMENT OF AVGERIN*. It is ordered that Constantine N. Avgerin, of Lake Bluff, Ill., be suspended from the practice of law in this Court and that a rule issue, returnable within 40 days, requiring him to show cause why he should not be disbarred from the practice of law in this Court.

No. D-90. *IN RE DISBARMENT OF BUSHMAN*. It is ordered that Ted Bushman, of Santa Maria, Cal., be suspended from the practice of law in this Court and that a rule issue, returnable within 40 days, requiring him to show cause why he should not be disbarred from the practice of law in this Court.

No. D-91. *IN RE DISBARMENT OF LEONARD*. It is ordered that John M. Leonard, Jr., of Hinsdale, Ill., be suspended from the practice of law in this Court and that a rule issue, returnable within 40 days, requiring him to show cause why he should not be disbarred from the practice of law in this Court.

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No. D-92. *IN RE DISBARMENT OF ANDERSON*. It is ordered the Dale Anderson, of Baltimore, Md., be suspended from the practice of law in this Court and that a rule issue, returnable within 40 days, requiring him to show cause why he should not be disbarred from the practice of law in this Court.

No. D-93. *IN RE DISBARMENT OF HENDLER*. It is ordered that Jack Alan Hendler, of Los Angeles, Cal., be suspended from the practice of law in this Court and that a rule issue, returnable within 40 days, requiring him to show cause why he should not be disbarred from the practice of law in this Court.

No. 75-562. *ROSEBUD SIOUX TRIBE v. KNEIP, GOVERNOR OF SOUTH DAKOTA, ET AL.* C. A. 8th Cir. [Certiorari granted, 425 U. S. 989.] Motion of the Solicitor General to participate in oral argument as *amicus curiae* granted and 15 additional minutes allotted for that purpose. Respondent allotted 15 additional minutes to present oral argument.

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, 425 U. S. 933];

No. 75-1473. *E. I. DU PONT DE NEMOURS & Co. ET AL. v. TRAIN, ADMINISTRATOR, ENVIRONMENTAL PROTECTION AGENCY*; and

No. 75-1705. *TRAIN, ADMINISTRATOR, ENVIRONMENTAL PROTECTION AGENCY v. E. I. DU PONT DE NEMOURS & Co. ET AL.* C. A. 4th Cir. [Certiorari granted, 426 U. S. 947.] Joint motion to consolidate granted and a total of two hours allotted for oral argument. Mr. Justice Powell took no part in the consideration or decision of this motion.

No. 75-1267. *BAYSIDE ENTERPRISES, INC., ET AL. v. NATIONAL LABOR RELATIONS BOARD.* C. A. 1st Cir. [Certiorari granted, 425 U. S. 970.] Motion of Georgia Poultry Federation, Inc., for leave to file a brief as *amicus curiae* denied.

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No. 75-1064. KREMENS, HOSPITAL DIRECTOR, ET AL. *v.* BARTLEY ET AL. Appeal from D. C. E. D. Pa. [Probable jurisdiction noted, 424 U. S. 964.] Motion of Bernard G. Segal, Esquire, on behalf of the Supreme Court of Pennsylvania, for additional time to participate in oral argument as *amicus curiae* denied. Alternative request for divided argument granted.

No. 75-1150. CITY OF PHILADELPHIA ET AL. *v.* NEW JERSEY ET AL. Appeal from Sup. Ct. N. J. [Probable jurisdiction noted, 425 U. S. 910.] Motion of appellants for leave to file supplemental brief after argument granted and each side is given 21 days within which to file such a brief. Request for further oral argument denied.

No. 75-1578. WAINWRIGHT, SECRETARY, DEPARTMENT OF OFFENDER REHABILITATION OF FLORIDA *v.* SYKES. C. A. 5th Cir. [Certiorari granted, *ante*, p. 883.] Motion of respondent for appointment of counsel granted, and it is ordered that William F. Casler, Esquire, of St. Petersburg Beach, Fla., is appointed to serve as counsel for respondent in this case.

No. 75-1687. UNITED STATES TRUST COMPANY OF NEW YORK, TRUSTEES *v.* NEW JERSEY ET AL. Appeal from Sup. Ct. N. J. [Probable jurisdiction noted, 427 U. S. 903.] Motion of Securities Industry Assn. for leave to file a reply brief as *amicus curiae* denied.

No. 75-1693. BLACKLEDGE, WARDEN, ET AL. *v.* ALLISON. C. A. 4th Cir. [Certiorari granted, *ante*, p. 814.] Motion of respondent for appointment of counsel granted, and it is ordered that C. Frank Goldsmith, Jr., Esquire, of Marion, N. C., is appointed to serve as counsel for respondent in this case.

No. 76-5433. TECTON *v.* MERHIGE ET AL., U. S. DISTRICT JUDGES. Motion for leave to file petition for writ of prohibition denied.

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No. 76-180. SMITH, ADMINISTRATOR, NEW YORK CITY HUMAN RESOURCES ADMINISTRATION, ET AL. *v.* ORGANIZATION OF FOSTER FAMILIES FOR EQUALITY & REFORM ET AL.;

No. 76-183. SHAPIRO, EXECUTIVE DIRECTOR, NEW YORK STATE BOARD OF SOCIAL WELFARE, ET AL. *v.* ORGANIZATION OF FOSTER FAMILIES FOR EQUALITY & REFORM ET AL.;

No. 76-5193. RODRIGUEZ ET AL. *v.* ORGANIZATION OF FOSTER-FAMILIES FOR EQUALITY & REFORM ET AL.; and

No. 76-5200. GANDY ET AL. *v.* ORGANIZATION OF FOSTER FAMILIES FOR EQUALITY & REFORM ET AL. Appeals from D. C. S. D. N. Y. [Probable jurisdiction noted, *ante*, p. 883.] Motion of appellee foster parents for appointment of independent counsel to represent appellant foster children denied.

No. 76-235. WRIGHT, DIRECTOR, DEPARTMENT OF TRANSPORTATION OF HAWAII *v.* STOP H-3 ASSN. ET AL. C. A. 9th Cir. Motion of the State of Washington for leave to file a brief as *amicus curiae* granted. The Solicitor General is invited to file a brief in this case expressing the views of the United States.

Certiorari Granted

No. 76-321. STENCEL AERO ENGINEERING CORP. *v.* UNITED STATES. C. A. 8th Cir. Certiorari granted. Reported below: 536 F. 2d 765.

No. 76-447. MILLIKEN, GOVERNOR OF MICHIGAN, ET AL. *v.* BRADLEY ET AL. C. A. 6th Cir. Certiorari granted. Reported below: 540 F. 2d 229.

No. 75-1126. TRANS WORLD AIRLINES, INC. *v.* HARDISON ET AL.; and

No. 75-1385. INTERNATIONAL ASSOCIATION OF MACHINISTS & AEROSPACE WORKERS, AFL-CIO, ET AL. *v.* HARDISON ET AL. C. A. 8th Cir. Certiorari granted, cases consolidated, and a total of one hour allotted for oral argument. Reported below: 527 F. 2d 33.

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No. 76-439. TERRITORY OF GUAM *v.* OLSEN. C. A. 9th Cir. Certiorari granted. Reported below: 540 F. 2d 1011.

Certiorari Denied

No. 75-1511. WILLIAMS *v.* SOUTHERN UNION GAS CO. C. A. 10th Cir. Certiorari denied. Reported below: 529 F. 2d 483.

No. 75-1741. CHRYSLER CORP. *v.* LACY. C. A. 8th Cir. Certiorari denied. Reported below: 533 F. 2d 353.

No. 75-6227. ALLEGRETTI *v.* CASSCLES, CORRECTIONAL SUPERINTENDENT. App. Div., Sup. Ct. N. Y., 3d Jud. Dept. Certiorari denied. Reported below: 48 App. Div. 2d 1015, 372 N. Y. S. 2d 1019.

No. 75-6737. TUBBS *v.* MAGGIO, WARDEN. C. A. 5th Cir. Certiorari denied.

No. 75-6888. WALKER *v.* CALIFORNIA. Ct. App. Cal., 5th App. Dist. Certiorari denied.

No. 75-6955. VAN CUREN *v.* OHIO ADULT PAROLE AUTHORITY ET AL. Sup. Ct. Ohio. Certiorari denied. Reported below: 45 Ohio St. 2d 298, 345 N. E. 2d 75.

No. 76-94. HENRY, AKA OBADELE *v.* UNITED STATES;

No. 76-5004. SHILLINGFORD *v.* UNITED STATES;

No. 76-5181. NORMAN, AKA ANA *v.* UNITED STATES; and

No. 76-5182. AUSTIN, AKA QUADDUS, ET AL. *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 528 F. 2d 999.

No. 76-157. INTRIERI *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. Reported below: 539 F. 2d 703.

No. 76-162. ROBBINS ET AL. *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 535 F. 2d 1256.

No. 76-166. DIXON *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 538 F. 2d 812.

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No. 76-175. *O'MALLEY v. UNITED STATES*. C. A. 10th Cir. Certiorari denied. Reported below: 535 F. 2d 589.

No. 76-176. *ALESSI v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 544 F. 2d 1139.

No. 76-195. *ROBERTS v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 532 F. 2d 1305.

No. 76-202. *SUPINSKI v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 539 F. 2d 713.

No. 76-203. *KING v. UNITED STATES*; and

No. 76-346. *JONES v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 532 F. 2d 505.

No. 76-215. *DRUMRIGHT v. UNITED STATES*. C. A. 10th Cir. Certiorari denied. Reported below: 534 F. 2d 1383.

No. 76-216. *CORDOVA v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 537 F. 2d 1073.

No. 76-229. *ALPHIN ET AL. v. HENSON ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 538 F. 2d 85.

No. 76-230. *GISKIN v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 538 F. 2d 315.

No. 76-231. *BOARD OF SUPERVISORS OF FAIRFAX COUNTY, VIRGINIA, ET AL. v. COLEMAN ET AL.* C. A. D. C. Cir. Certiorari denied.

No. 76-234. *O'DONNELL v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 539 F. 2d 1233.

No. 76-304. *BURNS v. EAST BATON ROUGE PARISH SCHOOL BOARD ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 530 F. 2d 1201.

No. 76-317. *O-J TRANSPORT Co. v. UNITED STATES ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 536 F. 2d 126.

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No. 76-411. TULSA THEATRICAL STAGE EMPLOYEES UNION, LOCAL 354 *v.* BROADWAY THEATRE LEAGUE OF TULSA, INC. Sup. Ct. Okla. Certiorari denied. Reported below: 550 P. 2d 922.

No. 76-426. FELDMAN ET AL. *v.* KUNKIN. C. A. 9th Cir. Certiorari denied.

No. 76-428. INTERNATIONAL ASSOCIATION OF MACHINISTS & AEROSPACE WORKERS ET AL. *v.* NORTHEAST AIRLINES, INC., ET AL. C. A. 1st Cir. Certiorari denied. Reported below: 536 F. 2d 975.

No. 76-433. FAVROT *v.* BARNES. Ct. App. La., 4th Cir. Certiorari denied. Reported below: 332 So. 2d 873.

No. 76-511. SALOMON ET AL. *v.* CROWN LIFE INSURANCE Co. C. A. 8th Cir. Certiorari denied. Reported below: 536 F. 2d 1233.

No. 76-5041. WONG *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied.

No. 76-5073. PAPA *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. Reported below: 533 F. 2d 815.

No. 76-5129. LEE *v.* TENNESSEE. Ct. Crim. App. Tenn. Certiorari denied.

No. 76-5135. PERNO *v.* UNITED STATES; and

No. 76-5211. CAPITO *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: No. 76-5135, 538 F. 2d 343; No. 76-5211, 538 F. 2d 340.

No. 76-5137. GAITHER *v.* UNITED STATES. C. A. D. C. Cir. Certiorari denied. Reported below: 175 U. S. App. D. C. 363, 535 F. 2d 1325.

No. 76-5153. LEE *v.* UNITED STATES. C. A. D. C. Cir. Certiorari denied.

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No. 76-5157. *TAYLOR v. UNITED STATES*. C. A. 10th Cir. Certiorari denied. Reported below: 536 F. 2d 1343.

No. 76-5185. *EDMONDSON v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 538 F. 2d 330.

No. 76-5186. *TYCZKOWSKI v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 538 F. 2d 321.

No. 76-5189. *CHAVEZ-CORTINAS v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 534 F. 2d 1142.

No. 76-5203. *BERRY v. ARNOLD, WARDEN, ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 538 F. 2d 321.

No. 76-5210. *CURTIS v. UNITED STATES*. C. A. 10th Cir. Certiorari denied. Reported below: 537 F. 2d 1091.

No. 76-5212. *HAMPTON v. UNITED STATES*. C. A. 10th Cir. Certiorari denied.

No. 76-5220. *NUNLEY v. UNITED STATES*. C. A. 10th Cir. Certiorari denied.

No. 76-5221. *AEBISCHER v. UNITED STATES*. C. A. 10th Cir. Certiorari denied.

No. 76-5226. *TRUAX v. UNITED STATES*. C. A. 10th Cir. Certiorari denied.

No. 76-5234. *DININO v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 538 F. 2d 315.

No. 76-5245. *FARRIES v. UNITED STATES PAROLE COMMISSION*. C. A. 7th Cir. Certiorari denied. Reported below: 535 F. 2d 1258.

No. 76-5253. *HICKS v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 536 F. 2d 388.

No. 76-5254. *HICKS v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 536 F. 2d 388.

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- No. 76-5258. *TUCKER v. UNITED STATES*; and
No. 76-5259. *CLARDY v. UNITED STATES*. C. A. 9th Cir.
Certiorari denied. Reported below: 540 F. 2d 439.
- No. 76-5312. *MAPP v. NEW YORK*. App. Div., Sup. Ct.
N. Y., 2d Jud. Dept. Certiorari denied. Reported below:
45 App. Div. 2d 1054, 358 N. Y. S. 2d 675.
- No. 76-5315. *ANGULO-MARRON v. UNITED STATES*. C. A.
9th Cir. Certiorari denied. Reported below: 541 F. 2d 287.
- No. 76-5319. *STEVENS v. WARDEN, LEAVENWORTH PENI-
TENTIARY*. C. A. 10th Cir. Certiorari denied. Reported
below: 536 F. 2d 1334.
- No. 76-5327. *POKINI v. HAWAII*. Sup. Ct. Haw. Cer-
tiorari denied. Reported below: 57 Haw. 26, 548 P. 2d
1402.
- No. 76-5336. *VILLALOBOS v. UNITED STATES*. C. A. 5th
Cir. Certiorari denied. Reported below: 536 F. 2d 1386.
- No. 76-5391. *TENSLEY v. UNITED STATES*. C. A. 4th Cir.
Certiorari denied. Reported below: 538 F. 2d 326.
- No. 76-5401. *TECTON v. UNITED STATES*. C. A. 4th Cir.
Certiorari denied. Reported below: 539 F. 2d 706.
- No. 76-5423. *KELLEY v. UNITED STATES*. C. A. 9th Cir.
Certiorari denied. Reported below: 539 F. 2d 1199.
- No. 76-5434. *PARHAM v. ALABAMA*. Ct. Crim. App. Ala.
Certiorari denied. Reported below: 333 So. 2d 912.
- No. 76-5436. *LIPPROTH v. ALABAMA*. Ct. Crim. App. Ala.
Certiorari denied. Reported below: 335 So. 2d 683.
- No. 76-5442. *BUSSEY v. HARRISON ET AL.* C. A. 10th Cir.
Certiorari denied.

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No. 76-5457. *ZATKO v. CALIFORNIA*. Sup. Ct. Cal. Certiorari denied.

No. 76-5466. *BROWN v. BOLLINGER ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 538 F. 2d 335.

No. 76-5479. *ZATKO v. CALIFORNIA*. Sup. Ct. Cal. Certiorari denied.

No. 75-1105. *REID v. MEMPHIS PUBLISHING CO.* C. A. 6th Cir. Motion of General Conference of Seventh-Day Adventists for leave to file a brief as *amicus curiae* granted. Certiorari denied. Reported below: 521 F. 2d 512.

No. 76-278. *JOLLEY v. UNITED STATES*. C. A. 6th Cir. Motion to strike respondent's brief and certiorari denied. Reported below: 538 F. 2d 330.

No. 76-318. *BYKOFKY ET AL. v. BOROUGH OF MIDDLETOWN ET AL.* C. A. 3d Cir. Certiorari denied. MR. JUSTICE WHITE would grant certiorari and set case for oral argument. Reported below: 535 F. 2d 1245.

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

Petitioners challenge the constitutionality of an ordinance establishing a nonemergency curfew for juveniles in Middletown, Pa., a rural community with a population of about 10,000. That ordinance makes it unlawful, except in limited circumstances, for minors to be on the streets during specified hours, and for parents knowingly or "by inefficient control" to allow their children to do so.

The freedom to leave one's house and move about at will is "of the very essence of a scheme of ordered liberty," *Palko v. Connecticut*, 302 U. S. 319, 325 (1937), and hence is protected against state intrusions by the Due Process Clause of the Fourteenth Amendment. See, e. g., *Papachristou v. City of Jacksonville*, 405 U. S. 156 (1972); *Coates v. City of Cin-*

cinnati, 402 U. S. 611 (1971); *Hague v. C. I. O.*, 307 U. S. 496, 515 (1939). To justify a law that significantly intrudes on this freedom, therefore, a State must demonstrate that the law is "narrowly drawn" to further a "compelling state interest." *Roe v. Wade*, 410 U. S. 113, 155-156 (1973). For this reason, I have little doubt but that, absent a genuine emergency, see, e. g., *United States v. Chalk*, 441 F. 2d 1277 (CA4 1971), a curfew aimed at all citizens could not survive constitutional scrutiny. This is true even though such a general curfew, like the instant ordinance, would protect those subject to it from injury and prevent them from causing "nocturnal mischief."

The question squarely presented by this case, then, is whether the due process rights of juveniles are entitled to lesser protection than those of adults.¹ The prior decisions of this Court provide no clear answer. We have recognized that "[c]onstitutional rights do not mature and come into being magically only when one attains the state-defined age of majority. Minors, as well as adults, are protected by the Constitution and possess constitutional rights." *Planned Parenthood v. Danforth*, 428 U. S. 52, 74 (1976); see also *Tinker v. Des Moines School Dist.*, 393 U. S. 503, 511 (1969). But we also have acknowledged that "the State has somewhat broader authority to regulate the activities of children than of adults." *Planned Parenthood v. Danforth*, *supra*, at 74; see also *Ginsberg v. New York*, 390 U. S. 629 (1968); *Prince v. Massachusetts*, 321 U. S. 158 (1944). Not surprisingly, therefore, the lower courts have reached conflicting conclusions in addressing the issue raised here. Annot., 59 A. L. R. 3d 321, 339-348 (1974).

Because I believe this case poses a substantial constitutional question—one which is of importance to thousands

¹ Similar issues currently are pending before the Court in No. 75-1064, *Kremens v. Bartley*, probable jurisdiction noted, 424 U. S. 964 (1976).

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of towns with similar ordinances²—I would grant a writ of certiorari.

No. 76-421. CALIFORNIA *v.* MOBBS. Ct. App. Cal., 2d App. Dist. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied.

No. 76-436. DUPONT CIRCLE CITIZENS ASSN. *v.* DISTRICT OF COLUMBIA ZONING COMMISSION ET AL. Ct. App. D. C. Motion to defer consideration of petition and certiorari denied. Reported below: 355 A. 2d 550.

No. 76-437. PEPSI COLA BOTTLING CO. OF PENNSAUKEN *v.* LOWENSTEIN ET AL. C. A. 3d Cir. Certiorari denied. MR. JUSTICE BLACKMUN and MR. JUSTICE POWELL would grant certiorari. Reported below: 536 F. 2d 9.

No. 76-5152. STOCKHEIMER *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied. *Molinaro v. New Jersey*, 396 U. S. 365 (1970). Reported below: 534 F. 2d 331.

No. 76-441. RIEGEL TEXTILE CORP. *v.* CENTRAL OF GEORGIA RAILWAY Co. C. A. 5th Cir. Certiorari denied. MR. JUSTICE POWELL took no part in the consideration or decision of this petition. Reported below: 529 F. 2d 833.

Rehearing Denied

No. 75-1555. CONLEY *v.* HAMPTON, CHAIRMAN, U. S. CIVIL SERVICE COMMISSION, ET AL., *ante*, p. 820;

No. 75-1670. LEVY ET AL. *v.* CITY OF NEW YORK ET AL., *ante*, p. 805;

No. 75-6766. COLLINS *v.* ARKANSAS, *ante*, p. 808;

No. 75-6797. NEAL *v.* ARKANSAS, *ante*, p. 808;

No. 75-6858. COX *v.* MISSISSIPPI, *ante*, p. 849; and

No. 76-111. SALVUCCI *v.* NEW HAMPSHIRE JOCKEY CLUB, INC., ET AL., *ante*, p. 860. Petitions for rehearing denied.

² See Note, Curfew Ordinances and the Control of Nocturnal Juvenile Crime, 107 U. Pa. L. Rev. 66 (1958).

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No. 76-5074. BURKE *v.* SUPREME COURT ET AL., *ante*, p. 888. Petition for rehearing denied.

NOVEMBER 17, 1976

Dismissal Under Rule 60

No. 76-639. AMERICAN PAPER INSTITUTE, INC., ET AL. *v.* TRAIN, ADMINISTRATOR, ENVIRONMENTAL PROTECTION AGENCY, ET AL. C. A. D. C. Cir. Certiorari dismissed under this Court's Rule 60. Reported below: 177 U. S. App. D. C. 181, 543 F. 2d 328.

NOVEMBER 19, 1976

Dismissal Under Rule 60

No. 75-6992. ROLDAN ET AL. *v.* MINTER ET AL. Appeal from D. C. Mass. Certiorari dismissed under this Court's Rule 60. Reported below: 409 F. Supp. 663.

NOVEMBER 24, 1976

Miscellaneous Order

No. A-423. OKLAHOMA PUBLISHING Co. *v.* DISTRICT COURT IN AND FOR OKLAHOMA COUNTY, OKLAHOMA, ET AL. This is a renewed application for partial stay of a pretrial order of the District Court of Oklahoma County, Oklahoma, pending filing and disposition of a petition for certiorari. The order enjoined law enforcement officials and other public employees, as well as prosecution and defense counsel, "from disclosing any information or making any comment concerning" a delinquency proceeding then pending in that court against a juvenile. The order also restrained all members of the news media from "publishing, broadcasting or disseminating, in any manner, the name or picture of said minor child in connection with this pending case." On application for prohibition and mandamus challenging the restraint on the press, the Oklahoma Supreme Court sustained the order. The application for stay here filed by Oklahoma Publishing Co. also challenges only the injunction against publishing the name

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and picture of the minor. It does not challenge the restraint on counsel or public employees; nor does it challenge the Oklahoma statute requiring juvenile proceedings to be held in private unless specifically ordered by the judge to be open to the public.

It appearing that the name and picture of the minor involved in this case were made available to the public as a result of a hearing held at the outset of this case which was in fact open to the press, the application for stay of the order enjoining publication of the name or picture of the minor, presented to MR. JUSTICE WHITE, and by him referred to the Court, is granted pending the timely filing and disposition of a petition for certiorari unless earlier terminated by further order of the Court. *Nebraska Press Assn. v. Stuart*, 427 U. S. 539, 567-568 (1976); *Cox Broadcasting Corp. v. Cohn*, 420 U. S. 469, 491, 495 (1975).

MR. JUSTICE BRENNAN, while not subscribing to this order, would also grant the stay.

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Affirmed on Appeal

No. 76-373. INTERSTATE COMMERCE COMMISSION *v.* CENTRAL OF GEORGIA RAILROAD CO. ET AL. Affirmed on appeal from D. C. D. C. MR. JUSTICE POWELL took no part in the consideration or decision of this case. Reported below: 410 F. Supp. 354.

No. 76-431. SENDAK, ATTORNEY GENERAL OF INDIANA *v.* ARNOLD ET AL. Affirmed on appeal from D. C. S. D. Ind. Reported below: 416 F. Supp. 22.

MR. JUSTICE WHITE, with whom THE CHIEF JUSTICE and MR. JUSTICE REHNQUIST join, dissenting.

Indiana has passed a statute requiring first trimester abortions to be performed by a

“physician in a hospital or a licensed health facility as

defined in I. C. 1971, 16-10-2, which offers the basic safeguards as provided by a hospital admission, and has immediate hospital backup" Ind. Code § 35-1-58.5-2 (a)(1) (1975).

Without inquiring into the question whether this statute is a reasonable method of protecting the health of the mother, a three-judge District Court for the Southern District of Indiana held the statutory provision unconstitutional. This Court affirms summarily. There is nothing in the United States Constitution which limits the State's power to require that medical procedures be done safely, and were it not for some language in this Court's recent decisions in cases touching on abortion, the District Court's decision should and would be summarily reversed. Because I do not believe that the language in this Court's recent abortion decisions compels the extraordinary result reached by the District Court, I dissent from the summary affirmance and would note probable jurisdiction and set the case for oral argument.

In *Roe v. Wade*, 410 U. S. 113 (1973), and *Doe v. Bolton*, 410 U. S. 179 (1973), this Court held that a pregnant woman has a constitutional right to be free from state prohibition in making her decision to abort a fetus. So far as I can tell, those cases do not elevate the decision to have an abortion to a higher constitutional status than the decision to have life-saving or health-preserving operations. Clearly, all such operations are subject to reasonable regulation by state legislatures to assure that they are performed safely.

The lower court struck down the statute in this case without inquiring whether it was a reasonable health regulation. In doing so, the court relied on the following language in *Roe v. Wade*, *supra*, at 163:

"It follows that, from and after this point [*i. e.*, the first trimester], a State may regulate the abortion procedure to the extent that the regulation reasonably relates to the preservation and protection of maternal health.

Examples of permissible state regulation in this area are requirements as to the qualifications of the person who is to perform the abortion; as to the licensure of that person; as to the facility in which the procedure is to be performed, that is, whether it must be a hospital or may be a clinic or some other place of less-than-hospital status; as to the licensing of the facility; and the like.

"This means, on the other hand, that, for the period of pregnancy prior to this 'compelling' point, the attending physician, in consultation with his patient, is free to determine, without regulation by the State, that, in his medical judgment, the patient's pregnancy should be terminated. If that decision is reached, the judgment may be effectuated by an abortion free of interference by the State."

Read literally, this language would prevent the State from passing *any* health or safety regulations applicable to abortions performed in the first trimester no matter what the risk to maternal health. Plainly, the language cannot be read literally, and we have declined to so read it in the past. In *Connecticut v. Menillo*, 423 U. S. 9 (1975), we sustained a statute which proscribed abortion by a nonphysician saying:

"*Roe* teaches that a State cannot restrict a decision by a woman, with the advice of her physician, to terminate her pregnancy during the first trimester because neither its interest in maternal health nor its interest in the potential life of the fetus is sufficiently great at that stage. But the insufficiency of the State's interest in maternal health is predicated upon the first trimester abortion's being as safe for the woman as normal childbirth at term, and *that predicate holds true only if the abortion is performed* by medically competent personnel *under conditions insuring maximum safety for the woman*. See 410 U. S., at 149-150, 163; cf. statement

of DOUGLAS, J., in *Cheaney v. Indiana*, 410 U. S. 991 (1973), denying certiorari in 259 Ind. 138, 285 N. E. 2d 265 (1972). Even during the first trimester of pregnancy, therefore, prosecutions for abortions conducted by nonphysicians infringe upon no realm of personal privacy secured by the Constitution against state interference. . . ." *Id.*, at 10-11. (Emphasis added.)

Here, the Indiana statute seeks to insure that the "abortion is performed . . . under conditions insuring maximum safety for the woman." Absent a finding that the statute does not reasonably achieve its purpose, it cannot properly be held unconstitutional.

The court below also relied on this Court's holding in *Doe v. Bolton*, *supra*, at 195, invalidating a requirement that abortions be performed only in hospitals accredited by the Joint Committee on Accreditation of Hospitals, a private organization. The Court there said:

"Appellants and various *amici* have presented us with a mass of data purporting to demonstrate that some facilities other than hospitals are entirely adequate to perform abortions if they possess these qualifications. The State, on the other hand, has not presented persuasive data to show that only hospitals meet its acknowledged interest in insuring the quality of the operation and the full protection of the patient. We feel compelled to agree with appellants that the State must show more than it has in order to prove that only the full resources of a licensed hospital, *rather than those of some other appropriately licensed institution*, satisfy these health interests." (Emphasis added.)

Here there was no trial, there were no facts presented to the District Court in any other form, and no finding that the requirement of Indiana law is unreasonable. In any event, Indiana has provided that abortions may be performed in

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“other appropriately licensed institution[s].” *Doe v. Bolton, supra*, is thus no support for the lower court’s finding.*

Statutes passed by the legislatures of the States may not be so lightly struck down. Normal principles of constitutional adjudication apply even in cases dealing with abortion. I therefore respectfully dissent from affirmance and would note probable jurisdiction and set this case for oral argument.

No. 76-492. *EXON, GOVERNOR OF NEBRASKA, ET AL. v. MCCARTHY ET AL.* Affirmed on appeal from D. C. Neb.

Appeals Dismissed

No. 76-401. *CITY OF LAWRENCE v. CITY OF INDIANAPOLIS ET AL.* Appeal from Ct. App. Ind. dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied. Reported below: — Ind. App. —, 338 N. E. 2d 683.

No. 76-5240. *MOSER v. OREGON.* Appeal from Ct. App. Ore. dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied. Reported below: 25 Ore. App. 221, 548 P. 2d 508.

No. 76-5514. *RAITPORT v. UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF PENNSYLVANIA.* Appeal from D. C. E. D. Pa. dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied.

No. 76-5523. *JOHNSON v. OREGON.* Appeal from Ct. App. Ore. dismissed for want of jurisdiction. Treating the papers

*The Court in *Doe v. Bolton*, 410 U. S. 179 (1973), also relied for its holding on the language in *Roe v. Wade*, 410 U. S. 113 (1973), quoted above, indicating that all health regulations with respect to first trimester abortions are invalid. As already noted, the language is not to be applied literally.

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whereon the appeal was taken as a petition for writ of certiorari, certiorari denied. Reported below: 26 Ore. App. 357, 552 P. 2d 268.

No. 76-416. DELAWARE STATE BOARD OF EDUCATION ET AL. v. EVANS ET AL.;

No. 76-474. NEWARK SCHOOL DISTRICT v. EVANS ET AL.;

No. 76-475. NEW CASTLE-GUNNING BEDFORD SCHOOL DISTRICT v. EVANS ET AL.;

No. 76-499. MOUNT PLEASANT SCHOOL DISTRICT ET AL. v. EVANS ET AL.;

No. 76-500. MARSHALLTON-McKEAN SCHOOL DISTRICT v. EVANS ET AL.; and

No. 76-501. CLAYMONT SCHOOL DISTRICT ET AL. v. EVANS ET AL. Appeals from D. C. Del. dismissed for want of jurisdiction. MR. JUSTICE MARSHALL took no part in the consideration or decision of these cases. Reported below: 416 F. Supp. 328.

No. 76-469. GRAGG v. CAYUGA INDEPENDENT SCHOOL DISTRICT. Appeal from Sup. Ct. Tex. dismissed for want of substantial federal question. Reported below: 539 S. W. 2d 861.

Certiorari Granted—Vacated and Remanded

No. 76-385. GENERAL ATOMIC CO. v. FELTER, JUDGE, ET AL. Sup. Ct. N. M. Certiorari granted, judgment vacated, and case remanded to consider whether judgment is based upon federal or state grounds, or both. See *California v. Krivda*, 409 U. S. 33 (1972).

Vacated and Remanded on Writ of Certiorari

No. 75-1413. STANTON, ADMINISTRATOR, INDIANA STATE DEPARTMENT OF PUBLIC WELFARE, ET AL. v. BOND ET AL. C. A. 7th Cir. [Certiorari granted, 426 U. S. 905.] Judgment vacated and case remanded for further consideration in light of Pub. L. 94-559, 90 Stat. 2641 (Oct. 19, 1976). MR. JUSTICE STEVENS took no part in the consideration or decision of this case. Reported below: 528 F. 2d 688.

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Miscellaneous Orders

No. A-327 (76-5549). *SKINNER v. UNITED STATES*. C. A. 5th Cir. Application for bail, presented to MR. JUSTICE BRENNAN, and by him referred to the Court, denied.

No. A-360. *RADDA v. ACITO ET AL.* App. Div., Sup. Ct. N. Y., 3d Jud. Dept. Application for stay, presented to MR. JUSTICE POWELL, and by him referred to the Court, denied.

No. 75-699. *MATHEWS, SECRETARY OF HEALTH, EDUCATION, AND WELFARE v. GOLDFARB*. Appeal from D. C. E. D. N. Y. [Probable jurisdiction noted, 424 U. S. 906.] Motion of appellee for leave to file supplemental brief after argument granted.

No. 75-1261. *KNEBEL, SECRETARY OF AGRICULTURE v. HEIN ET AL.*; and

No. 75-1355. *BURNS, COMMISSIONER, DEPARTMENT OF SOCIAL SERVICES OF IOWA, ET AL. v. HEIN ET AL.* Appeals from D. C. S. D. Iowa. [Probable jurisdiction noted, 426 U. S. 904.] Motion of appellants for divided argument granted. Motion of the Solicitor General to permit Stephen L. Urbanczyk, Esquire, to argue *pro hac vice* on behalf of appellant in No. 75-1261 granted.

No. 75-1631. *KIRKLAND ET AL. v. NEW YORK STATE DEPARTMENT OF CORRECTIONAL SERVICES ET AL.*, *ante*, p. 823;

No. 75-1694. *JONES ET AL. v. NEW YORK CITY HUMAN RESOURCES ADMINISTRATION ET AL.*, *ante*, p. 825; and

No. 75-6782. *DOUGLAS v. FLORIDA*, *ante*, p. 871. Counsel for respondents requested to file responses to petitions for rehearing within 30 days.

No. 75-1707. *OHIO BUREAU OF EMPLOYMENT SERVICES ET AL. v. HODORY*. Appeal from D. C. N. D. Ohio. [Probable jurisdiction noted, *ante*, p. 814.] Motion of Chamber of Commerce of the United States for leave to file a brief as *amicus curiae* granted.

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No. 76-1721. UNITED STATES *v.* CHADWICK ET AL. C. A. 1st Cir. [Certiorari granted, *ante*, p. 814.] Motion of Americans for Effective Law Enforcement, Inc., et al., for leave to file a brief as *amici curiae* granted.

No. 75-6297. FIALLO, A MINOR, BY RODRIGUEZ, ET AL. *v.* LEVI, ATTORNEY GENERAL, ET AL. Appeal from D. C. E. D. N. Y. [Probable jurisdiction noted, 426 U. S. 919.] Motion of John E. Kirklin, Esquire, to permit Janet M. Calvo to argue *pro hac vice* on behalf of appellants granted.

No. 75-6527. INGRAHAM ET AL. *v.* WRIGHT ET AL. C. A. 5th Cir. [Certiorari granted, 425 U. S. 990.] Motion of American Psychological Association Task Force on the Rights of Children and Youth for leave to file a brief as *amicus curiae* after argument denied.

No. 76-358. NEW YORK *v.* BROWN. Ct. App. N. Y. Motion to grant certiorari and set case for oral argument with No. 76-120, *United States v. Martin Linen Supply Co.*, denied.

No. 76-672. BURLINGTON NORTHERN, INC., ET AL. *v.* STERLING COLORADO BEEF CO. ET AL. Appeal from D. C. Colo. Motion of appellee Sterling Colorado Beef Co. to expedite disposition of appeal denied.

No. 76-5206. ROBERTS *v.* LOUISIANA. C. A. 4th Cir. Certiorari having been granted on November 8, 1976 [*ante*, p. 938], grant is hereby limited to the following question: "Whether the imposition and carrying out of the sentence of death for the crime of first-degree murder of a police officer under the law of Louisiana violates the Eighth and Fourteenth Amendments to the Constitution of the United States."

No. 76-5644. GUERRERO *v.* ESTELLE, CORRECTIONS DIRECTOR. Motion for leave to file petition for writ of habeas corpus denied.

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Probable Jurisdiction Noted

No. 75-1605. NIXON *v.* ADMINISTRATOR OF GENERAL SERVICES ET AL. Appeal from D. C. D. C. Probable jurisdiction noted. Reported below: 408 F. Supp. 321.

No. 75-1874. JONES, SECRETARY, DEPARTMENT OF CORRECTION OF NORTH CAROLINA, ET AL. *v.* NORTH CAROLINA PRISONERS' LABOR UNION, INC. Appeal from D. C. E. D. N. C. Probable jurisdiction noted. Reported below: 409 F. Supp. 937.

No. 76-422. DOTHARD, DIRECTOR, DEPARTMENT OF PUBLIC SAFETY OF ALABAMA, ET AL. *v.* RAWLINSON ET AL. Appeal from D. C. M. D. Ala. Probable jurisdiction noted. Reported below: 418 F. Supp. 1169.

Certiorari Granted

No. 76-423. PUYALLUP TRIBE, INC., ET AL. *v.* DEPARTMENT OF GAME OF WASHINGTON ET AL. Sup. Ct. Wash. Certiorari granted. The Solicitor General is invited to file a brief expressing the views of the United States. Reported below: 86 Wash. 2d 664, 548 P. 2d 1058.

Certiorari Denied. (See also Nos. 76-401, 76-5240, 76-5514, and 76-5523, *supra.*)

No. 75-6968. SWEENEY *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied. Reported below: 532 F. 2d 747.

No. 76-18. FLORES ET AL. *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 531 F. 2d 222.

No. 76-19. HENNING, AKA WARREN *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied. Reported below: 532 F. 2d 746.

No. 76-62. EISENBERG *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. Reported below: 538 F. 2d 315.

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No. 76-105. FAITH HOSPITAL ASSN. *v.* BLUE CROSS HOSPITAL SERVICE, INC., OF ST. LOUIS ET AL.; and

No. 76-141. ST. LOUIS UNIVERSITY *v.* BLUE CROSS HOSPITAL SERVICE, INC., OF ST. LOUIS ET AL. C. A. 8th Cir. Certiorari denied. Reported below: No. 76-105, 537 F. 2d 294; No. 76-141, 537 F. 2d 283.

