

ORDERS FROM OCTOBER 1, 1979, THROUGH
FEBRUARY 22, 1980

OCTOBER 1, 1979

Affirmed on Appeal

No. 78-1882. *WOLMAN ET AL. v. WALTER ET AL.* Affirmed on appeal from D. C. S. D. Ohio. MR. JUSTICE BRENNAN and MR. JUSTICE STEWART dissent.

Appeals Dismissed

No. 78-1671. *DODSON INSURANCE GROUP v. MALONEY, JUDGE.* Appeal from Sup. Ct. N. M. dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied.

No. 78-1833. *MONROE v. MONROE.* Appeal from Sup. Ct. Conn. dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied. Reported below: 177 Conn. 173, 413 A. 2d 819.

No. 78-6645. *CARTER v. TEXAS.* Appeal from Ct. Crim. App. Tex. dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied.

No. 78-6743. *WELCH v. FALKE, PROSECUTING ATTORNEY OF MONTGOMERY COUNTY, ET AL.* Appeal from Sup. Ct. Ohio dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied.

No. 78-6765. *LINDEN v. HARPER & ROW PUBLISHERS, INC.* Appeal from C. A. 2d Cir. dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied.

October 1, 1979

444 U.S.

No. 78-6768. *RAITPORT v. LYONS, PRISON SUPERINTENDENT*. 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.

No. 78-6771. *WAYLAND v. HARKAWAY*. Appeal from C. A. 1st Cir. dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied.

No. 78-6875. *LINDEN v. SHORE 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.

No. 78-6876. *WAYLAND v. MOORE ET AL.* Appeal from C. A. 1st Cir. dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied. Reported below: 601 F. 2d 571.

No. 78-6896. *BERENHOLZ v. BERENHOLZ*. 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.

No. 78-6904. *KALENIAN v. KALENIAN*. 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.

No. 79-5072. *GARCIA v. ARIZONA*. Appeal from Ct. App. Ariz. dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied.

No. 78-1710. *FORD v. TEXAS*. Appeal from County Ct. at Law, Comal County, Tex., dismissed for want of substantial federal question.

444 U. S.

October 1, 1979

No. 79-5100. *PETRILLO v. SPATOLA*. Appeal from Super. Ct. N. J. dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied.

No. 78-1808. *CONWAY ET AL. v. HOSPITAL CORPORATION OF AMERICA ET AL.* Appeal from Ct. Civ. App. Tex., 6th Sup. Jud. Dist., dismissed for want of substantial federal question. Reported below: 577 S. W. 2d 534.

No. 78-1812. *O'DONNELL ET AL. v. STATE FARM MUTUAL AUTOMOBILE INSURANCE Co.* Appeal from Sup. Ct. Mich. dismissed for want of substantial federal question. Reported below: 404 Mich. 524, 273 N. W. 2d 829.

No. 78-1828. *SPARKS ET AL. v. PARKER, JUDGE*. Appeal from Sup. Ct. Ala. dismissed for want of substantial federal question. Reported below: 368 So. 2d 528.

No. 78-1854. *WARREN ET AL. v. SUN OIL Co.* Appeal from Ct. App. Okla. dismissed for want of substantial federal question.

No. 78-1936. *RINEHART v. ASSOCIATION OF THE BAR OF THE CITY OF NEW YORK*. Appeal from App. Div., Sup. Ct. N. Y., 1st Jud. Dept., dismissed for want of substantial federal question. Reported below: 65 App. Div. 2d 63, 410 N. Y. S. 2d 850.

No. 78-6704. *FINCE v. KLEIN, COMMISSIONER, DEPARTMENT OF HUMAN SERVICES, ET AL.* Appeal from Sup. Ct. N. J. dismissed for want of substantial federal question.

No. 78-6911. *LAMAR v. GEORGIA*. Appeal from Sup. Ct. Ga. dismissed for want of substantial federal question. Reported below: 243 Ga. 401, 254 S. E. 2d 353.

No. 79-34. *STINSON v. LOUISIANA STATE BAR ASSN.* Appeal from Sup. Ct. La. dismissed for want of substantial federal question. Reported below: 368 So. 2d 971.

October 1, 1979

444 U.S.

No. 79-13. *FOSTER v. COUNTY SCHOOL BOARD OF PRINCE WILLIAM COUNTY*. Appeal from Sup. Ct. Va. dismissed for want of substantial federal question. Reported below: 219 Va. LXXVII.

No. 79-38. *PERRY, ADMINISTRATRIX v. KALAMAZOO STATE HOSPITAL*. Appeal from Sup. Ct. Mich. dismissed for want of substantial federal question. Reported below: 404 Mich. 205, 273 N. W. 2d 421.

