

ORDERS FROM JUNE 27 THROUGH JUNE 29, 1977

JUNE 27, 1977

Affirmed on Appeal

No. 75-6721. DOE ET AL. v. STEWART, COMMISSIONER, HEALTH AND RESOURCES ADMINISTRATION OF LOUISIANA. Affirmed on appeal from D. C. E. D. La. MR. JUSTICE BRENNAN, MR. JUSTICE MARSHALL, and MR. JUSTICE BLACKMUN dissent.

No. 76-680. JERNIGAN, SECRETARY OF STATE OF ARKANSAS v. LENDALL. Appeal from D. C. E. D. Ark. Motion of appellee for leave to proceed *in forma pauperis* granted. Judgment affirmed.

No. 76-1020. SOCIALIST WORKERS PARTY ET AL. v. EU, SECRETARY OF STATE OF CALIFORNIA. Affirmed on appeal from D. C. N. D. Cal.

Appeal Dismissed

No. 75-1809. RABINOVITCH v. NYQUIST, COMMISSIONER OF EDUCATION OF NEW YORK, ET AL. Appeal from D. C. E. D. N. Y. dismissed. Reported below: 406 F. Supp. 1233.

Vacated and Remanded on Appeal

No. 75-813. WESTBY, SECRETARY, DEPARTMENT OF SOCIAL SERVICES OF SOUTH DAKOTA, ET AL. v. DOE ET AL. Appeal from D. C. S. D. Judgment vacated and case remanded for further consideration in light of *Beal v. Doe*, 432 U. S. 438 (1977), and *Maher v. Roe*, 432 U. S. 464 (1977). MR. JUSTICE BRENNAN, MR. JUSTICE MARSHALL, and MR. JUSTICE BLACKMUN would affirm the judgment. Reported below: 402 F. Supp. 140.

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No. 75-1749. *TOIA, ACTING COMMISSIONER, DEPARTMENT OF SOCIAL SERVICES OF NEW YORK, ET AL. v. KLEIN ET AL.* Appeal from D. C. E. D. N. Y. Motion of appellees for leave to proceed *in forma pauperis* granted, judgment vacated, and case remanded for further consideration in light of *Beal v. Doe*, 432 U. S. 438 (1977), and *Maher v. Roe*, 432 U. S. 464 (1977). MR. JUSTICE BRENNAN, MR. JUSTICE MARSHALL, and MR. JUSTICE BLACKMUN would affirm the judgment. Reported below: 409 F. Supp. 731.

No. 76-595. *LEVITT, COMPTROLLER OF NEW YORK, ET AL. v. COMMITTEE FOR PUBLIC EDUCATION & RELIGIOUS LIBERTY ET AL.*; and

No. 76-713. *LA SALLE ACADEMY ET AL. v. COMMITTEE FOR PUBLIC EDUCATION & RELIGIOUS LIBERTY ET AL.* Appeals from D. C. S. D. N. Y. Judgment vacated and cases remanded for further consideration in light of *Wolman v. Walter*, *ante*, p. 229. MR. JUSTICE BRENNAN, MR. JUSTICE MARSHALL, and MR. JUSTICE STEVENS would affirm the judgment. Reported below: 414 F. Supp. 1174.

No. 76-846. *RUSH ET AL. v. SAVCHUK.* Appeal from Sup. Ct. Minn. Judgment vacated and case remanded for further consideration in light of *Shaffer v. Heitner*, *ante*, p. 186. Reported below: 311 Minn. 480, 245 N. W. 2d 624.

No. 76-1503. *ATCHISON, TOPEKA & SANTA FE RAILWAY CO. ET AL. v. WICHITA BOARD OF TRADE ET AL.* Appeal from D. C. Kan. Judgment vacated and case remanded with directions to remand case to the Interstate Commerce Commission for further consideration in connection with its reconsideration of *Secretary of Agriculture v. Interstate Commerce Commission*, No. 76-1026 (CADC Mar. 11, 1977), on remand from the United States Court of Appeals for the District of Columbia Circuit. MR. JUSTICE POWELL took no part in the consideration or decision of this appeal.