No. 76-130. PENNSYLVANIA ET AL. *v.* KOBELINSKI, ADMINISTRATOR, SMALL BUSINESS ADMINISTRATION, ET AL. C. A. D. C. Cir. Certiorari denied. Reported below: 174 U. S. App. D. C. 441, 533 F. 2d 668.

No. 76-136. HERRERA *v.* CALIFORNIA. App. Dept., Super. Ct. Cal., County of Orange. Certiorari denied.

No. 76-184. LOVISI ET UX. *v.* ZAHRADNICK, PENITENTIARY SUPERINTENDENT, ET AL. C. A. 4th Cir. Certiorari denied. Reported below: 539 F. 2d 349.

No. 76-237. IN RE APPLICATION OF HAY. C. C. P. A. Certiorari denied. Reported below: 534 F. 2d 917.

No. 76-239. BAMFORD ET AL. *v.* GARRETT ET AL. C. A. 3d Cir. Certiorari denied. Reported below: 538 F. 2d 63.

No. 76-246. VELASCO ET AL. *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 539 F. 2d 707.

No. 76-249. POLL *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 538 F. 2d 845.

No. 76-267. FLETCHER *v.* UNITED STATES. Ct. App. D. C. Certiorari denied. Reported below: 358 A. 2d 322.

No. 76-268. ALMENDAREZ *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 534 F. 2d 648.

No. 76-284. SUN SHIPBUILDING & DRY DOCK Co. *v.* UNITED STATES ET AL. Ct. Cl. Certiorari denied. Reported below: 210 Ct. Cl. 680, 538 F. 2d 348.

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No. 76-271. *BANK OF THE COMMONWEALTH v. ISRAEL-BRITISH BANK (LONDON), LTD., ET AL.*; and

No. 76-272. *FEDERAL DEPOSIT INSURANCE CORP. v. ISRAEL-BRITISH BANK (LONDON), LTD., ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 536 F. 2d 509.

No. 76-294. *JONES v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. Reported below: 534 F. 2d 53.

No. 76-296. *ADCOX v. CADDO PARISH SCHOOL BOARD ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 530 F. 2d 973.

No. 76-302. *ALLEN ET AL. v. UNITED STATES.* C. A. 3d Cir. Certiorari denied. Reported below: 538 F. 2d 320.

No. 76-314. *WUCO v. UNITED STATES.* C. A. 9th Cir. Certiorari denied. Reported below: 535 F. 2d 1200.

No. 76-320. *DOVER CORP., NORRIS DIVISION v. NATIONAL LABOR RELATIONS BOARD.* C. A. 10th Cir. Certiorari denied. Reported below: 535 F. 2d 1205.

No. 76-325. *THORNTON ET AL., ADMINISTRATORS v. DISTRICT OF COLUMBIA REDEVELOPMENT LAND AGENCY ET AL.* C. A. D. C. Cir. Certiorari denied. Reported below: 176 U. S. App. D. C. 240, 539 F. 2d 242.

No. 76-329. *CORDECO DEVELOPMENT CORP. v. VASQUEZ ET AL.* C. A. 1st Cir. Certiorari denied. Reported below: 539 F. 2d 256.

No. 76-330. *PARKER v. BOORSTIN, LIBRARIAN OF CONGRESS, ET AL.* C. A. D. C. Cir. Certiorari denied.

No. 76-345. *VARDY v. UNITED STATES ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 529 F. 2d 404.

No. 76-347. *PATTON v. UNITED STATES.* C. A. 4th Cir. Certiorari denied. Reported below: 538 F. 2d 326.

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No. 76-351. *BOTELEER, DIRECTOR, MISSISSIPPI STATE HIGHWAY DEPARTMENT v. NATIONAL WILDLIFE FEDERATION ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 529 F. 2d 359.

No. 76-354. *VASQUEZ v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. Reported below: 534 F. 2d 1142.

No. 76-363. *AMSHU ASSOCIATES, INC. v. UNITED STATES.* C. A. 2d Cir. Certiorari denied. Reported below: 538 F. 2d 312.

No. 76-380. *GINO ET UX. v. COMMISSIONER OF INTERNAL REVENUE.* C. A. 9th Cir. Certiorari denied. Reported below: 538 F. 2d 833.

No. 76-382. *CARBORUNDUM Co. v. UNITED STATES.* C. C. P. A. Certiorari denied. Reported below: 63 C. C. P. A. (Cust.) 98, 536 F. 2d 373.

No. 76-400. *JONES ET AL. v. PACIFIC INTERMOUNTAIN EXPRESS ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 536 F. 2d 817.

No. 76-403. *FENLON v. UNITED STATES.* C. A. 9th Cir. Certiorari denied. Reported below: 538 F. 2d 340.

No. 76-409. *BOARD OF TRUSTEES OF BLOOMSBURG STATE COLLEGE ET AL. v. SKEHAN.* C. A. 3d Cir. Certiorari denied. Reported below: 538 F. 2d 53.

No. 76-417. *KIELWEIN v. UNITED STATES.* C. A. 4th Cir. Certiorari denied. Reported below: 540 F. 2d 676.

No. 76-424. *SAIA ELECTRIC, INC. v. COMMISSIONER OF INTERNAL REVENUE.* C. A. 5th Cir. Certiorari denied. Reported below: 536 F. 2d 388.

No. 76-425. *SAIA ET UX. v. COMMISSIONER OF INTERNAL REVENUE.* C. A. 5th Cir. Certiorari denied. Reported below: 536 F. 2d 388.

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No. 76-430. *ESTATE OF KLEIN ET AL. v. COMMISSIONER OF INTERNAL REVENUE*. C. A. 2d Cir. Certiorari denied. Reported below: 537 F. 2d 701.

No. 76-472. *COON ET UX. v. CHARLES W. BLIVEN & Co., INC., ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 534 F. 2d 44.

No. 76-473. *REYHER v. CHILDREN'S TELEVISION WORKSHOP ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 533 F. 2d 87.

No. 76-477. *McNAMARA ET AL. v. TCS-1 ET AL.* Sup. Ct. Pa. Certiorari denied.

No. 76-479. *ZACHRY v. ARKANSAS*. Sup. Ct. Ark. Certiorari denied. Reported below: 260 Ark. 97, 538 S. W. 2d 25.

No. 76-485. *FORD v. HARRIS COUNTY MEDICAL SOCIETY ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 535 F. 2d 321.

No. 76-505. *LORA ET AL. v. BOARD OF EDUCATION OF THE CITY OF NEW YORK ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 538 F. 2d 311.

No. 76-508. *KAYSER-ROTH CORP. v. TIGHTS, INC.* C. A. 4th Cir. Certiorari denied. Reported below: 541 F. 2d 1047.

No. 76-521. *SMITH v. GRIMM ET UX.* C. A. 9th Cir. Certiorari denied. Reported below: 534 F. 2d 1346.

No. 76-527. *LOWE v. CITY OF JACKSON*. Sup. Ct. Miss. Certiorari denied. Reported below: 336 So. 2d 490.

No. 76-582. *CARTER v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 543 F. 2d 1002.

No. 76-591. *BORRAYO v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 537 F. 2d 1141.

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No. 76-606. *ERB v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 543 F. 2d 438.

No. 76-5062. *MARSH v. CUPP, PENITENTIARY SUPERINTENDENT*. C. A. 9th Cir. Certiorari denied. Reported below: 536 F. 2d 1287.

No. 76-5101. *HOFMANN v. WAINWRIGHT, SECRETARY, DEPARTMENT OF OFFENDER REHABILITATION OF FLORIDA*. Sup. Ct. Fla. Certiorari denied. Reported below: 332 So. 2d 18.

No. 76-5110. *HOUSTON v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 535 F. 2d 658.

No. 76-5119. *BANKHEAD v. COWIN ET AL.* C. A. 2d Cir. Certiorari denied.

No. 76-5130. *HERNANDEZ-LOPEZ v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 538 F. 2d 284.

No. 76-5140. *BURKO v. MARYLAND*. Ct. Sp. App. Md. Certiorari denied. Reported below: 28 Md. App. 732, 349 A. 2d 355.

No. 76-5144. *ZILKA v. ESTELLE, CORRECTIONS DIRECTOR*. C. A. 5th Cir. Certiorari denied. Reported below: 529 F. 2d 388.

No. 76-5174. *TOOTHMAN v. OHIO*. Ct. App. Ohio, Summit County. Certiorari denied.

No. 76-5176. *GRAY v. REED, ACTING CHAIRMAN, U. S. PAROLE COMMISSION, ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 532 F. 2d 1008.

No. 76-5179. *KAUFMAN v. LOUISIANA*. Sup. Ct. La. Certiorari denied. Reported below: 331 So. 2d 16.

No. 76-5188. *BROCKETT v. CALIFORNIA*. Ct. App. Cal., 1st App. Dist. Certiorari denied.

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No. 76-5228. *RUDOLPH v. LOUISIANA*. Sup. Ct. La. Certiorari denied. Reported below: 332 So. 2d 806.

No. 76-5249. *EFFLER v. ROSE, WARDEN*. C. A. 6th Cir. Certiorari denied. Reported below: 535 F. 2d 980.

No. 76-5250. *WILSON ET AL. v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 535 F. 2d 1145.

No. 76-5251. *COLE v. ESTELLE, CORRECTIONS DIRECTOR*. C. A. 5th Cir. Certiorari denied. Reported below: 532 F. 2d 1039.

No. 76-5255. *THOMAS ET AL. v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 538 F. 2d 344.

No. 76-5260. *JOHNSON v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 539 F. 2d 711.

No. 76-5263. *TAYLOR v. FLORIDA*. C. A. 5th Cir. Certiorari denied.

No. 76-5268. *WILSON v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 536 F. 2d 883.

No. 76-5269. *ESTELL ET AL. v. UNITED STATES*. C. A. 10th Cir. Certiorari denied. Reported below: 539 F. 2d 697.

No. 76-5273. *KENYON v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 539 F. 2d 719.

No. 76-5275. *MAPP v. WARDEN, NEW YORK STATE CORRECTIONAL INSTITUTION FOR WOMEN*. C. A. 2d Cir. Certiorari denied. Reported below: 531 F. 2d 1167.

No. 76-5276. *FERRANTO v. UNITED STATES*. C. A. 2d Cir. Certiorari denied.

No. 76-5277. *WALKER v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 535 F. 2d 896.

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No. 76-5282. *RIVERA v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 539 F. 2d 287.

No. 76-5287. *LOGAN v. UNITED STATES*. C. A. 10th Cir. Certiorari denied.

No. 76-5291. *JOYNER v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 539 F. 2d 1162.

No. 76-5292. *INGRAM v. UNITED STATES*. C. A. 7th Cir. Certiorari denied.

No. 76-5295. *SILVERSTEIN v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 539 F. 2d 719.

No. 76-5305. *KESNER v. NATIONAL LABOR RELATIONS BOARD*. C. A. 7th Cir. Certiorari denied. Reported below: 532 F. 2d 1169.

No. 76-5307. *MATHIS v. SECRETARY OF DEFENSE*. C. A. D. C. Cir. Certiorari denied.

No. 76-5309. *BROOKS ET AL. v. UNITED STATES*. C. A. 10th Cir. Certiorari denied.

No. 76-5310. *ORTIZ-AGUAYO v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 541 F. 2d 287.

No. 76-5320. *KESSLER v. WISE, WARDEN*. C. A. 9th Cir. Certiorari denied. Reported below: 538 F. 2d 336.

No. 76-5321. *PLESS v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 536 F. 2d 1140.

No. 76-5322. *DANIEL v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 539 F. 2d 706.

No. 76-5328. *COLEMAN v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 538 F. 2d 340.

No. 76-5329. *CASTRO-AYON v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 537 F. 2d 1055.

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No. 76-5330. *EDWARDS v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 539 F. 2d 689.

No. 76-5334. *ANDERSON v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 538 F. 2d 325.

No. 76-5338. *DEVAUGHN v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 541 F. 2d 808.

No. 76-5339. *TERRELL v. UNITED STATES*. Ct. App. D. C. Certiorari denied. Reported below: 361 A. 2d 207.

No. 76-5347. *LARRY v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 536 F. 2d 1149.

No. 76-5362. *JONES v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 539 F. 2d 706.

No. 76-5378. *HOMCY v. UNITED STATES*. Ct. Cl. Certiorari denied. Reported below: 210 Ct. Cl. 332, 536 F. 2d 360.

No. 76-5389. *TILGHMAN v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 539 F. 2d 707.

No. 76-5390. *RUSHLOW v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 541 F. 2d 287.

No. 76-5439. *COULTER v. UNITED STATES*. Ct. Cl. Certiorari denied.

No. 76-5472. *FABRICANT v. CALIFORNIA ET AL.* Ct. App. Cal., 2d App. Dist. Certiorari denied.

No. 76-5486. *PEHLER v. SCHOEN, CORRECTIONS COMMISSIONER, ET AL.* C. A. 8th Cir. Certiorari denied. Reported below: 537 F. 2d 970.

No. 76-5487. *BUZYNSKI v. OLIVER ET AL.* C. A. 1st Cir. Certiorari denied. Reported below: 538 F. 2d 6.

No. 76-5488. *BARBOSA v. CURRY*. C. A. 5th Cir. Certiorari denied.

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No. 76-5504. *LOCKE v. OKLAHOMA*. Ct. Crim. App. Okla. Certiorari denied. Reported below: 554 P. 2d 847.

No. 76-5515. *WRIGHT v. ESTELLE, CORRECTIONS DIRECTOR*. C. A. 5th Cir. Certiorari denied. Reported below: 535 F. 2d 658.

No. 76-5519. *WALSH v. BOARD OF TRUSTEES, POLICE PENSION FUND, ARTICLE I*. App. Div., Sup. Ct. N. Y., 1st Jud. Dept. Certiorari denied. Reported below: 53 App. Div. 2d 559, 385 N. Y. S. 2d 1015.

No. 76-5525. *STRANO ET AL. v. CROY, SECRETARY, NEW MEXICO DEPARTMENT OF HOSPITALS AND INSTITUTIONS*. C. A. 10th Cir. Certiorari denied.

No. 76-5529. *GREENWOOD v. SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES*. Ct. App. Cal., 2d App. Dist. Certiorari denied.

No. 76-5538. *SANDERS ET AL. v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 538 F. 2d 695.

No. 76-5541. *HIGGINS v. METTER ET AL.* C. A. 4th Cir. Certiorari denied.

No. 76-5545. *PEDERSON v. STEWART-WARNER CORP.* C. A. 7th Cir. Certiorari denied. Reported below: 536 F. 2d 1179.

No. 76-5618. *HANCOCK v. UNITED STATES*. C. A. 10th Cir. Certiorari denied.

No. 76-5623. *FLORENCE v. UNITED STATES*. C. A. 1st Cir. Certiorari denied.

No. 76-5626. *MARTINEZ v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 536 F. 2d 1107.

No. 76-5627. *MANCINAS v. UNITED STATES*. C. A. 9th Cir. Certiorari denied.

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No. 76-5628. *SAVAGE v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 538 F. 2d 326.

No. 76-5630. *FELDER ET AL. v. UNITED STATES*. C. A. 10th Cir. Certiorari denied.

No. 76-5636. *CLUCK v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 542 F. 2d 728.

No. 76-312. *ALCAN SALES, DIVISION OF ALCAN ALUMINUM CORP. v. UNITED STATES*. C. C. P. A. Certiorari denied. MR. JUSTICE REHNQUIST took no part in the consideration or decision of this petition. Reported below: 63 C. C. P. A. (Cust.) 83, 534 F. 2d 920.

No. 76-432. *WHITE ET AL. v. ARTHUR MURRAY, INC.* Sup. Ct. Utah. Certiorari denied. MR. JUSTICE BLACKMUN would grant certiorari. Reported below: 549 P. 2d 439.

No. 76-448. *BLUE CROSS MUTUAL HOSPITAL INSURANCE, INC., ET AL. v. JENKINS*. C. A. 7th Cir. Certiorari denied. MR. JUSTICE STEWART would grant certiorari. MR. JUSTICE STEVENS took no part in the consideration or decision of this petition. Reported below: 538 F. 2d 164.

No. 76-5231. *GIBSON v. GEORGIA*;

No. 76-5404. *ISAACS v. GEORGIA*;

No. 76-5455. *DUNGEE v. GEORGIA*; and

No. 76-5530. *STEPHENS v. GEORGIA*. Sup. Ct. Ga. Certiorari denied. MR. JUSTICE BRENNAN and MR. JUSTICE MARSHALL would grant certiorari and vacate judgments insofar as they leave undisturbed the sentences of death. See *Gregg v. Georgia*, 428 U. S. 153, 227 (1976) (BRENNAN, J., dissenting); *id.*, at 231 (MARSHALL, J., dissenting). Reported below: No. 76-5231, 236 Ga. 874, 226 S. E. 2d 63; No. 76-5404, 237 Ga. 105, 226 S. E. 2d 922; No. 76-5455, 237 Ga. 218, 227 S. E. 2d 746; No. 76-5530, 237 Ga. 259, 227 S. E. 2d 261.

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No. 76-463. STERNS, TRUSTEE IN BANKRUPTCY *v.* PRINCETON BANK & TRUST Co. C. A. 3d Cir. Certiorari denied. MR. JUSTICE BRENNAN took no part in the consideration or decision of this petition. Reported below: 538 F. 2d 76.

No. 76-509. SINGER Co. *v.* PERMA RESEARCH & DEVELOPMENT Co. C. A. 2d Cir. Motion of SCM Corp. for leave to file a brief as *amicus curiae* and certiorari denied. Reported below: 542 F. 2d 111.

Rehearing Denied

No. 75-1450. DEPARTMENT OF SOCIAL SERVICES OF IOWA ET AL. *v.* WEST HEIGHT MANOR, INC.; and BURNS, COMMISSIONER, DEPARTMENT OF SOCIAL SERVICES OF IOWA, ET AL. *v.* HUTCHISON NURSING HOME, INC., ET AL., *ante*, p. 884;

No. 75-1451. SMITH *v.* UNITED STATES, *ante*, p. 817;

No. 75-1487. EVANS ET AL. *v.* UNITED STATES, *ante*, p. 818;

No. 75-1505. A. W. THOMPSON, INC. *v.* NATIONAL LABOR RELATIONS BOARD, *ante*, p. 818;

No. 75-1506. HONDO DRILLING Co. *v.* NATIONAL LABOR RELATIONS BOARD, *ante*, p. 818;

No. 75-1581. LEEMON *v.* ILLINOIS, *ante*, p. 804;

No. 75-1598. GLOBAL MARINE DEVELOPMENT OF CALIFORNIA, INC. *v.* NATIONAL LABOR RELATIONS BOARD ET AL., *ante*, p. 821;

No. 75-1621. SLOVAK *v.* ADMINISTRATOR, FEDERAL AVIATION ADMINISTRATION, *ante*, p. 868;

No. 75-1667. UNITED STATES *v.* POMPONIO ET AL., *ante*, p. 10;

No. 75-1743. DOYLE ET AL. *v.* SHEEHAN, *ante*, p. 870;

No. 75-1815. GABRIEL *v.* UNITED STATES ET AL., *ante*, p. 877; and

No. 75-1825. LITRELL *v.* UNITED STATES, *ante*, p. 831. Petitions for rehearing denied.

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No. 75-1845. STRYKER ET AL. *v.* VILLAGE OF OAK PARK ET AL., *ante*, p. 832;

No. 75-1857. GABRIEL ET AL. *v.* LEVIN ET AL., *ante*, p. 833;

No. 75-1860. JHIRAD *v.* FERRANDINA, U. S. MARSHAL, *ante*, p. 833;

No. 75-6790. MUNOZ *v.* CIVIL SERVICE COMMISSION OF ILLINOIS, *ante*, p. 845;

No. 75-6861. LUNZ *v.* SMITH, CORRECTIONAL SUPERINTENDENT, *ante*, p. 849;

No. 75-6906. SMITH *v.* CALIFORNIA, *ante*, p. 851;

No. 75-6938. BLACKFORD *v.* NATIONAL LABOR RELATIONS BOARD, *ante*, p. 853;

No. 75-6952. REALE *v.* UNITED STATES, *ante*, p. 854;

No. 75-6984. KRANenberg *v.* REVLON CORP., *ante*, p. 856;

No. 76-117. MITCHELL ET AL. *v.* INGRAM, COMMISSIONER OF EDUCATION OF TENNESSEE, ET AL., *ante*, p. 861;

No. 76-197. MOHASCO INDUSTRIES, INC., ET AL. *v.* SPOUND ET AL., *ante*, p. 886; and

No. 76-5026. WILSON *v.* UNITED STATES, *ante*, p. 897. Petitions for rehearing denied.

No. 75-492. ROSNER *v.* UNITED STATES, 427 U. S. 911. Petition for rehearing denied. MR. JUSTICE MARSHALL would grant petition for rehearing, vacate order denying certiorari, grant certiorari, vacate judgment, and remand case for further consideration in light of *United States v. Agurs*, 427 U. S. 97 (1976).

Assignment Order

An order of THE CHIEF JUSTICE designating and assigning Mr. Justice Clark (retired) to perform judicial duties in the United States Court of Appeals for the Ninth Circuit from January 3, 1977, to January 7, 1977, and for such additional time as may be required to complete unfinished business, pursuant to 28 U. S. C. § 294 (a), is ordered entered on the minutes of this Court, pursuant to 28 U. S. C. § 295.

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Miscellaneous Order

No. A-453. *GILMORE v. UTAH*. State of Utah is requested to file prior to 5 p.m., e.s.t., Tuesday, December 7, 1976, a response to application for stay of execution filed December 2, 1976, particularly with respect to the allegations of said application bearing upon the validity of Gary Mark Gilmore's waiver of his right to appeal, and to file with said response, unless impossible or wholly impractical, a transcript of the hearing held on November 1, 1976, on the motion for a new trial, a transcript of the proceedings of November 10, 1976, before the Utah Supreme Court, a transcript of the proceedings before the Board of Pardons on November 30, 1976, and a transcript of the proceedings of December 1, 1976, before the sentencing judgment at which a date for execution of the sentence was set. The State's response may be filed separately from and prior to the filing of the transcripts should the State care to do so. Application for stay of execution granted pending filing of said response and further action of the Court on the application for stay. THE CHIEF JUSTICE, MR. JUSTICE REHNQUIST, and MR. JUSTICE STEVENS would deny the stay.

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Affirmed on Appeal

No. 76-504. *NADER ET AL. v. SCHAFFER, SECRETARY OF STATE OF CONNECTICUT, ET AL.* Affirmed on appeal from D. C. Conn. Reported below: 417 F. Supp. 837.

Appeals Dismissed

No. 76-487. *BELL v. HOPPER, WARDEN*. Appeal from Sup. Ct. Ga. dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied. Reported below: 237 Ga. 189, 227 S. E. 2d 41.

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No. 76-460. FRED F. FRENCH INVESTING Co., INC. v. CITY OF NEW YORK; and

No. 76-467. RAMSGATE PROPERTIES, INC., ET AL. v. CITY OF NEW YORK. Appeals from Ct. App. N. Y. dismissed for want of jurisdiction. Treating the papers whereon the appeals were taken as petitions for certiorari, certiorari denied. Reported below: 39 N. Y. 2d 587, 350 N. E. 2d 381.

Certiorari Granted—Reversed and Remanded. (See No. 76-5403, *ante*, p. 122.)

Certiorari Granted—Vacated and Remanded. (See also No. 75-1536, *ante*, p. 121.)

No. 75-1875. PACIFIC LEGAL FOUNDATION v. ENVIRONMENTAL PROTECTION AGENCY. C. A. 9th Cir. Certiorari granted, judgment vacated, and case remanded for consideration of question of mootness. Reported below: 534 F. 2d 150.

No. 75-5831. WILLIAMS v. UNITED STATES. 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 *Moody v. Daggett*, *ante*, p. 78. Reported below: 523 F. 2d 1054.

No. 76-72. SOLIMINE v. UNITED STATES. C. A. 6th Cir. Certiorari granted, judgment vacated, and case remanded for consideration of petitioner's claim that his convictions and concurrent sentences for theft and receiving the same property must be dealt with as were the similar convictions and sentences of codefendant Selafani. Reported below: 536 F. 2d 703.

No. 76-200. AUSTIN INDEPENDENT SCHOOL DISTRICT v. UNITED STATES. C. A. 5th Cir. Certiorari granted, judgment vacated, and case remanded for reconsideration in light of *Washington v. Davis*, 426 U. S. 229 (1976). MR. JUSTICE BRENNAN and MR. JUSTICE MARSHALL dissent because they are persuaded that the Court of Appeals correctly interpreted

and applied the relevant decisions of this Court. Reported below: 532 F. 2d 380.

MR. JUSTICE POWELL, with whom THE CHIEF JUSTICE and MR. JUSTICE REHNQUIST join, concurring.

I concur in the action of the Court, and agree that there would be no need to address the issue of remedy if the Court of Appeals upon reconsideration of its opinion in light of *Washington v. Davis*, 426 U. S. 229 (1976), should conclude that there was no constitutional violation. I would nonetheless include the issue of remedy in the remand order because of what appears to be a misapplication of a core principle of desegregation cases. In such cases, this Court has repeatedly emphasized:

“[T]he task is to correct, by a balancing of the individual and collective interests, ‘the condition that offends the Constitution.’ A federal remedial power may be exercised ‘only on the basis of a constitutional violation’ and, ‘[a]s with any equity case, the nature of the violation determines the scope of the remedy.’” *Miliken v. Bradley*, 418 U. S. 717, 738 (1974), quoting *Swann v. Charlotte-Mecklenburg Board of Education*, 402 U. S. 1, 16 (1971).

As suggested by this Court’s remand premised upon *Washington v. Davis*, *supra*, the Court of Appeals may have erred by a readiness to impute to school officials a segregative intent far more pervasive than the evidence justified.¹ That

¹ Although in an earlier stage in this case other findings were made which evidenced segregative intent, see, e. g., *United States v. Texas Education Agency*, 467 F. 2d 848, 864-869 (CA5 1972) (actions by school authorities contributing to segregation of Mexican-American students), the opinion below apparently gave controlling effect to the use of neighborhood schools:

“At least in the Texas schools, where we have held that Mexican-American students are entitled to the same benefits of *Brown* [v. *Board of Education*, 347 U. S. 483 (1954),] as are blacks, school authorities may not

court also seems to have erred in ordering a desegregation plan far exceeding in scope any identifiable violations of constitutional rights.

As is true in most of our larger cities with substantial minority populations, Austin has residential areas in which certain racial and ethnic groups predominate in the population. Residential segregation creates significant problems for school officials who seek to achieve a nonsegregated school district. In Austin those problems are perhaps accentuated by the geography of the city. Acknowledging these difficulties, the Court of Appeals noted:

“Countless efforts by school officials, consultants, and visiting teams have found it impossible to produce significant desegregation by boundary line changes, contiguous pairing of schools, magnet schools, or other effective means short of massive crosstown busing incident to noncontiguous pairing of . . . schools. . . .” *United States v. Texas Education Agency*, 532 F. 2d 380, 394 (CA5 1976).

The Court of Appeals then concluded that nothing short of extensive cross-town transportation would suffice.

Designed to achieve a degree of racial balance in *every* school in Austin,² the desegregation plan endorsed by the

constitutionally use a neighborhood assignment policy that creates segregated schools in a district with ethnically segregated residential patterns. A segregated school system is the foreseeable and inevitable result of such an assignment policy. When this policy is used, we may infer that the school authorities have acted with segregative intent.” 532 F. 2d 380, 392 (CA5 1976).

² Apparently misconceiving the import of language in *Green v. County School Board*, 391 U. S. 430, 442 (1968), to the effect that there should be no “Negro” school or “white” school, the Court of Appeals seems to believe every school must be racially balanced to some degree. *Green* involved a rural, sparsely populated county with only two schools. Much of its language is irrelevant to a large urban school system. Moreover, the effect of applying the language of *Green* to such a system may be

Court of Appeals is remarkably sweeping. For kindergarten through eighth grade, the plan requires crosstown busing of all students in schools that are over 50% minority or 90% "Anglo."³ For kindergarten through fourth grade, the students in East Austin attending the relevant schools will be bused through the congested center of the city to West Austin. For fifth through eighth grade, the flow will be reversed. The high schools will be integrated by a system of "feeder" schools. This plan requiring transportation of from 18,600 to 25,000 students, consisting of from 32% to 42% of the entire school population,⁴ was ordered despite

to stigmatize—without justification—schools that can be identified as having a racial or ethnic majority. The Solicitor General, speaking for the United States in this case, commented that "there is nothing inherently inferior about all-black schools, any more than all-white schools are inferior, when the separation is not caused by state action." Brief for United States 8 n. 5.

³ This "triggering" condition of the plan requires further comment. Describing it, the Court of Appeals stated as follows:

"Elementary and junior high schools that are between 50 and 90 percent Anglo are defined as 'naturally desegregated' and would remain unchanged. *When changing demographic patterns cause any of these schools to fall outside of the 'naturally desegregated' range, the schools would be brought within the Finger Plan 4-4-4 system.*" 532 F. 2d, at 395 (emphasis added).

This aspect of the plan clearly reveals that the plan is designed to achieve some predetermined racial and ethnic balance in the schools rather than to remedy the constitutional violations committed by the school authorities. As described by the Court of Appeals, the plan is impermissible under our holding in *Pasadena Bd. of Education v. Spangler*, 427 U. S. 424 (1976).

⁴ In defending the high percentage of children proposed to be bused in Austin, the Court of Appeals relied on superficially comparable percentages of children that were to be transported under the plan approved in *Swann*. The school district before the Court in *Swann* included Mecklenburg County as well as the city of Charlotte. As the Court said: "The area is large—550 square miles—spanning roughly 22 miles east-west and 36 miles north-south." 402 U. S., at 6. Although it included a metropolitan area, much of the district was rural, requiring the trans-

the District Court's conclusion that such a plan would involve a " 'risk to health and probable impingement of the educational process' . . . for students younger than the sixth grade" App. to Pet. for Cert. 53.

Whether the Austin school authorities intentionally discriminated against minorities or simply failed to fulfill affirmative obligations to eliminate segregation, see *Keyes v. School Dist. No. 1, Denver, Colo.*, 413 U. S. 189, 217 (1973) (POWELL, J., concurring in part and dissenting in part), the remedy ordered appears to exceed that necessary to eliminate the effect of any official acts or omissions. The Court of Appeals did not find and there is no evidence in the record available to us to suggest that, absent those constitutional violations, the Austin school system would have been integrated to the extent contemplated by the plan. If the Court of Appeals believed that this remedy was coextensive with the constitutional violations, it adopted a view of the constitutional obligations of a school board far exceeding anything required by this Court.

The principal cause of racial and ethnic imbalance in urban public schools across the country—North and South—is the imbalance in residential patterns. Such residential patterns are typically beyond the control of school authorities. For example, discrimination in housing—whether public or private—cannot be attributed to school authorities. Economic pressures and voluntary preferences⁵ are the primary determinants of residential patterns.

I do not suggest that transportation of pupils is never a

portation of pupils quite apart from desegregative efforts. Because of this situation in *Swann*, it is unduly simplistic to compare the percentages of children bused. The situation in Austin is simply not comparable.

⁵ See *Keyes*, 413 U. S., at 224-253 (POWELL, J., concurring in part and dissenting in part). The tendency of citizens of common national or ethnic origins to form homogeneous residential patterns in our cities is a familiar demographic characteristic of this country.

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permissible means of implementing desegregation.⁶ I merely emphasize the limitation repeatedly expressed by this Court that the extent of an equitable remedy is determined by and may not properly exceed the effect of the constitutional violation. Thus, large-scale busing is permissible only where the evidence supports a finding that the extent of integration sought to be achieved by busing would have existed had the school authorities fulfilled their constitutional obligations in the past. Such a standard is remedial rather than punitive, and would rarely result in the widespread busing of elementary-age children.⁷ A remedy simply is not equitable if it is disproportionate to the wrong.

No. 76-355. REED, ACTING CHAIRMAN, U. S. PAROLE COMMISSION, ET AL. *v.* BYRD ET AL. C. A. D. C. 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 *Moody v. Daggett*, *ante*, p. 78. Reported below: 175 U. S. App. D. C. 151, 534 F. 2d 353.

No. 76-5537. STREET *v.* GEORGIA. Sup. Ct. Ga. Motion for leave to proceed *in forma pauperis* and certiorari granted. Judgment vacated and case remanded for further consideration in light of *Davis v. Georgia*, *ante*, p. 122. Reported below: 237 Ga. 307, 227 S. E. 2d 750.

⁶ See *id.*, at 242-252.

⁷ A related equitable principle, also applicable in fashioning a desegregation remedy, is that a court has the duty to "balanc[e] . . . the individual and collective interests." *Milliken v. Bradley*, 418 U. S., at 738. The individual interests at issue here are as personal and important as any in our society. They relate to the family, and to the concern of parents for the welfare and education of their children—especially those of tender age. Families share these interests wholly without regard to race, ethnic origin, or economic status. It also is to be remembered, in granting equitable relief, that a desegregation decree is unique in that its burden falls not upon the officials or private interests responsible for the offending action but, rather, upon innocent children and parents.

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Miscellaneous Orders

No. A-384. *MOREAU ET AL. v. TONRY ET AL.* Second application to vacate stay orders of the United States Court of Appeals for the Fifth Circuit, entered on November 3 and 4, 1976, presented to MR. JUSTICE POWELL, and by him referred to the Court, denied.

No. A-404. *BOWLER ET UX. v. FEDERAL NATIONAL MORTGAGE ASSN.* C. A. 6th Cir. Application for preliminary injunction, presented to MR. JUSTICE MARSHALL, and by him referred to the Court, denied.

No. A-446. *WHITE v. TEXAS.* Application for stay of execution of sentence of death imposed by the District Court of Collin County, Tex., presented to MR. JUSTICE POWELL, and by him referred to the Court, granted pending timely filing of a petition for writ of certiorari. Should petition for writ of certiorari be timely filed, then this stay is to remain in effect pending disposition of case in this Court. MR. JUSTICE REHNQUIST would deny the stay.

No. 72, Orig. *SOUTH DAKOTA v. NEBRASKA.* It is ordered that the Honorable Oren Harris, Senior Judge of the United States District Court for the Western District of Arkansas, be, and he is hereby, appointed Special Master in this case. The Special Master shall have authority to fix the time and conditions for filing of additional pleadings and to direct subsequent proceedings, and authority to summon witnesses, issue subpoenas, and take such evidence as may be introduced and such as he may deem it necessary to call for. The Master is directed to submit such reports as he may deem appropriate.

The Master shall be allowed his actual expenses, the allowances to him, the compensation paid to his technical, stenographic, and clerical assistants, the cost of printing his reports, and all other proper expenses shall be charged against

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and be borne by the parties in such proportion as the Court may hereafter direct.

It is further ordered that if the position of Special Master becomes vacant during the recess of the Court, THE CHIEF JUSTICE shall have authority to make a new designation which shall have the same effect as if originally made by the Court herein.

The motion of Robert J. Foley et al. for leave to intervene is referred to the Special Master. [For earlier order herein, see *ante*, p. 810.]

No. 75-6933. *BROWN v. OHIO*. Court of Appeals of Ohio, Cuyahoga County. [Certiorari granted, *ante*, p. 893.] Motion of petitioner for appointment of counsel granted, and it is ordered that Robert Plautz, Esquire, of Cleveland, Ohio, is appointed to serve as counsel for petitioner in this case.

Probable Jurisdiction Noted

No. 75-1583. *MORRIS ET AL. v. GRESSETTE, PRESIDENT PRO TEM, SOUTH CAROLINA SENATE, ET AL.* Appeal from D. C. S. C. Probable jurisdiction noted. Reported below: 425 F. Supp. 331.

Certiorari Granted

No. 76-60. *BRISCOE, GOVERNOR OF TEXAS, ET AL. v. LEVI, ATTORNEY GENERAL, ET AL.* C. A. D. C. Cir. Certiorari granted. Reported below: 175 U. S. App. D. C. 297, 535 F. 2d 1259.

No. 76-413. *UNITED STATES ET AL. v. LARIONOFF ET AL.* C. A. D. C. Cir. Certiorari granted. Reported below: 175 U. S. App. D. C. 32, 533 F. 2d 1167.

No. 76-143. *SPLAWN v. CALIFORNIA*. Ct. App. Cal., 1st App. Dist. Certiorari granted limited to Questions 1, 2, 3, and 4 presented by the petition.

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No. 76-444. *NORTHEAST MARINE TERMINAL Co., INC., ET AL. v. CAPUTO ET AL.*; and

No. 76-454. *INTERNATIONAL TERMINAL OPERATING Co., INC. v. BLUNDO ET AL.* C. A. 2d Cir. Certiorari granted, cases consolidated, and a total of one and one-half hours allotted for oral argument. Reported below: 544 F. 2d 35.

No. 76-545. *UNITED AIRLINES, INC. v. McDONALD.* C. A. 7th Cir. Certiorari granted. MR. JUSTICE STEVENS took no part in the consideration or decision of this petition. Reported below: 537 F. 2d 915.

Certiorari Denied. (See also Nos. 76-460, 76-467, and 76-487, *supra.*)

No. 75-1796. *JAMES, ADMINISTRATRIX v. UNITED STATES.* C. A. 1st Cir. Certiorari denied. Reported below: 530 F. 2d 962.

No. 75-1798. *BERNSTEIN ET AL. v. UNITED STATES;*

No. 75-1810. *BEHAR v. UNITED STATES;* and

No. 75-6911. *CARDONA v. UNITED STATES.* C. A. 2d Cir. Certiorari denied. Reported below: 533 F. 2d 775.

No. 75-1864. *GARMISE v. FLORIDA.* Dist. Ct. App. Fla., 3d Dist. Certiorari denied. Reported below: 311 So. 2d 747.

No. 75-5215. *GADDY v. MICHAEL ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 519 F. 2d 669.