No. 79-49. *PREST v. HERBST, COMMISSIONER, DEPARTMENT OF NATURAL RESOURCES OF MINNESOTA, ET AL.* Appeal from Sup. Ct. Minn. dismissed for want of substantial federal question. Reported below: 278 N. W. 2d 732.

No. 79-90. *SKELTON v. CITY OF BIRMINGHAM*. Appeal from Ct. Crim. App. Ala. dismissed for want of substantial federal question. Reported below: 368 So. 2d 877.

No. 79-126. *DUDLEY ET UX. v. NEBRASKA STATE BANK*. Appeal from Sup. Ct. Neb. dismissed for want of substantial federal question. Reported below: 203 Neb. 226, 278 N. W. 2d 334.

No. 79-146. *SLAGLE ET AL. v. PARKER ET AL.* Appeal from Sup. Ct. Ala. dismissed for want of substantial federal question. Reported below: 370 So. 2d 947.

No. 79-164. *SPIEGEL, INC. v. SOUTH DAKOTA EX REL. MEIERHENRY, ATTORNEY GENERAL OF SOUTH DAKOTA, ET AL.* Appeal from Sup. Ct. S. D. dismissed for want of substantial federal question. Reported below: 277 N. W. 2d 298.

No. 79-5098. *WILSON v. OHIO*. Appeal from Sup. Ct. Ohio dismissed for want of substantial federal question. Reported below: 58 Ohio St. 2d 52, 388 N. E. 2d 745.

444 U. S.

October 1, 1979

No. 79-5099. *HINKLE v. OHIO*. Appeal from Ct. App. Ohio, Cuyahoga County, dismissed for want of substantial federal question.

No. 79-5165. *POSTELL v. TEXAS*. Appeal from County Ct. at Law No. 4, El Paso County, Tex., dismissed for want of substantial federal question.

No. 78-1937. *METRO BROADCASTING Co., INC. v. SECRETARY OF THE TREASURY OF PUERTO RICO*. Appeal from Sup. Ct. P. R. dismissed for want of jurisdiction. Reported below: — P. R. R. —.

No. 78-1940. *O'CONNOR ET AL. v. SAN FRANCISCO POLICE COMMISSION ET AL.* Appeal from Ct. App. Cal., 1st App. Dist., 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: 90 Cal. App. 3d 107, 153 Cal. Rptr. 306.

No. 78-6413. *LETOURNEAU v. HARRIS, SECRETARY OF HEALTH, EDUCATION, AND WELFARE, ET AL.* Appeal from D. C. S. D. N. Y. dismissed as untimely. MR. JUSTICE BLACKMUN would affirm the judgment. Reported below: 453 F. Supp. 636.

No. 79-130. *BEHNKE v. COMMITTEE OF PROFESSIONAL ETHICS AND CONDUCT OF THE IOWA STATE BAR ASSN.* Appeal from Sup. Ct. Iowa dismissed for want of substantial federal question. MR. JUSTICE BRENNAN would note probable jurisdiction and set case for oral argument. Reported below: 276 N. W. 2d 838.

No. 78-6750. *CONRAD v. REGAN, U. S. DISTRICT JUDGE, ET AL.* Appeal from D. C. D. C. dismissed for want of jurisdiction.

October 1, 1979

444 U.S.

Vacated and Remanded on Appeal

No. 78-1780. CROWELL, SECRETARY OF STATE OF TENNESSEE, ET AL. v. MADER ET AL. Appeal from D. C. M. D. Tenn. Judgment vacated and case remanded with directions to dismiss cause as moot.*

Certiorari Granted—Vacated and Remanded

No. 78-6659. BLAKE v. THOMPSON, WARDEN. C. A. 6th 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 *Jackson v. Virginia*, 443 U. S. 307 (1979). Reported below: 595 F. 2d 1222.

No. 78-6840. CORLEY v. UNITED STATES. Ct. App. D. 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 position presently asserted by the Solicitor General in his memorandum filed August 31, 1979. MR. JUSTICE REHNQUIST and MR. JUSTICE STEVENS dissent.

No. 79-110. KENTUCKY v. MARTIN. Ct. App. Ky. Motion of respondent for leave to proceed *in forma pauperis* and certiorari granted. Judgment vacated and case remanded for further consideration in light of *Kentucky v. Whorton*, 441 U. S. 786 (1979). Reported below: 581 S. W. 2d 368.

Miscellaneous Orders

No. A-1060 (O. T. 1978). NASH ET AL. v. CHANDLER ET AL. C. A. 5th Cir. Application for stay or to vacate injunction, addressed to MR. JUSTICE BRENNAN and referred to the Court, denied.

No. A-12. CHAFFIN v. THOMAS, SHERIFF. C. A. 5th Cir. Application for stay and bail, addressed to MR. JUSTICE BRENNAN and referred to the Court, denied.