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No. 76-1144. MINNESOTA CIVIL LIBERTIES UNION ET AL. *v.* CASMEY, COMMISSIONER OF EDUCATION, ET AL. Appeal from D. C. Minn. Judgment vacated and case remanded for further consideration in light of *Wolman v. Walter*, ante, p. 229.

Certiorari Granted—Vacated and Remanded

No. 75-478. PARKER SEAL CO. *v.* CUMMINS, 429 U. S. 65. Petition for rehearing granted. Judgment of this Court, entered November 2, 1976, and judgment of the United States Court of Appeals for the Sixth Circuit are vacated. Case remanded to the United States Court of Appeals for the Sixth Circuit for further consideration in light of *TWA v. Hardison*, 432 U. S. 63 (1977). MR. JUSTICE STEVENS took no part in the consideration or decision of this case. Reported below: 516 F. 2d 544.

No. 75-1745. BARBOUR *v.* NORTH CAROLINA. Ct. App. N. C. Certiorari granted, judgment vacated, and case remanded for further consideration in light of *Patterson v. New York*, 432 U. S. 197 (1977), and *Hankerson v. North Carolina*, 432 U. S. 233 (1977). Reported below: 28 N. C. App. 259, 220 S. E. 2d 812.

No. 76-85. HUNTER *v.* NORTH CAROLINA. Ct. App. N. C. Certiorari granted, judgment vacated, and case remanded for further consideration in light of *Patterson v. New York*, 432 U. S. 197 (1977), and *Hankerson v. North Carolina*, 432 U. S. 233 (1977). Reported below: 28 N. C. App. 456, 221 S. E. 2d 837.

No. 75-6852. BURKE *v.* NORTH CAROLINA. Ct. App. N. C. Motion of petitioner for leave to proceed *in forma pauperis* and certiorari granted. Judgment vacated and case remanded for further consideration in light of *Patterson v. New York*, 432 U. S. 197 (1977), and *Hankerson v. North Carolina*, 432 U. S. 233 (1977). Reported below: 28 N. C. App. 469, 221 S. E. 2d 713.

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No. 75-6907. *BARKER v. NORTH CAROLINA*. Ct. App. N. C. Motion of petitioner for leave to proceed *in forma pauperis* and certiorari granted. Judgment vacated and case remanded for further consideration in light of *Patterson v. New York*, 432 U. S. 197 (1977), and *Hankerson v. North Carolina*, 432 U. S. 233 (1977). Reported below: 28 N. C. App. 729, 222 S. E. 2d 490.

No. 76-86. *McCLATCHY NEWSPAPERS ET AL. v. NOBLE ET UX*. C. A. 9th Cir. Motion of American Newspaper Publishers Assn. for leave to file a brief as *amicus curiae* granted. Certiorari granted, judgment vacated, and case remanded for further consideration in light of *Continental T. V., Inc. v. GTE Sylvania Inc.*, *ante*, p. 36. Reported below: 533 F. 2d 1081 and 537 F. 2d 1030.

No. 76-641. *P. C. PFEIFFER CO., INC., ET AL. v. FORD ET AL.*; and

No. 76-1166. *DIRECTOR, OFFICE OF WORKERS' COMPENSATION PROGRAMS, U. S. DEPARTMENT OF LABOR v. JACKSONVILLE SHIPYARDS, INC., ET AL.* C. A. 5th Cir. Certiorari granted, judgments vacated, and cases remanded for further consideration in light of *Northeast Marine Terminal Co. v. Caputo*, 432 U. S. 249 (1977). Reported below: 539 F. 2d 533.

No. 76-724. *ESTELLE, CORRECTIONS DIRECTOR v. McDONALD*. 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 *Wainwright v. Sykes*, *ante*, p. 72. Reported below: 536 F. 2d 667.

No. 76-730. *ADKINS v. I. T. O. CORPORATION OF BALTIMORE ET AL.* C. A. 4th Cir. Certiorari granted, judgment vacated, and case remanded for further consideration in light of *Northeast Marine Terminal Co. v. Caputo*, 432 U. S. 249 (1977). Reported below: 529 F. 2d 1080.