No. 75-5594. *ORR v. LEVI, ATTORNEY GENERAL, ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 517 F. 2d 1399.

No. 75-6603. *McDANIELS v. CALIFORNIA ADULT AUTHORITY.* Sup. Ct. Cal. Certiorari denied.

No. 75-6621. *DORMAN v. UNITED STATES PAROLE COMMISSION.* C. A. 9th Cir. Certiorari denied. Reported below: 538 F. 2d 335.

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No. 75-6703. REESE *v.* UNITED STATES PAROLE COMMISSION ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 530 F. 2d 231.

No. 75-6872. GONZALES *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 538 F. 2d 341.

No. 76-73. YOUNG ET AL. *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 535 F. 2d 484.

No. 76-100. SOUTHERN RAILWAY Co. *v.* OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION ET AL. C. A. 4th Cir. Certiorari denied. Reported below: 539 F. 2d 335.

No. 76-152. IN RE CONNORS. Sup. Ct. Fla. Certiorari denied. Reported below: 332 So. 2d 336.

No. 76-164. CAMPOS *v.* IMMIGRATION AND NATURALIZATION SERVICE. C. A. 9th Cir. Certiorari denied.

No. 76-179. MARKERT *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied. Reported below: 537 F. 2d 957.

No. 76-206. CONLEY *v.* SAWYER. C. A. 4th Cir. Certiorari denied. Reported below: 538 F. 2d 323.

No. 76-235. WRIGHT, DIRECTOR, DEPARTMENT OF TRANSPORTATION OF HAWAII *v.* STOP H-3 ASSN. ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 533 F. 2d 434.

No. 76-292. ASHLEY ET AL. *v.* SAN ANTONIO TELEPHONE Co., INC., ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 529 F. 2d 694.

No. 76-306. MITCHELL *v.* IMMIGRATION AND NATURALIZATION SERVICE. C. A. 2d Cir. Certiorari denied. Reported below: 538 F. 2d 311.

No. 76-310. PACIFIC GAS TRANSMISSION Co. ET AL. *v.* FEDERAL POWER COMMISSION. C. A. D. C. Cir. Certiorari denied. Reported below: 175 U. S. App. D. C. 366, 536 F. 2d 393.

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No. 76-335. *WILLIAMS v. USERY, SECRETARY OF LABOR, ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 531 F. 2d 305.

No. 76-337. *DAVIS v. UNITED STATES*; and

No. 76-356. *CHARNAY v. UNITED STATES.* C. A. 9th Cir. Certiorari denied. Reported below: 537 F. 2d 341.

No. 76-376. *MACKEY v. UNITED STATES*; and

No. 76-5237. *NELSON v. UNITED STATES.* C. A. 2d Cir. Certiorari denied. Reported below: 538 F. 2d 316.

No. 76-381. *CONLEY v. HAMPTON, CHAIRMAN, U. S. CIVIL SERVICE COMMISSION, ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 538 F. 2d 323.

No. 76-388. *NIEDERMEYER ET UX. v. COMMISSIONER OF INTERNAL REVENUE.* C. A. 9th Cir. Certiorari denied. Reported below: 535 F. 2d 500.

No. 76-394. *TIMMONS v. LAWTON ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 538 F. 2d 325.

No. 76-402. *ALBERGO v. UNITED STATES.* C. A. 2d Cir. Certiorari denied. Reported below: 539 F. 2d 860.

No. 76-420. *RUSSO v. UNITED STATES.* C. A. 1st Cir. Certiorari denied. Reported below: 540 F. 2d 1152.

No. 76-427. *GROVES ET UX. v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. Reported below: 533 F. 2d 1376.

No. 76-429. *GRAY v. UNITED STATES.* C. A. 9th Cir. Certiorari denied. Reported below: 538 F. 2d 341.

No. 76-434. *PHILLIPS v. UNITED STATES.* C. A. 8th Cir. Certiorari denied. Reported below: 540 F. 2d 319.

No. 76-510. *LIBERTY MUTUAL INSURANCE Co. v. WETZEL ET AL.* Petition for certiorari before judgment to C. A. 3d denied.

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No. 76-514. *BELL, DBA CRESCENDO PUBLISHING Co. v. COMBINED REGISTRY Co.* C. A. 7th Cir. Certiorari denied. Reported below: 536 F. 2d 164.

No. 76-516. *SALVUCCI v. NEW YORK RACING ASSN., INC., ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 542 F. 2d 1165.

No. 76-524. *ARMS ET UX. v. WATSON, TRUSTEE, ET AL.* Sup. Ct. Minn. Certiorari denied. Reported below: 308 Minn. 221, 243 N. W. 2d 302.

No. 76-532. *MACLAREN ET AL. v. B-I-W GROUP, INC., ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 535 F. 2d 1367.

No. 76-536. *PATTISON v. SPRATLAN.* Ct. Civ. App. Tex., 12th Sup. Jud. Dist. Certiorari denied. Reported below: 535 S. W. 2d 48 and 539 S. W. 2d 60.

No. 76-538. *LEITCH v. OREGON DEPARTMENT OF REVENUE ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 539 F. 2d 718.

No. 76-540. *CITY OF CHICAGO ET AL. v. DIXIE DAIRY Co.* C. A. 7th Cir. Certiorari denied. Reported below: 538 F. 2d 1303.

No. 76-543. *RECORD CLUB OF AMERICA, INC. v. COLUMBIA BROADCASTING SYSTEM, INC., ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 539 F. 2d 704.

No. 76-547. *SIMMONS v. COUNCIL BLUFFS SAVINGS BANK, EXECUTOR.* Sup. Ct. Iowa. Certiorari denied. Reported below: 243 N. W. 2d 634.

No. 76-574. *CAROLINA POWER & LIGHT Co. ET AL. v. MOORE.* C. A. 4th Cir. Certiorari denied. Reported below: 537 F. 2d 1252.

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No. 76-578. *BRANNON v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 536 F. 2d 1385.

No. 76-588. *RUIZ v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 533 F. 2d 939.

No. 76-611. *FAIRBANKS v. UNITED STATES*. C. A. 10th Cir. Certiorari denied. Reported below: 541 F. 2d 862.

No. 76-631. *DAVIS v. BURLINGTON NORTHERN, INC.* C. A. 8th Cir. Certiorari denied. Reported below: 541 F. 2d 182.

No. 76-5082. *POTTS v. BRUCE, COMMISSIONER OF INDIAN AFFAIRS, ET AL.* C. A. 10th Cir. Certiorari denied. Reported below: 533 F. 2d 527.

No. 76-5236. *MORGAN v. MASSEY, CORRECTIONAL SUPERINTENDENT*. C. A. 5th Cir. Certiorari denied. Reported below: 526 F. 2d 347.

No. 76-5241. *NEAL v. KEN-LU ENTERPRISES, INC.* Ct. App. N. C. Certiorari denied. Reported below: 29 N. C. App. 78, 223 S. E. 2d 831.

No. 76-5278. *HUFFORD ET AL. v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 539 F. 2d 32.

No. 76-5280. *HARRIS v. ILLINOIS*. App. Ct. Ill., 4th Dist. Certiorari denied. Reported below: 34 Ill. App. 3d 906, 340 N. E. 2d 327.

No. 76-5281. *HAMMERS v. ILLINOIS*. App. Ct. Ill., 4th Dist. Certiorari denied. Reported below: 35 Ill. App. 3d 498, 341 N. E. 2d 471.

No. 76-5299. *CHANDLER v. NORTH CAROLINA*. Sup. Ct. N. C. Certiorari denied. Reported below: 289 N. C. 616, 223 S. E. 2d 393.

No. 76-5351. *GRIGSBY v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 541 F. 2d 287.

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No. 76-5355. *HAYES v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 541 F. 2d 287.

No. 76-5359. *THOMAS v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 541 F. 2d 287.

No. 76-5419. *HAFF v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 541 F. 2d 287.

No. 76-5448. *WOODRING v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 536 F. 2d 598.

No. 76-5468. *LITTLEFIELD v. COMMITTEE ON PROFESSIONAL ETHICS AND CONDUCT OF THE IOWA STATE BAR ASSN.* Sup. Ct. Iowa. Certiorari denied. Reported below: 244 N. W. 2d 824.

No. 76-5547. *ADAMS v. POWER*. C. A. 4th Cir. Certiorari denied. Reported below: 538 F. 2d 323.

No. 76-5548. *EDMONDS v. WARDEN, ILLINOIS STATE PENITENTIARY*. C. A. 7th Cir. Certiorari denied. Reported below: 541 F. 2d 284.

No. 76-5551. *SPENCER v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 542 F. 2d 1178.

No. 76-5552. *JACKSON v. CALIFORNIA*. Ct. App. Cal., 2d App. Dist. Certiorari denied.

No. 76-5558. *MANRIQUEZ v. CALIFORNIA*. Ct. App. Cal., 2d App. Dist. Certiorari denied. Reported below: 59 Cal. App. 3d 426, 130 Cal. Rptr. 585.

No. 76-5566. *GRIFFIN v. KANSAS*. C. A. 10th Cir. Certiorari denied.

No. 76-5568. *COLEMAN v. STONE, CORRECTIONAL SUPERINTENDENT*. C. A. 9th Cir. Certiorari denied.

No. 76-5572. *SPATES v. CONNECTICUT*. C. A. 2d Cir. Certiorari denied.

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No. 76-5633. WALLACE *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 539 F. 2d 707.

No. 76-5647. DAVIS *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied. Reported below: 542 F. 2d 743.

No. 76-5651. LEWIS *v.* UNITED STATES. C. A. D. C. Cir. Certiorari denied. Reported below: 174 U. S. App. D. C. 71, 527 F. 2d 854.

No. 76-5673. SHOEMAKER *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. Reported below: 542 F. 2d 561.

No. 76-5674. RAMIREZ-RODRIQUEZ *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 542 F. 2d 1180.

No. 76-198. LOUISIANA *v.* MORA. Sup. Ct. La. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 330 So. 2d 900.

No. 76-254. VERIT INDUSTRIES ET AL. *v.* OHASHI. C. A. 9th Cir. Certiorari denied. MR. JUSTICE STEWART would grant certiorari. Reported below: 536 F. 2d 849.

No. 76-531. ARKANSAS DEPARTMENT OF LABOR *v.* FAIRFIELD COMMUNITIES LAND Co. Sup. Ct. Ark. Certiorari denied. MR. JUSTICE STEWART would grant certiorari. Reported below: 260 Ark. 277, 538 S. W. 2d 698.

No. 76-488. ROANWELL CORP. *v.* PLANTRONICS, INC. C. A. 2d Cir. Certiorari denied. Reported below: 535 F. 2d 1397.

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

Petitioner, the unsuccessful defendant in respondent's patent infringement suit, challenges the validity of respondent's patent on the ground that the invention was obvious to a person having ordinary skill in the art at the time of invention. The patented device is a headset used for the transmission and reception of voice communications by telephone

operators, aircraft pilots, air traffic controllers, and others. The District Court found, and the record clearly demonstrates, that all of the individual elements¹ of the patented headset were used in the prior art, although no single item of the prior art used the complete combination. 403 F. Supp. 138, 142 (SDNY 1975). The court nevertheless held that the invention was not obvious on the basis of evidence showing a long unfulfilled need, prior failures in satisfying that need, and immediate acceptance and substantial commercial success. *Id.*, at 148.²

This Court long ago established that the *sine qua non* of patentability is "invention" and that the protection of the patent law does not extend to an "improvement [that] is the work of the skilful mechanic, not that of the inventor." *Hotchkiss v. Greenwood*, 11 How. 248, 267 (1851). In 1952, Congress codified this judicial standard by requiring that the improvement sought to be patented "would [not] have been obvious at the time the invention was made to a person having ordinary skill in the art." 35 U. S. C. § 103.³

¹ Respondent's headset consists of a miniature microphone and miniature receiver mounted in a small capsule supported near the wearer's ear; a self-supporting, bendable, acoustic tube extending from the microphone to a point adjacent to the wearer's mouth; and a similar tube extending from the receiver and having at its outer end a plug inserted in the wearer's ear canal. The device is supported by clipping the capsule to a pair of eyeglasses or a headband or by a post-auricular housing hooking over the ear.

² The Court of Appeals for the Second Circuit affirmed in a short, un-critical, *per curiam* opinion. 535 F. 2d 1397 (1976).

³ Section 103 provides in full:

"A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made."

Whether referred to as "invention" or "nonobviousness" the requirement is based on the constitutional command that patents be used to "promote the Progress of . . . useful Arts." Art. I, § 8, cl. 8; *Graham v. John Deere Co.*, 383 U. S. 1, 5-6 (1966). Patents may not be issued to remove existing knowledge from the public domain or to limit access to materials already available.

Where, as here, the patent claim is for a combination of existing elements, "[c]ourts should scrutinize [such] claims with a care proportioned to the difficulty and improbability of finding invention in an assembly of old elements." *Great A. & P. Tea Co. v. Supermarket Corp.*, 340 U. S. 147, 152 (1950). When a device consists of a mere aggregation of segments of the prior art, there is an increased danger that a patent will withdraw into its monopoly what is already known and add nothing to the sum of useful knowledge. Thus, to be patentable, a combination of elements must produce something more than the sum of the pre-existing elements; there must be a synergistic result that is itself nonobvious. *Ibid.* *Anderson's-Black Rock v. Pavement Co.*, 396 U. S. 57, 61 (1969); *Sakraida v. Ag Pro, Inc.*, 425 U. S. 273, 282 (1976).

The District Court here made no finding that the combination produced a synergistic or any other nonobvious result. This failure is not surprising. Each element in the combination had previously been used to perform the same function it now performs in respondent's device. Although no one had used the full combination of all elements, each element had been combined with one or more of the others in a variety of different headsets. Some of the elements in respondent's invention appeared as long ago as 1878 in a British patent (Pritchett). More recently, two patented inventions used every part of respondent's combination in the same manner the parts were used by respondent. A headset patented in 1949 (Olney) employed a headband holding both a receiver

and microphone, and an acoustic tube carrying the sound from the user's mouth to the microphone. Received messages, however, were heard through a flat earpiece resting on the external ear. The 1961 Guttner patent of a hearing aid perfected the concept of miniature electronic equipment mounted so as to minimize wearer discomfort. Guttner used a post-auricular housing fitting behind the external ear; the housing contained a miniature microphone and receiver connected to each other by an amplifier. A flexible acoustic tube extended from the receiver and terminated with a plug in the ear canal. Although other devices also made use of miniature electronic equipment, acoustic tubes, and ear plugs, the District Court expressly found that these two examples of the prior art contained all the necessary elements and required only slight modification to produce respondent's device:

"Adding Olney's voice tube to Guttner's device, and modifying Guttner's electrical circuit, as also taught by Olney, so that the microphone and the receiver, instead of being connected to one another through an amplifier, are connected to separate external transmitting and receiving circuits, would produce the complete combination" 403 F. Supp., at 143.

Rather than ending its inquiry with this total lack of any nonobvious improvement over the prior art, the District Court went on to consider the need for respondent's device, prior failures in "discovering" it despite intensive efforts, and respondent's commercial success.⁴ Based solely on its his-

⁴ After relating an admittedly impressive account of prior failures, the court summarized as follows:

"The record establishes that there was a long-recognized need for a lighter, more comfortable headset to eliminate the fatigue and pain, rather extravagantly termed 'ear torture,' involved in the wearing of all previously known headsets over extended periods. A number of organizations with access to the best minds in the field, including the airlines, the U. S. Air Force and FAA, as well as the industry suppliers whom they con-

torical review of various efforts to improve on previously existing devices, the court concluded:

“Indeed, as simple as the invention now appears, it would seem presumptuous to the point of arrogance to conclude that it was ‘obvious’ to persons of ordinary skill in the art, notwithstanding their lengthy and unsuccessful struggle to achieve such results.” *Id.*, at 148.

The District Judge gave no indication as to what aspect of respondent’s device could be considered nonobvious to the assiduous researchers in the field.⁵ Rather, he found that the requirement of nonobviousness was satisfied simply because no one had created the successful combination before respondent secured his patent. In so doing, the court departed from the clear teachings of this Court’s prior cases.

Although the Court has held that need, prior failure, and commercial success may, “in a close case, tip the scales in favor of patentability,” *Goodyear Tire & Rubber Co. v. Ray-O-Vac Co.*, 321 U. S. 275, 279 (1944), it has consistently

sulted, had been actively searching over a number of years for an answer to the problem, but had found none, despite the availability of all the components ultimately employed by [respondent] Larkin. When Larkin’s headset was publicly disclosed, it received almost immediate recognition as an elegant and ingenious solution. It enjoyed impressive commercial success. It revolutionized thinking in the headset industry, overcoming ingrained prejudices, and its concepts have been widely copied by competitors, one of whom aptly termed it the progenitor of a ‘new generation of headsets.’” 403 F. Supp., at 148.

⁵ Again, the District Court’s silence on this key issue is explained by the record and by the court’s own findings. The court found that the Guttner device required (1) modification of its electrical circuit and (2) the addition of the Olney voice tube to produce respondent’s invention. As found by the District Court, the first change was taught by Olney itself, indicating that it was neither novel nor nonobvious. The second change involved the use of an element that had served its function in numerous headsets since the Pritchett patent of 1878. It hardly requires an inventor to perceive that a hollow, voice-conducting tube on one headset can be used as a hollow voice-conducting tube on another.

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and repeatedly rejected the claim that the standard of invention or nonobviousness can be satisfied solely by these "objective" criteria. *Anderson's-Black Rock, supra*, at 61; *Great A. & P. Tea Co.*, 340 U. S., at 153; *Jungersen v. Ostby & Barton Co.*, 335 U. S. 560, 567 (1949). In *Graham v. John Deere Co.*, *supra*, we reaffirmed and refined the basic test of patentability and firmly established the role of "secondary" factors in the procedure for determining when the standard of nonobviousness is met:

"Under § 103, the scope and content of the prior art are to be determined; differences between the prior art and the claims at issue are to be ascertained; and the level of ordinary skill in the pertinent art resolved. Against this background, the obviousness or nonobviousness of the subject matter is determined. Such secondary considerations as commercial success, long felt but unsolved needs, failure of others, etc., might be utilized to give light to the circumstances surrounding the origin of the subject matter sought to be patented. As indicia of obviousness or nonobviousness, these inquiries may have relevancy." 383 U. S., at 17-18.

Applying this test in *Graham*, we expressly rejected a claim that the secondary considerations could fill the void left by "exceedingly small and quite nontechnical mechanical differences in a device which was old in the art." *Id.*, at 35-36. The court below should also have rejected that same claim here.

As a general proposition, I agree that our crowded docket does not permit review of every case where error has been committed; but this case seems to me to involve such a significant departure from longstanding principles of patent law that the petition for certiorari should be granted.

No. 76-541. GRENADER ET AL. v. SPITZ ET AL. C. A. 2d Cir. Certiorari denied. MR. JUSTICE WHITE would grant certiorari. Reported below: 537 F. 2d 612.

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No. 76-550. MERRILL LYNCH, PIERCE, FENNER & SMITH, INC. v. AYRES. C. A. 3d Cir. Certiorari denied. MR. JUSTICE BLACKMUN would grant certiorari. Reported below: 538 F. 2d 532.

Rehearing Denied

No. 75-6975. SCHREMP v. HALL ET AL., *ante*, p. 855;

No. 76-165. RESTAURANT INDUSTRIES CORP. ET AL. v. BY-LICKI ET AL., *ante*, p. 891;

No. 76-186. RESTAURANT INDUSTRIES CORP. ET AL. v. BY-LICKI ET AL., *ante*, p. 896;

No. 76-5114. IN RE K, A MINOR, BY ATCHLEY, *ante*, p. 907; and

No. 76-5376. ALERS v. TOLEDO ET AL., *ante*, p. 928. Petitions for rehearing denied.

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Probable Jurisdiction Noted

No. 76-777. CONNOR ET AL. v. FINCH, GOVERNOR OF MISSISSIPPI, ET AL. D. C. S. D. Miss. Requests of Peggy J. Connor et al. and of the United States to treat application [A-421] as an expedited appeal from judgment denying injunctive relief entered by the United States District Court for the Southern District of Mississippi on November 18, 1976, granted. Probable jurisdiction noted.

Parties may file and exchange such motions under Rule 16 as they desire, and they shall file and exchange briefs on the merits on or before the close of business Monday, February 7, 1977. Responsive briefs, if any, shall be filed and exchanged on or before the close of business Monday, February 21, 1977. Oral argument set for Monday, February 28, 1977.

It is further ordered that any and all other appeals from the above judgment be taken by filing notices of appeal and perfected pursuant to the Rules of the Court by filing state-

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ments as to jurisdiction on or before the close of business Wednesday, January 5, 1977.

In all other respects, the application presented to MR. JUSTICE POWELL, and by him referred to the Court, is denied. Reported below: See 419 F. Supp. 1072 and 1089; 422 F. Supp. 1014.

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Dismissal Under Rule 60

No. 76-491. HELENE CURTIS INDUSTRIES, INC., ET AL. *v.* BURKE, U. S. DISTRICT JUDGE, ET AL. C. A. 2d Cir. Certiorari dismissed under this Court's Rule 60.

Affirmed on Appeal

No. 76-405. GABRIEL *v.* UNITED STATES ET AL.; and

No. 76-443. WESSON ET AL. *v.* UNITED STATES ET AL. Affirmed on appeal from D. C. N. J. Reported below: 416 F. Supp. 810.

Appeals Dismissed

No. 76-81. WINTERS *v.* COMMISSIONER, NEW YORK STATE DEPARTMENT OF SOCIAL SERVICES, ET AL. Appeal from App. Div., Sup. Ct. N. Y., 1st Jud. Dept., dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied. Reported below: 49 App. Div. 2d 843, 373 N. Y. S. 2d 604.

No. 76-573. FIRST AMERICAN BANK & TRUST Co. *v.* GEORGE. Appeal from C. A. 8th Cir. dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied. Reported below: 540 F. 2d 343.

No. 76-579. SPENCER ET AL., DBA TED SPENCER & SONS AUTO SERVICE CENTER *v.* REDEVELOPMENT AUTHORITY OF THE CITY OF NANTICOKE. Appeal from Sup. Ct. Pa. dismissed for want of jurisdiction, it appearing that there is no final judg-

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ment of the highest court of a state wherein judgment could be had as required by 28 U. S. C. § 1257.

Vacated and Remanded on Appeal

No. 76-407. *WINTERS v. LAVINE, COMMISSIONER, DEPARTMENT OF SOCIAL SERVICES OF NEW YORK, ET AL.* Appeal from D. C. E. D. N. Y. 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.

Certiorari Granted—Vacated and Remanded

No. 76-190. *ESTELLE, CORRECTIONS DIRECTOR v. COLE.* C. A. 5th Cir. Motion of respondent for leave to proceed *in forma pauperis* and certiorari granted. Judgment vacated and case remanded for further consideration in light of *Stone v. Powell*, 428 U. S. 465 (1976). Reported below: 530 F. 2d 973.

Miscellaneous Orders

No. A-400 (76-5635). *HANNAH v. MISSISSIPPI.* Sup. Ct. Miss. Application for bail, presented to MR. JUSTICE BRENNAN, and by him referred to the Court, denied.

Nos. A-403 and A-437 (76-5690). *McDONALD v. TENNESSEE ET AL.* Sup. Ct. Tenn. Applications for stay and other relief, presented to MR. JUSTICE MARSHALL, and by him referred to the Court, denied.

No. A-453. *GILMORE v. UTAH.* On October 7, 1976, Gary Mark Gilmore was convicted of murder and sentenced to death by a judgment entered after a jury trial in a Utah court. On December 3, 1976 [*ante*, p. 989], this Court granted an application for a stay of execution of the judgment and sentence, pending the filing here by the State of Utah of a response to the application together with transcripts of various specified hearings in the Utah courts and Board of Pardons,

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and until "further action of the Court on the application for stay."

The State of Utah has now filed its response and has substantially complied with the Court's request for transcripts of the specified hearings. After carefully examining the materials submitted by the State of Utah, the Court is convinced that Gary Mark Gilmore made a knowing and intelligent waiver of any and all federal rights he might have asserted after the Utah trial court's sentence was imposed, and, specifically, that the State's determinations of his competence knowingly and intelligently to waive any and all such rights were firmly grounded.

Accordingly, the stay of execution granted on December 3, 1976, is hereby terminated.

MR. CHIEF JUSTICE BURGER, with whom MR. JUSTICE POWELL joins, concurring.

On December 2, 1976, Bessie Gilmore, claiming to act as "next friend" on behalf of her son, Gary Mark Gilmore, filed with this Court an application for a stay of execution of the death sentence then scheduled for December 6, 1976.¹ Since only a limited record was then before the Court, we granted a temporary stay of execution on December 3, 1976,² in order to secure a response from the State of Utah. That response was received on December 7, 1976. On December 8, 1976, a response was filed by Gary Mark Gilmore, by and

¹ This case may be unique in the annals of the Court. Not only does Gary Mark Gilmore request no relief himself, but on the contrary he has expressly and repeatedly stated since his conviction in the Utah courts that he had received a fair trial and had been well treated by the Utah authorities. Nor does he claim to be innocent of the crime for which he was convicted. Indeed, his only complaint against Utah or its judicial process, including that raised in the state habeas corpus petition mentioned in n. 4, *infra*, has been with respect to the delay on the part of the State in carrying out the sentence.

² THE CHIEF JUSTICE, MR. JUSTICE REHNQUIST, and MR. JUSTICE STEVENS dissented from issuance of the stay.

through his attorneys of record, Ronald R. Stanger and Robert L. Moody, challenging the standing of Bessie Gilmore to initiate any proceedings in his behalf.

When the application for a stay was initially filed on December 2, a serious question was presented as to whether Bessie Gilmore had standing to seek the requested relief or any relief from this Court. Assuming the Court would otherwise have jurisdiction with respect to a "next friend" application, that jurisdiction would arise only if it were demonstrated that Gary Mark Gilmore is unable to seek relief in his own behalf. See *Rosenberg v. United States*, 346 U. S. 273, 291 (1953) (separate opinion of Jackson, J., joined by five Members of the Court). However, in view of Gary Mark Gilmore's response on December 8, 1976, it is now clear that the "next friend" concept is wholly inapplicable to this case. Since Gary Mark Gilmore has now filed a response and appeared in his own behalf, through his retained attorneys, any basis for the standing of Bessie Gilmore to seek relief in his behalf is necessarily eliminated. The only possible exception to this conclusion would be if the record suggested, despite the representations of Gary Mark Gilmore's attorneys, that he was incompetent to waive his right of appeal under state law and was at the present time incompetent to assert rights or to challenge Bessie Gilmore's standing to assert rights in his behalf as "next friend."³

After examining with care the pertinent portions of the transcripts and reports of state proceedings, and the response of Gary Mark Gilmore filed on December 8, I am in complete agreement with the conclusion expressed in the Court's order that Gary Mark Gilmore knowingly and intelligently,

³ When Bessie Gilmore's application for a stay first came before the Court, we did not have before us for consideration transcripts of the various hearings at which Gary Mark Gilmore was said to have waived his federal constitutional rights. As today's order makes clear, each Justice has now had an opportunity to review the relevant transcripts and reports concerning mental competence and waiver.

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with full knowledge of his right to seek an appeal in the Utah Supreme Court, has waived that right.⁴ I further agree that the State's determinations of his competence to waive his rights knowingly and intelligently were firmly grounded.⁵

⁴ At a hearing on November 1, 1976, on a motion for a new trial, Gilmore's attorneys informed the trial court that they had been told by Gilmore not to file an appeal and not to seek a stay of execution of sentence on his behalf. They also informed the trial court that they had advised Gilmore of his right to appeal, that they believed there were substantial grounds for appeal, that the constitutionality of the Utah death penalty statute had not yet been reviewed by either the Utah Supreme Court or the United States Supreme Court, and that in their view there was a chance that the statute would eventually be held unconstitutional. The trial court itself advised Gilmore that he had a right to appeal, that the constitutional issue had not yet been resolved, and that both counsel for the State and Gilmore's own counsel would attempt to expedite an appeal to avoid unnecessary delay. Gilmore stated that he did not "care to languish in prison for another day," that the decision was his own, and that he had not made the decision as a result of the influence of drugs or alcohol or as a result of the way he was treated in prison. On November 4, the state trial court concluded that Gilmore fully understood his right to appeal and the consequences of a decision not to appeal.

On November 10, the Utah Supreme Court held a hearing on the Utah Attorney General's motion to vacate a stay of execution of sentence entered two days earlier by that court. Gilmore was present, and, in response to questions from several justices, stated that he thought he had received a fair trial and a proper sentence, that he opposed any appeal in the case, and that he wished to withdraw an appeal previously filed without his consent by appointed trial counsel.

Finally, at a hearing before the trial court on December 1, Gilmore again informed the court that he opposed all appeals that had been filed.

⁵ In the pretrial period, from August 6 to October 6, 1976, the trial court appointed psychiatrists to examine Gilmore on two occasions, to determine his competency to stand trial and his sanity at the time of the offense. Three of the five psychiatrists who examined Gilmore in that period found no evidence of mental illness or insanity. The record before us does not include the findings of the other two psychiatrists,

When the record establishing a knowing and intelligent waiver of Gary Mark Gilmore's right to seek appellate review is combined with the December 8 written response submitted to this Court,⁶ it is plain that the Court is without jurisdiction to entertain the "next friend" application filed by Bessie Gilmore. This Court has jurisdiction pursuant to Art. III of the Constitution only over "cases and controversies," and we can issue stays only in aid of our jurisdiction. 28 U. S. C. §§ 1651, 2101 (f). There is no dispute, presently before us, between Gary Mark Gilmore and the State of Utah, and the application of Bessie Gilmore manifestly

which were presented to the trial court when it concluded that Gilmore was sane for the purpose of standing trial.

After trial, at the November 1 hearing, the state trial court ordered *sua sponte* that the Utah State Prison Psychiatrist, or other available psychiatric personnel of the prison, examine Gilmore to determine his ability to decide not to appeal. In the order, the court noted that Gilmore had instructed his attorneys not to appeal after they had informed him that there was substantial legal merit to such an appeal. On November 3 the Prison Psychiatrist submitted a report, based on a one-hour psychiatric interview and a review of Gilmore's medical records, concluding that Gilmore's decision to waive appeal was the "product of an organized thought process" and that Gilmore had not "become 'insane' or mentally ill." On the same day, two prison psychologists submitted a second report, based on psychological tests and an individual interview, concluding that "[Gilmore] presently has the mental capacity and emotional stability to make the necessary decisions concerning his sentence and to understand the consequences."

Gilmore apparently attempted to take his own life on November 16. The Prison Psychiatrist subsequently reported to the Board of Pardons that Gilmore's mental state on November 24 was "exactly as described" in the psychiatrist's report to the court on November 3.

⁶ On December 8, 1976, Gilmore, by counsel, advised this Court of the filing of a petition in a Utah state court seeking habeas corpus relief. Although that petition is not in the papers before us, it is understood that the ground relied upon is not the deprivation of any constitutional right but that there is a 60-day limitation under Utah law upon the carrying out of the sentence of death, an issue which has not been presented to the Utah Supreme Court as of this date.

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fails to meet the statutory requirements to invoke this Court's power to review the action of the Supreme Court of Utah. No authority to the contrary has been brought to our attention, and nothing suggested in dissent bears on the threshold question of jurisdiction.

In his dissenting opinion, MR. JUSTICE WHITE suggests that Gary Mark Gilmore is "unable" as a matter of law to waive the right to state appellate review.⁷ Whatever may be said as to the merits of this suggestion, the question simply is not before us. Gilmore, duly found to be competent by the Utah courts, has had available meaningful access to this Court and has declined expressly to assert any claim here other than his explicit repudiation of Bessie Gilmore's effort to speak for him as next friend. It follows, therefore, that the Court is without jurisdiction to consider the question posed by the dissent.

MR. JUSTICE STEVENS, with whom MR. JUSTICE REHNQUIST joins, concurring.

In my judgment the record not only supports the conclusion that Gilmore was competent to waive his right to appeal, but also makes it clear that his access to the courts is entirely unimpeded and therefore a third party has no standing to litigate an Eighth Amendment claim—or indeed any other claim—on his behalf. Without a proper litigant before it, this Court is without power to stay the execution.

MR. JUSTICE WHITE, joined by MR. JUSTICE BRENNAN and MR. JUSTICE MARSHALL, dissenting.

As Justice Wilkins said in dissent below,¹ there are sub-

⁷ MR. JUSTICE WHITE's dissent expresses the view that absent an affirmative decision by "the state courts" as to the validity of Utah's capital punishment statute, "the imposition of the death penalty in this case should be stayed." However, Gilmore has not challenged the validity of the statute under which he was convicted, and there is no other party before this Court with requisite standing to do so.

¹ Prior to Gilmore's seeming waiver, the trial judge also appeared ready

stantial questions under *Furman v. Georgia*, 408 U. S. 238 (1972), about the constitutionality of the Utah death penalty statute. Because of Gary Gilmore's purported waiver of his right to challenge the statute, none of these questions was resolved in the Utah courts. I believe, however, that the consent of a convicted defendant in a criminal case does not privilege a State to impose a punishment otherwise forbidden by the Eighth Amendment.² Until the state courts have resolved the obvious, serious doubts about the validity of the state statute, the imposition of the death penalty in this case should be stayed.

Given the inability of Gary Gilmore to waive resolution in the state courts of the serious questions concerning the constitutional legality of his death sentence, there is no jurisdictional barrier to addressing the question upon the application of the defendant's mother. See *Rosenberg v. United States*, 346 U. S. 273, 291 (1953) (separate opinion of Jackson, J.). Without examining the constitutionality of the Utah death statute, on November 10, 1976, the Utah Supreme Court vacated its stay of Gilmore's sentence and dismissed the appeal which his then attorneys had filed on his behalf.

Pending the filing of a timely petition for certiorari, I would continue the stay previously issued by this Court; and upon said filing it would appear that the judgment of the Supreme Court of Utah should be vacated and the case remanded to the state courts for reconsideration in the light of the death penalty decisions announced by this Court

to certify an appeal in order that the State Supreme Court could pass on the issue of the validity of the death penalty statute, an issue he had not himself addressed.

² Nor in the absence of a state-court decision sustaining the death penalty statute would a purported waiver of the Eighth Amendment necessarily be a defense to a wrongful-death action, see Utah Code Ann. § 78-11-7 (1953), based on an execution imposed under an unconstitutional statute.

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last Term. Cf. *Collins v. Arkansas*, ante, p. 808; *Neal v. Arkansas*, ante, p. 808.

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I fully agree with my Brother WHITE that a criminal defendant has no power to agree to be executed under an unconstitutional statute. I believe that the Eighth Amendment not only protects the right of individuals not to be victims of cruel and unusual punishment, but that it also expresses a fundamental interest of society in ensuring that state authority is not used to administer barbaric punishments. Irrespective of this, however, I cannot agree with the view expressed by THE CHIEF JUSTICE that Gilmore has competently, knowingly, and intelligently decided to let himself be killed. Less than five months have passed since the commission of the crime; just over two months have elapsed since sentence was imposed. That is hardly sufficient time for mature consideration of the question, nor does Gilmore's erratic behavior—from his suicide attempt to his state habeas petition—evidence such deliberation. No adversary hearing has been held to examine the experts,¹ all employed by the State of Utah, who have pronounced Gilmore sane.² The decision of the Utah Supreme Court finding a valid waiver can be given little weight. In the transcripts that the court prepared for us, it omitted a portion of its proceedings as having "no pertinency" to the issue of Gilmore's "having voluntarily and intelligently waived his right to appeal." That "irrelevant" portion in-

¹ If Gilmore's own lawyers refused to question his competence, the court could certainly ask other counsel acting as *amicus curiae* to present that side of the issue.

² As THE CHIEF JUSTICE notes, the opinion of the Prison Psychiatrist, the only doctor who has considered Gilmore's competency since the waiver decision was publicly announced, was based on a review of Gilmore's medical records and a *one-hour* interview.

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volved a discussion by Gilmore's trial counsel of his opinion of Gilmore's competence and the constitutionality of the Utah statute. It is appalling that any court could consider these questions irrelevant to that determination. It is equally shocking that the Utah court, in a matter of such importance, failed even to have a court reporter present to transcribe the proceeding, instead relying on recordings made by dictating machines which have produced a partly unintelligible record. These inexplicable actions by a court charged with life or death responsibility underscore the failure of the State to determine adequately the validity of Gilmore's purported waiver and the propriety of imposing capital punishment.

MR. JUSTICE BLACKMUN, dissenting.

I am of the view that the question of Bessie Gilmore's standing and the constitutional issue are not insubstantial, and, indeed, in the context of this case, are of manifest importance. I therefore would have the pending application set for expeditious hearing and given plenary, not summary, consideration. See Mr. Justice Harlan's haunting admonition, which I joined, in *New York Times Co. v. United States*, 403 U. S. 713, 752, 755 (1971) (Harlan, J., dissenting).

No. 76-948. LEIB ET AL. *v.* TWENTIETH CENTURY CORP. ET AL. C. A. 3d Cir. Motion of petitioners to dispense with printing petition and appendix and to impound to preserve confidentiality denied.

No. 75-657. LOCAL 3489, UNITED STEELWORKERS OF AMERICA, AFL-CIO, ET AL. *v.* USERY, SECRETARY OF LABOR. C. A. 7th Cir. [Certiorari granted, 424 U. S. 907.] Motion of petitioners for leave to file supplemental brief after argument granted.

No. 75-1707. OHIO BUREAU OF EMPLOYMENT SERVICES ET AL. *v.* HODORY. Appeal from D. C. N. D. Ohio. [Probable

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jurisdiction noted, *ante*, p. 814.] Motions of Republic Steel Corp. and United States Steel Corp. for leave to file briefs as *amici curiae* granted.

No. 75-1775. MASSACHUSETTS *v.* WESTCOTT. Sup. Ct. Jud. Mass. [Certiorari granted, *ante*, p. 815] Motion of S. Stephen Rosenfeld, Esquire, to permit Howard Whitehead, Esquire, to argue *pro hac vice* on behalf of petitioner granted.