*[REPORTER'S NOTE: Subsequently, this order was vacated on rehearing. *Ante*, p. 505.]

444 U.S.

October 1, 1979

No. A-1134 (O. T. 1978). PENNHURST STATE SCHOOL AND HOSPITAL ET AL. *v.* HALDERMAN ET AL. Application for stay of judgment and order of the United States District Court for the Eastern District of Pennsylvania, dated March 5, 1979, addressed to THE CHIEF JUSTICE and referred to the Court, denied.

No. A-59 (79-206). MANLEY INVESTMENT Co. *v.* THOMAS W. GARLAND, INC., ET AL. Application for stay of proceedings in the United States District Court for the Eastern District of Missouri, addressed to MR. JUSTICE REHNQUIST and referred to the Court, denied.

No. A-71. CARLOS ET AL. *v.* UNITED STATES ET AL. D. C. E. D. N. Y. Application for injunction, addressed to MR. JUSTICE WHITE and referred to the Court, denied.

No. A-95. RETAIL STORE EMPLOYEES UNION, LOCAL No. 919, ET AL. *v.* UNITED FOOD & COMMERCIAL WORKERS INTERNATIONAL UNION ET AL. Application for stay pending appeal to the United States Court of Appeals for the Second Circuit, addressed to MR. JUSTICE BRENNAN and referred to the Court, denied.

No. A-101 (79-231). PACIFIC TELEPHONE & TELEGRAPH Co. *v.* PUBLIC UTILITIES COMMISSION OF CALIFORNIA ET AL.; and

No. A-102 (79-232). GENERAL TELEPHONE COMPANY OF CALIFORNIA *v.* PUBLIC UTILITIES COMMISSION OF CALIFORNIA ET AL. C. A. 9th Cir. Applications for stay, addressed to MR. JUSTICE BRENNAN and referred to the Court, denied.

No. A-133. EVANS, AKA YONAN, ET AL. *v.* SECRETARY OF THE ARMY ET AL. C. A. 7th Cir. Application for an injunction, addressed to MR. JUSTICE WHITE and referred to the Court, denied.

No. A-172. LENHARD ET AL., CLARK COUNTY DEPUTY PUBLIC DEFENDERS, INDIVIDUALLY AND AS NEXT FRIENDS OF BISHOP *v.* WOLFF, WARDEN, ET AL. C. A. 9th Cir. Applica-

tion for stay of execution of sentence of death, presented to MR. JUSTICE REHNQUIST, and by him stayed to and including October 1, 1979, and referred to the Court, denied.

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

I continue to adhere to my view that the death penalty is unconstitutional in all circumstances. Accordingly, I dissent. In addition, however, I feel compelled to note that the present decision is indefensible even under the more restrictive view of the Eighth Amendment taken by a majority of my Brethren. For today the Court grants a man's wish to be put to death even though the sentencing hearing accorded to him failed to comply with the procedural requirements imposed by the prior decisions of this Court.

I

Since there is no opinion accompanying the denial of the requested stay, a brief review of the events leading up to this application is necessary.

While in the process of robbing a cashier at a Las Vegas casino, Jesse Walter Bishop shot an employee and a patron of the casino who tried to prevent the crime. The patron died as a result of the wound. Bishop was charged with nine felony counts, including first-degree murder.

At the January 13, 1978, arraignment, Bishop stated that he wished to represent himself, to discharge the public defenders assigned to him, and to plead guilty to all charges. On January 23, 1978, after hearing testimony from three court-appointed psychiatrists, the trial judge found Bishop to be competent. The judge informed Bishop that the maximum sentence for first-degree murder was death and suggested that *pro se* representation was ill-advised. Nevertheless, Bishop insisted on discharging the public defenders. Relying on *Faretta v. California*, 422 U. S. 806 (1975), the judge granted Bishop's motion for self-representation. The judge did ap-

point the public defenders as "standby counsel," however, and informed Bishop that he could confer with them if he wished.

Bishop pleaded guilty to all counts. At the sentencing hearing before a three-judge panel, the State presented evidence of aggravating circumstances. Bishop introduced no evidence in mitigation. Standby counsel sought to present evidence of mitigating circumstances. Bishop, however, refused to agree to the admission of any such evidence. The court acceded to his wishes and did not allow standby counsel to proceed. Finding the existence of aggravating circumstances and noting that Bishop had offered no proof of mitigating circumstances, the court imposed the death penalty.