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No. 76-1361. J. A. McCARTHY, INC., ET AL. v. BRADSHAW ET AL. C. A. 3d Cir. Certiorari granted, judgment vacated, and case remanded for further consideration in light of *North-east Marine Terminal Co. v. Caputo*, 432 U. S. 249 (1977). Reported below: 547 F. 2d 1161.

No. 76-1498. DAVIS v. KENTUCKY. Sup. Ct. Ky. Certiorari granted, judgment vacated, and case remanded for further consideration in light of *Brown v. Ohio*, 432 U. S. 161 (1977), and *Price v. Georgia*, 398 U. S. 323 (1970). Reported below: 545 S. W. 2d 644.

No. 76-5722. SCHLEIS v. UNITED STATES. C. A. 8th Cir. Motion of petitioner for leave to proceed *in forma pauperis* and certiorari granted. Judgment vacated and case remanded for further consideration in light of *United States v. Chadwick*, ante, p. 1. Reported below: 543 F. 2d 59.

No. 76-6714. MCKENZIE v. MONTANA. Sup. Ct. Mont. Motion of petitioner for leave to proceed *in forma pauperis* and certiorari granted. Judgment vacated and case remanded for further consideration in light of *Patterson v. New York*, 432 U. S. 197 (1977). Reported below: 171 Mont. 278, 557 P. 2d 1023.

Miscellaneous Orders

No. A-881 (76-5325). BROWDER v. DIRECTOR, DEPARTMENT OF CORRECTIONS OF ILLINOIS. C. A. 7th Cir. [Certiorari granted, 429 U. S. 1072.] Application for enlargement from custody, presented to MR. JUSTICE POWELL, and by him referred to the Court, denied.

No. A-1030. TIMMONS v. McGRATH. Sup. Ct. S. C. Application for stay of execution and enforcement of judgment below, presented to MR. JUSTICE MARSHALL, and by him referred to the Court, denied.

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No. A-1071. *KNAPP v. ARIZONA*. Application for stay of execution of sentence of death entered by the Superior Court of Arizona, in and for the County of Maricopa, on Jan. 6, 1975, presented to MR. JUSTICE REHNQUIST, and by him referred to the Court, granted pending timely filing and disposition of a petition for writ of certiorari.

No. A-1081 (76-6965). *JORDAN v. ARIZONA*. Sup. Ct. Ariz. Application for stay of execution of sentence of death entered by the Superior Court of Arizona, in and for the County of Maricopa, on Mar. 13, 1975, presented to MR. JUSTICE REHNQUIST, and by him referred to the Court, granted pending disposition of the case in this Court.

No. D-75. *IN RE DISBARMENT OF PLENTY*. Disbarment entered. [For earlier order, see 429 U.S. 937.]

No. D-98. *IN RE DISBARMENT OF RENSHAW*. Disbarment entered. [For earlier order, see 430 U.S. 927.]

No. D-113. *IN RE DISBARMENT OF LIBRACH*. It is ordered that Burton A. Librach of Clayton, 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. 76-6707. *CROWLEY v. UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT*;

No. 76-6726. *WILLIAMS v. PHILLIPS, CHIEF JUDGE, U. S. COURT OF APPEALS, ET AL.*; and

No. 76-6754. *CLARK v. UNITED STATES DISTRICT COURT FOR THE DISTRICT OF KANSAS*. Motions for leave to file petitions for writs of mandamus denied.

Probable Jurisdiction Noted

No. 76-1662. *UNITED STATES v. BOARD OF COMMISSIONERS OF SHEFFIELD ET AL.* Appeal from D. C. N. D. Ala. Probable jurisdiction noted. Reported below: 430 F. Supp. 786.

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Certiorari Granted

No. 76-1346. LORILLARD, A DIVISION OF LOEW'S THEATRES, INC. *v.* PONS. C. A. 4th Cir. Certiorari granted. Reported below: 549 F. 2d 950.

No. 76-1476. J. W. BATESON CO., INC., ET AL. *v.* UNITED STATES EX REL. BOARD OF TRUSTEES OF THE NATIONAL AUTOMATIC SPRINKLER INDUSTRY PENSION FUND ET AL. C. A. D. C. Cir. Certiorari granted. Reported below: 179 U. S. App. D. C. 325, 551 F. 2d 1284.