No. 76-167. UNITED STATES *v.* RAMSEY ET AL. C. A. D. C. Cir. [Certiorari granted, *ante*, p. 815.] Joint motion of respondents to strike petitioner's brief on the merits denied.

No. 76-180. SMITH, ADMINISTRATOR, HUMAN RESOURCES ADMINISTRATION OF NEW YORK CITY, ET AL. *v.* ORGANIZATION OF FOSTER FAMILIES FOR EQUALITY AND REFORM ET AL.;

No. 76-183. SHAPIRO, EXECUTIVE DIRECTOR, NEW YORK STATE BOARD OF SOCIAL WELFARE, ET AL. *v.* ORGANIZATION OF FOSTER FAMILIES FOR EQUALITY AND REFORM ET AL.;

No. 76-5193. RODRIGUEZ ET AL. *v.* ORGANIZATION OF FOSTER FAMILIES FOR EQUALITY AND REFORM ET AL.; and

No. 76-5200. GANDY ET AL. *v.* ORGANIZATION OF FOSTER FAMILIES FOR EQUALITY AND REFORM ET AL. Appeals from D. C. S. D. N. Y. [Probable jurisdiction noted, *ante*, p. 883.] Motion of Puerto Rican Family Institute, Inc., et al. for leave to file a brief as *amici curiae* granted.

No. 76-316. BATES ET AL. *v.* STATE BAR OF ARIZONA. Appeal from Sup. Ct. Ariz. [Probable jurisdiction noted, *ante*, p. 813.] Motion of the State of North Carolina et al. for leave to present oral argument as *amici curiae* denied.

No. 76-5358. HENRY *v.* FLORIDA, *ante*, p. 951. Counsel for respondent requested to file a response to petition for rehearing within 30 days.

No. 76-5697. JACKSON *v.* UNITED STATES. Motion for leave to file petition for writ of habeas corpus denied.

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No. 76-422. DOTHARD, DIRECTOR, DEPARTMENT OF PUBLIC SAFETY OF ALABAMA, ET AL. *v.* RAWLINSON ET AL. Appeal from D. C. M. D. Ala. [Probable jurisdiction noted, *ante*, p. 976.] Motion of Walter S. Turner, Esquire, to permit G. Daniel Evans, Esquire, to argue *pro hac vice* on behalf of appellants granted. Motion of Morris Dees, Esquire, to permit Pamela S. Horowitz to argue *pro hac vice* on behalf of appellees granted.

Certiorari Granted

No. 76-99. OCCIDENTAL LIFE INSURANCE COMPANY OF CALIFORNIA *v.* EQUAL EMPLOYMENT OPPORTUNITY COMMISSION. C. A. 9th Cir. Certiorari granted. Reported below: 535 F. 2d 533.

Certiorari Denied. (See also Nos. 76-81 and 76-573, *supra*.)

No. 75-6971. SLADEK *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 530 F. 2d 975.

No. 76-153. KELNER *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. Reported below: 534 F. 2d 1020.

No. 76-228. TRUCK DRIVERS, OIL DRIVERS, FILLING STATION & PLATFORM WORKERS UNION, LOCAL No. 705, AFFILIATED WITH INTERNATIONAL BROTHERHOOD OF TEAMSTERS, CHAUFFEURS, WAREHOUSEMEN & HELPERS OF AMERICA *v.* NATIONAL LABOR RELATIONS BOARD ET AL. C. A. 7th Cir. Certiorari denied. Reported below: 532 F. 2d 1169.

No. 76-289. BRASEL *v.* MISSOURI. Sup. Ct. Mo. Certiorari denied. Reported below: 538 S. W. 2d 325.

No. 76-290. AMERICAN CIVIL LIBERTIES UNION ET AL. *v.* BOZARDT ET AL. C. A. 4th Cir. Certiorari denied. Reported below: 539 F. 2d 340.

No. 76-315. WISCONSIN VALLEY TRUST CO. ET AL., CO-EXECUTORS *v.* COMMISSIONER OF INTERNAL REVENUE. C. A. 7th Cir. Certiorari denied. Reported below: 538 F. 2d 730.

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No. 76-361. *D. I. Z. LIVESTOCK CO. ET AL. v. UNITED STATES*. Ct. Cl. Certiorari denied. Reported below: 210 Ct. Cl. 708, 538 F. 2d 348.

No. 76-365. *SLOAN ET AL. v. SECURITIES AND EXCHANGE COMMISSION ET AL.* C. A. 2d Cir. Certiorari denied.

No. 76-367. *FAULKNER v. UNITED STATES*;

No. 76-369. *WELLS v. UNITED STATES*; and

No. 76-5354. *McCLANAHAN v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 538 F. 2d 724.

No. 76-435. *F. W. WOOLWORTH CO. v. NATIONAL LABOR RELATIONS BOARD*. C. A. 5th Cir. Certiorari denied. Reported below: 530 F. 2d 1245.

No. 76-438. *LIPKOWITZ ET AL., EXECUTORS v. COMMISSIONER OF INTERNAL REVENUE*. C. A. 2d Cir. Certiorari denied. Reported below: 539 F. 2d 878.

No. 76-442. *UNITED STATES FIDELITY & GUARANTY CO. v. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION*. C. A. 4th Cir. Certiorari denied. Reported below: 538 F. 2d 324.

No. 76-452. *KEY ET AL. v. KEADY, U. S. DISTRICT JUDGE, ET AL.* C. A. 5th Cir. Certiorari denied.

No. 76-453. *NEW HAMPSHIRE v. UNITED STATES*. C. A. 1st Cir. Certiorari denied. Reported below: 539 F. 2d 277.

No. 76-455. *GILLIS v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 538 F. 2d 330.

No. 76-456. *O'LOONEY v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 544 F. 2d 385.

No. 76-464. *SHREIBER ET AL. v. UNITED INDUSTRIAL CORP.* App. Div., Sup. Ct. N. Y., 1st Jud. Dept. Certiorari denied. Reported below: 51 App. Div. 2d 688, 379 N. Y. S. 2d 404.

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No. 76-482. *RAMIREZ v. UNITED STATES*. Ct. Cl. Certiorari denied. Reported below: 210 Ct. Cl. 537, 538 F. 2d 888.

No. 76-544. *NEFF TRAILER SALES, INC. v. STRICKLER, ADMINISTRATRIX*. C. A. 4th Cir. Certiorari denied. Reported below: 542 F. 2d 890.

No. 76-562. *ROBERTS v. AMERICAN BANK OF MUSKOGEE ET AL.* C. A. 10th Cir. Certiorari denied.

No. 76-618. *MARTIN ET AL. v. CONTINENTAL GRAIN CO.* C. A. 5th Cir. Certiorari denied. Reported below: 536 F. 2d 592.

No. 76-668. *MOLEVER ET AL. v. LEVENSON ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 539 F. 2d 996.

No. 76-704. *YOUNG v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 544 F. 2d 415.

No. 76-5184. *BAYLOR v. UNITED STATES*. Ct. App. D. C. Certiorari denied. Reported below: 360 A. 2d 42.

No. 76-5192. *PHILLIPS v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 538 F. 2d 586.

No. 76-5199. *FOSTER v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 538 F. 2d 330.

No. 76-5213. *THORNTON v. UNITED STATES*. Ct. App. D. C. Certiorari denied. Reported below: 357 A. 2d 429.

No. 76-5227. *EVERS v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 534 F. 2d 1186.

No. 76-5238. *BANKS v. UNITED STATES*; and

No. 76-5239. *LAPOINTE v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: No. 76-5238, 539 F. 2d 14; No. 76-5239, 539 F. 2d 719.

No. 76-5257. *MAYFIELD v. UNITED STATES*. C. A. 10th Cir. Certiorari denied.

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No. 76-5304. *SELLARS v. CALIFORNIA ET AL.* Sup. Ct. Cal. Certiorari denied.

No. 76-5348. *SPATES v. VOLLERO ET AL.* C. A. 2d Cir. Certiorari denied.

No. 76-5361. *HAMMOND v. BAILAR, POSTMASTER GENERAL.* C. A. 5th Cir. Certiorari denied. Reported below: 536 F. 2d 1385.

No. 76-5364. *TESACK v. UNITED STATES.* C. A. 4th Cir. Certiorari denied. Reported below: 538 F. 2d 1068.

No. 76-5383. *CHILDRESS v. UNITED STATES.* C. A. 4th Cir. Certiorari denied. Reported below: 539 F. 2d 706.

No. 76-5388. *JONES v. UNITED STATES.* C. A. 9th Cir. Certiorari denied. Reported below: 541 F. 2d 287.

No. 76-5396. *MAHONE v. UNITED STATES.* C. A. 7th Cir. Certiorari denied. Reported below: 537 F. 2d 922.

No. 76-5397. *STANDING SOLDIER v. UNITED STATES.* C. A. 8th Cir. Certiorari denied. Reported below: 538 F. 2d 196.

No. 76-5406. *LOVE v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. Reported below: 538 F. 2d 898.

No. 76-5411. *GONZALEZ-HERNANDEZ v. UNITED STATES.* C. A. 9th Cir. Certiorari denied. Reported below: 541 F. 2d 287.

No. 76-5413. *WALTON v. UNITED STATES.* C. A. 8th Cir. Certiorari denied. Reported below: 538 F. 2d 1348.

No. 76-5440. *JOHNSON v. UNITED STATES*; and

No. 76-5553. *GUNN v. UNITED STATES.* C. A. 8th Cir. Certiorari denied. Reported below: 540 F. 2d 954.

No. 76-5441. *ROBISON v. UNITED STATES.* C. A. 10th Cir. Certiorari denied.

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No. 76-5444. *DEMARS v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 538 F. 2d 330.

No. 76-5500. *RODRIGUEZ v. NEW YORK*. App. Div., Sup. Ct. N. Y., 1st Jud. Dept. Certiorari denied. Reported below: 52 App. Div. 2d 781, 383 N. Y. S. 2d 17.

No. 76-5508. *RAY v. ROSE, WARDEN*. C. A. 6th Cir. Certiorari denied. Reported below: 535 F. 2d 966.

No. 76-5576. *PEARCY v. CALIFORNIA*. Ct. App. Cal., 4th App. Dist. Certiorari denied.

No. 76-5584. *CLARK v. LEACH ET AL.* C. A. 10th Cir. Certiorari denied.

No. 76-5586. *FLANNERY v. PENNSYLVANIA*; and

No. 76-5588. *BONADUCE v. PENNSYLVANIA*. Super. Ct. Pa. Certiorari denied.

No. 76-5595. *CASTEEL v. CALIFORNIA*. Ct. App. Cal., 2d App. Dist. Certiorari denied.

No. 76-5601. *FISHER v. PENNSYLVANIA*. Pa. Commw. Ct. Certiorari denied. Reported below: 23 Pa. Commw. 25, 350 A. 2d 428.

No. 76-5604. *JOHNSON v. ALABAMA*. Ct. Crim. App. Ala. Certiorari denied. Reported below: 335 So. 2d 663.

No. 76-5605. *STERLING v. WYRICK, WARDEN*. C. A. 8th Cir. Certiorari denied.

No. 76-5665. *BLEWITT v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 538 F. 2d 1099.

No. 76-5677. *JONES v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 542 F. 2d 1177.

No. 76-5689. *BROWN v. UNITED STATES*. C. A. 10th Cir. Certiorari denied. Reported below: 541 F. 2d 858.

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No. 76-5694. *OHRYNOWICZ v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 542 F. 2d 715.

No. 76-5711. *YANEZ-OSORIO v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 542 F. 2d 1181.

No. 76-5712. *SMITH v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 542 F. 2d 1177.

No. 75-5718. *LABARE v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 542 F. 2d 926.

No. 76-283. *BUTE ET AL. v. QUINN ET AL.* C. A. 7th Cir. Certiorari denied. MR. JUSTICE BLACKMUN would grant certiorari. Reported below: 535 F. 2d 1258.

No. 76-331. *NORTH CAROLINA UTILITIES COMMISSION ET AL. v. FEDERAL COMMUNICATIONS COMMISSION ET AL.*;

No. 76-332. *AMERICAN TELEPHONE & TELEGRAPH CO. ET AL. v. FEDERAL COMMUNICATIONS COMMISSION ET AL.*; and

No. 76-336. *NATIONAL ASSOCIATION OF REGULATORY UTILITY COMMISSIONERS v. FEDERAL COMMUNICATIONS COMMISSION ET AL.* C. A. 4th Cir. Certiorari denied. MR. JUSTICE POWELL took no part in the consideration or decision of these petitions. Reported below: 537 F. 2d 787.

No. 76-339. *COUSINS v. MARYLAND*. Ct. App. Md. Certiorari denied. Reported below: 277 Md. 383, 354 A. 2d 825.

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

Petitioner was charged in an information and an indictment with alleged crimes arising from an incident that occurred at a department store in Montgomery County, Md. The information charged assault upon two store detectives who had attempted to apprehend him after following him from the store into an adjacent shopping mall area. The subsequent indictment charged an assault upon only one of the detectives. On the basis of the information, petitioner

was tried first at a bench trial in state court for the assault upon the officer not named in the indictment. He was acquitted. Thereafter, petitioner made a motion to dismiss the indictment on grounds of collateral estoppel and double jeopardy. The trial court denied the motion, and the Court of Appeals of Maryland affirmed. 277 Md. 383, 354 A. 2d 825 (1976).

I would grant the petition for certiorari and reverse the judgment of the Court of Appeals affirming the denial of the motion to dismiss the indictment. I adhere to the view that the Double Jeopardy Clause of the Fifth Amendment, applied to the States through the Fourteenth Amendment, requires the prosecution in one proceeding, except in extremely limited circumstances not present here, of "all the charges against a defendant that grow out of a single criminal act, occurrence, episode, or transaction." *Ashe v. Swenson*, 397 U. S. 436, 453-454 (1970) (BRENNAN, J., concurring). See *Dempsey v. United States*, 423 U. S. 1079 (1976) (BRENNAN, J., dissenting); *Susi v. Flowers*, 423 U. S. 1006 (1975) (BRENNAN, J., dissenting); *Vardas v. Texas*, 423 U. S. 904 (1975) (BRENNAN, J., dissenting); *Stewart v. Iowa*, 423 U. S. 902 (1975) (BRENNAN, J., dissenting); *Waugh v. Gray*, 422 U. S. 1027 (1975) (BRENNAN, J., dissenting); *Wells v. Missouri*, 419 U. S. 1075 (1974) (BRENNAN, J., dissenting); *Moton v. Swenson*, 417 U. S. 957 (1974) (BRENNAN, J., dissenting); *Tijerina v. New Mexico*, 417 U. S. 956 (1974) (BRENNAN, J., dissenting); *Ciuzio v. United States*, 416 U. S. 995 (1974) (BRENNAN, J., dissenting); *Harris v. Washington*, 404 U. S. 55, 57 (1971) (concurring statement); *Waller v. Florida*, 397 U. S. 387, 395 (1970) (BRENNAN, J., concurring). See also *People v. White*, 390 Mich. 245, 212 N. W. 2d 222 (1973); *State v. Brown*, 262 Ore. 442, 497 P. 2d 1191 (1972); *Commonwealth v. Campana*, 452 Pa. 233, 304 A. 2d 432, vacated and remanded, 414 U. S. 808 (1973), adhered to on remand, 455 Pa. 622, 314 A. 2d 854 (1974); *State v. Gregory*, 66 N. J. 510, 333 A. 2d 257 (1975).

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No. 76-549. SKIL CORP. *v.* MILLERS FALLS 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: 541 F. 2d 554.

No. 76-559. DIVISION 241, AMALGAMATED TRANSIT UNION (AFL-CIO) *v.* SUSCY ET AL. C. A. 7th Cir. Certiorari denied. MR. JUSTICE STEVENS took no part in the consideration or decision of this petition. Reported below: 538 F. 2d 1264.

No. 76-551. AMERICANS UNITED ET AL. *v.* ROGERS ET AL. Sup. Ct. Mo. Certiorari denied. MR. JUSTICE BRENNAN would grant certiorari. Reported below: 538 S. W. 2d 711.

No. 76-552. WHITLOW *v.* HODGES, DIRECTOR, DIVISION OF DRIVER LICENSING, DEPARTMENT OF PUBLIC SAFETY OF KENTUCKY. C. A. 6th Cir. Certiorari denied. MR. JUSTICE BRENNAN and MR. JUSTICE MARSHALL would grant certiorari. Reported below: 539 F. 2d 582.

No. 76-5544. BIRT *v.* GEORGIA. Sup. Ct. Ga. Certiorari denied. MR. JUSTICE BRENNAN and MR. JUSTICE MARSHALL would grant certiorari and vacate judgment insofar as it leaves undisturbed the sentence of death. See *Gregg v. Georgia*, 428 U. S. 153, 227 (1976) (BRENNAN, J., dissenting); *id.*, at 231 (MARSHALL, J., dissenting). Reported below: 236 Ga. 815, 225 S. E. 2d 248.

Rehearing Denied

No. 75-1681. MILLER *v.* STAG OIL PRODUCERS, INC., *ante*, p. 825. Petition for rehearing denied.

DECEMBER 17, 1976

Miscellaneous Order

No. A-488. KEARNS-TRIBUNE CORP., DBA SALT LAKE TRIBUNE *v.* UTAH BOARD OF CORRECTIONS ET AL. C. A. 10th Cir.

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Application for stay of judgment entered December 7, 1976, presented to MR. JUSTICE WHITE, and by him referred to the Court, denied. MR. JUSTICE BRENNAN and MR. JUSTICE MARSHALL would grant stay.

Rehearing Denied

No. A-453. GILMORE *v.* UTAH, *ante*, p. 1012. Petition for rehearing denied.

DECEMBER 21, 1976

Dismissals Under Rule 60

No. 76-263. HOPI TRIBE *v.* UNITED STATES ET AL. Ct. Cl. Certiorari dismissed under this Court's Rule 60. Reported below: 207 Ct. Cl. 968, 529 F. 2d 533.

No. 76-714. OLD ELK *v.* DISTRICT COURT OF THE THIRTEENTH JUDICIAL DISTRICT OF MONTANA ET AL. Appeal from Sup. Ct. Mont. dismissed under this Court's Rule 60. Reported below: 170 Mont. 208, 552 P. 2d 1394.

DECEMBER 28, 1976

Dismissal Under Rule 60

No. 76-685. M & T CHEMICALS, INC. *v.* INTERNATIONAL BUSINESS MACHINES CORP. ET AL. C. A. 2d Cir. Certiorari dismissed under this Court's Rule 60. Reported below: 542 F. 2d 1165.

JANUARY 10, 1977

Affirmed on Appeal

No. 75-1532. HECHINGER ET AL. *v.* MARTIN, CHAIRMAN, DISTRICT OF COLUMBIA BOARD OF ELECTIONS AND ETHICS, ET AL. Affirmed on appeal from D. C. D. C. THE CHIEF JUSTICE, MR. JUSTICE BLACKMUN, and MR. JUSTICE POWELL would note probable jurisdiction and set case for oral argument. Reported below: 411 F. Supp. 650.

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No. 75-1817. LEFKOWITZ, ATTORNEY GENERAL OF NEW YORK *v.* C. D. R. ENTERPRISES, LTD., ET AL. Affirmed on appeal from D. C. E. D. N. Y. MR. JUSTICE WHITE and MR. JUSTICE REHNQUIST would note probable jurisdiction and set case for oral argument. Reported below: 412 F. Supp. 1164.

Vacated and Remanded on Appeal

No. 74-1522. COLÓN, GOVERNOR OF PUERTO RICO, ET AL. *v.* ORTIZ ET AL. Appeal from D. C. Puerto Rico. Judgment vacated and case remanded for consideration of whether cause is moot. Reported below: See 385 F. Supp. 111.

Appeals Dismissed

No. 76-602. GURS *v.* GURS. Appeal from Ct. App. Cal., 1st App. Dist., dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied.

No. 76-614. FIRTH *v.* THOMPSON ET AL., JUSTICES OF SUPREME COURT OF NEVADA. Appeal from C. A. 9th Cir. dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied.

No. 76-642. CHASTEEN *v.* OKLAHOMA. Appeal from Ct. Crim. App. Okla. dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied. Reported below: 551 P. 2d 1171.

No. 76-696. POWELL MANUFACTURING Co., INC. *v.* HARRINGTON MANUFACTURING Co., INC. Appeal from Sup. Ct. N. C. dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied. Reported below: 290 N. C. 662, 228 S. E. 2d 454.

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No. 76-673. *CAZARES ET AL. v. INDIANA ET AL.* Appeal from C. A. 7th Cir. dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied. Reported below: 539 F. 2d 715.

No. 76-5414. *POWELL v. CALIFORNIA.* Appeal from Sup. Ct. Cal. dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied.

No. 76-5484. *IN RE ADOPTION OF R. I.* Appeal from Sup. Ct. Pa. dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied. Reported below: 468 Pa. 207, 361 A. 2d 294.

No. 76-5620. *ESLINGER v. BATES, DIRECTOR, DEPARTMENT OF PUBLIC WELFARE OF OHIO.* Appeal from Ct. App. Ohio, Franklin County, dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied.

No. 76-5767. *SMEEKENS v. MICHIGAN STATE BAR GRIEVANCE BOARD.* Appeal from Sup. Ct. Mich. dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for certiorari, certiorari denied. Reported below: 396 Mich. 719, 242 N. W. 2d 391.

No. 76-627. *CABLE-VISION, INC., ET AL. v. FREEMAN ET AL.* Appeal from Sup. Ct. Fla. dismissed for want of substantial federal question. Reported below: 336 So. 2d 1180.

No. 76-660. *HUMANE SOCIETY OF THE UNITED STATES, NEW JERSEY BRANCH, INC., ET AL. v. NEW JERSEY FISH AND GAME COUNCIL ET AL.* Appeal from Sup. Ct. N. J. dismissed for want of substantial federal question. Reported below: 70 N. J. 565, 362 A. 2d 20.

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No. 76-5617. CHAPDELAINÉ *v.* TENNESSEE STATE BOARD OF EXAMINERS FOR LAND SURVEYORS ET AL. Appeal from Sup. Ct. Tenn. dismissed for want of substantial federal question. Reported below: 541 S. W. 2d 786.

Certiorari Granted—Vacated and Remanded

No. 74-1601. AMERICAN TELEPHONE & TELEGRAPH CO., LONG LINES DEPARTMENT *v.* COMMUNICATIONS WORKERS OF AMERICA, AFL-CIO, ET AL. C. A. 2d Cir. Certiorari granted, judgment vacated, and case remanded for further consideration in light of *General Electric Co. v. Gilbert*, ante, p. 125. Reported below: 513 F. 2d 1024.

No. 75-70. SOCIAL SERVICE EMPLOYEES UNION, LOCAL 371, ET AL. *v.* WOMEN IN CITY GOVERNMENT UNITED ET AL.; and

No. 75-71. UNITED FEDERATION OF TEACHERS ET AL. *v.* WOMEN IN CITY GOVERNMENT UNITED ET AL. C. A. 2d Cir. Certiorari granted and cases remanded for further consideration in light of *General Electric Co. v. Gilbert*, ante, p. 125.

No. 75-568. LAKE OSWEGO SCHOOL DISTRICT No. 7 ET AL. *v.* HUTCHISON. C. A. 9th Cir. Certiorari granted, judgment vacated, and case remanded for further consideration in light of *General Electric Co. v. Gilbert*, ante, p. 125. Reported below: 519 F. 2d 961.

No. 75-1419. McDONALD, AKA MACDONALD *v.* UNITED STATES. C. A. 6th Cir. Certiorari granted, judgment vacated, and case remanded to consider merits of petitioner's appeal. THE CHIEF JUSTICE, MR. JUSTICE WHITE, and MR. JUSTICE REHNQUIST dissent.

No. 75-1887. JONES ET AL. *v.* CARROLL ET AL. C. A. 4th 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 *Meachum v. Fano*, 427 U. S. 215 (1976), and *Montanye v. Haymes*, 427 U. S. 236 (1976). Reported below: 540 F. 2d 670.

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No. 75-1459. *SINGER v. UNITED STATES CIVIL SERVICE COMMISSION ET AL.* C. A. 9th Cir. Certiorari granted, judgment vacated, and case remanded for reconsideration in light of the position now asserted by the Solicitor General in his memorandum filed on behalf of the United States Civil Service Commission. THE CHIEF JUSTICE, MR. JUSTICE WHITE, and MR. JUSTICE REHNQUIST dissent. Reported below: 530 F. 2d 247.

No. 75-1884. *CROUCHER ET AL. v. UNITED STATES.* C. A. 5th Cir. Certiorari granted. On representation of the Solicitor General set forth in his memorandum for the United States, filed December 2, 1976, judgment vacated and case remanded for reconsideration in light of position presently asserted by the Government. In all other respects certiorari denied. Reported below: 525 F. 2d 943.

No. 75-7005. *WATKINS v. UNITED STATES.* C. A. 5th Cir. Motion for leave to proceed *in forma pauperis* and certiorari granted. On representation of the Solicitor General set forth in his supplemental memorandum for the United States, filed November 24, 1976, judgment vacated and case remanded for reconsideration in light of position presently asserted by the Government. Reported below: 533 F. 2d 1134.

No. 76-5146. *RUDOLPH v. WISCONSIN.* Sup. Ct. Wis. Motion for leave to proceed *in forma pauperis* and certiorari granted. Judgment vacated and case remanded for further consideration in light of *Doyle v. Ohio*, 426 U. S. 610 (1976). Reported below: 71 Wis. 2d 845, 240 N. W. 2d 430.

Miscellaneous Orders

No. A-436. *GAYLORD v. UNITED STATES.* C. A. 7th Cir. Application for bail, presented to MR. JUSTICE BRENNAN, and by him referred to the Court, denied.

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No. A-456 (76-930). EVANS, GOVERNOR OF WASHINGTON, ET AL. *v.* ATLANTIC RICHFIELD Co. ET AL. Appeal from D. C. W. D. Wash. Application for stay of order of permanent injunction entered by the United States District Court for the Western District of Washington granted pending final disposition of appeal in this Court.

No. A-458. WARD *v.* UNITED STATES. C. A. 5th Cir. Application for bail, presented to MR. JUSTICE MARSHALL, and by him referred to the Court, denied.

No. D-62. IN RE DISBARMENT OF PERSKY. Robert S. Persky, of New York, N. Y., having requested to resign as a member of the Bar of this Court, it is ordered that his name be stricken from the roll of attorneys admitted to practice before the Bar of this Court. The rule to show cause heretofore issued on November 1, 1976 [*ante*, p. 913], is hereby discharged.

No. D-94. IN RE DISBARMENT OF ESBER. It is ordered that Edward M. Esber, of Cleveland, Ohio, be suspended from the practice of law in this Court and that a rule issue, returnable within 40 days, requiring him to show cause why he should not be disbarred from the practice of law in this Court.

No. D-95. IN RE DISBARMENT OF OHRALIK. It is ordered that Albert Ohralik, of Cleveland, Ohio, be suspended from the practice of law in this Court and that a rule issue, returnable within 40 days, requiring him to show cause why he should not be disbarred from the practice of law in this Court.

No. 75-1261. KNEBEL, SECRETARY OF AGRICULTURE *v.* HEIN ET AL.; and

No. 75-1355. BURNS, COMMISSIONER, DEPARTMENT OF SOCIAL SERVICES OF IOWA, ET AL. *v.* HEIN ET AL. Appeals from D. C. S. D. Iowa. [Probable jurisdiction noted, 426 U. S. 904.] Motion of appellee Hein for leave to file supplemental memorandum after argument granted.

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No. 75-562. ROSEBUD SIOUX TRIBE *v.* KNEIP, GOVERNOR OF SOUTH DAKOTA, ET AL. C. A. 8th Cir. [Certiorari granted, 425 U. S. 989.] Motion of the Solicitor General to permit H. Bartow Farr, Esquire, to present oral argument *pro hac vice* granted.

No. 75-909. ENVIRONMENTAL PROTECTION AGENCY *v.* BROWN, GOVERNOR OF CALIFORNIA, ET AL.; and ENVIRONMENTAL PROTECTION AGENCY *v.* ARIZONA ET AL. C. A. 9th Cir.;

No. 75-960. ENVIRONMENTAL PROTECTION AGENCY *v.* MARYLAND ET AL. C. A. 4th Cir.;

No. 75-1050. VIRGINIA EX REL. AIR POLLUTION CONTROL BOARD *v.* TRAIN, ADMINISTRATOR, ENVIRONMENTAL PROTECTION AGENCY; and

No. 75-1055. TRAIN, ADMINISTRATOR, ENVIRONMENTAL PROTECTION AGENCY *v.* DISTRICT OF COLUMBIA ET AL. C. A. D. C. Cir. [Certiorari granted, 426 U. S. 904.] Motion of Pacific Legal Foundation for leave to participate in oral argument as *amicus curiae* denied.

No. 76-316. BATES ET AL. *v.* STATE BAR OF ARIZONA. Appeal from Sup. Ct. Ariz. [Probable jurisdiction noted, *ante*, p. 813.] Motion of the Solicitor General for leave to participate in oral argument as *amicus curiae* granted and 20 minutes allotted for that purpose. Both appellants and appellee granted 10 additional minutes for oral argument. Motion of Magar E. Magar for leave to file a brief *pro se* as *amicus curiae* denied.

No. 76-5382. DARDEN *v.* FLORIDA. Sup. Ct. Fla. Certiorari granted November 1, 1976 [*ante*, p. 917], limited to Question 1 presented by the petition, dealing with whether the prosecution's summation to jury in the circumstances of this case deprived petitioner of due process of law.

No. 76-5598. SAYLES *v.* MCGUIRE, U. S. DISTRICT JUDGE. Motion for leave to file petition for writ of mandamus denied.

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Probable Jurisdiction Noted

No. 76-352. CHAPELLE *v.* GREATER BATON ROUGE AIRPORT DISTRICT ET AL. Appeal from Ct. App. La., 1st Cir. Probable jurisdiction noted. Reported below: 329 So. 2d 810.

No. 76-415. WARD *v.* ILLINOIS. Appeal from Sup. Ct. Ill. Probable jurisdiction noted. Reported below: 63 Ill. 2d 437, 349 N. E. 2d 47.

No. 76-496. WOLMAN ET AL. *v.* ESSEX ET AL. Appeal from D. C. S. D. Ohio. Probable jurisdiction noted. Reported below: 417 F. Supp. 1113.

Certiorari Granted

No. 76-255. HAZELWOOD SCHOOL DISTRICT ET AL. *v.* UNITED STATES. C. A. 8th Cir. Certiorari granted. Reported below: 534 F. 2d 805.

No. 76-577. ZACCHINI *v.* SCRIPPS-HOWARD BROADCASTING Co. Sup. Ct. Ohio. Certiorari granted. Reported below: 47 Ohio St. 2d 224, 351 N. E. 2d 454.

No. 76-674. THIRD NATIONAL BANK IN NASHVILLE *v.* IMPAC LIMITED, INC., ET AL. Sup. Ct. Tenn. Certiorari granted. Reported below: 541 S. W. 2d 139.

No. 76-451. ALABAMA POWER Co. *v.* DAVIS. C. A. 5th Cir. Certiorari granted limited to Question 1 presented by the petition. Reported below: 542 F. 2d 650.

No. 76-5187. LEE *v.* UNITED STATES. C. A. 7th Cir. Motion for leave to proceed *in forma pauperis* and certiorari granted. Reported below: 539 F. 2d 612.

Certiorari Denied. (See also Nos. 76-602, 76-614, 76-642, 76-673, 76-696, 76-5414, 76-5484, 76-5620, and 76-5767, *supra.*)

No. 75-1049. HUTCHISON *v.* LAKE OSWEGO SCHOOL DISTRICT No. 7 ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 519 F. 2d 961.

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No. 75-1674. *KINGS COUNTY ET AL. v. SANTA ROSA BAND OF INDIANS ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 532 F. 2d 655.

No. 75-7003. *SCHERER v. POGUE, WARDEN.* C. A. 9th Cir. Certiorari denied.

No. 76-158. *VALENTINE ET AL. v. UNITED STATES;*

No. 76-159. *DIACO v. UNITED STATES;* and

No. 76-334. *DANSKER ET AL. v. UNITED STATES.* C. A. 3d Cir. Certiorari denied. Reported below: 537 F. 2d 40.

No. 76-174. *MEAD JOHNSON & Co. v. GOODMAN, EXECUTOR.* C. A. 3d Cir. Certiorari denied. Reported below: 534 F. 2d 566.

No. 76-177. *LUPO v. UNITED STATES.* C. A. 3d Cir. Certiorari denied. Reported below: 538 F. 2d 972.

No. 76-245. *HURLEY v. UNITED STATES;*

No. 76-252. *DiMURO ET AL. v. UNITED STATES;*

No. 76-5125. *DOHERTY v. UNITED STATES;* and

No. 76-5242. *LUNG ET AL. v. UNITED STATES.* C. A. 1st Cir. Certiorari denied. Reported below: 540 F. 2d 503.

No. 76-259. *GILLION v. ILLINOIS.* App. Ct. Ill., 3d Dist. Certiorari denied. Reported below: 38 Ill. App. 3d 261, 344 N. E. 2d 796.

No. 76-264. *SWISHER v. TEXAS.* Ct. Crim. App. Tex. Certiorari denied. Reported below: 544 S. W. 2d 379.

No. 76-276. *HILLSTROM ET AL. v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. Reported below: 533 F. 2d 209.

No. 76-279. *MARZANO v. UNITED STATES.* C. A. 7th Cir. Certiorari denied. Reported below: 537 F. 2d 257.

No. 76-288. *HEYMAN, TRUSTEE v. DEPARTMENT OF REVENUE OF ILLINOIS.* C. A. 7th Cir. Certiorari denied. Reported below: 533 F. 2d 1020.

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No. 76-323. *WINGATE ET AL. v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 536 F. 2d 699.

No. 76-326. *HINSHAW v. SUPERIOR COURT OF CALIFORNIA, COUNTY OF ORANGE*. Ct. App. Cal., 4th App. Dist. Certiorari denied.

No. 76-327. *WEINSTEIN v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 538 F. 2d 344.

No. 76-343. *JONES v. UNITED STATES ET AL.* C. A. 8th Cir. Certiorari denied. Reported below: 536 F. 2d 269.

No. 76-349. *GARMANY v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 535 F. 2d 658.

No. 76-353. *JONES v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 539 F. 2d 706.

No. 76-399. *CRUMPLER v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 536 F. 2d 1063.

No. 76-406. *NAPOLI v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 542 F. 2d 104.

No. 76-410. *UNION NACIONAL DE TRABAJADORES ET AL. v. NATIONAL LABOR RELATIONS BOARD*. C. A. 1st Cir. Certiorari denied. Reported below: 540 F. 2d 1.

No. 76-412. *POTITO ET UX. v. COMMISSIONER OF INTERNAL REVENUE*. C. A. 5th Cir. Certiorari denied. Reported below: 534 F. 2d 49.

No. 76-462. *PELLICCI v. UNITED STATES*. C. A. 1st Cir. Certiorari denied. Reported below: 542 F. 2d 1163.

No. 76-481. *DUKE CITY LUMBER CO. ET AL. v. KNEBEL, SECRETARY OF AGRICULTURE, ET AL.* C. A. D. C. Cir. Certiorari denied. Reported below: 176 U. S. App. D. C. 218, 539 F. 2d 220.

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No. 76-497. *TAXE v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 540 F. 2d 961.

No. 76-502. *BENNETT v. RUMSFELD, SECRETARY OF DEFENSE*. C. A. D. C. Cir. Certiorari denied. Reported below: 176 U. S. App. D. C. 240, 539 F. 2d 242.

No. 76-506. *A ET AL. v. DISTRICT COURT OF THE SECOND JUDICIAL DISTRICT ET AL.* Sup. Ct. Colo. Certiorari denied. Reported below: 191 Colo. 10, 550 P. 2d 315.

No. 76-513. *INTERNATIONAL RECTIFIER CORP. ET AL. v. PFIZER, INC.* C. A. 8th Cir. Certiorari denied. Reported below: 538 F. 2d 180.

No. 76-517. *KELLY v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 540 F. 2d 990.

No. 76-519. *IADAROLA ET AL. v. UNITED STATES*. C. A. 2d Cir. Certiorari denied.

No. 76-535. *JONES ET UX. v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 538 F. 2d 225.

No. 76-546. *SHARP v. FEDERAL DEPOSIT INSURANCE CORP.* C. A. D. C. Cir. Certiorari denied. Reported below: 176 U. S. App. D. C. 241, 539 F. 2d 243.

No. 76-556. *BRINKE TRANSPORTATION CORP. ET AL. v. UNITED STATES ET AL.* C. A. D. C. Certiorari denied.

No. 76-557. *KHOURY v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 539 F. 2d 441.

No. 76-560. *SPITZER AKRON, INC. v. NATIONAL LABOR RELATIONS BOARD*. C. A. 6th Cir. Certiorari denied. Reported below: 540 F. 2d 841.

No. 76-563. *CANADIAN PARKHILL PIPE STRINGING, LTD., ET AL. v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 540 F. 2d 258.

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No. 76-564. *MARKHAM v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 537 F. 2d 187.

No. 76-566. *IACONETTI v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 540 F. 2d 574.

No. 76-569. *NEW YORK SHIPPING ASSN., INC. v. NATIONAL LABOR RELATIONS BOARD ET AL.*; and

No. 76-570. *INTERNATIONAL LONGSHOREMEN'S ASSN., AFL-CIO v. NATIONAL LABOR RELATIONS BOARD ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 537 F. 2d 706.

No. 76-581. *RUSS ET AL. v. RATLIFF ET AL.* C. A. 8th Cir. Certiorari denied. Reported below: 538 F. 2d 799.

No. 76-596. *TRANSAMERICAN PRESS, INC., DBA OVERDRIVE v. APPELYARD*. C. A. 4th Cir. Certiorari denied. Reported below: 539 F. 2d 1026.

No. 76-598. *SPARKMAN v. CARTER ET AL.* Sup. Ct. Fla. Certiorari denied. Reported below: 335 So. 2d 802.