Bishop initially allowed the public defenders to prosecute an appeal to the Nevada Supreme Court. After the appeal had been filed, however, Bishop sought to have the appeal dismissed and apparently informed the justices of the Nevada court that he wanted to be executed. The court ignored the *pro se* effort, reached the issues raised by the public defenders, and affirmed. The court reasoned that, under *Faretta*, Bishop had the absolute right to represent himself and to decline to introduce any mitigating evidence at the sentencing phase of the capital trial. The court further held that the Nevada death penalty statutes were constitutional because they were similar to the Florida statutes upheld by this Court in *Proffitt v. Florida*, 428 U. S. 242 (1976).¹

¹ Justice Manoukian dissented from the Nevada Supreme Court decision. He argued that a self-represented defendant has no right under *Faretta* to waive his right to present mitigating evidence at the sentencing phase of his trial. The sentencing court's refusal to allow the public defenders to present such evidence, he asserted, constituted state-sanctioned suicide. Furthermore, he contended, society has an overriding Eighth Amendment interest in ensuring that capital punishment is imposed only in appropriate cases. That interest would go unsatisfied in a case such as this, where the sentencer is not presented with all available mitigating evidence and therefore cannot make a rational decision as to the propriety of imposing the death penalty.

On August 1, 1979, the state trial court relieved the public defenders of any further responsibility as Bishop's counsel. Nonetheless, referring to their moral and ethical obligations, they filed this federal habeas corpus petition against Bishop's wishes on August 16. On August 18, at the State's request, Bishop submitted to a psychiatric examination. After a 4-hour interview, the psychiatrist determined that Bishop was competent to waive further litigation. This psychiatric evidence was presented to the Federal District Court by affidavit. Bishop refused the public defenders' request to submit himself to a psychiatrist of their choosing. On August 23, Bishop appeared before the District Court and stated that he did not wish to pursue any further litigation. On the same date, the District Court denied the writ, holding that Bishop had made a valid waiver of his right to pursue federal relief and that therefore the public defenders had no standing to bring this action under *Gilmore v. Utah*, 429 U. S. 1012 (1976). On August 24, the Court of Appeals for the Ninth Circuit affirmed.

On August 25, however, Bishop voluntarily appeared before the Nevada Board of Pardons. He told the Board that he would be willing to accept commutation of his sentence to life imprisonment if the Board saw fit to do so. The Board denied commutation by a 5-2 vote.

II

The majority of this Court assumes that Bishop's conduct waives the possibility of a challenge to his execution. In my judgment, however, there can be no such waiver. In *Gilmore v. Utah*, *supra*, at 1018. MR. JUSTICE WHITE, in a dissenting opinion in which MR. JUSTICE BRENNAN and I joined, asserted "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." In my own dissenting opinion, I expressed the view 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." 429 U. S., at 1019.

Society's independent stake in enforcement of the Eighth Amendment's prohibition against cruel and unusual punishment cannot be overridden by a defendant's purported waiver.² By refusing to pursue his Eighth Amendment claim,³ Bishop

² Bishop's "competency" to make such a waiver is by no means self-evident to me. He has been a drug addict for a number of years and is presently taking a large daily dosage of tranquilizers. In addition, three factors have combined to put Bishop under extreme stress. First, while making an appearance before the state trial court, Bishop complained bitterly of allegedly inhumane conditions in the Nevada state prison and stated that he would rather die than remain incarcerated. Second, apparently because he is convinced that no legal efforts could result in the vacating of his death sentence, Bishop desires his execution to occur swiftly, so that his family will suffer for the shortest possible period. This concern is the evident motivation behind Bishop's decision to forgo federal habeas corpus proceedings, which he believes would result at most in one or more agonizing stays of execution before the death sentence is finally carried out. Third, Bishop's testimony before the Nevada Board of Pardons reveals that he considers it undignified to ask for mercy. Indeed, he stated that he had refused to take the stand at the sentencing phase of his trial and to allow any member of his family to do so because, in his view, such testimony would have constituted begging for pity for him.

³ In addition, of course, the majority considers Bishop's conduct as waiving any challenge to the constitutionality of the Nevada statutes under which he was sentenced to death. Not only have these statutes never been reviewed by this Court, it appears that the Court has never before been asked to review a death sentence imposed under them. An execution should not be allowed to proceed until this Court has had the opportunity to review the constitutionality of the statutes under which the sentence of death was imposed. Cf. *Gilmore v. Utah*, 429 U. S. 1012, 1017 (1976) (WHITE, J., joined by BRENNAN and MARSHALL, JJ., dissenting); *id.*, at 1019 (MARSHALL, J., dissenting). The Supreme Court of Nevada upheld these statutes because of their supposed similarity to the Florida death penalty statutes upheld in *Proffitt v. Florida*, 428 U. S. 242 (1976). To the extent that the Nevada provisions do resemble those Florida statutes, I would strike them down not only because I believe that

has, in effect, sought the State's assistance in committing suicide. Society is not powerless, however, to resist a defendant's effort to prompt the exercise of capital force. As the Supreme Court of Pennsylvania has eloquently recognized in a similar case:

"The doctrine of waiver developed not only out of a sense of fairness to an opposing party but also as a means of promoting jurisprudential efficiency by avoiding appellate court determinations of issues which the appealing party had failed to preserve. It was not, however, designed to block giving effect to a strong public interest, which itself is a jurisprudential concern. It is evident from the record that [the convicted defendant sentenced to death] personally prefers death to spending the remainder of his life in prison. While this may be a genuine conviction on his part, the waiver concept was never intended as a means of allowing a criminal defendant to choose his own sentence. . . . The waiver rule cannot be exalted to a position so lofty as to require this Court to blind itself to the real issue—the propriety of allowing the state to conduct an illegal execution of a citizen." *Commonwealth v. McKenna*, 476 Pa. 428, 441, 383 A. 2d 174, 181 (1978).

Bishop's diligent and conscientious attorneys, who were appointed at trial to represent his interests, are quite capable of litigating the Eighth Amendment questions involved in this case. There is no indication that they would be less vigorous or able advocates than was Gilmore's mother. Cf. *Gilmore v. Utah*, 429 U. S., at 1018 (WHITE, J., dissenting); *id.*, at 1020 (BLACKMUN, J., dissenting).

capital punishment is unconstitutional in all circumstances, but also because in my view the Florida statutes have led to the arbitrary and capricious imposition of capital punishment. See *Gardner v. Florida*, 430 U. S. 349, 365-370 (1977) (MARSHALL, J., dissenting).

III

Moreover, the procedures in this case did not even comply with the requirements developed by the joint opinion in *Gregg v. Georgia*, 428 U. S. 153 (1976), and its progeny. In 1976, the Court held that capital punishment is not unconstitutional in all circumstances. *Gregg, supra*; *Proffitt v. Florida*, 428 U. S. 242; *Jurek v. Texas*, 428 U. S. 262; *Woodson v. North Carolina*, 428 U. S. 280. Because "the penalty of death is qualitatively different from a sentence of imprisonment, however long," *Woodson v. North Carolina, supra*, at 305 (opinion of STEWART, POWELL, and STEVENS, JJ.), these decisions require sentencing procedures that are carefully designed to ensure that the death penalty will not "be inflicted in an arbitrary and capricious manner," *Gregg v. Georgia, supra*, at 188 (opinion of STEWART, POWELL, and STEVENS, JJ.). The Court approved a bifurcated proceeding in capital cases in which, after a guilty verdict has been reached, a sentencing hearing is held in which the State may present evidence of statutorily provided aggravating circumstances and the defendant may present evidence in mitigation. In the sentencing hearing, the sentencing authority must consider the "character and record of the individual offender and the circumstances of the particular offense as a constitutionally indispensable part of the process of inflicting the penalty of death," *Woodson*, 428 U. S., at 304, to ensure that "death is the appropriate punishment in a specific case," *id.*, at 305. See *Roberts (Harry) v. Louisiana*, 431 U. S. 633, 637 (1977); *Jurek v. Texas, supra*, at 271-272.

Indeed, in one of its most recent decisions on the issue, a plurality of this Court focused on the constitutional importance of individualized sentencing in capital cases. *Lockett v. Ohio*, 438 U. S. 586, 602-605 (1978) (opinion of BURGER, C. J., joined by STEWART, POWELL, and STEVENS, JJ.). The plurality noted this Court's earlier pronouncement that the sentencing authority's "'possession of the fullest information pos-

sible concerning the defendant's life and characteristics' is '[h]ighly relevant—if not essential—[to the] selection of an appropriate sentence. . . .'" *Id.*, at 603 (quoting *Williams v. New York*, 337 U. S. 241, 247 (1949)) (emphasis in *Lockett*). The plurality then concluded:

"Given that the imposition of death by public authority is so profoundly different from all other penalties, we cannot avoid the conclusion that an individualized decision is essential in capital cases. The need for treating each defendant in a capital case with that degree of respect due the uniqueness of the individual is far more important than in noncapital cases. . . . The nonavailability of corrective or modifying mechanisms with respect to an executed capital sentence underscores the need for individualized consideration as a constitutional requirement in imposing the death sentence." 438 U. S., at 605.

This need for individualized consideration of the capital defendant led the plurality to conclude that "a statute that prevents the sentencer in all capital cases from giving independent mitigating weight to aspects of the defendant's character and record and to circumstances of the offense proffered in mitigation creates the risk that the death penalty will be imposed in spite of factors which may call for a less severe penalty." *Ibid.* As a result, the plurality stated that a death penalty statute that "preclude[s] consideration of relevant mitigating factors" violates the Eighth Amendment. *Id.*, at 608.⁴

In the present case, the defendant Bishop, acting as his own defense counsel, failed to introduce any mitigating evidence at

⁴ I concurred in the result in *Lockett*, reiterating my view that the death penalty is under all circumstances a cruel and unusual punishment prohibited by the Eighth Amendment and, in addition, agreeing with the plurality's determination that the Ohio death penalty statute under review "wholly fail[ed] to recognize the unique individuality of every criminal defendant who comes before its courts." 438 U. S., at 621.