No. 76-1040. SANABRIA *v.* UNITED STATES. C. A. 1st Cir. Certiorari granted limited to Questions 1, 2, and 3 presented by the petition. Reported below: 548 F. 2d 1.

No. 76-1114. CALIFORNIA ET AL. *v.* SOUTHLAND ROYALTY CO. ET AL.;

No. 76-1133. EL PASO NATURAL GAS CO. *v.* SOUTHLAND ROYALTY CO. ET AL.; and

No. 76-1587. FEDERAL POWER COMMISSION *v.* SOUTHLAND ROYALTY CO. ET AL. C. A. 5th Cir. Certiorari granted, cases consolidated, and a total of one hour allotted for oral argument. MR. JUSTICE STEWART and MR. JUSTICE POWELL took no part in the consideration or decision of these petitions. Reported below: 543 F. 2d 1134.

No. 76-6513. BELL *v.* OHIO. Sup. Ct. Ohio. Motion of petitioner for leave to proceed *in forma pauperis* and certiorari granted limited to Question 1 presented by the petition. Reported below: 48 Ohio St. 2d 270, 358 N. E. 2d 556.

Certiorari Denied

No. 75-1654. BRANCH *v.* NORTH CAROLINA. Sup. Ct. N. C. Certiorari denied. Reported below: 288 N. C. 514, 220 S. E. 2d 495.

No. 75-7001. KIRK ET AL. *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied. Reported below: 534 F. 2d 1262.

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No. 75-6866. *FAVORS v. GEORGIA*. Ct. App. Ga. Certiorari denied. Reported below: 137 Ga. App. 25, 223 S. E. 2d 11.

No. 76-242. *NOBLE ET UX. v. McCLATCHY NEWSPAPERS ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 533 F. 2d 1081.

No. 76-359. *U. S. INDUSTRIES, INC., ET AL. v. GREGG*. C. A. 3d Cir. Certiorari denied. Reported below: 540 F. 2d 142.

No. 76-537. *INTERNATIONAL ASSOCIATION OF MACHINISTS & AEROSPACE WORKERS, AFL-CIO, ET AL. v. HOPKINS ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 533 F. 2d 163.

No. 76-571. *JOHN T. CLARK & SON OF BOSTON, INC., ET AL. v. STOCKMAN ET AL.* C. A. 1st Cir. Certiorari denied. Reported below: 539 F. 2d 264.

No. 76-706. *MARITIME TERMINALS, INC., ET AL. v. BROWN ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 542 F. 2d 903.

No. 76-880. *HALTER MARINE FABRICATORS, INC., ET AL. v. NULTY ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 539 F. 2d 533.

No. 76-910. *EDWIN K. WILLIAMS & Co.-EAST, INC., ET AL. v. EDWIN K. WILLIAMS & Co., INC., ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 542 F. 2d 1053.

No. 76-1033. *EVANS, TRUSTEE IN BANKRUPTCY v. S. S. KRESGE Co.* C. A. 3d Cir. Certiorari denied. Reported below: 544 F. 2d 1184.

No. 76-1093. *DRAVO CORP. ET AL. v. MAXIN ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 545 F. 2d 374.

No. 76-1164. *SNYDER v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 547 F. 2d 1165.

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No. 76-1191. *UNITED STATES v. CITY OF ALBUQUERQUE ET AL.* C. A. 10th Cir. Certiorari denied. Reported below: 545 F. 2d 110.

No. 76-1194. *SPAGNOLO v. UNITED STATES*;

No. 76-6221. *FUSCO v. UNITED STATES*; and

No. 76-6723. *FALVO v. UNITED STATES.* C. A. 4th Cir. Certiorari denied. Reported below: 546 F. 2d 1117.

No. 76-1294. *SESHACHALAM v. CREIGHTON UNIVERSITY SCHOOL OF MEDICINE.* C. A. 8th Cir. Certiorari denied. Reported below: 549 F. 2d 79.

No. 76-1319. *BURLEIGH HOUSE CONDOMINIUM, INC. v. BUCHWALD, TRUSTEE, ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 546 F. 2d 57.

No. 76-1364. *APPLESTEIN v. SIMONS.* Ct. App. N. Y. Certiorari denied. Reported below: 40 N. Y. 2d 1091, 360 N. E. 2d 1105.