No. 76-608. *RELIANCE INSURANCE Co. v. DeBOER CONSTRUCTION, INC., ET AL.* C. A. 10th Cir. Certiorari denied. Reported below: 540 F. 2d 486.

No. 76-609. *STEBBINS v. WEAVER ET AL.* C. A. 7th Cir. Certiorari denied. Reported below: 537 F. 2d 939.

No. 76-610. *RYAN ET AL. v. AURORA CITY BOARD OF EDUCATION ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 540 F. 2d 222.

No. 76-622. *JOHNSON BRONZE Co. v. OSTAPOWICZ*. C. A. 3d Cir. Certiorari denied. Reported below: 541 F. 2d 394.

No. 76-628. *TEXAS PETROLEUM Co. v. COMPANIA PELI-NEON DE NAVEGACION, S. A.* C. A. 2d Cir. Certiorari denied. Reported below: 540 F. 2d 53.

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No. 76-630. NORTEK, INC. *v.* ALEXANDER GRANT & CO. ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 532 F. 2d 1013.

No. 76-633. AAACON AUTO TRANSPORT, INC. *v.* STATE FARM MUTUAL AUTOMOBILE INSURANCE Co. C. A. 2d Cir. Certiorari denied. Reported below: 537 F. 2d 648.

No. 76-638. FINANCIAL FEDERAL SAVINGS & LOAN ASSN. *v.* BURLEIGH HOUSE, INC. Ct. App. Fla., 3d Dist. Certiorari denied. Reported below: 336 So. 2d 1145.

No. 76-643. SANCHEZ *v.* DENVER & RIO GRANDE WESTERN RAILROAD Co. C. A. 10th Cir. Certiorari denied. Reported below: 538 F. 2d 304.

No. 76-647. PERKINS ET AL. *v.* HIGHWAY PATROL DIVISION, ALABAMA DEPARTMENT OF PUBLIC SAFETY. C. A. 5th Cir. Certiorari denied. Reported below: 538 F. 2d 897.

No. 76-651. FOWLKES ET UX. *v.* INTRATEX GAS Co. ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 536 F. 2d 388.

No. 76-656. BRADFORD ET AL. *v.* PLAINS COTTON COOPERATIVE ASSN. C. A. 10th Cir. Certiorari denied. Reported below: 539 F. 2d 1249.

No. 76-663. CHRYSLER MOTORS CORP. ET AL. *v.* GREENFIELD ET AL. C. A. 4th Cir. Certiorari denied. Reported below: 538 F. 2d 616.

No. 76-664. McDONOUGH ET AL. *v.* MORGAN ET AL. C. A. 1st Cir. Certiorari denied. Reported below: 540 F. 2d 527.

No. 76-666. DAYON *v.* APPELLATE DIVISION, SUPREME COURT OF NEW YORK, FIRST JUDICIAL DEPARTMENT, ET AL. C. A. 2d Cir. Certiorari denied. Reported below: 538 F. 2d 309.

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No. 76-669. *MESHRIY ET UX. v. SUN OIL Co.* Ct. App. Mich. Certiorari denied. Reported below: 67 Mich. App. 709, 242 N. W. 2d 497.

No. 76-679. *WYATT v. CALIFORNIA.* Ct. App. Cal., 4th App. Dist. Certiorari denied.

No. 76-702. *RALSTON PURINA Co. v. NABISCO, INC.* C. A. 8th Cir. Certiorari denied. Reported below: 541 F. 2d 679.

No. 76-731. *KAHOUN v. UNITED STATES.* C. A. 7th Cir. Certiorari denied. Reported below: 541 F. 2d 284.

No. 76-735. *GARZA-GARCIA v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. Reported below: 540 F. 2d 1083.

No. 76-738. *LOUISIANA & ARKANSAS RAILWAY Co. v. MARTIN ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 535 F. 2d 892.

No. 76-743. *CHEW v. UNITED STATES.* C. A. 4th Cir. Certiorari denied. Reported below: 540 F. 2d 759.

No. 76-5040. *COZZETTI v. UNITED STATES.* C. A. 9th Cir. Certiorari denied. Reported below: 538 F. 2d 335.

No. 76-5084. *SPOTTS v. UNITED STATES.* C. A. 7th Cir. Certiorari denied. Reported below: 534 F. 2d 331.

No. 76-5092. *SEIJO v. UNITED STATES.* C. A. 2d Cir. Certiorari denied. Reported below: 537 F. 2d 694.

No. 76-5164. *BASTIDA v. MAGGIO, WARDEN.* C. A. 5th Cir. Certiorari denied.

No. 76-5216. *PENZABENE v. UNITED STATES.* C. A. 6th Cir. Certiorari denied. Reported below: 538 F. 2d 330.

No. 76-5233. *AUSTIN v. UNITED STATES.* C. A. 3d Cir. Certiorari denied. Reported below: 533 F. 2d 879.

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No. 76-5272. *BURTS ET AL. v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 536 F. 2d 1140.

No. 76-5289. *HARRY v. UNITED STATES*. C. A. 10th Cir. Certiorari denied.

No. 76-5308. *KAHLEY, AKA GUIDO v. PENNSYLVANIA*. Sup. Ct. Pa. Certiorari denied. Reported below: 467 Pa. 272, 356 A. 2d 745.

No. 76-5311. *WILKINS v. MARYLAND*. C. A. 4th Cir. Certiorari denied. Reported below: 538 F. 2d 327.

No. 76-5316. *COHEN v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 538 F. 2d 325.

No. 76-5333. *KEPLINGER v. SUPERINTENDENT, MARYLAND CORRECTIONAL INSTITUTION*. C. A. 4th Cir. Certiorari denied. Reported below: 539 F. 2d 705.

No. 76-5340. *EUCKER v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 537 F. 2d 718.

No. 76-5352. *ANDERSON v. WAINWRIGHT, SECRETARY, DEPARTMENT OF OFFENDER REHABILITATION OF FLORIDA, ET AL.* Sup. Ct. Fla. Certiorari denied. Reported below: 336 So. 2d 599.

No. 76-5356. *LETOURNEUR v. IMMIGRATION AND NATURALIZATION SERVICE*. C. A. 9th Cir. Certiorari denied. Reported below: 538 F. 2d 1368.

No. 76-5368. *ALVAREZ v. ESTELLE, CORRECTIONS DIRECTOR*. C. A. 5th Cir. Certiorari denied. Reported below: 531 F. 2d 1319.

No. 76-5377. *LA CHAPPELLE v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 536 F. 2d 1386.

No. 76-5386. *ISOM v. FLORIDA*. Sup. Ct. Fla. Certiorari denied. Reported below: 335 So. 2d 1.

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No. 76-5387. *COHEN v. CALIFORNIA*. Ct. App. Cal., 2d App. Dist. Certiorari denied. Reported below: 59 Cal. App. 3d 241, 130 Cal. Rptr. 656.

No. 76-5398. *BOWERSKI v. UNITED STATES*. C. A. 5th Cir. Certiorari denied.

No. 76-5405. *DAVIS v. CALIFORNIA*. Ct. App. Cal., 2d App. Dist. Certiorari denied.

No. 76-5407. *RIGGINS v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 539 F. 2d 682.

No. 76-5420. *WILLIAMS v. IOWA*. Sup. Ct. Iowa. Certiorari denied. Reported below: 244 N. W. 2d 577.

No. 76-5424. *MULLANE v. ESTELLE, CORRECTIONS DIRECTOR*. C. A. 5th Cir. Certiorari denied. Reported below: 536 F. 2d 388.

No. 76-5427. *BURBANK v. WARDEN, ILLINOIS STATE PENITENTIARY*. C. A. 7th Cir. Certiorari denied. Reported below: 535 F. 2d 361.

No. 76-5428. *SNIPES v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 538 F. 2d 326.

No. 76-5435. *MCRAE v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 540 F. 2d 943.

No. 76-5437. *BRYSON v. UNITED STATES*. C. A. 10th Cir. Certiorari denied.

No. 76-5438. *KUROWSKI v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 539 F. 2d 715.

No. 76-5445. *NAVARRO-VARELAS, AKA MARTIN v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 541 F. 2d 1331.

No. 76-5446. *AGRUSA v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 541 F. 2d 690.

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No. 76-5447. *FRAZIER v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 538 F. 2d 1322.

No. 76-5451. *CHAPMAN v. TEXAS*. Ct. Crim. App. Tex. Certiorari denied. Reported below: 537 S. W. 2d 947.

No. 76-5452. *MOORE v. FLORIDA*. Sup. Ct. Fla. Certiorari denied. Reported below: 336 So. 2d 1183.

No. 76-5453. *REYES-PADRON v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 538 F. 2d 33.

No. 76-5461. *BUDHU v. UNITED STATES*. C. A. 2d Cir. Certiorari denied.

No. 76-5462. *WRIGHT v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 540 F. 2d 1247.

No. 76-5467. *SIMPSON v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 538 F. 2d 1377.

No. 76-5469. *STRAHLA v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 539 F. 2d 715.

No. 76-5470. *FLOYD v. UNITED STATES*. C. A. 5th Cir. Certiorari denied.

No. 76-5473. *GUERRA v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 535 F. 2d 658.

No. 76-5477. *THOMPSON v. MATHEWS, SECRETARY OF HEALTH, EDUCATION, AND WELFARE*. C. A. 4th Cir. Certiorari denied. Reported below: 538 F. 2d 325.

No. 76-5478. *HARRIS v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 538 F. 2d 330.

No. 76-5480. *MILLER v. HAMPTON, CHAIRMAN, U. S. CIVIL SERVICE COMMISSION, ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 537 F. 2d 1141.

No. 76-5481. *LACOUNT v. GEORGIA*. Sup. Ct. Ga. Certiorari denied. Reported below: 237 Ga. 181, 227 S. E. 2d 31.

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No. 76-5483. *HENDRICKS v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 544 F. 2d 513.

No. 76-5489. *RATHBURN v. UNITED STATES*. C. A. 2d Cir. Certiorari denied.

No. 76-5491. *HUGHES v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 542 F. 2d 1168.

No. 76-5493. *JOHNSON v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 538 F. 2d 326.

No. 76-5495. *MARTINEZ v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 544 F. 2d 513.

No. 76-5497. *BRENNAN v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 539 F. 2d 715.

No. 76-5498. *HAYMES v. SMITH, CORRECTIONAL SUPERINTENDENT*. App. Div., Sup. Ct. N. Y., 4th Jud. Dept. Certiorari denied. Reported below: 52 App. Div. 2d 755, 382 N. Y. S. 2d 210.

No. 76-5499. *MORENO v. IMMIGRATION AND NATURALIZATION SERVICE*. C. A. 9th Cir. Certiorari denied. Reported below: 539 F. 2d 718.

No. 76-5502. *DIMAS v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 537 F. 2d 1301.

No. 76-5505. *IN RE HARTZELL*. C. A. 3d Cir. Certiorari denied. Reported below: 542 F. 2d 166.

No. 76-5510. *RHODES v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 539 F. 2d 709.

No. 76-5516. *BROWN v. UNITED STATES*. C. A. 10th Cir. Certiorari denied.

No. 76-5531. *KELLEY v. UNITED STATES ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 536 F. 2d 897.

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No. 76-5549. *SKINNER v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 535 F. 2d 325.

No. 76-5555. *GONZALEZ v. UNITED STATES*. C. A. 2d Cir. Certiorari denied.

No. 76-5564. *FARMER v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 542 F. 2d 1169.

No. 76-5567. *TIMMONS v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 541 F. 2d 278.

No. 76-5592. *CORREA-NEGRON v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 538 F. 2d 340.

No. 76-5597. *BENNETT v. UNITED STATES*. C. A. 10th Cir. Certiorari denied. Reported below: 542 F. 2d 63.

No. 76-5608. *MCDONNELL v. PARRATT, WARDEN*. C. A. 8th Cir. Certiorari denied. Reported below: 542 F. 2d 1178.

No. 76-5609. *CORLEY v. CARDWELL, PRISON SUPERINTENDENT*. C. A. 9th Cir. Certiorari denied. Reported below: 544 F. 2d 349.

No. 76-5610. *FREEMAN v. SOUTH CAROLINA*. Sup. Ct. S. C. Certiorari denied.

No. 76-5621. *BYRD v. HOPPER, WARDEN*. C. A. 5th Cir. Certiorari denied. Reported below: 537 F. 2d 1303.

No. 76-5624. *COOPER ET AL. v. PENNSYLVANIA*. Super. Ct. Pa. Certiorari denied. Reported below: 240 Pa. Super. 477, 362 A. 2d 1041.

No. 76-5625. *TYNER v. OHIO*. Ct. App. Ohio, Cuyahoga County. Certiorari denied.

No. 76-5634. *HINTON v. MICHIGAN ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 538 F. 2d 329.

No. 76-5639. *MAHONE v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 544 F. 2d 519.

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No. 76-5650. *HENRY v. OKLAHOMA*. Ct. Crim. App. Okla. Certiorari denied.

No. 76-5652. *CARNES ET AL. v. KENTUCKY ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 538 F. 2d 328.

No. 76-5653. *ZENGLEIN v. LEWIS ET AL.* Ct. App. Cal., 2d App. Dist. Certiorari denied.

No. 76-5655. *BUCKINGHAM v. TENNESSEE*. Ct. Crim. App. Tenn. Certiorari denied. Reported below: 540 S. W. 2d 660.

No. 76-5661. *ZATKO v. LOS ANGELES TIMES ET AL.* C. A. 9th Cir. Certiorari denied.

No. 76-5666. *ZATKO v. CALIFORNIA*. Sup. Ct. Cal. Certiorari denied.

No. 76-5669. *NAPIER v. GERTRUDE ET AL.* C. A. 10th Cir. Certiorari denied. Reported below: 542 F. 2d 825.

No. 76-5670. *COLVIN v. INDIANA*. Sup. Ct. Ind. Certiorari denied. Reported below: 264 Ind. 514, 346 N. E. 2d 737.

No. 76-5676. *BARNETT v. MASSACHUSETTS*. Sup. Jud. Ct. Mass. Certiorari denied. Reported below: — Mass. —, 354 N. E. 2d 879.

No. 76-5680. *WRIGHT v. NORTH CAROLINA*. Sup. Ct. N. C. Certiorari denied. Reported below: 290 N. C. 45, 224 S. E. 2d 624.

No. 76-5685. *BORODINE v. MASSACHUSETTS*. Sup. Jud. Ct. Mass. Certiorari denied. Reported below: — Mass. —, 353 N. E. 2d 649.

No. 76-5686. *SHOCKLEY v. HOPPER, WARDEN*. C. A. 5th Cir. Certiorari denied. Reported below: 536 F. 2d 1385.

No. 76-5692. *DICKEY v. PACIFIC FINANCE LOANS ET AL.* C. A. 9th Cir. Certiorari denied.

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No. 76-5693. *MORITA v. SOUTHERN CALIFORNIA PERMANENTE MEDICAL GROUP*. C. A. 9th Cir. Certiorari denied. Reported below: 541 F. 2d 217.

No. 76-5698. *LAWRENCE v. NORTH CAROLINA*. Sup. Ct. N. C. Certiorari denied. Reported below: 290 N. C. 203, 225 S. E. 2d 786.

No. 76-5703. *JONES v. TENNESSEE*. Ct. Crim. App. Tenn. Certiorari denied. Reported below: 542 S. W. 2d 392.

No. 76-5706. *STAGGERS v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 544 F. 2d 515.

No. 76-5707. *WILLIAMS v. WAINWRIGHT, SECRETARY, DEPARTMENT OF OFFENDER REHABILITATION OF FLORIDA*. C. A. 5th Cir. Certiorari denied. Reported below: 537 F. 2d 1142.

No. 76-5723. *DRAKE v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 542 F. 2d 1020.

No. 76-5728. *PINCKNEY v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 544 F. 2d 515.

No. 76-5737. *POWELL v. UNITED STATES*. C. A. 4th Cir. Certiorari denied.

No. 76-5738. *MARTIN v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 543 F. 2d 577.

No. 76-5742. *COIL v. UNITED STATES*. C. A. 7th Cir. Certiorari denied.

No. 76-5746. *RATCLIFFE v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 546 F. 2d 427.

No. 76-5747. *HERMOSILLO-NANEZ v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 545 F. 2d 1230.

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No. 76-5749. *JONES v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 543 F. 2d 627.

No. 76-5750. *GRUMMEL v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 542 F. 2d 789.

No. 76-5758. *LEAK v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 544 F. 2d 521.

No. 76-5768. *COZZETTI v. ALBRIGHT ET AL.* C. A. 9th Cir. Certiorari denied.

No. 76-5781. *HARSTROM v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 537 F. 2d 845.

No. 76-5782. *SIMS ET AL. v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 543 F. 2d 1089.

No. 76-5783. *DARBY v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 543 F. 2d 1002.

No. 76-5784. *JOHNSON v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 544 F. 2d 520.

No. 76-5794. *THOMAS v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 543 F. 2d 1226.

No. 76-5795. *FLOWERS v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 544 F. 2d 520.

No. 76-5802. *BRABHAM v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 536 F. 2d 388.

No. 76-5808. *DEL GUZZI v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 546 F. 2d 426.

No. 76-5814. *ARNOLD v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 543 F. 2d 1224.

No. 76-5827. *GINYARD v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 546 F. 2d 423.

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No. 76-5828. SMITH *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied. Reported below: 546 F. 2d 420.

No. 76-5829. BOBNES *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied. Reported below: 546 F. 2d 419.

No. 76-5831. MASSARO *v.* UNITED STATES. C. A. 1st Cir. Certiorari denied. Reported below: 544 F. 2d 547.

No. 75-1899. McMANUS, CHIEF JUDGE, U. S. DISTRICT COURT, ET AL. *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied. MR. JUSTICE BRENNAN would grant certiorari. Reported below: 535 F. 2d 460.

No. 76-10. CUTTING ET AL. *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 538 F. 2d 835.

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

Petitioners were convicted of mailing obscene materials in violation of 18 U. S. C. § 1461. I adhere to the view that this statute is “‘clearly overbroad and unconstitutional on its face.’” See, *e. g.*, *Millican v. United States*, 418 U. S. 947, 948 (1974) (BRENNAN, J., dissenting), quoting *United States v. Orito*, 413 U. S. 139, 148 (1978) (BRENNAN, J., dissenting). I therefore would grant certiorari and reverse.

No. 76-389. LOCAL 1830 ET AL., GENERAL LONGSHORE WORKERS, INTERNATIONAL LONGSHOREMEN'S ASSN., AFL-CIO *v.* BAILEY. C. A. 5th Cir. Motion of respondent for leave to proceed *in forma pauperis* and certiorari denied. Reported below: 528 F. 2d 551 and 533 F. 2d 976.

No. 76-599. FISHMAN ET AL. *v.* SCHAFFER, SECRETARY OF STATE OF CONNECTICUT, ET AL. C. A. 2d Cir. Certiorari denied. MR. JUSTICE STEWART and MR. JUSTICE WHITE would grant certiorari.

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No. 76-605. FRIDRICH ET AL. *v.* BRADFORD ET AL. C. A. 6th Cir. Certiorari denied. MR. JUSTICE WHITE and MR. JUSTICE BLACKMUN would grant certiorari. Reported below: 542 F. 2d 307.

No. 76-684. ESTELLE, CORRECTIONS DIRECTOR *v.* BRUCE. C. A. 5th Cir. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 536 F. 2d 1051.

No. 76-708. FIREMAN'S FUND INSURANCE CO. *v.* VIDE-FREEZE CORP. ET AL. C. A. 3d Cir. Motion to strike portion of petition for certiorari and other relief denied. Certiorari denied. Reported below: 540 F. 2d 1171.

No. 76-723. ROSS *v.* MORALES. C. A. 10th Cir. Certiorari denied. MR. JUSTICE STEWART and MR. JUSTICE POWELL would grant certiorari.

No. 76-5283. THOMPSON *v.* OKLAHOMA. Ct. Crim. App. Okla. Certiorari denied. Reported below: — P. 2d —.

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

Petitioner was charged by information in an Oklahoma state court with murder. After a jury trial, he was convicted of manslaughter in the first degree. Thereafter, petitioner was charged in separate informations with two additional offenses arising out of the same episode: burglary in the first degree and carrying firearms. He pleaded guilty to these offenses and was sentenced to additional concurrent terms of 10 years' imprisonment for each offense. Petitioner then made an application for post-conviction relief in the State District Court attacking the latter two convictions on grounds of collateral estoppel and double jeopardy. The District Court denied the application, and the Oklahoma Court of Criminal Appeals affirmed.

I would grant the petition for certiorari and reverse the judgment of the Court of Criminal Appeals affirming the

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burglary and firearm convictions. I adhere to the view that the Double Jeopardy Clause of the Fifth Amendment, applied to the States through the Fourteenth Amendment, requires the prosecution in one proceeding, except in extremely limited circumstances not present here, of "all the charges against a defendant that grow out of a single criminal act, occurrence, episode, or transaction." *Ashe v. Swenson*, 397 U. S. 436, 453-454 (1970) (BRENNAN, J., concurring). See *Cousins v. Maryland*, ante, p. 1027 (BRENNAN, J., dissenting); *Dempsey v. United States*, 423 U. S. 1079 (1976) (BRENNAN, J., dissenting); *Susi v. Flowers*, 423 U. S. 1006 (1975) (BRENNAN, J., dissenting); *Vardas v. Texas*, 423 U. S. 904 (1975) (BRENNAN, J., dissenting); *Stewart v. Iowa*, 423 U. S. 902 (1975) (BRENNAN, J., dissenting); *Waugh v. Gray*, 422 U. S. 1027 (1975) (BRENNAN, J., dissenting); *Wells v. Missouri*, 419 U. S. 1075 (1974) (BRENNAN, J., dissenting); *Moton v. Swenson*, 417 U. S. 957 (1974) (BRENNAN, J., dissenting); *Tijerina v. New Mexico*, 417 U. S. 956 (1974) (BRENNAN, J., dissenting); *Ciuzio v. United States*, 416 U. S. 995 (1974) (BRENNAN, J., dissenting); *Harris v. Washington*, 404 U. S. 55, 57 (1971) (concurring statement); *Waller v. Florida*, 397 U. S. 387, 395 (1970) (BRENNAN, J., concurring). See also *People v. White*, 390 Mich. 245, 212 N. W. 2d 222 (1973); *State v. Brown*, 262 Ore. 442, 497 P. 2d 1191 (1972); *Commonwealth v. Campana*, 452 Pa. 233, 304 A. 2d 432, vacated and remanded, 414 U. S. 808 (1973), adhered to on remand, 455 Pa. 622, 314 A. 2d 854 (1974); *State v. Gregory*, 66 N. J. 510, 333 A. 2d 257 (1975).

No. 76-5731. BERRYHILL v. GEORGIA. Sup. Ct. Ga. Certiorari denied. MR. JUSTICE BRENNAN and MR. JUSTICE MARSHALL would grant certiorari and vacate judgment insofar as it leaves undisturbed the sentence of death. See *Gregg v. Georgia*, 428 U. S. 153, 227 (1976) (BRENNAN, J., dissenting); *id.*, at 231 (MARSHALL, J., dissenting). Reported below: 235 Ga. 549, 221 S. E. 2d 185.

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No. 76-5300. COLBERT *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. MR. JUSTICE BRENNAN, MR. JUSTICE STEWART, and MR. JUSTICE POWELL would grant certiorari. Reported below: 538 F. 2d 330.

No. 76-5825. HINES *v.* UNITED STATES. C. A. 7th Cir. Motion of petitioner to consolidate for consideration with No. 76-5233, *Austin v. United States, supra*, p. 1043, granted. Certiorari denied. Reported below: 544 F. 2d 522.

Rehearing Denied

No. 643, O. T. 1970. ALEXANDER *v.* UNITED STATES, 400 U. S. 941. Motion for leave to file petition for rehearing denied.

No. 75-6782. DOUGLAS *v.* FLORIDA, *ante*, p. 871;

No. 76-77. HARRIS *v.* UNITED STATES, *ante*, p. 939;

No. 76-94. HENRY, AKA OBADELE *v.* UNITED STATES, *ante*, p. 959;

No. 76-278. JOLLEY *v.* UNITED STATES, *ante*, p. 964;

No. 76-5211. CAPITO *v.* UNITED STATES, *ante*, p. 961;

No. 76-5284. SPENCER *v.* GEORGIA, *ante*, p. 932;

No. 76-5307. MATHIS *v.* SECRETARY OF DEFENSE, *ante*, p. 983;

No. 76-5318. DIOQUINO *v.* WORKMEN'S COMPENSATION APPEAL BOARD OF CALIFORNIA ET AL., *ante*, p. 927; and

No. 76-5373. SMITH, AKA MACHETTI *v.* GEORGIA, *ante*, p. 932. Petitions for rehearing denied.

Assignment Orders

Orders of THE CHIEF JUSTICE designating and assigning Mr. Justice Clark (retired) to perform judicial duties in the United States Court of Appeals for the District of Columbia Circuit from January 20 to January 27, 1977, and in the United States Court of Appeals for the Seventh Circuit from May 23 to May 27, 1977, and for such additional time as may be required to complete unfinished business, pursuant

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to 28 U. S. C. § 294 (a), is ordered entered on the minutes of this Court, pursuant to 28 U. S. C. § 295.

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Miscellaneous Order

No. A-560. GILMORE *v.* UTAH. Sup. Ct. Utah. Application for stay of execution by Latter-Day Saint Freedom Foundation as *amicus curiae*, presented to MR. JUSTICE WHITE, and by him referred to the Court, denied.

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Affirmed on Appeal

No. 76-75. GUSTE, ATTORNEY GENERAL OF LOUISIANA, ET AL. *v.* WEEKS ET AL. Appeal from D. C. E. D. La. Motion of appellees for leave to proceed *in forma pauperis* granted. Judgment affirmed.

Appeals Dismissed

No. 76-466. EDWARDS ET AL. *v.* PRICE ET AL. Appeal from Sup. Ct. Colo. dismissed for want of substantial federal question. Reported below: 191 Colo. 46, 550 P. 2d 856.

No. 76-732. CONNOLLY DEVELOPMENT, INC., ET AL. *v.* SUPERIOR COURT OF CALIFORNIA, MERCED COUNTY, ET AL. Appeal from Sup. Ct. Cal. dismissed for want of substantial federal question. Reported below: 17 Cal. 3d 803, 553 P. 2d 637.

No. 76-5735. SANTANA *v.* ROSS, INDUSTRIAL COMMISSIONER OF NEW YORK. Appeal from Ct. App. N. Y. dismissed for want of substantial federal question. Reported below: 39 N. Y. 2d 830, 351 N. E. 2d 436.

No. 76-721. VITELLO *v.* NEW YORK. Appeal from Ct. App. N. Y. dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied. Reported below: 39 N. Y. 2d 847, 351 N. E. 2d 747.

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No. 76-836. THOMPSON *v.* VIRGINIA. Appeal from Sup. Ct. Va. dismissed for want of substantial federal question.

No. 76-740. DITSON, TRUSTEE *v.* CITY OF BOSTON. Appeal from Ct. App. Mass. dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied. Reported below: — Mass. App. —, 348 N. E. 2d 116.

Vacated and Remanded on Appeal

No. 76-752. UNITED STATES PAROLE COMMISSION *v.* SHEPARD. Appeal from C. A. 2d Cir. Motion of appellee for leave to proceed *in forma pauperis* granted. Judgment vacated and case remanded for further consideration in light of *Moody v. Daggett*, *ante*, p. 78, and to consider whether case is moot. Reported below: 541 F. 2d 322.

Miscellaneous Orders

No. ———. BUDDY SYSTEMS, INC. *v.* EXER-GENIE, INC., ET AL. C. A. 9th Cir. Motion of petitioner for leave to proceed *in forma pauperis* and to dispense with printing petition denied.

No. A-569. JUREK *v.* ESTELLE, CORRECTIONS DIRECTOR, ET AL. Ct. Crim. App. Tex. Application for stay of execution of sentence of death, presented to MR. JUSTICE POWELL, and by him referred to the Court, granted pending filing of a petition for writ of certiorari on or before the close of business, February 16, 1977. In the event a petition for writ of certiorari is so filed, this order is to remain in effect pending this Court's action on the petition. Should the petition for writ of certiorari be denied, this order is to terminate automatically. In the event the petition for writ of certiorari is granted, this order is to remain in effect pending issuance of mandate of this Court. The State of Texas is to file its response to petition for

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writ of certiorari on or before the close of business March 3, 1977.

MR. JUSTICE MARSHALL:

While I agree that a stay should issue, I cannot comprehend—and emphatically dissent from—the Court’s decision to compel petitioner to prepare his petition for certiorari (and the State to prepare its response) on an expedited basis. When human life is at stake, such haste is as unseemly as it is inappropriate.

No. A-576. RITTER, CHIEF JUDGE, U. S. DISTRICT COURT *v.* UTAH. C. A. 10th Cir. Application for stay of execution denied. MR. JUSTICE BRENNAN took no part in the consideration or decision of this application.

No. 75-562. ROSEBUD SIOUX TRIBE *v.* KNEIP, GOVERNOR OF SOUTH DAKOTA, ET AL. C. A. 8th Cir. [Certiorari granted, 425 U. S. 989.] Motion of the State of North Dakota et al. for leave to file an untimely brief as *amici curiae* denied.

No. 75-871. MANSON, CORRECTION COMMISSIONER *v.* BRATHWAITE. C. A. 2d Cir. [Certiorari granted, 425 U. S. 957.] Motion for appointment of counsel *nunc pro tunc* granted, and it is ordered that David S. Golub, Esquire, of Stamford, Conn., is appointed to serve as counsel for respondent in this case.

No. 75-1578. WAINWRIGHT, SECRETARY, DEPARTMENT OF OFFENDER REHABILITATION OF FLORIDA *v.* SYKES. C. A. 5th Cir. [Certiorari granted, *ante*, p. 883.] Motion of the Solicitor General for leave to participate in oral argument as *amicus curiae* granted and 15 minutes allotted for that purpose. Counsel for respondent also allotted an additional 15 minutes for oral argument.

No. 75-1707. OHIO BUREAU OF EMPLOYMENT SERVICES ET AL. *v.* HODORY. Appeal from D. C. N. D. Ohio. [Probable

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jurisdiction noted, *ante*, p. 814.] Motion of American Federation of Labor & Congress of Industrial Organizations for leave to file a brief as *amicus curiae* granted.

No. 76-15. CONTINENTAL T. V., INC., ET AL. *v.* GTE SYLVANIA, INC. C. A. 9th Cir. [Certiorari granted, *ante*, p. 893.] Motion of Motor Vehicle Manufacturers Assn. for leave to file a brief as *amicus curiae* denied. Motions of International Franchise Assn. and Associated Equipment Distributors for leave to file briefs as *amici curiae* granted.

No. 76-37. VORCHHEIMER *v.* SCHOOL DISTRICT OF PHILADELPHIA ET AL. C. A. 3d Cir. [Certiorari granted, *ante*, p. 893.] Motion of American Jewish Committee et al. for leave to file a brief as *amici curiae* denied.

No. 76-316. BATES ET AL. *v.* STATE BAR OF ARIZONA. Appeal from Sup. Ct. Ariz. [Probable jurisdiction noted, *ante*, p. 813.] Motion of the State Bar of California for leave to participate in oral argument as *amicus curiae* denied. Motion of Richard B. Spohn, Director of Department of Consumer Affairs for the State of California, for leave to file a brief as *amicus curiae* denied.

No. 76-333. UNITED AIR LINES, INC. *v.* EVANS. C. A. 7th Cir. [Certiorari granted, *ante*, p. 917.] Motion of Isaiah S. Dorfman, Esquire, to permit Alan M. Levin, Esquire, to argue *pro hac vice* on behalf of respondent granted. Motions of Equal Employment Advisory Council et al. and Delta Air Lines, Inc., et al. for leave to file briefs as *amici curiae* granted. Motion of American Federation of Labor & Congress of Industrial Organizations for leave to file a brief as *amicus curiae* denied.

No. 76-615. SLOAN *v.* MULLIGAN, U. S. CIRCUIT JUDGE. Motion for leave to file petition for writ of mandamus denied.

No. 76-5844. JOHNSON *v.* MALLEY, WARDEN. Motion for leave to file petition for writ of habeas corpus denied.

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Probable Jurisdiction Noted

No. 76-933. FINCH, GOVERNOR OF MISSISSIPPI, ET AL. *v.* CONNOR ET AL.;

No. 76-934. UNITED STATES *v.* FINCH, GOVERNOR OF MISSISSIPPI, ET AL.; and

No. 76-935. CONNOR ET AL. *v.* FINCH, GOVERNOR OF MISSISSIPPI, ET AL. Appeals from D. C. S. D. Miss. Probable jurisdiction noted. Cases consolidated with No. 76-777 [*Connor v. Finch*, probable jurisdiction noted, *ante*, p. 1010] and a total of one and one-half hours allotted for oral argument. Parties shall file and exchange briefs on the merits on or before the close of business Monday, February 7, 1977. Responsive briefs, if any, shall be filed and exchanged on or before the close of business Monday, February 21, 1977. Oral argument set for Monday, February 28, 1977. Reported below: See 419 F. Supp. 1072 and 1089; 422 F. Supp. 1014.

Certiorari Granted

No. 76-539. DAYTON BOARD OF EDUCATION ET AL. *v.* BRINKMAN ET AL. C. A. 6th Cir. Certiorari granted. Reported below: 539 F. 2d 1084.

No. 76-446. ENOMOTO, CORRECTIONS DIRECTOR, ET AL. *v.* NAVARETTE. C. A. 9th Cir. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari granted limited to Question 1 presented by the petition. Reported below: 536 F. 2d 277.

No. 76-607. MIREE ET AL. *v.* DEKALB COUNTY, GEORGIA, ET AL.;

No. 76-659. PHILLIPS *v.* DEKALB COUNTY, GEORGIA, ET AL.;

No. 76-700. FIREMAN'S FUND INSURANCE CO. *v.* DEKALB COUNTY, GEORGIA, ET AL.; and

No. 76-722. FIELDS *v.* DEKALB COUNTY, GEORGIA, ET AL. C. A. 5th Cir. Certiorari granted, cases consolidated, and a total of one hour allotted for oral argument. Reported below: 538 F. 2d 643.

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No. 76-5344. *MOORE v. ILLINOIS*. C. A. 7th Cir. Motion for leave to proceed *in forma pauperis* and certiorari granted. Reported below: 534 F. 2d 331.

No. 76-5416. *JONES v. HILDEBRANT ET AL.* Sup. Ct. Colo. Motion for leave to proceed *in forma pauperis* and certiorari granted. Reported below: 191 Colo. 1, 550 P. 2d 339.

Certiorari Denied. (See also Nos. 76-721 and 76-740, *supra.*)

No. 76-308. *JOHNSON ET AL. v. UNITED STATES*. C. A. D. C. Cir. Certiorari denied. Reported below: 176 U. S. App. D. C. 179, 539 F. 2d 181.

No. 76-490. *LEHIGH & NEW ENGLAND RAILWAY Co. v. INTERSTATE COMMERCE COMMISSION ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 540 F. 2d 71.

No. 76-498. *KAPPELMANN ET UX. v. DELTA AIR LINES, INC., ET AL.* C. A. D. C. Cir. Certiorari denied. Reported below: 176 U. S. App. D. C. 163, 539 F. 2d 165.

No. 76-518. *COOPER v. NEW YORK*. Sup. Ct. N. Y., New York County. Certiorari denied.

No. 76-533. *EDWARDS v. TENNESSEE*. Sup. Ct. Tenn. Certiorari denied. Reported below: 540 S. W. 2d 641.

No. 76-580. *BRECKINRIDGE ET AL. v. RUMSFELD, SECRETARY OF DEFENSE, ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 537 F. 2d 864.

No. 76-593. *ROJAS v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 537 F. 2d 216.

No. 76-600. *DRESKE v. HOLT, SHERIFF*. C. A. 5th Cir. Certiorari denied. Reported below: 536 F. 2d 105.

No. 76-604. *UNITED CONTRACTORS, INC., ET AL. v. NATIONAL LABOR RELATIONS BOARD*. C. A. 7th Cir. Certiorari denied. Reported below: 539 F. 2d 713.

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- No. 76-644. *BUCKLEY v. LITTELL*; and
No. 76-652. *LITTELL v. BUCKLEY*. C. A. 2d Cir. Certiorari denied. Reported below: 539 F. 2d 882.
- No. 76-690. *PIERRE J. LELANDAIS & CO., INC., ET AL. v. MDS-ATRON, INC., ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 543 F. 2d 421.
- No. 76-703. *OCHS ET AL. v. TEXAS*. Ct. Crim. App. Tex. Certiorari denied. Reported below: 543 S. W. 2d 355.
- No. 76-716. *FISHER v. FIRST NATIONAL BANK OF CHICAGO*. C. A. 7th Cir. Certiorari denied. Reported below: 538 F. 2d 1284.
- No. 76-717. *HUNT ET AL. v. PAN AMERICAN ENERGY, INC., ET AL.* C. A. 8th Cir. Certiorari denied. Reported below: 540 F. 2d 894.
- No. 76-733. *KALIN v. YOUNGBLOOD ET AL.* Ct. App. Cal., 2d App. Dist. Certiorari denied.
- No. 76-736. *LA MIRADA TRUCKING, INC., ET AL. v. TEAMSTERS LOCAL UNION 166 ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 538 F. 2d 286.
- No. 76-771. *HURT v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 544 F. 2d 242.
- No. 76-834. *PEROFF v. HYLTON, U. S. MARSHAL, ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 542 F. 2d 1247.
- No. 76-5313. *WHITE v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 537 F. 2d 1142.
- No. 76-5324. *CLARK v. WYRICK, WARDEN*. C. A. 8th Cir. Certiorari denied. Reported below: 538 F. 2d 1327.
- No. 76-5349. *CROWDER v. UNITED STATES*. C. A. D. C. Cir. Certiorari denied. Reported below: 177 U. S. App. D. C. 165, 543 F. 2d 312.