444 U. S.

October 1, 1979

the sentencing hearing. Moreover, he was successful in persuading the sentencing tribunal to refuse to permit his standby counsel to present such evidence. By that action, the sentencing court deprived itself of the very evidence that this Court has deemed essential to the determination whether death was the appropriate sentence. We can have no assurance that the death sentence would have been imposed if the sentencing tribunal had engaged in the careful weighing process that was held to be constitutionally required in *Gregg v. Georgia* and its progeny. This Court's toleration of the death penalty has depended on its assumption that the penalty will be imposed only after a painstaking review of aggravating and mitigating factors.⁵ In this case, that assumption has proved demonstrably false. Instead, the Court has permitted the State's mechanism of execution to be triggered by an entirely arbitrary factor: the defendant's decision to acquiesce in his own death. In my view, the procedure the Court approves today amounts to nothing less than state-administered suicide. I dissent.

No. A-193 (79-444). FERNOS-LOPEZ *v.* UNITED STATES DISTRICT COURT FOR THE DISTRICT OF PUERTO RICO ET AL. C. A. 1st Cir. Application for stay of proceedings, addressed to THE CHIEF JUSTICE and referred to the Court, denied.

⁵ In addition, my Brethren have considered careful appellate review a requisite to the constitutionality of capital punishment. See, *e. g.*, *Gregg v. Georgia*, 428 U. S. 153, 198 (1976). A number of States now have a mandatory appeal procedure for cases in which the death penalty has been imposed. See Ala. Code § 13-11-5 (1977); Ariz. Rule Crim. Proc. 31.2 (b); Cal. Penal Code Ann. § 1239 (b) (West Supp. 1979); Del. Code Ann., Tit. 11, § 4209 (g) (Supp. 1978); Fla. Stat. § 921-141 (4) (1977); Ga. Code § 27-2537 (a) (1978); Idaho Code § 19-2827 (1979); Ill. Rev. Stat., ch. 38, § 9-1 (i) (1977); La. Code Crim. Proc. Ann., Art. 905.9 (West Supp. 1979); Md. Ann. Code, Art. 27, § 414 (Supp. 1978); Neb. Rev. Stat. § 29-2525 (1975); N. H. Rev. Stat. Ann. § 630:5 (VI) (Supp. 1977); Okla. Stat., Tit. 21, § 701.13 (Supp. 1978); 18 Pa. Cons. Stat. § 1311 (h) (1978); S. C. Code § 18-9-20 (1976); Va. Code § 17-110.1 (Supp. 1979); Wyo. Stat. § 6-4-103 (1977).

October 1, 1979

444 U. S.

No. D-153. *IN RE DISBARMENT OF OLITT*. Disbarment entered. [For earlier order herein, see 439 U. S. 1042.]

No. 5, Orig. *UNITED STATES v. CALIFORNIA*. Report of the Special Master received and ordered filed. Exceptions, if any, with supporting briefs to the report may be filed by the parties within 45 days. Reply briefs, if any, to such exceptions may be filed within 30 days. MR. JUSTICE MARSHALL took no part in the consideration or decision of this order. [For earlier order herein, see, *e. g.*, 439 U. S. 30.]

No. 9, Orig. *UNITED STATES v. LOUISIANA ET AL.* Supplemental Report of the Special Master received and ordered filed. Exceptions, if any, with supporting briefs to the report may be filed by the parties within 45 days. Reply briefs, if any, to such exceptions may be filed within 30 days. MR. JUSTICE MARSHALL took no part in the consideration or decision of this order. [For earlier order herein, see, *e. g.*, 423 U. S. 909.]

No. 81, Orig. *KENTUCKY v. INDIANA ET AL.* Report of the Special Master received and ordered filed. Exceptions, if any, with supporting briefs to the report may be filed by the parties within 30 days. Reply briefs, if any, to such exceptions may be filed within 30 days. [For earlier order herein, see, *e. g.*, 441 U. S. 941.]