No. 76-1372. *TODARO v. UNITED STATES.* C. A. 2d Cir. Certiorari denied. Reported below: 550 F. 2d 1300.

No. 76-1405. *GALLAGHER v. UNITED STATES.* C. A. 2d Cir. Certiorari denied.

No. 76-1407. *MERCANTILE TRUST COMPANY NATIONAL ASSN. v. ST. LOUIS COUNTY NATIONAL BANK ET AL.* C. A. 8th Cir. Certiorari denied. Reported below: 548 F. 2d 716.

No. 76-1413. *BRAINERD v. DANN, COMMISSIONER OF PATENTS AND TRADEMARKS.* C. C. P. A. Certiorari denied. Reported below: 546 F. 2d 434.

No. 76-1428. *ST. CLAIR v. UNITED STATES.* C. A. 2d Cir. Certiorari denied. Reported below: 552 F. 2d 57.

No. 76-1466. *HIGA v. STETSON, SECRETARY OF THE AIR FORCE, ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 549 F. 2d 152.

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No. 76-1531. *LEX TEX LTD., INC. v. UNIVERSAL TEXTURED YARNS, INC., ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 541 F. 2d 1127.

No. 76-1538. *GRAYCO LAND ESCROW, LTD., ET AL. v. WONG ET AL.* Sup. Ct. Hawaii. Certiorari denied. Reported below: 57 Haw. 436, 559 P. 2d 264.

No. 76-1541. *DARVIN v. COUNTY OF ORANGE ET AL.* Ct. App. Cal., 4th App. Dist. Certiorari denied.

No. 76-1544. *KNUTSON ET AL. v. DAILY REVIEW, INC., ET AL.*; and

No. 76-1545. *DAILY REVIEW, INC., ET AL. v. KNUTSON ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 548 F. 2d 795.

No. 76-1549. *NEW YORK v. YARTER.* Ct. App. N. Y. Certiorari denied. Reported below: 41 N. Y. 2d 830, 361 N. E. 2d 1041.

No. 76-1551. *MOODY ET UX. v. WILLIE ET UX.* C. A. 5th Cir. Certiorari denied. Reported below: 543 F. 2d 754.

No. 76-1562. *PIERPONT v. ALLEN ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 551 F. 2d 308.

No. 76-1574. *CENTRAL BANK OF CLAYTON v. CLAYTON BANK ET AL.* C. A. 8th Cir. Certiorari denied. Reported below: 553 F. 2d 102.

No. 76-1589. *DAWKINS v. NABISCO, INC., BAKERY & CONFECTIONERY UNION LOCAL No. 42.* C. A. 5th Cir. Certiorari denied. Reported below: 549 F. 2d 396.

No. 76-1619. *CRUTCHER-ROLFS-CUMMINGS, INC. v. BALLARD.* Ct. Civ. App. Tex., 13th Sup. Jud. Dist. Certiorari denied. Reported below: 540 S. W. 2d 380.

No. 76-1666. *QUINN v. UNITED STATES.* C. A. 2d Cir. Certiorari denied. Reported below: 554 F. 2d 522.

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No. 76-1672. *ABRAMSON v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 553 F. 2d 1164.

No. 76-1693. *LYLES ET AL. v. UNITED STATES*. C. A. 4th Cir. Certiorari denied.

No. 76-5132. *AVILES v. UNITED STATES*; and

No. 76-5143. *SORIANO v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 535 F. 2d 658.

No. 76-5887. *BETHEA v. UNITED STATES*. Ct. App. D. C. Certiorari denied. Reported below: 365 A. 2d 64.

No. 76-6063. *KAMPSHOFF v. NEW YORK*. App. Div., Sup. Ct. N. Y., 4th Jud. Dept. Certiorari denied. Reported below: 53 App. Div. 2d 325, 385 N. Y. S. 2d 672.

No. 76-6104. *FRIESEN v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 545 F. 2d 672.

No. 76-6238. *KEENER v. GEORGIA*. Sup. Ct. Ga. Certiorari denied. Reported below: 238 Ga. 7, 230 S. E. 2d 846.