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- No. 76-5350. THOMAS *v.* UNITED STATES; and
No. 76-5402. MILLS *v.* UNITED STATES. C. A. 6th Cir.
Certiorari denied. Reported below: No. 76-5350, 538 F. 2d
331; No. 76-5402, 538 F. 2d 330.
- No. 76-5375. ECKER *v.* UNITED STATES. C. A. D. C. Cir.
Certiorari denied. Reported below: 177 U. S. App. D. C.
31, 543 F. 2d 178.
- No. 76-5380. RICKETTS *v.* TEXAS ET AL. C. A. 5th Cir.
Certiorari denied. Reported below: 530 F. 2d 974.
- No. 76-5395. AYENDES *v.* UNITED STATES; and
No. 76-5460. NOLES *v.* UNITED STATES. C. A. 6th Cir.
Certiorari denied. Reported below: 541 F. 2d 601.
- No. 76-5408. MANVILLE *v.* MICHIGAN. Sup. Ct. Mich.
Certiorari denied.
- No. 76-5425. BOYER *v.* ILLINOIS. Sup. Ct. Ill. Certiorari
denied. Reported below: 63 Ill. 2d 433, 349 N. E. 2d 50.
- No. 76-5443. DIAZ *v.* NEW YORK. App. Div., Sup. Ct.
N. Y., 2d Jud. Dept. Certiorari denied. Reported below: 52
App. Div. 2d 757, 382 N. Y. S. 2d 213.
- No. 76-5458. RODRIGUEZ *v.* UNITED STATES. C. A. 1st Cir.
Certiorari denied.
- No. 76-5459. LOPEZ-ESCALANTE *v.* UNITED STATES. C. A.
9th Cir. Certiorari denied. Reported below: 539 F. 2d 719.
- No. 76-5492. THOMAS *v.* UNITED STATES. C. A. 3d Cir.
Certiorari denied. Reported below: 538 F. 2d 320.
- No. 76-5494. PETERSEN *v.* UNITED STATES; and
No. 76-5512. TEMPLE ET AL. *v.* UNITED STATES. C. A. 9th
Cir. Certiorari denied. Reported below: 540 F. 2d 995.
- No. 76-5506. URQUHART *v.* WAINWRIGHT, SECRETARY, DE-
PARTMENT OF OFFENDER REHABILITATION OF FLORIDA. C. A.
5th Cir. Certiorari denied. Reported below: 535 F. 2d 658.

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No. 76-5511. *NORTHERN v. TENNESSEE*. Ct. Crim. App. Tenn. Certiorari denied. Reported below: 541 S. W. 2d 956.

No. 76-5513. *R. S. v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 542 F. 2d 1181.

No. 76-5524. *CLARK v. FIKE, WARDEN*. C. A. 7th Cir. Certiorari denied. Reported below: 538 F. 2d 750.

No. 76-5532. *CAMPBELL v. SUPERINTENDENT, VIRGINIA STATE PENITENTIARY*. C. A. 4th Cir. Certiorari denied. Reported below: 539 F. 2d 705.

No. 76-5575. *STEPHENSON v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 542 F. 2d 1094.

No. 76-5583. *EZZELL v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 542 F. 2d 1180.

No. 76-5619. *CRANE v. HINSHAW ET AL.* C. A. 9th Cir. Certiorari denied.

No. 76-5641. *SCOTT v. MATHEWS, SECRETARY OF HEALTH, EDUCATION, AND WELFARE*. C. A. 6th Cir. Certiorari denied. Reported below: 539 F. 2d 711.

No. 76-5690. *MCDONALD v. TENNESSEE ET AL.* Sup. Ct. Tenn. Certiorari denied.

No. 76-5695. *WEIR v. WYRICK, WARDEN*. C. A. 8th Cir. Certiorari denied. Reported below: 542 F. 2d 1178.

No. 76-5704. *COCHRELL v. WYRICK, WARDEN*. C. A. 8th Cir. Certiorari denied.

No. 76-5716. *WILSON v. OKLAHOMA*. Ct. Crim. App. Okla. Certiorari denied.

No. 76-5719. *TRANTOW v. CALIFORNIA*. Ct. App. Cal., 2d App. Dist. Certiorari denied.

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No. 76-5724. *POWELL v. ALABAMA*. C. A. 5th Cir. Certiorari denied.

No. 76-5741. *OMERNICK v. CROOKS ET AL.* C. A. 7th Cir. Certiorari denied.

No. 76-5744. *HOGAN v. ESTELLE, CORRECTIONS DIRECTOR*. C. A. 5th Cir. Certiorari denied. Reported below: 537 F. 2d 238.

No. 76-5745. *TANNER v. VINCENT, CORRECTIONAL SUPERINTENDENT*. C. A. 2d Cir. Certiorari denied. Reported below: 541 F. 2d 932.

No. 76-5751. *MORITH v. BARR ET AL.* Ct. App. Cal., 2d App. Dist. Certiorari denied.

No. 76-5753. *HILL v. MINNESOTA*. Sup. Ct. Minn. Certiorari denied. Reported below: 309 Minn. 206, 244 N. W. 2d 728.

No. 76-5754. *SCOTT, AKA WHATLEY v. WISCONSIN*. Sup. Ct. Wis. Certiorari denied. Reported below: 73 Wis. 2d 504, 243 N. W. 2d 215.

No. 76-5755. *SMITH v. WASHINGTON*. Ct. App. Wash. Certiorari denied. Reported below: 15 Wash. App. 103, 547 P. 2d 299.

No. 76-5760. *FIELDS v. NEW YORK*. App. Div., Sup. Ct. N. Y., 2d Jud. Dept. Certiorari denied. Reported below: 52 App. Div. 2d 757, 382 N. Y. S. 2d 214.

No. 76-5762. *BAILEY v. DELAWARE CORRECTIONAL CENTER*. C. A. 3d Cir. Certiorari denied.

No. 76-5765. *MILLER v. MILLER*. C. A. 7th Cir. Certiorari denied. Reported below: 539 F. 2d 715.

No. 76-5772. *BAKER v. UNITED STATES ET AL.* C. A. 7th Cir. Certiorari denied.

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No. 76-5777. *JONES v. CALIFORNIA*. Ct. App. Cal., 1st App. Dist. Certiorari denied.

No. 76-5798. *TUCKER v. UNITED STATES*. C. A. 6th Cir. Certiorari denied.

No. 76-5823. *BATES v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 543 F. 2d 1002.

No. 76-5852. *SCOTT v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 545 F. 2d 38.

No. 76-5877. *SMITH v. UNITED STATES*. C. A. 8th Cir. Certiorari denied.

No. 76-5882. *MURPHY v. UNITED STATES*. C. A. 7th Cir. Certiorari denied.

No. 76-5913. *SANDERS v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 541 F. 2d 190.

No. 76-601. *EVANS ET AL. v. HILLS, SECRETARY OF HOUSING AND URBAN DEVELOPMENT, ET AL.* C. A. 2d Cir. Certiorari denied. MR. JUSTICE BRENNAN and MR. JUSTICE MARSHALL would grant certiorari. Reported below: 537 F. 2d 571.

No. 76-646. *BRADFORD SCHOOL BUS TRANSIT, INC., ET AL. v. CHICAGO TRANSIT AUTHORITY ET AL.* C. A. 7th Cir. Certiorari denied. MR. JUSTICE STEVENS took no part in the consideration or decision of this petition. Reported below: 537 F. 2d 943.

No. 76-655. *CREEL ET AL. v. FREEMAN ET AL.* C. A. 5th Cir. Certiorari denied. MR. JUSTICE WHITE would grant certiorari. Reported below: 531 F. 2d 286.

Rehearing Denied

No. 75-929. *ESTELLE, CORRECTIONS DIRECTOR v. GAMBLE*, *ante*, p. 97; and

No. 76-179. *MARKERT v. UNITED STATES*, *ante*, p. 999. Petitions for rehearing denied.

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- No. 76-206. *CONLEY v. SAWYER*, *ante*, p. 999;
No. 76-381. *CONLEY v. HAMPTON, CHAIRMAN, U. S. CIVIL SERVICE COMMISSION, ET AL.*, *ante*, p. 1000; and
No. 76-5530. *STEPHENS v. GEORGIA*, *ante*, p. 986. Petitions for rehearing denied.

JANUARY 24, 1977

Dismissal Under Rule 60

No. 76-649. *AMERADA HESS CORP. ET AL v. FAHY, JUDGE, U. S. COURT OF APPEALS, ET AL.* C. A. D. C. Cir. Motion for leave to file petition for writ of certiorari and other relief dismissed under this Court's Rule 60. Reported below: 177 U. S. App. D. C. 209, 543 F. 2d 356.

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Affirmed on Appeal

No. 76-764. *BOWEN, GOVERNOR OF INDIANA, ET AL. v. GARY-NORTHWEST INDIANA WOMEN'S SERVICES, INC., ET AL.* Affirmed on appeal from D. C. N. D. Ind. Reported below: 418 F. Supp. 9.

Appeals Dismissed

No. 76-459. *COMMUNICATIONS WORKERS OF AMERICA v. WESTERN ELECTRIC Co., INC., ET AL.*; and

No. 76-478. *COLORADO DEPARTMENT OF LABOR AND EMPLOYMENT ET AL. v. WESTERN ELECTRIC Co., INC., ET AL.* Appeals from Sup. Ct. Colo. dismissed for want of substantial federal question. MR. JUSTICE BRENNAN and MR. JUSTICE STEWART would note probable jurisdiction and set cases for oral argument. Reported below: 191 Colo. 128, 551 P. 2d 1065.

No. 76-852. *OATMAN v. STATE TAX COMMISSION.* Appeal from App. Div., Sup. Ct. N. Y., 3d Jud. Dept., dismissed for want of jurisdiction. Reported below: 50 App. Div. 2d 1015, 377 N. Y. S. 2d 659.

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No. 76-5456. *FLANIGAN v. PUBLIC EMPLOYEES' RETIREMENT ASSN.* Appeal from Sup. Ct. Colo. dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied. Reported below: 191 Colo. 198, 551 P. 2d 702.

No. 76-5835. *DAWN v. WENZLER ET AL.* Appeal from D. C. C. D. Cal. dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied.

Vacated and Remanded on Appeal. (See Nos. 76-212, 76-458, and No. 76-468, *infra*.)

Certiorari Granted—Reversed and Remanded. (See No. 76-201, *ante*, p. 492.)

Certiorari Granted—Vacated and Remanded

No. 75-1002. *JOSEPH SKILKEN & Co. ET AL. v. CITY OF TOLEDO ET AL.* C. A. 6th Cir. Certiorari granted, judgment vacated, and case remanded for further consideration in light of *Village of Arlington Heights v. Metropolitan Housing Development Corp.*, *ante*, p. 252, and *Hills v. Gautreaux*, 425 U. S. 284 (1976). Reported below: 528 F. 2d 867.

No. 76-212. *METROPOLITAN SCHOOL DISTRICT OF PERRY TOWNSHIP, MARION COUNTY, INDIANA v. BUCKLEY ET AL.*;

No. 76-458. *SCHOOL TOWN OF SPEEDWAY, MARION COUNTY, INDIANA, ET AL. v. BUCKLEY ET AL.*; and

No. 76-468. *METROPOLITAN SCHOOL DISTRICT OF LAWRENCE TOWNSHIP, MARION COUNTY, INDIANA, ET AL. v. BUCKLEY ET AL.* Appeals from C. A. 7th Cir.; and

No. 76-515. *BOWEN, GOVERNOR OF INDIANA, ET AL. v. UNITED STATES ET AL.*;

No. 76-520. *BOARD OF SCHOOL COMMISSIONERS OF INDIANAPOLIS ET AL. v. BUCKLEY ET AL.*; and

No. 76-522. *HOUSING AUTHORITY OF INDIANAPOLIS v. BUCKLEY ET AL.* C. A. 7th Cir. Certiorari granted in Nos.

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76-515, 76-520, and 76-522. Judgment vacated and cases remanded for further consideration in light of *Village of Arlington Heights v. Metropolitan Housing Development Corp.*, ante, p. 252; and *Washington v. Davis*, 426 U. S. 229 (1976). MR. JUSTICE BRENNAN, MR. JUSTICE MARSHALL, and MR. JUSTICE STEVENS dissent. Reported below: 541 F. 2d 1211.

Miscellaneous Orders

No. A-545. ESTATE OF WHITLOCK ET AL. v. COMMISSIONER OF INTERNAL REVENUE ET AL. Application for stay of execution and enforcement of judgment of the United States Court of Appeals for the Tenth Circuit, presented to MR. JUSTICE BRENNAN, and by him referred to the Court, denied. Reported below: 547 F. 2d 506.

No. D-66. IN RE DISBARMENT OF SEFFERN. Disbarment entered. [For earlier order, see ante, p. 914.]

No. D-76. IN RE DISBARMENT OF THOMPSON. Disbarment entered. [For earlier order, see ante, p. 937.]

No. D-80. IN RE DISBARMENT OF KATES. Disbarment entered. [For earlier order, see ante, p. 953.]

No. D-97. IN RE DISBARMENT OF DEUTSCH. It is ordered that Robert I. Deutsch, of Boston, Mass., be suspended from the practice of law in this Court and that a rule issue, returnable within 40 days, requiring him to show cause why he should not be disbarred from the practice of law in this Court.

No. 75-1126. TRANS WORLD AIRLINES, INC. v. HARDISON ET AL.; and

No. 75-1385. INTERNATIONAL ASSOCIATION OF MACHINISTS & AEROSPACE WORKERS, AFL-CIO, ET AL. v. HARDISON ET AL. C. A. 8th Cir. [Certiorari granted, ante, p. 958.] Motions of Equal Employment Advisory Council and Chrysler Corp. for leave to file briefs as *amici curiae* granted.

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No. 75-1870. *E. I. DU PONT DE NEMOURS & Co. ET AL. v. COLLINS ET AL.*; and

No. 75-1872. *SECURITIES AND EXCHANGE COMMISSION v. COLLINS ET AL.* C. A. 8th Cir. [Certiorari granted, *ante*, p. 815.] Motion of petitioners for additional time for oral argument granted and 15 additional minutes allotted for that purpose. Respondents also allotted an additional 15 minutes for oral argument.

No. 76-15. *CONTINENTAL T. V., INC., ET AL. v. GTE SYLVANIA, INC.* C. A. 9th Cir. [Certiorari granted, *ante*, p. 893.] Motion of Motor Vehicle Manufacturers Assn. to reconsider order denying leave to file brief as *amicus curiae* granted, and it is now ordered that motion for leave to file be granted and brief filed.

No. 76-180. *SMITH, ADMINISTRATOR, NEW YORK CITY HUMAN RESOURCES ADMINISTRATION, ET AL. v. ORGANIZATION OF FOSTER FAMILIES FOR EQUALITY & REFORM ET AL.*;

No. 76-183. *SHAPIRO, EXECUTIVE DIRECTOR, NEW YORK STATE BOARD OF SOCIAL WELFARE, ET AL. v. ORGANIZATION OF FOSTER FAMILIES FOR EQUALITY & REFORM ET AL.*;

No. 76-5193. *RODRIGUEZ ET AL. v. ORGANIZATION OF FOSTER FAMILIES FOR EQUALITY & REFORM ET AL.*; and

No. 76-5200. *GANDY ET AL. v. ORGANIZATION OF FOSTER FAMILIES FOR EQUALITY & REFORM ET AL.* Appeals from D. C. S. D. N. Y. [Probable jurisdiction noted, *ante*, p. 883.] Motion of A Group of Concerned Persons for Children for leave to file a brief as *amicus curiae* granted.

No. 76-333. *UNITED AIR LINES, INC. v. EVANS.* C. A. 7th Cir. [Certiorari granted, *ante*, p. 917.] Motion of NAACP Legal Defense & Educational Fund, Inc., for leave to file a brief as *amicus curiae* granted.

No. 76-682. *SANTA CLARA PUEBLO ET AL. v. MARTINEZ ET AL.* C. A. 10th Cir. The Solicitor General is invited to file a brief in this case expressing the views of the United States.

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No. 76-749. PFIZER, INC., ET AL. *v.* GOVERNMENT OF INDIA ET AL. C. A. 8th Cir. The Solicitor General is invited to file a brief in this case expressing the views of the United States. MR. JUSTICE BLACKMUN took no part in the consideration or decision in this matter.

No. 76-5763. MAYFIELD *v.* UNITED STATES. Motion for leave to file petition for writ of habeas corpus denied.

No. 76-742. GREAT NATIONAL LIFE INSURANCE CO. ET AL. *v.* PINE GATE ASSOCIATES, LTD. Motion for leave to file petition for writ of prohibition and other relief denied.

No. 76-939. AMERICAN TELEPHONE & TELEGRAPH CO. ET AL. *v.* UNITED STATES. Motion for leave to file petition for writ of certiorari and/or petition for writ of certiorari before judgment denied.

Certiorari Granted

No. 75-536. NASHVILLE GAS Co. *v.* SATTY. C. A. 6th Cir. Certiorari granted. Reported below: 522 F. 2d 850.

No. 75-1069. RICHMOND UNIFIED SCHOOL DISTRICT ET AL. *v.* BERG. C. A. 9th Cir. Certiorari granted. Reported below: 528 F. 2d 1208.

No. 76-398. CITIZENS & SOUTHERN NATIONAL BANK *v.* BOUGAS. Ct. App. Ga. Certiorari granted. Reported below: 138 Ga. App. 706, 227 S. E. 2d 434.

No. 76-761. BALLEW *v.* GEORGIA. Ct. App. Ga. Certiorari granted. Reported below: 138 Ga. App. 530, 227 S. E. 2d 65.

No. 75-1914. MONELL ET AL. *v.* DEPARTMENT OF SOCIAL SERVICES OF THE CITY OF NEW YORK ET AL. C. A. 2d Cir. Certiorari granted limited to Question 2 presented by the petition. Reported below: 532 F. 2d 259.

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No. 76-835. UNITED STATES *v.* NEW YORK TELEPHONE CO. C. A. 2d Cir. Certiorari granted. Reported below: 538 F. 2d 956.

No. 76-5325. BROWDER *v.* DIRECTOR, DEPARTMENT OF CORRECTIONS OF ILLINOIS. C. A. 7th Cir. Motion for leave to proceed *in forma pauperis* and certiorari granted. Reported below: 534 F. 2d 331.

Certiorari Denied. (See also Nos. 76-5456 and 76-5835, *supra.*)

No. 76-483. AYO-GONZALEZ ET AL. *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 536 F. 2d 652.

No. 76-494. INTERNATIONAL UNION OF OPERATING ENGINEERS, LOCAL 542 ET AL. *v.* NATIONAL LABOR RELATIONS BOARD. C. A. 3d Cir. Certiorari denied. Reported below: 532 F. 2d 902.

No. 76-495. KAKE-TV & RADIO, INC. *v.* UNITED STATES ET AL. C. A. 10th Cir. Certiorari denied. Reported below: 537 F. 2d 1121.

No. 76-534. INTERNATIONAL ASSOCIATION OF MACHINISTS & AEROSPACE WORKERS, AFL-CIO, ET AL. *v.* OXCO BRUSH DIVISION OF VISTRON CORP. C. A. 6th Cir. Certiorari denied. Reported below: 538 F. 2d 329.

No. 76-542. THOMASON *v.* SANCHEZ ET AL. C. A. 3d Cir. Certiorari denied. Reported below: 539 F. 2d 955.

No. 76-553. WALD TRANSFER & STORAGE CO. ET AL. *v.* NATIONAL LABOR RELATIONS BOARD. C. A. 5th Cir. Certiorari denied. Reported below: 535 F. 2d 657.

No. 76-565. BAILEY *v.* DELAWARE. Sup. Ct. Del. Certiorari denied. Reported below: 363 A. 2d 312.

No. 76-572. BUZZARD *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. Reported below: 540 F. 2d 1383.

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No. 76-568. *WHITE & CASE ET AL. v. SECURITIES AND EXCHANGE COMMISSION*. C. A. D. C. Cir. Certiorari denied. Reported below: 176 U. S. App. D. C. 56, 538 F. 2d 404.

No. 76-575. *KUTAS v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 542 F. 2d 527.

No. 76-583. *WRIGHT v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 542 F. 2d 975.

No. 76-584. *SINCLAIR v. HANOVER INSURANCE Co. ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 538 F. 2d 345.

No. 76-586. *COPELEN v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 541 F. 2d 211.

No. 76-589. *BIRCHFIELD v. UNITED STATES*. C. A. 10th Cir. Certiorari denied.

No. 76-623. *BANKERS LIFE & CASUALTY Co. v. HOFFMANN, SECRETARY OF THE ARMY, ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 530 F. 2d 625.

No. 76-626. *HEFTEL BROADCASTING HONOLULU, INC. v. WONG, DIRECTOR OF TAXATION*. Sup. Ct. Hawaii. Certiorari denied. Reported below: 57 Haw. 175, 554 P. 2d 242.

No. 76-632. *LORD, BISSELL & BROOK ET AL. v. SECURITIES AND EXCHANGE COMMISSION*. C. A. D. C. Cir. Certiorari denied. Reported below: 176 U. S. App. D. C. 56, 538 F. 2d 404.

No. 76-637. *RUSSELL CORP. v. UNITED STATES*. Ct. Cl. Certiorari denied. Reported below: 210 Ct. Cl. 596, 537 F. 2d 474.

No. 76-661. *WOOLEN ET AL. v. UNITED STATES*; and
No. 76-5471. *WOOLEN v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 539 F. 2d 720.

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No. 76-670. *SECOND AVENUE LIMITED DIVIDEND HOUSING ASSN. ET AL. v. HILLS, SECRETARY, HOUSING AND URBAN DEVELOPMENT, ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 535 F. 2d 1255.

No. 76-693. *BERGER ET AL. v. UNITED STATES.* C. A. D. C. Cir. Certiorari denied.

No. 76-698. *LYONS v. FAGAN ET AL.* C. A. 1st Cir. Certiorari denied. Reported below: 546 F. 2d 413.

No. 76-710. *BOARD OF EDUCATION OF JEFFERSON COUNTY ET AL. v. NEWBURG AREA COUNCIL, INC., ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 541 F. 2d 538.

No. 76-851. *ALBERT ET AL. v. FIRST NATIONAL BANK & TRUST COMPANY OF MARQUETTE, EXECUTOR.* Ct. App. Mich. Certiorari denied. Reported below: 66 Mich. App. 252, 238 N. W. 2d 827.

No. 76-737. *CAMPBELL v. STAPLE COTTON COOPERATIVE ASSN.* Sup. Ct. Miss. Certiorari denied. Reported below: 334 So. 2d 378.

No. 76-751. *KOEHLER MANAGEMENT CORP. ET AL. v. NICKELS ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 541 F. 2d 611.

No. 76-756. *HANSON v. SHELL OIL Co.* C. A. 9th Cir. Certiorari denied. Reported below: 541 F. 2d 1352.

No. 76-812. *HARRIS v. UNITED STATES.* C. A. 9th Cir. Certiorari denied. Reported below: 546 F. 2d 427.

No. 76-822. *TAYLOR v. UNITED STATES.* C. A. 8th Cir. Certiorari denied. Reported below: 542 F. 2d 1023.

No. 76-842. *BLOOM v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. Reported below: 538 F. 2d 704.

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No. 76-866. *ONG v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 541 F. 2d 331.

No. 76-896. *JONES v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 545 F. 2d 1112.

No. 76-5454. *HALL v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 543 F. 2d 1229.

No. 76-5463. *SZYMANSKI v. MICHIGAN*. Sup. Ct. Mich. Certiorari denied.

No. 76-5474. *JOHNSON v. UNITED STATES*. C. A. 10th Cir. Certiorari denied.

No. 76-5476. *CLYNE v. UNITED STATES*. C. A. 5th Cir. Certiorari denied.

No. 76-5485. *SELLERS v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 547 F. 2d 785.

No. 76-5496. *DE KAPLANY v. ENOMOTO, CORRECTIONS DIRECTOR*. C. A. 9th Cir. Certiorari denied. Reported below: 540 F. 2d 975.

No. 76-5501. *MORENO-ORTIZ v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 542 F. 2d 1169.

No. 76-5518. *BOSWELL v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 542 F. 2d 1168.

No. 76-5521. *ROSE v. UNITED STATES*; and

No. 76-5543. *BERRY v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 542 F. 2d 1167.

No. 76-5533. *BYRAM v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 542 F. 2d 1180.

No. 76-5534. *BAGLEY v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 537 F. 2d 162.

No. 76-5536. *HUTTON v. UNITED STATES*. C. A. 10th Cir. Certiorari denied.

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No. 76-5539. *LEPERA v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 541 F. 2d 287.

No. 76-5542. *KELLEY v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 541 F. 2d 287.

No. 76-5550. *TYLER v. RYAN ET AL.* C. A. 8th Cir. Certiorari denied.

No. 76-5556. *SELLARS v. ESTELLE, CORRECTIONS DIRECTOR*. C. A. 5th Cir. Certiorari denied. Reported below: 536 F. 2d 1104.

No. 76-5559. *CAGLE v. McCUNE, WARDEN*. C. A. 10th Cir. Certiorari denied.

No. 76-5560. *McKINNEY v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 538 F. 2d 330.

No. 76-5562. *PROFFITT v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 549 F. 2d 910.

No. 76-5578. *FULCHER v. UNITED STATES*. C. A. D. C. Cir. Certiorari denied.

No. 76-5611. *IRBY v. UNITED STATES*. C. A. 7th Cir. Certiorari denied.

No. 76-5629. *BOLANOS-CAAMANO v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 541 F. 2d 287.

No. 76-5649. *MURPHY v. MISSISSIPPI*. Sup. Ct. Miss. Certiorari denied. Reported below: 336 So. 2d 213.

No. 76-5679. *WHITE v. ELECTION LAWS OF THE STATE OF COLORADO*. Sup. Ct. Colo. Certiorari denied.

No. 76-5702. *BYRUM v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 540 F. 2d 833.

No. 76-5708. *ROBERTS v. DIRECTOR, DEPARTMENT OF CORRECTIONS OF RHODE ISLAND*. C. A. 1st Cir. Certiorari denied. Reported below: 540 F. 2d 540.

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No. 76-5790. *BOOTHE v. MISSOURI*. Ct. App. Mo., Kansas City Dist. Certiorari denied. Reported below: 534 S. W. 2d 74.

No. 76-5791. *OGROD v. PENNSYLVANIA*. C. A. 3d Cir. Certiorari denied. Reported below: 544 F. 2d 512.

No. 76-5799. *LASLEY v. MINNESOTA*. Sup. Ct. Minn. Certiorari denied. Reported below: 306 Minn. 224, 236 N. W. 2d 604.

No. 76-5805. *COLLINS v. CALIFORNIA*. Sup. Ct. Cal. Certiorari denied. Reported below: 17 Cal. 3d 687, 552 P. 2d 742.

No. 76-5806. *ZATKO v. CALIFORNIA*. Sup. Ct. Cal. Certiorari denied.

No. 76-5813. *WHEELDON v. REYNOLDS*. Sup. Ct. Colo. Certiorari denied.

No. 76-5816. *CRANE v. RAM ENTERPRISES, INC.* C. A. 9th Cir. Certiorari denied.

No. 76-5817. *CRANE v. CITY OF SAN DIEGO ET AL.* C. A. 9th Cir. Certiorari denied.

No. 76-5818. *CRANE v. COUNTY OF RIVERSIDE ET AL.* C. A. 9th Cir. Certiorari denied.

No. 76-5819. *BANKS v. INDIANA*. Sup. Ct. Ind. Certiorari denied. Reported below: 265 Ind. 71, 351 N. E. 2d 4.

No. 76-5822. *SMOCK v. KESSLER, JUDGE, ET AL.* Ct. App. Ohio, Montgomery County. Certiorari denied.

No. 76-5849. *BYNUM v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 546 F. 2d 423.

No. 76-5861. *MOSS v. UNITED STATES*; and

No. 76-5863. *DOWNNEY v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 544 F. 2d 954.

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No. 76-5904. *MASTRANGELO v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 546 F. 2d 420.

No. 76-5907. *GREENE v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 541 F. 2d 277.

No. 76-5908. *ALTSTATT v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 546 F. 2d 427.

No. 76-5912. *SMITH v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 546 F. 2d 425.

No. 76-5955. *FRAZIER v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 545 F. 2d 71.

No. 76-592. *KANSAS REFINED HELIUM CO., A DIVISION OF ANGLE INDUSTRIES, INC. v. NATIONAL LABOR RELATIONS BOARD ET AL.* C. A. D. C. Cir. Certiorari denied. MR. JUSTICE WHITE and MR. JUSTICE BLACKMUN would grant certiorari. Reported below: 178 U. S. App. D. C. 301, 547 F. 2d 598.

No. 76-658. *NORFOLK, BALTIMORE & CAROLINA LINES, INC., ET AL. v. DIRECTOR, OFFICE OF WORKERS' COMPENSATION PROGRAMS, U. S. DEPARTMENT OF LABOR, ET AL.* C. A. 4th Cir. Motion of Nellie Smith Rouse, widow of respondent Lee Rouse, for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 539 F. 2d 378.

No. 76-691. *THOMPSON v. GAFFNEY ET AL.* C. A. 6th Cir. Certiorari denied. MR. JUSTICE BRENNAN and MR. JUSTICE MARSHALL would grant certiorari. Reported below: 540 F. 2d 251.

No. 76-725. *ARMSTRONG ET AL. v. AIKEN*. Sup. Ct. Alaska. It appearing there is no final judgment within the meaning of 28 U. S. C. § 1257, certiorari denied.

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No. 76-753. *BORRI v. SIVERSON*. Sup. Ct. Fla. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied.

No. 76-801. *RICHMOND v. CHESAPEAKE & OHIO RAILWAY Co.* Sup. Ct. Va. Certiorari denied. MR. JUSTICE POWELL took no part in the consideration or decision of this petition. Reported below: 217 Va. 258, 227 S. E. 2d 707.

No. 76-5449. *DRANE v. UNITED STATES*; and

No. 76-5577. *JENKINS ET AL v. UNITED STATES*. C. A. 5th Cir. Motion to defer consideration in No. 76-5577 denied. Certiorari denied. Reported below: 533 F. 2d 903.

Rehearing Denied

No. 74-1589. *GENERAL ELECTRIC Co. v. GILBERT ET AL.*, *ante*, p. 125;

No. 74-1590. *GILBERT ET AL. v. GENERAL ELECTRIC Co.*, *ante*, p. 125;

No. 76-249. *POLL v. UNITED STATES*, *ante*, p. 977;

No. 76-394. *TIMMONS v. LAWTON ET AL.*, *ante*, p. 1000;

No. 76-487. *BELL v. HOPPER, WARDEN*, *ante*, p. 989;

No. 76-488. *ROANWELL CORP. v. PLANTRONICS, INC.*, *ante*, p. 1004; and

No. 76-516. *SALVUCCI v. NEW YORK RACING ASSN., INC., ET AL.*, *ante*, p. 1001. Petitions for rehearing denied.

No. 76-73. *YOUNG ET AL. v. UNITED STATES*, *ante*, p. 999. Motion for leave to file petition for rehearing denied.

Assignment Order

An order of THE CHIEF JUSTICE designating and assigning Mr. Justice Clark (retired) to perform judicial duties in the United States Court of Appeals for the Ninth Circuit from February 28, 1977, to March 4, 1977, and for such additional time as may be required to complete unfinished business, pursuant to 28 U. S. C. § 294 (a), is ordered entered on the minutes of this Court, pursuant to 28 U. S. C. § 295.

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FEBRUARY 1, 1977

Dismissal Under Rule 60

No. 76-645. *BONAVENTURE v. FIRST STATE BANK ET AL.* Sup. Ct. N. J. Certiorari dismissed under this Court's Rule 60.

FEBRUARY 4, 1977

Dismissal Under Rule 60

No. 76-928. *BARSZCZ v. BOARD OF TRUSTEES OF COMMUNITY COLLEGE DISTRICT No. 504, COOK COUNTY, ILLINOIS.* C. A. 7th Cir. Certiorari dismissed under this Court's Rule 60. Reported below: 539 F. 2d 715.

FEBRUARY 10, 1977

Dismissal Under Rule 60

No. 76-5910. *SLAUGHTER v. MIDDENDORF, SECRETARY OF THE NAVY, ET AL.* C. A. 3d Cir. Certiorari dismissed under this Court's Rule 60. Reported below: 546 F. 2d 419.

FEBRUARY 18, 1977

Miscellaneous Order

No. A-683. *DIXON v. THOMPSON, WARDEN, ET AL.* Dixon has filed a motion, addressed to Mr. Justice Stewart as Circuit Justice, and by him referred to the Court, for leave to file a petition for a writ of habeas corpus under 28 U. S. C. §§ 2241 (b) and 1651 (a), and this Court's Rules 31 and 50. On January 27, 1977, the District Court for the Middle District of Tennessee denied Dixon's habeas corpus petition. Dixon has not appealed from that denial, but the record reveals that the time for appeal has not expired.

This Court does not, absent exceptional circumstances, exercise its jurisdiction to issue writs of habeas corpus when an adequate remedy may be had in a lower federal court. *Ex parte Abernathy*, 320 U. S. 219 (1943); *Ex parte Tracy*, 249

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U. S. 551 (1919). Since an appeal from the judgment of the District Court may still be had and since there appear to be no exceptional circumstances justifying exercise of this Court's discretionary jurisdiction, the motion is denied. Denial of the motion is not an adjudication on the merits, and is made without prejudice to alternative or subsequent applications for relief. *Ex parte Abernathy, supra; Ex parte Tracy, supra.*

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Affirmed on Appeal

No. 76-712. STEWART *v.* UNITED STATES ET AL. Affirmed on appeal from D. C. Idaho. THE CHIEF JUSTICE, MR. JUSTICE BLACKMUN, and MR. JUSTICE POWELL would dismiss appeal for want of jurisdiction.

No. 76-757. STERLING COLORADO BEEF CO. *v.* UNITED STATES ET AL. Affirmed on appeal from D. C. Colo.

No. 76-818. FITCH, JUDGE, ET AL. *v.* SILVA ET AL. Affirmed on appeal from D. C. W. D. Tex.

No. 76-5926. MENDES ET AL. *v.* COUGHENOUR, COURT ADMINISTRATOR FOR NEW MEXICO. Affirmed on appeal from D. C. N. M.

No. 76-5929. BISSON *v.* NEW HAMPSHIRE. Affirmed on appeal from Sup. Ct. N. H. Reported below: 116 N. H. 711, 366 A. 2d 487.

Appeals Dismissed

No. 76-734. INGALLS IRON WORKS CO. *v.* CHILIVIS, REVENUE COMMISSIONER. Appeal from Sup. Ct. Ga. dismissed for want of substantial federal question. MR. JUSTICE STEWART, MR. JUSTICE WHITE, and MR. JUSTICE POWELL would note probable jurisdiction and set case for oral argument. Reported below: 237 Ga. 479, 228 S. E. 2d 866.

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No. 76-744. *BENNETT v. THOMSON ET AL.* Appeal from Sup. Ct. N. H. dismissed for want of substantial federal question. Reported below: 116 N. H. 453, 363 A. 2d 187.

No. 76-819. *REGAN, COUNTY EXECUTIVE OF ERIE COUNTY, ET AL. v. TOIA, COMMISSIONER, DEPARTMENT OF SOCIAL SERVICES OF NEW YORK, ET AL.* Appeal from Ct. App. N. Y. dismissed for want of substantial federal question. Reported below: 40 N. Y. 2d 837, 356 N. E. 2d 276.

No. 76-857. *FRAZIER v. ALUM CREST ET AL.* Appeal from Ct. App. Ohio, Franklin County, dismissed for want of substantial federal question. Reported below: 48 Ohio App. 2d 283, 357 N. E. 2d 407.

No. 76-868. *JAMES v. ILLINOIS.* Appeal from App. Ct. Ill., 2d Dist., dismissed for want of substantial federal question. Reported below: 38 Ill. App. 3d 594, 348 N. E. 2d 295.

No. 76-805. *BUGG ET AL. v. MARYLAND TRANSPORTATION AUTHORITY ET AL.* Appeal from Ct. Sp. App. Md. dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied. Reported below: 31 Md. App. 622, 358 A. 2d 562.

No. 76-821. *EDWARDS ET UX. v. SUBURBAN TRUST Co.* Appeal from Ct. App. N. C. dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied. Reported below: 29 N. C. App. 422, 224 S. E. 2d 307.

No. 76-823. *SPARTAN ELECTRICAL CONSTRUCTION Co., INC. v. ENVIRONMENTAL PROTECTION AGENCY ET AL.* Appeal from C. A. 3d Cir. dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied.

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No. 76-862. *CAMPBELL v. GEORGIA*. Appeal from Ct. App. Ga. dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied. Reported below: 139 Ga. App. 389, 228 S. E. 2d 309.

No. 76-888. *AVCO COMMUNITY DEVELOPERS, INC. v. SOUTH COAST REGIONAL COMMISSION ET AL.* Appeal from Sup. Ct. Cal. dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied. Reported below: 17 Cal. 3d 785, 553 P. 2d 546.

No. 76-5951. *HAMBURG v. WYOMING*. Appeal from C. A. 10th Cir. dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied.

No. 76-830. *MEYERS ET AL. v. ROBERTS, NOBLES COUNTY AUDITOR*. Appeal from Sup. Ct. Minn. dismissed for want of substantial federal question. MR. JUSTICE WHITE would note probable jurisdiction and set case for oral argument. Reported below: 310 Minn. 358, 246 N. W. 2d 186.

No. 76-918. *TRIUMPH HOSIERY MILLS, INC. v. PENNSYLVANIA*. Appeal from Sup. Ct. Pa. dismissed for want of substantial federal question. MR. JUSTICE POWELL would note probable jurisdiction and set case for oral argument. Reported below: 469 Pa. 92, 364 A. 2d 919.

No. 76-923. *JORDAN ET AL. v. GODWIN, GOVERNOR OF VIRGINIA, ET AL.* Appeal from D. C. E. D. Va. dismissed for want of jurisdiction.

No. 76-5943. *RAITPORT v. COMMISSIONERS OF CECIL COUNTY*. Appeal from D. C. Md. dismissed for want of jurisdiction.

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Vacated and Remanded on Appeal

No. 76-672. *BURLINGTON NORTHERN, INC., ET AL. v. STERLING COLORADO BEEF CO. ET AL.* Appeal from D. C. Colo. 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 Tenth Circuit.