No. 78-119. *WASHINGTON ET AL. v. UNITED STATES ET AL.*, 443 U. S. 658. Upon consideration of the motion of the State of Washington for modification of the opinion of this Court, the memorandum filed by the respondent tribes, the memorandum filed by the United States and the reply thereto, it is ordered that footnote 16 of the opinion be modified as follows:

“A factual dispute exists on the question of what percentage of the fish in the case area actually passes through Indian fishing areas and is therefore subject to the District Court’s allocations. In the absence of any

444 U. S.

October 1, 1979

relevant findings by the courts below, we are unable to express any view on the matter." *

No. 78-160. WILSON ET AL. v. OMAHA INDIAN TRIBE ET AL.; and

No. 78-161. IOWA ET AL. v. OMAHA INDIAN TRIBE ET AL., 442 U. S. 653. Motion of Maine et al. for leave to file a brief as *amici curiae* granted. Motion for modification of the opinion denied. MR. JUSTICE POWELL took no part in the consideration or decision of these motions.

No. 78-599. SECRETARY OF THE NAVY ET AL. v. HUFF ET AL.; and

No. 78-1006. BROWN, SECRETARY OF DEFENSE, ET AL. v. GLINES. C. A. D. C. Cir. [Certiorari granted, 440 U. S. 957.] Motion of the Solicitor General to consolidate these cases for oral argument denied.

No. 78-630. WASHINGTON ET AL. v. CONFEDERATED TRIBES OF THE COLVILLE INDIAN RESERVATION ET AL.; and WASHINGTON v. UNITED STATES ET AL. Appeal from D. C. E. D. Wash. [Probable jurisdiction postponed, 440 U. S. 905.] Motion of the All Indian Pueblo Council, Inc., for leave to file a brief as *amicus curiae* granted.

No. 78-857. NATIONAL LABOR RELATIONS BOARD v. YESHIVA UNIVERSITY; and

No. 78-997. YESHIVA UNIVERSITY FACULTY ASSN. v. YESHIVA UNIVERSITY. C. A. 2d Cir. [Certiorari granted, 440 U. S. 906.] Motion of National Society of Professional Engineers for leave to file a brief as *amicus curiae* granted.

No. 78-959. PERRIN v. UNITED STATES. C. A. 5th Cir. [Certiorari granted, 440 U. S. 956.] Motion of petitioner for divided argument denied.

*[REPORTER'S NOTE: The opinion is reported as so amended at 443 U. S. 658.]

October 1, 1979

444 U. S.

No. 78-911. INDUSTRIAL UNION DEPARTMENT, AFL-CIO *v.* AMERICAN PETROLEUM INSTITUTE ET AL.; and

No. 78-1036. MARSHALL, SECRETARY OF LABOR *v.* AMERICAN PETROLEUM INSTITUTE ET AL. C. A. 5th Cir. [Certiorari granted, 440 U. S. 906.] Motion of Joseph Cimino et al. for leave to file a brief as *amici curiae* granted.

No. 78-1088. KISSINGER *v.* REPORTERS COMMITTEE FOR FREEDOM OF THE PRESS ET AL.; and

No. 78-1217. REPORTERS COMMITTEE FOR FREEDOM OF THE PRESS ET AL. *v.* KISSINGER. C. A. D. C. Cir. [Certiorari granted, 441 U. S. 904.] Motion of the Solicitor General for additional time for oral argument granted and 15 additional minutes are allotted for oral argument in these cases.

No. 78-1248. GTE SYLVANIA, INC., ET AL. *v.* CONSUMERS UNION OF THE UNITED STATES, INC., ET AL. C. A. D. C. Cir. [Certiorari granted, 441 U. S. 942.] Motion of the Solicitor General for additional time for oral argument granted, and five additional minutes allotted for that purpose. The non-federal respondent also allotted an additional five minutes for oral argument.

No. 78-1422. RETIREMENT FUND TRUST OF THE PLUMBING, HEATING & PIPING INDUSTRY OF SOUTHERN CALIFORNIA *v.* JOHNS. Ct. App. Cal., 4th App. Dist.;

No. 78-1445. SOUTHERN CALIFORNIA IBEW-NECA PENSION PLAN ET AL. *v.* JOHNSTON ET VIR. Ct. App. Cal., 2d App. Dist.;

No. 78-1841. CUYLER, CORRECTIONAL SUPERINTENDENT, ET AL. *v.* ADAMS. C. A. 3d Cir.;

No. 79-88. CALIFORNIA *v.* WHYTE. Ct. App. Cal., 1st App. Dist.; and

No. 79-101. BLUM, COMMISSIONER, DEPARTMENT OF SOCIAL SERVICES OF NEW YORK, ET AL. *v.* SWIFT ET AL. C. A. 2d Cir. The Solicitor General is invited to file briefs in these cases expressing the views of the United States.

444 U.S.

October 1, 1979

No. 78-1318. O'BANNON, SECRETARY OF PUBLIC WELFARE OF PENNSYLVANIA *v.* TOWN COURT NURSING CENTER ET AL. C. A. 3d Cir. [Certiorari granted, 441 U. S. 904.] Motion of the Solicitor General for divided argument granted. Motion of the Legal Aid Society of New York City et al. for leave to file a brief as *amici curiae* granted.