No. 76-6254. *HOOD v. SOUTH CAROLINA*. Sup. Ct. S. C. Certiorari denied.

No. 76-6296. *RICHARDS v. TEXAS ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 546 F. 2d 906.

No. 76-6410. *MEEKS v. JAGO, CORRECTIONAL SUPERINTENDENT*. C. A. 6th Cir. Certiorari denied. Reported below: 545 F. 2d 9.

No. 76-6429. *CRUZ v. SKELTON ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 543 F. 2d 86.

No. 76-6511. *O'BERRY v. WAINWRIGHT, SECRETARY, DEPARTMENT OF OFFENDER REHABILITATION OF FLORIDA*. C. A. 5th Cir. Certiorari denied. Reported below: 546 F. 2d 1204.

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No. 76-6436. *NEGRON v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 548 F. 2d 1085.

No. 76-6546. *PICHA v. UNITED STATES*. C. A. 7th Cir. Certiorari denied.

No. 76-6548. *KELLY v. UNITED STATES*; and

No. 76-6549. *POWELL v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 551 F. 2d 760.

No. 76-6552. *RUSSILLO v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 550 F. 2d 1330.

No. 76-6553. *LOMAN ET VIR v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 551 F. 2d 164.

No. 76-6589. *HOUSE v. UNITED STATES*. C. A. 9th Cir. Certiorari denied.

No. 76-6591. *JARDAN v. UNITED STATES*; and

No. 76-6611. *HUDSON v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 552 F. 2d 216.

No. 76-6597. *EDMOND v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 548 F. 2d 1256.

No. 76-6702. *EVANS v. FLORIDA*. Dist. Ct. App. Fla., 4th Dist. Certiorari denied. Reported below: 336 So. 2d 703.

No. 76-6709. *REECE v. MONTANA*. Sup. Ct. Mont. Certiorari denied. Reported below: 172 Mont. 551, 562 P. 2d 1129.

No. 76-6712. *FINNEGAN v. MARYLAND*. Ct. Sp. App. Md. Certiorari denied. Reported below: 33 Md. App. 251, 364 A. 2d 124.

No. 76-6787. *SANCHEZ-RUIZ v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 551 F. 2d 862.

No. 76-6818. *BARKER v. KENTUCKY*. Sup. Ct. Ky. Certiorari denied.

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No. 76-6822. *SANFRATELLO v. UNITED STATES*. C. A. 1st Cir. Certiorari denied.

No. 76-6825. *GREATHOUSE v. UNITED STATES*. C. A. 10th Cir. Certiorari denied.

No. 76-6827. *FREEMAN v. UNITED STATES*. C. A. 6th Cir. Certiorari denied.

No. 76-6832. *YELARDY v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 548 F.2d 665.

No. 75-6847. *LIPSCOMB v. UNITED STATES*. C. A. 8th Cir. Certiorari denied.

No. 76-6854. *CARTER v. UNITED STATES*. C. A. 3d Cir. Certiorari denied.

No. 76-6856. *FONTANA v. UNITED STATES*. C. A. 3d Cir. Certiorari denied.

No. 76-6857. *KENDRICK v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 554 F.2d 1071.

No. 76-6866. *MASTRIAN v. WOOD, WARDEN*. C. A. 8th Cir. Certiorari denied. Reported below: 554 F.2d 813.

No. 75-6492. *WINFREY v. ILLINOIS*. C. A. 7th Cir. Certiorari denied. MR. JUSTICE STEVENS took no part in the consideration or decision of this petition. Reported below: 526 F.2d 592.

No. 76-301. *GARRISON, WARDEN v. RESENDEZ*. C. A. 4th Cir. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 528 F.2d 1310.

No. 76-358. *NEW YORK v. BROWN*. Ct. App. N. Y. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 40 N. Y. 2d 381, 353 N. E. 2d 811.

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No. 76-471. *NEW YORK v. CONSOLAZIO*. Ct. App. N. Y. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 40 N. Y. 2d 446, 354 N. E. 2d 801.

No. 76-959. *MAGGIO, WARDEN v. NEWMAN*. C. A. 5th Cir. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 539 F. 2d 502.