No. 76-922. *STIVERS ET AL. v. MINNESOTA ET AL.* Appeal from D. C. Minn. Judgment vacated and case remanded for entry of a fresh order from which a timely appeal may be taken to the United States Court of Appeals for the Eighth Circuit. *MTM, Inc. v. Baxley*, 420 U. S. 799 (1975). Reported below: 419 F. Supp. 87.

Vacated and Remanded After Probable Jurisdiction Noted

No. 75-1691. *GUEST, PRESIDENT OF METHODIST HOSPITAL, ET AL. v. FITZPATRICK, DISTRICT ATTORNEY OF PHILADELPHIA, ET AL.*; and

No. 75-1698. *WILLIAMSPORT HOSPITAL ET AL. v. FITZPATRICK, DISTRICT ATTORNEY OF PHILADELPHIA, ET AL.* Appeals from D. C. E. D. Pa. [Probable jurisdiction noted, *ante*, p. 813.] Judgment in No. 75-1691 vacated and case remanded with directions to dismiss cause as moot. Judgment in No. 75-1698 vacated and case remanded for reconsideration in light of intervening circumstances. Reported below: 409 F. Supp. 818.

Certiorari Granted—Affirmed. (See No. 76-613, *ante*, p. 648.)

Certiorari Granted—Vacated and Remanded

No. 76-831. *RAHMAN v. IMMIGRATION AND NATURALIZATION SERVICE.* C. A. 6th Cir. *Certiorari* granted. On representation of the Acting Solicitor General set forth in his memorandum for the United States, filed February 4, 1977, judgment vacated and case remanded for reconsideration in light of position presently asserted by the Government.

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No. 76-5593. *GORDON v. UNITED STATES*. C. A. 2d Cir. Motion for leave to proceed *in forma pauperis* and certiorari granted. Judgment vacated and case remanded to Court of Appeals for further proceedings, including re-entry of its judgment affirming petitioner's conviction and consideration of the appointment of counsel for petitioner in connection with seeking review in this Court of the judgment of the Court of Appeals. *Doherty v. United States*, 404 U. S. 28 (1971); *Schreiner v. United States*, 404 U. S. 67 (1971). Reported below: 539 F. 2d 703.

Vacated and Remanded After Certiorari Granted

No. 75-679. *INTERNAL REVENUE SERVICE v. FRUEHAUF CORP. ET AL.* C. A. 6th Cir. [Certiorari granted, 423 U. S. 1047.] Judgment vacated and case remanded for reconsideration in light of the Tax Reform Act of 1976, 90 Stat. 1520. Reported below: 522 F. 2d 284.

Miscellaneous Orders

No. A-346 (76-694). *BUCKLEY ET AL. v. McRAE ET AL.* Renewed application for stay of order of the United States District Court for the Eastern District of New York denied.

No. A-399. *WARD v. UNITED STATES*. C. A. 5th Cir. Application for bail, presented to MR. JUSTICE WHITE, and by him referred to the Court, denied.

No. A-469. *MCCARTHY ET UX. v. UNITED STATES ET AL.* C. A. 6th Cir. Application for stay, presented to THE CHIEF JUSTICE, and by him referred to the Court, denied.

No. A-571. *DUBOSE ET AL. v. HARRIS, SECRETARY OF HOUSING AND URBAN DEVELOPMENT, ET AL.* Application to vacate stay of a preliminary injunction entered by the United States District Court for the District of Connecticut, presented to MR. JUSTICE MARSHALL, and by him referred to the Court, denied.

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No. A-616 (76-1104). *SAGRACY v. UNITED STATES*. C. A. 6th Cir. Application for stay of execution and enforcement of judgment of conviction, presented to MR. JUSTICE MARSHALL, and by him referred to the Court, denied.

No. A-643. *ST. LOUIS BOARD OF EDUCATION v. CALDWELL ET AL.* Application to recall and stay mandate of the United States Court of Appeals for the Eighth Circuit, presented to MR. JUSTICE BLACKMUN, and by him referred to the Court, denied by an equally divided Court. MR. JUSTICE MARSHALL took no part in the consideration or decision of this application. Reported below: 546 F. 2d 768.

No. A-647 (76-978). *BRIDGETON HOSPITAL ASSN. ET AL. v. DOE ET AL.* Application for stay of judgment of the Supreme Court of New Jersey, presented to MR. JUSTICE BRENNAN, and by him referred to the Court, denied. MR. JUSTICE BRENNAN took no part in the consideration or decision of this application.

No. 75-1181. *BATTERTON, SECRETARY, DEPARTMENT OF HUMAN RESOURCES OF MARYLAND v. FRANCIS ET AL.* C. A. 4th Cir. [Certiorari granted, *ante*, p. 939.] Motion of respondent Francis to strike brief of Chamber of Commerce of the United States denied.

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., ET AL.*, *ante*, p. 229. Motion of respondent Robbins & Myers, Inc., to retax costs denied.

No. 75-1704. *ALEXANDER, SECRETARY OF THE ARMY v. FIOTO*. Appeal from D. C. E. D. N. Y. [Probable jurisdiction noted *sub nom. Hoffmann v. Fioto*, *ante*, p. 814.] Motion of the Acting Solicitor General to permit Stephen L. Urbanczyk, Esquire, to present oral argument *pro hac vice* granted.

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No. 75-1707. OHIO BUREAU OF EMPLOYMENT SERVICES ET AL. *v.* HODORY. Appeal from D. C. N. D. Ohio. [Probable jurisdiction noted, *ante*, p. 814.] Motion of appellants for leave to allocate time to the Chamber of Commerce of the United States to argue as *amicus curiae* denied. Motion of Local No. 1375, United Steel Workers of America, for leave to file a brief as *amicus curiae* denied.

No. 75-1906. HENDERSON, CORRECTIONAL SUPERINTENDENT *v.* KIBBE. C. A. 2d Cir. [Certiorari granted, *ante*, p. 815.] Motion of the District Attorney of Monroe County, New York, for leave to participate in oral argument as *amicus curiae* denied.

No. 76-120. UNITED STATES *v.* MARTIN LINEN SUPPLY CO. ET AL. C. A. 5th Cir. [Certiorari granted, *ante*, p. 917.] Motion of the Acting Solicitor General to permit Frank H. Easterbrook, Esquire, to present oral argument *pro hac vice* granted.

No. 76-404. ILLINOIS BRICK CO. ET AL. *v.* ILLINOIS ET AL. C. A. 7th Cir. [Certiorari granted, *ante*, p. 938.] Motion of the Acting Solicitor General for leave to participate in oral argument as *amicus curiae* granted and 15 minutes allotted for that purpose. Counsel for petitioners allotted an additional 15 minutes for oral argument. Motion of the State of Alabama et al. for leave to participate in oral argument as *amici curiae* denied.

No. 76-815. APPAWORA *v.* BROUGH. Appeal from Sup. Ct. Utah;

No. 76-900. ERIE LACKAWANNA RAILWAY CO. *v.* COLE. C. A. 6th Cir.; and

No. 76-5729. OLIPHANT ET AL. *v.* SUQUAMISH INDIAN TRIBE ET AL.; and BELGARDE *v.* SUQUAMISH INDIAN TRIBE ET AL. Petition for certiorari before judgment to C. A. 9th Cir. The Solicitor General is invited to file briefs in these cases expressing the views of the United States.

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No. 76-447. MILLIKEN, GOVERNOR OF MICHIGAN, ET AL. v. BRADLEY ET AL. C. A. 6th Cir. [Certiorari granted, *ante*, p. 958.] Motion of the National Association of Attorneys General for leave to join the *amicus curiae* brief filed by the Commonwealth of Pennsylvania denied.

No. 76-1105. CLARK v. VALEO, SECRETARY OF THE SENATE, ET AL. Appeal from C. A. D. C. Cir. Motion to expedite consideration denied.

No. 76-5187. LEE v. UNITED STATES. C. A. 7th Cir. [Certiorari granted, *ante*, p. 1037.] Motion for appointment of counsel granted, and it is ordered that Conrad Kellenberg, Esquire, of Notre Dame, Ind., is appointed to serve as counsel for petitioner in this case.

No. 76-803. VESCO & Co., INC. v. INTERNATIONAL CONTROLS CORP. Motion for leave to file petition for writ of certiorari and other relief denied.

No. 76-5896. DIAMOND v. ALABAMA. Motion for leave to file petition for writ of certiorari denied.

No. 76-5778. GAMBLE v. ALABAMA; and

No. 76-6040. CLARK v. MALLEY, WARDEN. Motions for leave to file petitions for writs of habeas corpus denied.

No. 76-6102. McDONALD v. THOMPSON, WARDEN. Motion for leave to file petition for writ of habeas corpus and other relief denied.

No. 76-5996. LODEN v. CUNNINGHAM, CLERK, U. S. DISTRICT COURT FOR THE NORTHERN DISTRICT OF ILLINOIS, ET AL. Motion for leave to file petition for writ of mandamus denied.

Probable Jurisdiction Noted or Postponed

No. 76-635. UNITED STATES STEEL CORP. ET AL. v. MULTI-STATE TAX COMMISSION ET AL. Appeal from D. C. S. D. N. Y. Probable jurisdiction noted. Reported below: 417 F. Supp. 795.

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No. 76-879. ZABLOCKI, MILWAUKEE COUNTY CLERK *v.* REDHAIL. Appeal from D. C. E. D. Wis. Probable jurisdiction noted. Reported below: 418 F. Supp. 1061.

No. 76-860. CALIFANO, SECRETARY OF HEALTH, EDUCATION, AND WELFARE *v.* JOBST. Appeal from D. C. W. D. Mo. Motion of appellee for leave to proceed *in forma pauperis* granted. Probable jurisdiction noted. Reported below: See 368 F. Supp. 909.

No. 76-5528. BALDWIN ET AL. *v.* FISH AND GAME COMMISSION OF MONTANA ET AL. Appeal from D. C. Mont. Motion of appellants for leave to proceed *in forma pauperis* denied. Appellants now having paid the docket fee pursuant to this Court's Rule 52, case is transferred to the appellate docket as No. 76-1150. Probable jurisdiction noted. Reported below: 417 F. Supp. 1005.

No. 76-616. NEW YORK *v.* CATHEDRAL ACADEMY. Appeal from Ct. App. N. Y. Further consideration of question of jurisdiction postponed to hearing of case on the merits. Reported below: 39 N. Y. 2d 1021, 355 N. E. 2d 300.

Certiorari Granted

No. 76-624. FRANK LYON CO. *v.* UNITED STATES. C. A. 8th Cir. Certiorari granted. Reported below: 536 F. 2d 746.

No. 76-678. SHELL OIL CO. *v.* DARTT. C. A. 10th Cir. Certiorari granted. Reported below: 539 F. 2d 1256.

No. 76-709. BUTZ ET AL. *v.* ECONOMOU ET AL. C. A. 2d Cir. Certiorari granted. Reported below: 535 F. 2d 688.

No. 76-719. NATIONAL LABOR RELATIONS BOARD *v.* LOCAL UNION No. 103, INTERNATIONAL ASSOCIATION OF BRIDGE, STRUCTURAL & ORNAMENTAL IRON WORKERS, AFL-CIO, ET AL. C. A. D. C. Cir. Certiorari granted. Reported below: 175 U. S. App. D. C. 259, 535 F. 2d 87.

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No. 76-811. REGENTS OF THE UNIVERSITY OF CALIFORNIA *v.* BAKKE. Sup. Ct. Cal. Certiorari granted. Reported below: 18 Cal. 3d 34, 553 P. 2d 1152.

No. 76-906. UNITED AIR LINES, INC. *v.* McMANN. C. A. 4th Cir. Certiorari granted. Reported below: 542 F. 2d 217.

No. 76-39. MEMPHIS LIGHT, GAS & WATER DIVISION ET AL. *v.* CRAFT ET AL. C. A. 6th Cir. Motion of respondents for leave to proceed *in forma pauperis* and certiorari granted. Reported below: 534 F. 2d 684.

No. 76-419. VERMONT YANKEE NUCLEAR POWER CORP. *v.* NATURAL RESOURCES DEFENSE COUNCIL, INC., ET AL.; and

No. 76-528. CONSUMERS POWER CO. *v.* AESCHLIMAN ET AL. C. A. D. C. Cir. Motion of Edison Electric Institute et al. for leave to file a brief as *amici curiae* granted. Certiorari granted, cases consolidated, and a total of one hour allotted for oral argument. MR. JUSTICE POWELL took no part in the consideration or decision of the motion and petitions. Reported below: No. 76-419, 178 U. S. App. D. C. 336, 547 F. 2d 633; No. 76-528, 178 U. S. App. D. C. 325, 547 F. 2d 622.

Certiorari Denied. (See also Nos. 76-805, 76-821, 76-823, 76-862, 76-888, and 76-5951, *supra.*)

No. 75-770. TREADWAY COMPANIES, INC., ET AL. *v.* BRUNSWICK CORP. C. A. 3d Cir. Certiorari denied. Reported below: 523 F. 2d 262.

No. 75-836. VALLEY DISTRIBUTING CO. *v.* DAVIS ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 522 F. 2d 827.

No. 76-273. DAVIS *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 533 F. 2d 1134.

No. 76-384. SIMON *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 537 F. 2d 1142.

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No. 76-449. *PERSICO v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 538 F. 2d 316.

No. 76-465. *CITY OF ALEXANDRIA v. UNITED STATES ET AL.*; and

No. 76-476. *ROBINSON TERMINAL WAREHOUSE CORP. ET AL. v. UNITED STATES*. C. A. D. C. Cir. Certiorari denied. Reported below: 177 U. S. App. D. C. 152, 543 F. 2d 299.

No. 76-480. *ROBERTSON v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 539 F. 2d 898.

No. 76-486. *DE LUTRO v. UNITED STATES*;

No. 76-612. *SOLDANO v. UNITED STATES*;

No. 76-640. *LUCAS v. UNITED STATES*;

No. 76-5503. *BOLELLA v. UNITED STATES*; and

No. 76-5603. *MAGNANO ET AL. v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 543 F. 2d 431.

No. 76-503. *MATYA ET AL. v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 541 F. 2d 741.

No. 76-523. *CHURCH OF SCIENTOLOGY OF CALIFORNIA v. ALLARD*. Ct. App. Cal., 2d App. Dist. Certiorari denied. Reported below: 58 Cal. App. 3d 439, 129 Cal. Rptr. 797.

No. 76-526. *FIRST NATIONAL BANK OF FORT COLLINS v. STATE BANKING BOARD OF COLORADO ET AL.* C. A. 10th Cir. Certiorari denied. Reported below: 540 F. 2d 497.

No. 76-561. *BERRADA v. UNITED STATES*;

No. 76-5565. *CONTRERAS v. UNITED STATES*; and

No. 76-5573. *DI GISO v. UNITED STATES*. C. A. 2d Cir. Certiorari denied.

No. 76-567. *WEST PENN POWER Co. v. TRAIN, ADMINISTRATOR, ENVIRONMENTAL PROTECTION AGENCY*. C. A. 3d Cir. Certiorari denied. Reported below: 538 F. 2d 1020.

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No. 76-587. *GIBBONS, TRUSTEE v. ATCHISON, TOPEKA & SANTA FE RAILWAY CO. ET AL.* C. A. 7th Cir. Certiorari denied. Reported below: 537 F. 2d 906.

No. 76-590. *SHUEY v. UNITED STATES.* C. A. 9th Cir. Certiorari denied. Reported below: 541 F. 2d 845.

No. 76-621. *NOWICKI, DBA K & F FOOD MARKET v. UNITED STATES.* C. A. 7th Cir. Certiorari denied. Reported below: 536 F. 2d 1171.

No. 76-634. *MANNING v. UNITED STATES.* C. A. 6th Cir. Certiorari denied. Reported below: 542 F. 2d 685.

No. 76-657. *NEWSPAPER GUILD v. BELL, ATTORNEY GENERAL.* C. A. D. C. Cir. Certiorari denied. Reported below: 176 U. S. App. D. C. 276, 539 F. 2d 755.

No. 76-665. *ERNEST v. CARTER, PRESIDENT OF THE UNITED STATES, ET AL.* C. A. D. C. Cir. Certiorari denied.

No. 76-681. *NATIONAL BANK OF NORTHERN NEW YORK, EXECUTOR v. UNITED STATES.* C. A. 2d Cir. Certiorari denied. Reported below: 540 F. 2d 579.

No. 76-683. *WESTERN UNION TELEGRAPH CO. v. FEDERAL COMMUNICATIONS COMMISSION ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 541 F. 2d 346.

No. 76-687. *CAMENISCH ET AL. v. UNITED STATES ET AL.* C. A. D. C. Cir. Certiorari denied. Reported below: 176 U. S. App. D. C. 240, 539 F. 2d 242.

No. 76-692. *CAMPISI v. UNITED STATES.* C. A. 3d Cir. Certiorari denied. Reported below: 546 F. 2d 415.

No. 76-701. *BRENNAN v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. Reported below: 538 F. 2d 711.

No. 76-707. *SUMTER PLYWOOD CORP. v. NATIONAL LABOR RELATIONS BOARD.* C. A. 5th Cir. Certiorari denied. Reported below: 535 F. 2d 917.

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- No. 76-711. FELICIANO ET AL. *v.* UNITED STATES;
No. 76-5691. IACONA *v.* UNITED STATES; and
No. 76-5715. BISHOP ET AL. *v.* UNITED STATES. C. A. 4th
Cir. Certiorari denied. Reported below: 544 F. 2d 156.
- No. 76-715. VAN WINKLE *v.* McLUCAS, SECRETARY OF THE
AIR FORCE. C. A. 6th Cir. Certiorari denied. Reported
below: 537 F. 2d 246.
- No. 76-727. JOHNSON *v.* UNITED STATES. C. A. 8th Cir.
Certiorari denied. Reported below: 541 F. 2d 710.
- No. 76-741. HUNTER *v.* NORTH CAROLINA. Sup. Ct. N. C.
Certiorari denied. Reported below: 290 N. C. 556, 227 S. E.
2d 535.
- No. 76-746. GRAVES ET AL. *v.* SNEED ET AL. C. A. 6th Cir.
Certiorari denied. Reported below: 541 F. 2d 159.
- No. 76-755. DEMA *v.* UNITED STATES ET AL. C. A. 7th Cir.
Certiorari denied. Reported below: 544 F. 2d 1373.
- No. 76-758. SINK *v.* ANDRUS, SECRETARY OF THE INTERIOR.
C. A. 4th Cir. Certiorari denied. Reported below: 538 F.
2d 325.
- No. 76-759. KINTY, DBA KINTY TRUCKING CO., ET AL. *v.*
UNITED MINE WORKERS OF AMERICA; and
No. 76-945. UNITED MINE WORKERS OF AMERICA *v.*
KINTY, DBA KINTY TRUCKING CO., ET AL. C. A. 4th Cir.
Certiorari denied. Reported below: 544 F. 2d 706.
- No. 76-760. JAMES *v.* UNITED STATES. C. A. 6th Cir.
Certiorari denied. Reported below: 542 F. 2d 16.
- No. 76-763. CAMELIA BUILDERS, INC., ET AL. *v.* FIDELITY
MORTGAGE INVESTORS. C. A. 2d Cir. Certiorari denied.
- No. 76-765. URDA *v.* PENNSYLVANIA FARVIEW STATE HOS-
PITAL. Sup. Ct. Pa. Certiorari denied. Reported below:
See 23 Pa. Commw. 607, 353 A. 2d 61.

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No. 76-766. *YODER BROS., INC. v. CALIFORNIA-FLORIDA PLANT CORP. ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 537 F.2d 1347.

No. 76-767. *FRIED v. UNITED STATES.* C. A. 3d Cir. Certiorari denied. Reported below: 546 F.2d 419.

No. 76-775. *ROYAL INDEMNITY CO. v. PRINCE ET AL., TRUSTEES.* C. A. 7th Cir. Certiorari denied. Reported below: 541 F.2d 646.

No. 76-779. *CITY OF EUCLID v. FITZTHUM ET AL.* Sup. Ct. Ohio. Certiorari denied.

No. 76-780. *KELSIE v. INDIANA.* Sup. Ct. Ind. Certiorari denied. Reported below: 265 Ind. 363, 354 N. E. 2d 219.

No. 76-782. *GREAT WESTERN SUGAR CO. v. DAVIS CATTLE CO., INC.* C. A. 10th Cir. Certiorari denied. Reported below: 544 F.2d 436.

No. 76-788. *HOWLAND ET AL. v. CITY OF MONTEREY ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 538 F.2d 336.

No. 76-791. *JACOBS ET AL. v. KUNES, COUNTY ASSESSOR OF MARICOPA COUNTY, ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 541 F.2d 222.

No. 76-792. *GLENVIEW PARK DISTRICT v. MELHUS.* C. A. 7th Cir. Certiorari denied. Reported below: 540 F.2d 1321.

No. 76-796. *MISSISSIPPI POWER & LIGHT CO. v. UNITED GAS PIPE LINE CO. ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 532 F.2d 412.

No. 76-797. *RURAL FOODS, INC., T/A SHOP & SAVE SUPER MARKETS v. UNITED STATES DEPARTMENT OF AGRICULTURE.* C. A. 4th Cir. Certiorari denied. Reported below: 541 F.2d 277.

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No. 76-798. *A. H. ROBINS Co., INC. v. DEPARTMENT OF HEALTH OF CALIFORNIA ET AL.* Ct. App. Cal., 3d App. Dist. Certiorari denied. Reported below: 59 Cal. App. 3d 903, 130 Cal. Rptr. 901.

No. 76-806. *TEXAS STEEL Co. v. INTERNATIONAL ASSOCIATION OF MACHINISTS & AEROSPACE WORKERS, DISTRICT 776.* C. A. 5th Cir. Certiorari denied. Reported below: 538 F. 2d 1116.

No. 76-810. *McGraw v. BERGER, COMMISSIONER, DEPARTMENT OF SOCIAL SERVICES OF NEW YORK, ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 537 F. 2d 719.

No. 76-813. *BENSON v. METRO-GOLDWYN-MAYER, INC.* C. A. 9th Cir. Certiorari denied. Reported below: 538 F. 2d 334.

No. 76-828. *MARKLE MANUFACTURING Co. v. INTERNATIONAL UNION OF ELECTRICAL, RADIO & MACHINE WORKERS, AFL-CIO-CLC, ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 536 F. 2d 388.

No. 76-829. *CATALDO v. BUGLASS ET AL.* Ct. App. N. Y. Certiorari denied. Reported below: 39 N. Y. 2d 807, 351 N. E. 2d 428.

No. 76-833. *MORROW v. GREYHOUND LINES, INC.* C. A. 3d Cir. Certiorari denied. Reported below: 546 F. 2d 418.

No. 76-837. *BRADCO OIL & GAS Co. v. YOUNGSTOWN SHEET & TUBE Co.* C. A. 5th Cir. Certiorari denied. Reported below: 532 F. 2d 501.

No. 76-841. *ILLINOIS ET AL. v. CONSOLIDATED RAIL CORP. ET AL.* Sp. Ct., R. Reorg. Act. Certiorari denied. Reported below: 423 F. Supp. 941.

No. 76-844. *SNYDER v. R. I. D. C. INDUSTRIAL DEVELOPMENT FUND.* C. A. 5th Cir. Certiorari denied. Reported below: 539 F. 2d 487.

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No. 76-845. *GILINSKY v. COLUMBIA UNIVERSITY ET AL.* Ct. App. N. Y. Certiorari denied. Reported below: 39 N. Y. 2d 612, 350 N. E. 2d 396.

No. 76-848. *McCLENDON ET AL. v. SLATER, SECRETARY, STATE ELECTION BOARD, ET AL.* Sup. Ct. Okla. Certiorari denied. Reported below: 554 P. 2d 774.

No. 76-849. *WOODMAR REALTY CORP. ET AL. v. SAMUEL C. ENNIS & Co., INC., ET AL.* C. A. 7th Cir. Certiorari denied. Reported below: 542 F. 2d 45.

No. 76-850. *BLACK MUSICIANS OF PITTSBURGH ET AL. v. LOCAL 60-471, AMERICAN FEDERATION OF MUSICIANS, AFL-CIO, ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 544 F. 2d 512.

No. 76-856. *SOUTHERN CONCRETE Co. v. UNITED STATES STEEL CORP.* C. A. 5th Cir. Certiorari denied. Reported below: 535 F. 2d 313.

No. 76-872. *BURROUGHS v. BOARD OF TRUSTEES OF THE PENSION TRUST FUND FOR OPERATING ENGINEERS ET AL.*; and

No. 76-912. *BOARD OF TRUSTEES OF THE PENSION TRUST FUND FOR OPERATING ENGINEERS v. BURROUGHS ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 542 F. 2d 1128.

No. 76-873. *ARTHUR ANDERSEN & Co. v. OHIO ET AL.* C. A. 10th Cir. Certiorari denied. Reported below: 546 F. 2d 338.

No. 76-875. *RATLIFF ET AL. v. LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT.* Sup. Ct. Ky. Certiorari denied. Reported below: 540 S. W. 2d 8.

No. 76-882. *COGDELL v. FORT WORTH NATIONAL BANK, TRUSTEE.* Ct. Civ. App. Tex., 11th Sup. Jud. Dist. Certiorari denied. Reported below: 536 S. W. 2d 257.

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No. 76-883. *DODSON v. GEORGIA*. Sup. Ct. Ga. Certiorari denied. Reported below: 237 Ga. 607, 229 S. E. 2d 364.

No. 76-885. *SPILLMAN v. CITY OF DALLAS*. Ct. Civ. App. Tex., 11th Sup. Jud. Dist. Certiorari denied. Reported below: 535 S. W. 2d 717.

No. 76-887. *CAMIL v. SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES (BUENA VISTA CINEMA ET AL., REAL PARTIES IN INTEREST)*. Ct. App. Cal., 2d App Dist. Certiorari denied.

No. 76-890. *HESLER ET AL. v. ILLINOIS*. App. Ct. Ill., 2d Dist. Certiorari denied. Reported below: 39 Ill. App. 3d 843, 350 N. E. 2d 748.

No. 76-891. *CHAMBERS v. CHAMBERS ET AL.* Sup. Ct. Tex. Certiorari denied.

No. 76-894. *SCHOTT ET AL. v. ILLINOIS*. App. Ct. Ill., 2d Dist. Certiorari denied. Reported below: 39 Ill. App. 3d 266, 350 N. E. 2d 49.

No. 76-899. *MCGRAW-EDISON Co. v. SOPER ET AL.* C. A. 8th Cir. Certiorari denied. Reported below: 542 F. 2d 1336.

No. 76-901. *DOE v. LAMB, SHERIFF, ET AL.* Sup. Ct. Nev. Certiorari denied. Reported below: 92 Nev. 550, 554 P. 2d 732.

No. 76-903. *FEIST ET AL. v. LUZERNE COUNTY BOARD OF ASSESSMENT APPEALS*. Sup. Ct. Pa. Certiorari denied. Reported below: See 22 Pa. Commw. 181, 347 A. 2d 772.

No. 76-904. *FLM COLLISION PARTS, INC. v. FORD MOTOR Co. ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 543 F. 2d 1019.

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No. 76-907. *COMPANIA MARITIMA SAN BASILIO, S. A., ET AL. v. ANTYPAS*. C. A. 2d Cir. Certiorari denied. Reported below: 541 F. 2d 307.

No. 76-916. *SCHWARTZ v. ILLINOIS*. Sup. Ct. Ill. Certiorari denied. Reported below: 64 Ill. 2d 275, 356 N. E. 2d 8.

No. 76-920. *ANUSZEWSKI ET AL. v. DYNAMIC MARINERS CORP., PANAMA*. C. A. 4th Cir. Certiorari denied. Reported below: 540 F. 2d 757.

No. 76-925. *FERREN v. FERREN*. Ct. App. Cal., 2d App. Dist. Certiorari denied.

No. 76-927. *RIFKIN v. UNITED STATES*. Ct. Cl. Certiorari denied. Reported below: 209 Ct. Cl. 566, — F. 2d —.

No. 76-940. *ZEMPRELLI v. UNITED STATES*. C. A. 3d Cir. Certiorari denied.

No. 76-942. *ANTHONY v. ANTHONY*. Sup. Ct. Ga. Certiorari denied. Reported below: 237 Ga. 753, 229 S. E. 2d 609.

No. 76-963. *LARGENT ET AL. v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 545 F. 2d 1039.

No. 76-1000. *FIFE v. UNITED STATES*. C. A. 6th Cir. Certiorari denied.

No. 76-1007. *SELIGMAN DEVELOPMENT, INC., ET AL. v. UNITED STATES*. C. A. 6th Cir. Certiorari denied.

No. 76-1009. *ZEMPRELLI v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 547 F. 2d 1166.

No. 76-1019. *AFFLERBACH v. UNITED STATES*. C. A. 10th Cir. Certiorari denied. Reported below: 547 F. 2d 522.

No. 76-1032. *WOOD v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 545 F. 2d 1124.

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No. 76-5296. *INCISO v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 544 F. 2d 353.

No. 76-5341. *McCURRY v. CLERK OF THE SIXTH JUDICIAL DISTRICT COURT OF LOUISIANA*. C. A. 5th Cir. Certiorari denied. Reported below: 532 F. 2d 184.

No. 76-5357. *COOPER v. UNITED STATES*;

No. 76-5360. *ESCAMILLA v. UNITED STATES*; and

No. 76-5367. *ALVARADO ET AL. v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 538 F. 2d 770.

No. 76-5370. *MITCHELL v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 540 F. 2d 1163.

No. 76-5464. *LUPO v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 536 F. 2d 389.

No. 76-5465. *HAIRSTON v. WARDEN, ILLINOIS STATE PENITENTIARY*. C. A. 7th Cir. Certiorari denied. Reported below: 539 F. 2d 713.

No. 76-5475. *SYPUA v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 542 F. 2d 1168.

No. 76-5482. *STARR v. UNITED STATES*. C. A. 10th Cir. Certiorari denied.

No. 76-5490. *MILLER v. TEXAS*. Ct. Crim. App. Tex. Certiorari denied. Reported below: 537 S. W. 2d 725.

No. 76-5507. *TOON v. UNITED STATES*. Ct. App. D. C. Certiorari denied. Reported below: 364 A. 2d 1177.

No. 76-5520. *CHESTER v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 537 F. 2d 173.

No. 76-5526. *WOODS v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 541 F. 2d 288.

No. 76-5527. *BOYD v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 530 F. 2d 1269.

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No. 76-5540. *WILLIAMS v. ALABAMA*. C. A. 5th Cir. Certiorari denied.

No. 76-5546. *MELIAN v. FLORIDA*. Dist. Ct. App. Fla., 3d Dist. Certiorari denied. Reported below: 323 So. 2d 289.

No. 76-5554. *RUA v. UNITED STATES*. C. A. 2d Cir. Certiorari denied.

No. 76-5557. *GORHAM v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 542 F. 2d 1168.

No. 76-5569. *TERI v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 542 F. 2d 158.

No. 76-5570. *BROWN v. UNITED STATES*. C. A. 10th Cir. Certiorari denied. Reported below: 540 F. 2d 1048.

No. 76-5571. *SMITH v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 534 F. 2d 74.

No. 76-5574. *CAVAZOS v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 534 F. 2d 1405.

No. 76-5579. *MITCHELL v. LAVALLEE, CORRECTIONAL SUPERINTENDENT*. C. A. 2d Cir. Certiorari denied.

No. 76-5580. *FIELDS v. UNITED STATES*. C. A. 10th Cir. Certiorari denied.

No. 76-5582. *MILLER v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 545 F. 2d 406.

No. 76-5585. *SHRYOCK v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 537 F. 2d 207.

No. 76-5587. *MERCER v. UNITED STATES*. Ct. App. D. C. Certiorari denied.

No. 76-5589. *BELVIN v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 538 F. 2d 1335.

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No. 76-5590. *BROWN v. UNITED STATES*. C. A. 10th Cir. Certiorari denied.

No. 76-5591. *LIGANOZA v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 544 F. 2d 58.

No. 76-5594. *GATT v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 538 F. 2d 330.

No. 76-5596. *HIGHFIELD ET AL. v. CALIFORNIA*. Ct. App. Cal., 2d App. Dist. Certiorari denied.

No. 76-5600. *EVANS ET AL. v. UNITED STATES*. C. A. 10th Cir. Certiorari denied. Reported below: 542 F. 2d 805.

No. 76-5607. *ROBINSON v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 539 F. 2d 1181.

No. 76-5612. *KUROWSKI v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 544 F. 2d 519.

No. 76-5614. *CAMPBELL v. ATTORNEY GENERAL OF THE UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 539 F. 2d 711.

No. 76-5615. *CLARK v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 538 F. 2d 330.

No. 76-5616. *JONES ET AL. v. UNITED STATES*. C. A. 10th Cir. Certiorari denied. Reported below: 540 F. 2d 465.

No. 76-5622. *FLORES-AMAYA v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 533 F. 2d 188.

No. 76-5635. *HANNAH v. MISSISSIPPI*. Sup. Ct. Miss. Certiorari denied. Reported below: 336 So. 2d 1317.

No. 76-5637. *MILLER v. UNITED STATES*. C. A. 10th Cir. Certiorari denied.

No. 76-5638. *CARRINGTON v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 546 F. 2d 419.

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No. 76-5640. *NASIM v. MARYLAND*. Ct. Sp. App. Md. Certiorari denied.

No. 76-5642. *BIBBS v. TWOMEY, WARDEN*. C. A. 7th Cir. Certiorari denied. Reported below: 538 F. 2d 151.

No. 76-5643. *ST. JOHN v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 546 F. 2d 420.

No. 76-5646. *MINNS v. PAUL*. C. A. 4th Cir. Certiorari denied. Reported below: 542 F. 2d 899.

No. 76-5648. *WILSON v. MARYLAND*. Ct. Sp. App. Md. Certiorari denied. Reported below: 29 Md. App. 97, 349 A. 2d 414.

No. 76-5654. *SCHUER v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 539 F. 2d 715.

No. 76-5656. *CAMPISE v. HAMILTON, SHERIFF, ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 541 F. 2d 279.

No. 76-5657. *DOE v. AFL-CIO, DEPARTMENT OF ORGANIZATION, REGION 6, ATLANTA, GA.* C. A. 5th Cir. Certiorari denied. Reported below: 537 F. 2d 1141.

No. 76-5658. *TAYLOR v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 544 F. 2d 527.

No. 76-5659. *BOSCIA v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 544 F. 2d 513.

No. 76-5660. *HENKIN v. UNITED STATES*; and
No. 76-5786. *ABRAHAM v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 541 F. 2d 1234.

No. 76-5662. *COX v. CALIFORNIA*. Ct. App. Cal., 2d App. Dist. Certiorari denied.

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- No. 76-5664. *ANATALA v. UNITED STATES*; and
No. 76-5667. *PANEBIANCO v. UNITED STATES*. C. A. 2d
Cir. Certiorari denied. Reported below: 543 F. 2d 447.
- No. 76-5671. *WHITAKER v. UNITED STATES*. C. A. 5th
Cir. Certiorari denied. Reported below: 541 F. 2d 280.
- No. 76-5675. *NORTON v. UNITED STATES*. C. A. 5th Cir.
Certiorari denied. Reported below: 539 F. 2d 1082.
- No. 76-5682. *LANIER v. UNITED STATES*. C. A. 3d Cir.
Certiorari denied. Reported below: 546 F. 2d 420.
- No. 76-5684. *O'DELL v. UNITED STATES*. C. A. 6th Cir.
Certiorari denied. Reported below: 542 F. 2d 1176.
- No. 76-5687. *SCHRETER v. UNITED STATES*. C. A. 5th Cir.
Certiorari denied. Reported below: 539 F. 2d 709.
- No. 76-5688. *SCULLY v. UNITED STATES*. C. A. 9th Cir.
Certiorari denied. Reported below: 541 F. 2d 1370.
- No. 76-5699. *GRANT v. UNITED STATES*. C. A. 2d Cir.
Certiorari denied. Reported below: 545 F. 2d 1309.
- No. 76-5700. *CHILDERS v. UNITED STATES*. C. A. 9th Cir.
Certiorari denied. Reported below: 542 F. 2d 1180.
- No. 76-5701. *IVES v. UNITED STATES*. C. A. 9th Cir.
Certiorari denied. Reported below: 547 F. 2d 1100.
- No. 76-5705. *ENGELFRIED ET AL. v. AYTCH ET AL.* C. A.
3d Cir. Certiorari denied. Reported below: 539 F. 2d 297.
- No. 76-5709. *PAYNE v. UNITED STATES*. C. A. 5th Cir.
Certiorari denied. Reported below: 539 F. 2d 443.
- No. 76-5710. *MOORE v. UNITED STATES*. C. A. 5th Cir.
Certiorari denied. Reported below: 540 F. 2d 1083.
- No. 76-5713. *DE LA O v. UNITED STATES*. C. A. 5th Cir.
Certiorari denied. Reported below: 538 F. 2d 898.

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No. 76-5721. *KELLEY v. CITY OF CINCINNATI*. Sup. Ct. Ohio. Certiorari denied. Reported below: 47 Ohio St. 2d 94, 351 N. E. 2d 85.

No. 76-5725. *DAVIS v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 544 F. 2d 521.

No. 76-5726. *AULER v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 539 F. 2d 642.

No. 76-5727. *GARDNER v. UNITED STATES*. C. A. 2d Cir. Certiorari denied.

No. 76-5732. *MARINO v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 546 F. 2d 417.

No. 76-5734. *TROWERY v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 542 F. 2d 623.

No. 76-5736. *STEVENS v. NEW YORK*. App. Div., Sup. Ct. N. Y., 2d Jud. Dept. Certiorari denied. Reported below: 51 App. Div. 2d 892, 379 N. Y. S. 2d 211.

No. 76-5743. *MUNZ v. UNITED STATES*. C. A. 10th Cir. Certiorari denied. Reported below: 542 F. 2d 1382.

No. 76-5756. *NOLEN v. BROWN, SECRETARY OF DEFENSE, ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 535 F. 2d 890.