No. 76-871. *PRESTIGE LINCOLN-MERCURY, INC., ET AL. v. QUALITY MERCURY, INC., ET AL.* C. A. 8th Cir. Certiorari denied. MR. JUSTICE BLACKMUN took no part in the consideration or decision of this petition. Reported below: 542 F. 2d 466.

No. 76-900. *ERIE LACKAWANNA RAILWAY CO. v. COLE*. C. A. 6th Cir. Motion of National Railway Labor Conference for leave to file a brief as *amicus curiae* granted. Certiorari denied. Reported below: 541 F. 2d 528.

No. 76-978. *BRIDGETON HOSPITAL ASSN. ET AL. v. DOE ET AL.* Sup. Ct. N. J. Certiorari denied. MR. JUSTICE MARSHALL and MR. JUSTICE BLACKMUN would deny the petition, it appearing that the judgment below rests upon adequate state grounds. MR. JUSTICE BRENNAN took no part in the consideration or decision of this petition. Reported below: 71 N. J. 478, 366 A. 2d 641.

No. 76-1411. *ST. LOUIS BOARD OF EDUCATION v. CALDWELL ET AL.* C. A. 8th Cir. Motion of the individual respondents for leave to proceed *in forma pauperis* granted. Certiorari denied. MR. JUSTICE MARSHALL took no part in the consideration or decision of this motion and petition. Reported below: 546 F. 2d 768.

No. 76-1564. *REGAN ET AL. v. ZURAK ET AL.* C. A. 2d Cir. Motion of respondents for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 550 F. 2d 86.

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No. 76-1441. *HEUBLEIN, INC., ET AL. v. WATERS ET AL.* C. A. 9th Cir. Motion of respondent Waters for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 547 F. 2d 466.

No. 76-1552. *MARRIOTT CORP. v. RICHARD ET AL.* C. A. 4th Cir. Certiorari denied. MR. JUSTICE REHNQUIST took no part in the consideration or decision of this petition. Reported below: 549 F. 2d 303.

No. 76-6720. *RICHMOND v. ARIZONA.* Sup. Ct. Ariz. Certiorari denied. Reported below: 114 Ariz. 186, 560 P. 2d 41.

MR. JUSTICE BRENNAN and MR. JUSTICE MARSHALL, dissenting.

Adhering to our views that the death penalty is in all circumstances cruel and unusual punishment prohibited by the Eighth and Fourteenth Amendments, *Gregg v. Georgia*, 428 U. S. 153, 227, 231 (1976), we would vacate the death sentence in this case.

Rehearing Granted. (See No. 75-478, *supra*.)

Rehearing Denied

No. 75-1013. *BRONCUCIA v. COLORADO*, 431 U. S. 937;

No. 75-1105. *REID v. MEMPHIS PUBLISHING Co.*, 429 U. S. 964;

No. 75-1153. *ABOOD ET AL. v. DETROIT BOARD OF EDUCATION ET AL.*, 431 U. S. 209;

No. 76-352. *CHAPPELLE v. GREATER BATON ROUGE AIRPORT DISTRICT ET AL.*, 431 U. S. 159.

No. 76-986. *NETELKOS ET AL. v. UNITED STATES*, 431 U. S. 953;

No. 76-1179. *ASHCROFT, ATTORNEY GENERAL OF MISSOURI v. MATTIS*, 431 U. S. 171; and

No. 76-1267. *CRAVERO ET AL. v. UNITED STATES*, 430 U. S. 983. Petitions for rehearing denied.

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- No. 76-1271. *HOOPES v. UNITED STATES*, 431 U. S. 954;
No. 76-1422. *SHANAHAN v. RITTENHOUSE, PROSECUTOR OF HUNTERDON COUNTY*, 431 U. S. 951;
No. 76-1469. *SPEROW ET AL. v. UNITED STATES*, 431 U. S. 930;
No. 76-6191. *PIERCE v. GEORGIA*, 431 U. S. 930;
No. 76-6287. *HALL v. BUREAU OF EMPLOYMENT AGENCIES*, 431 U. S. 920;
No. 76-6329. *ROBINSON v. UNITED STATES*, 431 U. S. 920;
No. 76-6452. *LELAND v. UNITED STATES*, 431 U. S. 957;
No. 76-6458. *BAXTER v. CORNETT, WARDEN*, 431 U. S. 941;
No. 76-6543. *LEE v. EWING, COLE, ERDMAN & EUBANK ET AL.*, 431 U. S. 942; and
No. 76-6647. *ALLEY v. DODGE HOTEL ET AL.*, 431 U. S. 958.
Petitions for rehearing denied.