No. 76-5757. *NOLEN v. BROWN, SECRETARY OF DEFENSE*. C. A. 5th Cir. Certiorari denied. Reported below: 535 F. 2d 888.

No. 76-5775. *RODRIGUEZ v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 544 F. 2d 521.

No. 76-5789. *DINITZ v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 538 F. 2d 1214.

No. 76-5804. *DARNELL v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 545 F. 2d 595.

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No. 76-5810. *SCHMITZ v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 542 F. 2d 782.

No. 76-5836. *WILSON v. CALIFORNIA*. Ct. App. Cal., 1st App. Dist. Certiorari denied.

No. 76-5837. *MARTINEZ v. MALLEY, WARDEN*. C. A. 10th Cir. Certiorari denied.

No. 76-5838. *GREENFIELD v. TIBBETTS*. Ct. App. Cal., 4th App. Dist. Certiorari denied.

No. 76-5839. *WYCOFF v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 545 F. 2d 679.

No. 76-5840. *TREADWELL v. HOPPER, WARDEN*. C. A. 5th Cir. Certiorari denied. Reported below: 536 F. 2d 1385.

No. 76-5842. *RICHISON v. CALIFORNIA*. Sup. Ct. Cal. Certiorari denied.

No. 76-5845. *WEINER v. UNITED STATES*; and

No. 76-5851. *SHINNICK v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 546 F. 2d 420.

No. 76-5847. *CRAYTON v. UNITED STATES POSTAL SERVICE*. C. A. 6th Cir. Certiorari denied. Reported below: 539 F. 2d 604.

No. 76-5848. *HOLLAND, ADMINISTRATRIX v. ALLIED STRUCTURAL STEEL Co., INC., ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 539 F. 2d 476.

No. 76-5850. *DETWILER v. UNITED STATES ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 544 F. 2d 512.

No. 76-5855. *JACKSON v. ESTELLE, CORRECTIONS DIRECTOR*. C. A. 5th Cir. Certiorari denied.

No. 76-5858. *NOBLE v. BLACK, REFORMATORY SUPERINTENDENT*. C. A. 6th Cir. Certiorari denied. Reported below: 539 F. 2d 586.

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No. 76-5859. *HOULF v. ARIZONA*. Ct. App. Ariz. Certiorari denied. Reported below: 27 Ariz. App. 633, 557 P. 2d 565.

No. 76-5866. *SALTER ET UX. v. OHIO*. Ct. App. Ohio, Ashtabula County. Certiorari denied.

No. 76-5869. *MCDONOUGH v. MARYLAND ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 542 F. 2d 1169.

No. 76-5870. *MARTIN v. MORRIS, SECRETARY, DEPARTMENT OF SOCIAL AND HEALTH SERVICES OF WASHINGTON*. C. A. 9th Cir. Certiorari denied. Reported below: 542 F. 2d 1179.

No. 76-5871. *VILLAFANE v. CONNECTICUT*. Sup. Ct. Conn. Certiorari denied. Reported below: 171 Conn. 644, 372 A. 2d 82.

No. 76-5872. *MAUCH v. MICHIGAN DEPARTMENT OF CORRECTIONS*. C. A. 6th Cir. Certiorari denied. Reported below: 546 F. 2d 424.

No. 76-5873. *LINCOLN v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 542 F. 2d 746.

No. 76-5874. *SIMMS v. ILLINOIS*. App. Ct. Ill., 2d Dist. Certiorari denied. Reported below: 38 Ill. App. 3d 703, 348 N. E. 2d 478.

No. 76-5875. *BENDTER v. OHIO*. Ct. App. Ohio, Cuyahoga County. Certiorari denied.

No. 76-5878. *JOHNSON v. CALIFORNIA*. Ct. App. Cal., 4th App. Dist. Certiorari denied.

No. 76-5891. *CAMPBELL v. SAFECO INSURANCE COMPANY OF AMERICA ET AL.* C. A. 9th Cir. Certiorari denied.

No. 76-5892. *JONES v. MEMBERS OF THE BOARD OF DIRECTORS ET AL.* C. A. 8th Cir. Certiorari denied.

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No. 76-5895. *RAMSAY v. BAILEY ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 531 F. 2d 706.

No. 76-5899. *STEBBINS v. CONTINENTAL INSURANCE COMPANIES ET AL.* C. A. D. C. Cir. Certiorari denied. Reported below: 178 U. S. App. D. C. 77, 543 F. 2d 1390.

No. 76-5901. *McCLINTOCK v. OHIO.* Ct. App. Ohio, Tuscarawas County. Certiorari denied.

No. 76-5902. *McDONOUGH v. MARYLAND.* C. A. 4th Cir. Certiorari denied. Reported below: 542 F. 2d 1169.

No. 76-5905. *WARNE v. ILLINOIS.* App. Ct. Ill., 2d Dist. Certiorari denied. Reported below: 39 Ill. App. 3d 894, 350 N. E. 2d 836.

No. 76-5906. *KYLE v. KYLE.* Super. Ct. Pa. Certiorari denied. Reported below: 241 Pa. Super. 598, 360 A. 2d 628.

No. 76-5909. *MOORE v. UNITED STATES.* C. A. 4th Cir. Certiorari denied. Reported below: 550 F. 2d 180.

No. 76-5916. *STRZYZEWSKI v. OHIO.* Ct. App. Ohio, Medina County. Certiorari denied.

No. 76-5921. *CHAMBERS v. WYRICK, WARDEN.* C. A. 8th Cir. Certiorari denied. Reported below: 539 F. 2d 667.

No. 76-5922. *CAMPBELL v. FLORIDA.* Sup. Ct. Fla. Certiorari denied. Reported below: 341 So. 2d 1080.

No. 76-5923. *LANE v. UNITED STATES.* C. A. 7th Cir. Certiorari denied. Reported below: 544 F. 2d 523.

No. 76-5924. *BRESSLER v. UNITED STATES.* C. A. 3d Cir. Certiorari denied. Reported below: 547 F. 2d 1165.

No. 76-5928. *WILLIAMS v. ILLINOIS.* App. Ct. Ill., 1st Dist. Certiorari denied. Reported below: 39 Ill. App. 3d 449, 350 N. E. 2d 135.

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No. 76-5927. *MYERS v. ARIZONA*. Ct. App. Ariz. Certiorari denied.

No. 76-5930. *PARROTT v. GOVERNMENT OF THE VIRGIN ISLANDS*. C. A. 3d Cir. Certiorari denied. Reported below: 547 F. 2d 1160.

No. 76-5932. *HANDY v. MARYLAND*. C. A. 4th Cir. Certiorari denied. Reported below: 544 F. 2d 514.

No. 76-5937. *MOORE v. HEWITT, CORRECTIONAL SUPERINTENDENT*. C. A. 3d Cir. Certiorari denied. Reported below: 546 F. 2d 421.

No. 76-5938. *RICHEY v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 542 F. 2d 1177.

No. 76-5941. *MILLER v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 543 F. 2d 1221.

No. 76-5945. *SANDERS v. MICHIGAN*. Sup. Ct. Mich. Certiorari denied. Reported below: 395 Mich. 96, 235 N. W. 2d 132.

No. 76-5946. *MATA v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 547 F. 2d 1176.

No. 76-5948. *FILION v. NEW YORK*. App. Div., Sup. Ct. N. Y., 1st Jud. Dept. Certiorari denied. Reported below: 56 App. Div. 2d 624, 387 N. Y. S. 2d 397.

No. 76-5949. *MILLER v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 542 F. 2d 1171.

No. 76-5952. *OWENS v. ILLINOIS*. App. Ct. Ill., 1st Dist. Certiorari denied. Reported below: 36 Ill. App. 3d 1049, 344 N. E. 2d 525.

No. 76-5953. *DREDING v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 547 F. 2d 471.

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No. 76-5954. *GIBSON ET AL. v. ILLINOIS*. App. Ct. Ill., 1st Dist. Certiorari denied. Reported below: 36 Ill. App. 3d 695, 344 N. E. 2d 641.

No. 76-5956. *JOHNSON v. NEW YORK*. App. Div., Sup. Ct. N. Y., 1st Jud. Dept. Certiorari denied.

No. 76-5961. *LODER v. MUNICIPAL COURT FOR THE SAN DIEGO JUDICIAL DISTRICT OF SAN DIEGO COUNTY ET AL.* Sup. Ct. Cal. Certiorari denied. Reported below: 17 Cal. 3d 859, 553 P. 2d 624.

No. 76-5962. *SALAZAR-MEDINA v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 547 F. 2d 1176.

No. 76-5964. *MORENO v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 547 F. 2d 1176.

No. 76-5966. *VARGAS v. TEXAS*. Ct. Crim. App. Tex. Certiorari denied. Reported below: 542 S. W. 2d 151.

No. 76-5968. *MEDINA v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 543 F. 2d 553.

No. 76-5971. *FAHRIG ET AL. v. LECOMPTÉ*. Ct. App. Ohio, Montgomery County. Certiorari denied.

No. 76-5973. *GOLDSTEIN v. NEW YORK ET AL.* C. A. 2d Cir. Certiorari denied.

No. 76-5976. *ROBERTSON v. TEXAS*. Ct. Crim. App. Tex. Certiorari denied. Reported below: 541 S. W. 2d 608.

No. 76-5983. *FOLKS v. SMATHERS, SECRETARY OF STATE OF FLORIDA, ET AL.* C. A. 5th Cir. Certiorari denied.

No. 76-5986. *DONNER v. BILL SEIDEL'S DATSUN, INC., ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 538 F. 2d 897.

No. 76-5988. *BOIGNER v. OHIO*. Ct. App. Ohio, Cuyahoga County. Certiorari denied.

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No. 76-5992. *BANKHEAD v. SLAZAS ET AL.* C. A. 2d Cir. Certiorari denied.

No. 76-5995. *EAGLE v. UNITED STATES.* C. A. 8th Cir. Certiorari denied. Reported below: 539 F. 2d 1166.

No. 76-5997. *THOMAS v. UNITED STATES.* C. A. 9th Cir. Certiorari denied. Reported below: 547 F. 2d 1176.

No. 76-5998. *COOK v. UNITED STATES.* C. A. 9th Cir. Certiorari denied. Reported below: 547 F. 2d 1176.

No. 76-6001. *NEWMAN v. UNITED STATES.* C. A. 9th Cir. Certiorari denied. Reported below: 542 F. 2d 1180.

No. 76-6021. *NIXON v. UNITED STATES.* C. A. 9th Cir. Certiorari denied. Reported below: 546 F. 2d 427.

No. 76-6023. *PHIPPS v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. Reported below: 543 F. 2d 576.

No. 76-6025. *SMITH v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. Reported below: 543 F. 2d 1141.

No. 76-6028. *KALAMA v. UNITED STATES.* C. A. 9th Cir. Certiorari denied. Reported below: 549 F. 2d 594.

No. 76-6029. *ROBIN v. UNITED STATES ET AL.* C. A. 10th Cir. Certiorari denied.

No. 76-6033. *MONIN v. UNITED STATES.* C. A. 2d Cir. Certiorari denied.

No. 76-6037. *REED v. DEL CHEMICAL CORP.* Ct. App. Ore. Certiorari denied. Reported below: 26 Ore. App. 733, 554 P. 2d 586.

No. 76-6046. *DONOHUE v. UNITED STATES.* C. A. 9th Cir. Certiorari denied. Reported below: 544 F. 2d 526.

No. 76-6052. *NIXON v. UNITED STATES.* C. A. 9th Cir. Certiorari denied. Reported below: 545 F. 2d 1190.

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No. 76-6054. ROSE *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 547 F. 2d 1176.

No. 76-6062. MATTHEWS *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied. Reported below: 547 F. 2d 1165.

No. 76-6072. TROLLEY *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 546 F. 2d 428.

No. 76-6073. SCOTT *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied. Reported below: 545 F. 2d 1116.

No. 76-6083. BRASHIER *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 548 F. 2d 1315.

No. 76-6087. ZAMARRIPA *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied. Reported below: 544 F. 2d 978.

No. 76-6094. LEWIS *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied. Reported below: 547 F. 2d 1030.

No. 76-6095. BUFORD *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 539 F. 2d 719.

No. 76-6100. BROWN *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 549 F. 2d 802.

No. 76-6111. LOPEZ *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 543 F. 2d 1156.

No. 75-1763. GUNN, WARDEN *v.* SESSER. C. A. 9th Cir. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 529 F. 2d 932.

No. 75-6898. FREEMAN *v.* ZAHRADNICK, PENITENTIARY SUPERINTENDENT. C. A. 4th Cir. Certiorari denied.

MR. JUSTICE STEWART, dissenting.

MR. JUSTICE MARSHALL's dissent from the denial of certiorari expresses "grave doubts" that there was any evidence at all to support the petitioner's conviction. Although unable to accept the view that this conviction is susceptible of challenge under the "no evidence" rule of *Thompson v. City of*

Louisville, 362 U. S. 199, I would grant certiorari to reconsider the doctrine of the *Thompson* case in the light of this Court's more recent decision in *In re Winship*, 397 U. S. 358.

The *Winship* case held that the Due Process Clause requires proof beyond a reasonable doubt of every element of a criminal offense. A jury must be instructed accordingly. Properly instructed juries, however, occasionally convict even when it can be said that no rational trier of fact could find guilt beyond a reasonable doubt—even when it is clear that the defendant was entitled to a directed verdict of acquittal as a matter of law. In a federal trial, such improper application of law (as defined by *Winship*) to fact requires reversal of the conviction on the ground of insufficient evidence.

The power of a federal court to review the application of federal law to the facts as found also operates, however, in criminal cases originating in state courts. On direct review of a state-court conviction, this Court reviews the application of the "voluntariness" standard to the historical facts to determine whether a confession was admissible,¹ or the application of First Amendment standards to the facts as found to determine whether the conduct in issue was constitutionally protected,² to take but two examples. The same rule is applied in federal habeas corpus actions. See generally *Townsend v. Sain*, 372 U. S. 293, 318; *Brown v. Allen*, 344 U. S. 443, 506-507 (opinion of Frankfurter, J.). It is not immediately apparent why application of the beyond-a-reasonable-doubt standard of *Winship* to the historical facts should be any more immune from constitutional scrutiny. If, after viewing the evidence in the light most favorable to the State, cf. *Glasser v. United States*, 315 U. S. 60, 80, a federal court determines that no rational trier of fact could have found a defendant guilty beyond a reasonable doubt of the state offense with which he

¹ *E. g.*, *Haynes v. Washington*, 373 U. S. 503, 515-516; *Watts v. Indiana*, 338 U. S. 49, 50-52 (opinion of Frankfurter, J.).

² *E. g.*, *Fiske v. Kansas*, 274 U. S. 380.

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was charged, it is surely arguable that the court must hold, under *Winship*, that the convicted defendant was denied due process of law.

What I am suggesting is simply that the question whether there was sufficient evidence to support a finding by a rational trier of fact of guilt beyond a reasonable doubt may be of constitutional dimension. Such a view would not require federal courts to second-guess state-court findings of fact or a State's definition of the elements of a crime.³ Rather, the federal courts would no more than perform a familiar and appropriate role—reviewing the *application* of a substantive federal standard (the requirement of proof beyond a reasonable doubt) to the historical facts.

The Court's decision in *United States v. Romano*, 382 U. S. 136, provides support for the approach I have described. *Romano* held that it was a violation of due process to instruct a jury that presence of a defendant at the site of an illegal still "shall be deemed sufficient evidence to authorize conviction [of possession of the still]." *Id.*, at 138. The Court disapproved that instruction because no rational jury could infer possession simply from the fact of presence. And in doing so, it relied upon the decision in *Bozza v. United States*, 330 U. S. 160, that presence alone was *insufficient evidence* to convict of possession. See 382 U. S., at 140–144. It seems to me that whether the jury has been expressly instructed that it could (though need not) make an irrational inference—as in *Romano*—or simply does so on its own—as in *Bozza*—is probably of no consequence. A jury that convicts in either case would appear to be acting equally irrationally and

³ A State does not have total freedom in this regard, however. It may not characterize a fact which in substance is an element of the offense as an affirmative defense, *Mullaney v. Wilbur*, 421 U. S. 684, and a state court may not adopt a construction of an offense that fails to give fair warning that certain conduct is deemed criminal, *Bovié v. City of Columbia*, 378 U. S. 347.

equally in derogation of the Due Process Clause's requirement of proof beyond a reasonable doubt.

The Court said in *Thompson v. City of Louisville* that the question in that case turned "not on the sufficiency of the evidence, but on whether [the] conviction rests upon any evidence at all." 362 U. S. 199; accord, *Garner v. Louisiana*, 368 U. S. 157, 163; *Shuttlesworth v. Birmingham*, 382 U. S. 87, 94. But the logical application of the "no evidence" doctrine is not an easy matter. "[A] mere modicum of evidence may satisfy a 'no evidence' standard . . ." *Jacobellis v. Ohio*, 378 U. S. 184, 202 (Warren, C. J., dissenting). Any evidence that is relevant—that has any tendency to make the existence of an element of a crime slightly more probable than it would be without the evidence, cf. Fed. Rule Evid. 401—could be thought to be a "mere modicum." Evidence that a defendant is a narcotics addict makes it more likely that he has stolen property (to finance his habit) than it would be without such evidence. Can it therefore be said that there is "some evidence" that the addict is a thief? If not, can any definable content be discerned in the "no evidence" rule? Indeed, in the *Thompson* case itself, could it fairly have been said that the mere fact that the defendant was found in a café, rather than home in bed, was *some* relevant evidence that he was guilty of loitering and disorderly conduct?

My tentative view is that where the evidence falls far short of supplying adequate proof of guilt for a rational trier, to require judges to determine how speculative is too speculative to satisfy the no-evidence rule is to require the impossible. The ordinary standard of "sufficiency of the evidence," by contrast, is one familiar to state and federal judges and lawyers. Although like most legal standards it is not reducible to any mechanical formula, it does have a stable content permitting predictable adjudication.

A sufficiency standard would not only be more certain in application, but also far truer to the constitutional rationale

of *Winship*. For the law as it now stands—with only the *Thompson* rule in force—can lead to bizarre results. Defendant A, whose guilt is conclusively established by 20 eyewitnesses, clear fingerprints, and an unimpeachable confession, is denied due process if the jury is instructed that he can be found guilty by a preponderance of the evidence; that much is clear from *Winship*. Defendant B, against whom there is but one flimsy piece of evidence—which falls far short of sufficiency to prove guilt beyond a reasonable doubt but barely meets the “greater than zero” test of the no-evidence rule—is not denied due process so long as the instructions are proper. Clearly, however, defendant B is much more likely to be innocent than defendant A. That pair of results could well be thought to be at war with the purpose of the *Winship* decision—to reduce “the risk of convictions resting on factual error,” 397 U. S., at 363, and to ensure that “the moral force of the criminal law not be diluted by a standard of proof that leaves people in doubt whether innocent men are being condemned.” *Id.*, at 364.

The approach I suggest would expand the contours of one kind of claim cognizable on federal habeas corpus. But if such an approach is constitutionally required, a federal habeas court asked to determine whether the evidence in a state prosecution was sufficient would be discharging the principal function underlying its jurisdiction—determining whether a defendant’s custody is in violation of federal constitutional law. And the question whether a defendant has been convicted without sufficient evidence is hardly irrelevant to innocence. Cf. *Stone v. Powell*, 428 U. S. 465. Indeed, an affirmative answer to this question means not merely that a defendant *might have been*, but that he *was in fact* improperly convicted.⁴

⁴ The burden that would be imposed on federal habeas courts by adoption of a sufficiency standard is not, of course, the critical inquiry in de-

On the evidence in this case as summarized in Mr. JUSTICE MARSHALL's opinion, I think a rational jury could not have found beyond a reasonable doubt that the petitioner was in possession of the shotgun, as that offense is defined by the State—that he exercised, alone or jointly, ownership, possession, or control.⁵ To address the question whether it violates the Due Process Clause of the Fourteenth Amendment for a state trier of fact to convict a defendant where the evidence cannot fairly be considered sufficient to establish guilt beyond a reasonable doubt, I would grant certiorari.

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

Petitioner was convicted in the Circuit Court for Surry County, Va., of unlawfully possessing a sawed-off shotgun for an aggressive purpose. Va. Code. Ann. § 18.1-268.3 (Supp. 1971), now § 18.2-301 (1975). He received a mandatory minimum sentence of 10 years' imprisonment. After exhausting his state remedies, he filed this federal habeas corpus action. The District Court granted relief, but a divided Court of Appeals reversed.

The shotgun petitioner was convicted of possessing was

termining whether that standard is constitutionally required. I would note, however, that that burden is easily exaggerated. State courts would filter out most meritorious claims and in many cases would provide opinions thoroughly analyzing the question; few of the claims that remained would be likely to present difficult questions on the merits, and they could in any event be judged against the written record without the need for an evidentiary hearing.

⁵ The jury instructions were not transcribed, but the record includes a typed instruction on possession, with the word "granted" written in ink at the bottom. That instruction defines "possession" as "single or joint ownership, possession, or control." Neither the Virginia Supreme Court in refusing to review the conviction, nor the respondent in his brief in opposition to certiorari, has questioned this definition of possession, and it appears to be consistent with Virginia law, cf. *Ritter v. Commonwealth*, 210 Va. 732, 741, 173 S. E. 2d 799, 805-806 (1970).

found in a leather case in the locked trunk of a car rented by one Coyle Persons. At the time the shotgun was found, the car was at a garage, having been towed there following an accident. The Commonwealth offered circumstantial evidence tending to prove that petitioner, along with three other Negro men, had been riding in the car at the time of the accident.¹ To link petitioner more directly to the shotgun in the trunk, the prosecution attempted to establish that two hours earlier these men had participated in a robbery, and that all but \$700 of the proceeds of the robbery had been placed in the body and trunk of the car.² The robbery victim convincingly identified the money found in the car as having come from his store.³ But the victim testified that only three robbers had entered the store, and he was unable to identify petitioner as one of them. It was undisputed that petitioner was not driving the car at the time of the accident. The only evidence tying petitioner to the robbery, then, aside from his presence in the car with the proceeds two hours after the crime, came from a nurse who worked at the second hospital to which petitioner was taken

¹The first witness at the scene of the accident testified that he saw three black men in one car, a white man and white woman in a second car, and a fourth black man on the ground. The Commonwealth all but ruled out the possibility that petitioner was the man on the ground by showing that the second witness at the scene administered first aid to a man on the ground at the same time that a state trooper was administering aid to petitioner.

²The shotgun apparently was not used in the robbery; an automatic pistol was used and such a pistol also was found in the trunk.

³The state trooper who searched the car testified that he had found a large number of coins, some of which were rolled in paper wrappers; some bills and bus tokens; an envelope with handwriting on it; two books of bus passes, one of which had two passes missing; and a cloth United States Mint bag. The victim of the robbery identified the envelope and Mint bag, and indicated that the rest of what was found closely corresponded with what was taken.

after the accident.⁴ She testified that she had found \$600 in a pair of pants that she had been told belonged to petitioner.⁵

The petition for certiorari raises two issues. First, petitioner contends that his conviction and confinement on the basis of the meager evidence produced at trial violates the Due Process Clause. Second, petitioner claims that his Sixth Amendment right to confront his accusers was infringed by the admission of the nurse's testimony identifying the pants. The Court of Appeals rejected petitioner's first contention without explanation, and did not reach the second.

I entertain grave doubts as to whether the Commonwealth produced any evidence, cf. *Thompson v. City of Louisville*, 362 U. S. 199 (1960), that petitioner possessed the shotgun.⁶ Even if the Commonwealth had conclusively proved that petitioner had robbed the store and had placed the proceeds in the trunk, this would not establish that petitioner had even seen the leather case or knew that it contained a shotgun, let alone that petitioner was exercising dominion or control over the shotgun. The Court of Appeals' conclusory assertion to the contrary is hardly reassuring.

But if it were conceded that proof of petitioner's participation in the robbery whose proceeds were found in the trunk established petitioner's guilt of possession of the shotgun, then it is clear that the nurse's testimony identifying the pants with the \$600 as petitioner's deprived petitioner of his

⁴ All the victims were taken to the same hospital following the accident. Four or five of them were transferred to other hospitals within a few hours.

⁵ The nurse also found a pair of ladies' gloves, two keys, and a piece of paper with an address on it in the pants pocket.

⁶ At the same time, I find myself at least tentatively persuaded by Mr. JUSTICE STEWART's argument that the Due Process Clause is violated by convictions not supported by evidence that can fairly be considered sufficient to establish guilt beyond a reasonable doubt. I therefore agree that certiorari should be granted to decide this issue.

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right of confrontation. The nurse was essentially repeating the statement of an anonymous declarant. That person was not subjected to cross-examination at trial or at the time the statement first was made. Cf. *California v. Green*, 399 U. S. 149, 153-168 (1970). The declarant was not even identified so that petitioner could have called him or her as a witness. Cf. *Dutton v. Evans*, 400 U. S. 74, 88 n. 19 (1970).⁷ There were no indicia of reliability surrounding the out-of-court statement, cf. *Mancusi v. Stubbs*, 408 U. S. 204, 213-216 (1972); to the contrary, in the rush to get six injured persons to the hospital, and then to transfer them to at least three other hospitals, it is altogether possible that the unidentified declarant became confused as to which clothes belonged to which person. Finally, the out-of-court statement provided a far from "peripheral" link in tying petitioner to the robbery. Cf. *Dutton v. Evans*, *supra*, at 87-88. Thus, no matter how the Confrontation Clause is construed, compare *id.*, at 80-90 (plurality opinion of STEWART, J.), with *id.*, at 100-111 (MARSHALL, J., dissenting), it was violated in this case.

The Court of Appeals justified its decision not to determine whether petitioner's right of confrontation had been infringed on the ground that in any event there was some evidence of guilt. But that is entirely irrelevant. Once an independent constitutional error is established, the remaining question is not whether there is some evidence, but whether the evidence is such that the error was "harmless beyond a reasonable doubt." *Chapman v. California*, 386

⁷ The ambulance attendant who transferred petitioner to the second hospital did testify that he had carried with him clothes that he believed belonged to petitioner, and had given them to a nurse. The attendant did not name the nurse, however, nor did he indicate what, if anything, he said to her. But even if the attendant were the source of the testimony identifying the pants, the Confrontation Clause problem would remain, since the attendant's testimony makes clear that he did not have firsthand knowledge as to the ownership of the clothes.

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U. S. 18, 24 (1967). This the Court of Appeals failed to consider.

The Court's decision to deny certiorari is puzzling, to say the least. I can understand, if not agree with, the Court's apparent unwillingness to decide the relatively narrow question of whether the Court of Appeals correctly applied *Thompson v. City of Louisville, supra*. But I cannot comprehend the Court's refusal to consider the novel and important issue of constitutional law that MR. JUSTICE STEWART raises in his dissent. And I am positively baffled by the Court's failure to at least vacate the judgment of the Court of Appeals, and remand the case with instructions that it consider the Confrontation Clause issue on the merits as *Chapman v. California, supra*, requires. Cf. *Concerned Citizens v. Pine Creek Conservancy Dist., ante*, p. 651; *Moore v. United States, ante*, p. 20.

I respectfully dissent.

No. 76-383. *EHRlichman v. UNITED STATES*. C. A. D. C. Cir. Certiorari denied. MR. JUSTICE REHNQUIST took no part in the consideration or decision of this petition. Reported below: 178 U. S. App. D. C. 144, 546 F. 2d 910.

No. 76-408. *ROBLES ET AL. v. UNITED STATES*. C. A. 9th Cir. Motion of petitioner Robert Dale Hart for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 546 F. 2d 798.

No. 76-445. *LONDON PRESS, INC., ET AL. v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 541 F. 2d 287.

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

Petitioners were convicted of offenses relating to the mailing of allegedly obscene materials in violation of 18 U. S. C. § 1461. I adhere to the view that this statute is "clearly overbroad and unconstitutional on its face." See, *e. g.*,

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Millican v. United States, 418 U. S. 947, 948 (1974) (BRENNAN, J., dissenting), quoting *United States v. Orito*, 413 U. S. 139, 148 (1973) (BRENNAN, J., dissenting). I therefore would grant certiorari and reverse.

No. 76-554. TULARE LAKE CANAL CO. ET AL. *v.* UNITED STATES; and

No. 76-555. SALYER LAND CO. *v.* UNITED STATES. C. A. 9th Cir. Motion of Ben Yellen et al. for leave to file a brief as *amici curiae* granted. Certiorari denied. MR. JUSTICE POWELL would grant certiorari. Reported below: 535 F. 2d 1093.

No. 76-629. MATTHEWS *v.* UNITED STATES. C. A. 5th Cir. Motion to strike brief of the United States and certiorari denied. Reported below: 533 F. 2d 900.

No. 76-636. BUCKLEY TOWERS CONDOMINIUM, INC., ET AL. *v.* BUCHWALD ET AL. C. A. 5th Cir. Certiorari denied. MR. JUSTICE BRENNAN, MR. JUSTICE STEWART, and MR. JUSTICE POWELL would grant certiorari. Reported below: 533 F. 2d 934.

No. 76-648. CITY OF ADAIR, IOWA *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied. MR. JUSTICE BLACKMUN would grant certiorari. Reported below: 539 F. 2d 1185.

No. 76-786. MOGLE *v.* BOARD OF EDUCATION OF SEVIER COUNTY SCHOOL DISTRICT ET AL. C. A. 10th Cir. Certiorari denied. MR. JUSTICE BLACKMUN would grant certiorari. Reported below: 540 F. 2d 478.

No. 76-650. NEW MEXICO ET AL. *v.* UNITED STATES ET AL. C. A. 10th Cir. Motion of Flathead Irrigation District et al. for leave to file a brief as *amicus curiae* granted. Certiorari denied. Reported below: 537 F. 2d 1102.

No. 76-676. DRESSER INDUSTRIES, INC. *v.* WEBB. C. A. 5th Cir. Certiorari denied. MR. JUSTICE BLACKMUN would

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grant certiorari and set case for oral argument. Reported below: 536 F. 2d 603.

MR. JUSTICE POWELL, with whom THE CHIEF JUSTICE joins, dissenting.

Respondent, captain of a vessel anchored in Seward, Alaska, left the ship and—with two crew members—went into town to pick up ship's provisions at the local bus station. Not surprisingly for Seward in January, walking conditions were hazardous due to accumulations of snow and ice. While standing at the bus station, checking off the supplies being loaded into a truck, respondent slipped and fell, sustaining injuries.

Respondent sued in the District Court, claiming that the failure of petitioner to provide special safety boots or shoes denied respondent a safe place to work, and rendered his vessel "unseaworthy." He recovered \$40,000, and the Court of Appeals affirmed, remanding only for a determination whether the award should be reduced for contributory negligence on the part of respondent.

The doctrine of "seaworthiness," on which this recovery was predicated, has been extended beyond all reason. I can think of no case that goes quite this far. I would reverse summarily.

No. 76-726. UNITED STATES *v.* EMPIRE GAS CORP. C. A. 8th Cir. Certiorari denied. MR. JUSTICE BRENNAN and MR. JUSTICE WHITE would grant certiorari. Reported below: 537 F. 2d 296.

No. 76-739. OLSON FARMS, INC. *v.* CACKLING ACRES, INC., ET AL. C. A. 10th Cir. Certiorari denied. MR. JUSTICE STEVENS took no part in the consideration or decision of this petition. Reported below: 541 F. 2d 242.

No. 76-800. ALLEN ET AL. *v.* EASTMAN KODAK CO. ET AL. Sup. Ct. Ohio. Certiorari denied. MR. JUSTICE POWELL took no part in the consideration or decision of this petition.

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No. 76-5720. *GONZALES 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: 544 F. 2d 520.

No. 76-794. *LOCAL UNION No. 639, INTERNATIONAL BROTHERHOOD OF TEAMSTERS, CHAUFFEURS, WAREHOUSEMEN & HELPERS OF AMERICA, IND. v. MARSHALL, SECRETARY OF LABOR, ET AL.* C. A. D. C. Cir. Certiorari denied. MR. JUSTICE WHITE would grant certiorari. Reported below: 177 U. S. App. D. C. 222, 543 F. 2d 369.

No. 76-874. *OVERMYER v. LAWYERS TITLE INSURANCE CORP.* Ct. Sp. App. Md. Certiorari denied. MR. JUSTICE POWELL took no part in the consideration or decision of this petition. Reported below: 32 Md. App. 177, 359 A. 2d 260.

No. 76-854. *CARPENTERS PENSION TRUST FOR SOUTHERN CALIFORNIA v. SUPERIOR COURT OF CALIFORNIA, COUNTY OF ORANGE (COUGLER, REAL PARTY IN INTEREST)*. Ct. App. Cal., 4th App. Dist. Motion of respondent Ann S. Cougler for leave to proceed *in forma pauperis* granted. Certiorari denied.

No. 76-5717. *PHIFER ET AL. v. NORTH CAROLINA*. Sup. Ct. N. C. Death penalties having been vacated by the Supreme Court of North Carolina, certiorari denied. Reported below: 290 N. C. 203, 225 S. E. 2d 786.

No. 76-5645. *BRECHT v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. MR. JUSTICE STEWART and MR. JUSTICE POWELL would grant certiorari. Reported below: 540 F. 2d 45.

No. 76-926. *LAREDO NEWSPAPERS, INC. v. FOSTER*. Sup. Ct. Tex. It appearing that there is no final judgment within the meaning of 28 U. S. C. § 1257, certiorari denied.

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Rehearing Denied

No. 75-628. CRAIG ET AL. *v.* BOREN, GOVERNOR OF OKLAHOMA, ET AL., *ante*, p. 190;

No. 75-1354. TRANS WORLD AIRLINES, INC. *v.* DAY ET AL., *ante*, p. 890;

No. 75-1631. KIRKLAND ET AL. *v.* NEW YORK STATE DEPARTMENT OF CORRECTIONAL SERVICES ET AL., *ante*, p. 823;

No. 75-6901. SWIGERT ET AL. *v.* MILLER ET AL., *ante*, p. 805;

No. 75-7003. SCHERER *v.* POGUE, WARDEN, *ante*, p. 1038;

No. 76-365. SLOAN ET AL. *v.* SECURITIES AND EXCHANGE COMMISSION ET AL., *ante*, p. 1023;

No. 76-405. GABRIEL *v.* UNITED STATES ET AL., *ante*, p. 1011;

No. 76-443. WESSON ET AL. *v.* UNITED STATES ET AL., *ante*, p. 1011;

No. 76-497. TAXE *v.* UNITED STATES, *ante*, p. 1040;

No. 76-547. SIMMONS *v.* COUNCIL BLUFFS SAVINGS BANK, EXECUTOR, *ante*, p. 1001;

No. 76-579. SPENCER ET AL., DBA TED SPENCER & SONS AUTO SERVICE *v.* REDEVELOPMENT AUTHORITY OF THE CITY OF NANTICOKE, *ante*, p. 1011;

No. 76-834. PEROFF *v.* HYLTON, U. S. MARSHAL, ET AL., *ante*, p. 1062;

No. 76-5231. GIBSON *v.* GEORGIA, *ante*, p. 986;

No. 76-5304. SELLARS *v.* CALIFORNIA ET AL., *ante*, p. 1025;

No. 76-5358. HENRY *v.* FLORIDA, *ante*, p. 951;

No. 76-5368. ALVAREZ *v.* ESTELLE, CORRECTIONS DIRECTOR, *ante*, p. 1044;

No. 76-5480. MILLER *v.* HAMPTON, CHAIRMAN, U. S. CIVIL SERVICE COMMISSION, ET AL., *ante*, p. 1046;

No. 76-5598. SAYLES *v.* MCGUIRE, U. S. DISTRICT JUDGE, *ante*, p. 1036; and

No. 76-5634. HINTON *v.* MICHIGAN ET AL., *ante*, p. 1048.
Petitions for rehearing denied.

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No. 76-5653. ZENGLIN *v.* LEWIS ET AL., *ante*, p. 1049;
No. 76-5712. SMITH *v.* UNITED STATES, *ante*, p. 1027;
No. 76-5724. POWELL *v.* ALABAMA, *ante*, p. 1065; and
No. 76-5735. SANTANA *v.* ROSS, INDUSTRIAL COMMISSIONER OF NEW YORK, *ante*, p. 1056. Petitions for rehearing denied.

No. 75-1466. BOSTON HOME & SCHOOL ASSN. *v.* MORGAN ET AL., 426 U. S. 935 and *ante*, p. 873. Motion for leave to file second petition for rehearing denied.

No. 76-282. SMART *v.* JONES, SHERIFF, ET AL., *ante*, p. 887; and

No. 76-5144. ZILKA *v.* ESTELLE, CORRECTIONS DIRECTOR, *ante*, p. 981. Motions for leave to file petitions for rehearing denied.

OPINIONS OF INDIVIDUAL JUSTICES IN CHAMBERS

REPORT OF THE COURT

IN APPLICATING FOR WRIT OF HABEAS CORPUS

IN THE SUPREME COURT OF THE UNITED STATES

REPORTER'S NOTE

The next page is purposely numbered 1301. The numbers between 1125 and 1301 were intentionally omitted, in order to make it possible to publish in-chambers opinions with *permanent* page numbers, thus making the official citations immediately available upon publication of the preliminary prints of the United States Reports.

It is the duty of the reporter to publish the opinions of the individual justices in chambers. Under existing practice such opinions cannot be used except by the full Court in regular or special sessions. If the opinions in these cases were carried out before the petition for rehearing could be acted on by the Court, the basis for publication should be available. In addition, the cases would then be closed. Nor is there reason to believe that the granting of a stay until the petition for rehearing can be duly considered will prejudice the interests of the respondent States. In these circumstances, I conclude that the interests of the Court in each of these cases should be, and hereby is, closed until further order of this Court.

The decision to grant this stay is not a part of my position on the merits of the petition.

¹ *Truitt v. United States*, 115 U.S. 137, 140; *People v. Smith*, and *People v. Smith*, 115 U.S. 137, 140.

Inventory's Item

The first page is page 1000. The number 1000
was inserted in order to make it possible
to refer to the page with the number 1000.
The official number is available upon inspection of the
original print of the first page.