No. 76-1081. *MITCHELL ET AL. v. UNITED STATES*, 431 U. S. 933. Petition for rehearing denied. MR. JUSTICE REHNQUIST took no part in the consideration or decision of this petition.

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Appeal Dismissed

No. 76-694. *BUCKLEY ET AL. v. McRAE ET AL.* Appeal from D. C. E. D. N. Y. dismissed. Second renewed application for stay, presented to MR. JUSTICE MARSHALL, and by him referred to the Court, denied. Reported below: 421 F. Supp. 533.

Vacated and Remanded on Appeal

No. 76-1113. *CALIFANO, SECRETARY OF HEALTH, EDUCATION, AND WELFARE v. McRAE ET AL.* Appeal from D. C. E. D. N. Y. Judgment vacated and case remanded for further consideration in light of *Maher v. Roe*, 432 U. S. 464 (1977), and *Beal v. Doe*, 432 U. S. 438 (1977). Reported below: 421 F. Supp. 533.

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No. 76-1225. CONSUMERS UNION OF THE UNITED STATES, INC., ET AL. *v.* VIRGINIA STATE BAR ET AL.; and

No. 76-1337. VIRGINIA STATE BAR ET AL. *v.* CONSUMERS UNION OF THE UNITED STATES, INC., ET AL. Appeals from E. D. E. D. Va. Judgment vacated and cases remanded for further consideration in light of *Bates v. State Bar of Arizona*, ante, p. 350. Reported below: 427 F. Supp. 506.

Certiorari Granted—Vacated and Remanded. (See also No. 76-705, ante, p. 667; No. 76-809, ante, p. 672; and No. 76-1206, ante, p. 676.)

No. 74-5174. EBERHEART *v.* GEORGIA; and

No. 74-5954. HOOKS *v.* GEORGIA. Sup. Ct. Ga. Petitioners in these cases were sentenced to death. Imposition and carrying out of the death penalty constitute cruel and unusual punishment in violation of the Eighth and Fourteenth Amendments. *Coker v. Georgia*, ante, p. 584. Motions for leave to proceed *in forma pauperis* and certiorari granted. Judgments vacated insofar as they leave undisturbed the death penalties imposed, and cases remanded for further proceedings. Reported below: No. 74-5174, 232 Ga. 247, 206 S. E. 2d 12; No. 75-5954, 233 Ga. 149, 210 S. E. 2d 668.

Certiorari Granted—Reversed. (See No. 76-5663, ante, p. 682).

Miscellaneous Orders

No. 35, Orig. UNITED STATES *v.* MAINE ET AL. It is ordered that the Honorable Walter E. Hoffman, Senior Judge of the United States District Court for the Eastern District of Virginia, is appointed Special Master in this case with authority to fix the time and conditions for the filing of additional pleadings and to direct subsequent proceedings, and with authority to summon witnesses, issue subpoenas, and take such evidence as may be introduced and such as he may deem

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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 report, and all other proper expenses shall be charged against 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 in this case becomes vacant during a 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. [For earlier orders herein, see, *e. g.*, 423 U. S. 1.]

No. 73, Orig. CALIFORNIA *v.* NEVADA. Motion for leave to file bill of complaint granted. It is ordered that the Honorable Robert Van Pelt, Senior Judge of the United States District Court for the District of Nebraska, is appointed Special Master in this case with authority to fix the time and conditions for the filing of additional pleadings and to direct subsequent proceedings, and with authority to summon witnesses, issue subpoenas, and take such evidence as may be introduced and such as he may deem 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 report, and all other proper expenses shall be charged against 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 in this case becomes vacant during a 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.

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Certiorari Denied

No. 76-1209. GENERAL MOTORS CORP. *v.* STEWART ET AL.
C. A. 7th Cir. Certiorari denied. Reported below: 542 F. 2d
445.