No. 78-1501. McLAIN ET AL. *v.* REAL ESTATE BOARD OF NEW ORLEANS, INC., ET AL. C. A. 5th Cir. [Certiorari granted, 441 U. S. 942.] Motion of Consumers Union of the United States, Inc., for leave to file a brief as *amicus curiae* granted. Motion of the Solicitor General for leave to participate in oral argument as *amicus curiae* granted. Ten additional minutes allotted for oral argument and the time is allocated as follows: Petitioners, 20 minutes; Solicitor General, 15 minutes; and respondents, 35 minutes.

No. 78-1651. SEATRAN SHIPBUILDING CORP. ET AL. *v.* SHELL OIL Co. ET AL. C. A. D. C. Cir. [Certiorari granted, 442 U. S. 940.] Motion of the Solicitor General for additional time for oral argument granted, and five additional minutes allotted for that purpose. The nonfederal respondents also allotted an additional five minutes for oral argument.

No. 78-1789. ARKANSAS LOUISIANA GAS Co. *v.* HALL ET AL. Sup. Ct. La. The Solicitor General is invited to file a brief in this case expressing the views of the United States. MR. JUSTICE STEWART took no part in the consideration or decision of this matter.

No. 78-1840. CITY OF ROME ET AL. *v.* UNITED STATES ET AL. D. C. D. C. [Probable jurisdiction noted, 443 U. S. 914.] Motion of Pacific Legal Foundation for leave to file a brief as *amicus curiae* granted.

October 1, 1979

444 U. S.

No. 78-5937. *YBARRA v. ILLINOIS*. App. Ct. Ill., 2d Dist. [Probable jurisdiction noted, 440 U. S. 970.] Motion of Ralph Ruebner, Esquire, to permit Alan D. Goldberg, Esquire, to present oral argument *pro hac vice* granted.

No. 78-6020. *BUSIC v. UNITED STATES*; and

No. 78-6029. *LAROCCA v. UNITED STATES*. C. A. 3d Cir. [Certiorari granted, 442 U. S. 916.] Motions for appointment of counsel granted, and it is ordered that Samuel J. Reich, Esquire, of Pittsburgh, Pa., be appointed to serve as counsel for petitioner in No. 78-6020, and that Michael A. Litman, Esquire, of Pittsburgh, Pa., be appointed to serve as counsel for petitioner in No. 78-6029.

No. 78-6933. *SIMON v. COURT OF CRIMINAL APPEALS OF TEXAS ET AL.* Motion for leave to file petition for writ of certiorari denied.

No. 78-6657. *SAYLES v. UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT ET AL.* Motion for leave to file petition for writ of certiorari and/or mandamus denied.

No. 78-1921. *LECHT v. LECHT ET AL.*;

No. 78-6780. *NELSON v. ANDERSON, WARDEN*;

No. 78-6813. *FULLER v. ALABAMA BOARD OF CORRECTIONS ET AL.*;

No. 79-166. *ERNEST v. UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT*;

No. 79-188. *ERNEST v. SIRICA, U. S. DISTRICT JUDGE, ET AL.*;

No. 79-5036. *MAGEE v. MORRIS, WARDEN*;

No. 79-5159. *MCINTYRE v. WARDEN, KILBY CORRECTION FACILITY*; and

No. 79-5200. *MCCRARY v. SMITH, CORRECTIONAL SUPERINTENDENT, ET AL.* Motions for leave to file petitions for writs of habeas corpus denied.

444 U.S.

October 1, 1979

No. 78-6733. BARNETT ET UX. *v.* COX, U. S. DISTRICT JUDGE, ET AL.;

No. 78-6856. MAGEE *v.* WILKINS, U. S. DISTRICT JUDGE, ET AL.;

No. 78-6860. FLANAGAN *v.* U. S. COURT OF APPEALS FOR THE FIFTH CIRCUIT ET AL.;

No. 79-31. COX *v.* CARTER, PRESIDENT OF THE UNITED STATES, ET AL.;

No. 79-5053. GREEN ET AL. *v.* HUNTER, U. S. DISTRICT JUDGE, ET AL.;

No. 79-5094. POWELL *v.* MALABUYO, DEPUTY CLERK, U. S. COURT OF APPEALS FOR THE NINTH CIRCUIT, ET AL.; and

No. 79-5095. DAVIS *v.* BRYAN, U. S. DISTRICT JUDGE. Motions for leave to file petitions for writs of mandamus denied.

No. 78-6686. DAVIS ET AL. *v.* HUNTER, U. S. DISTRICT JUDGE, ET AL.;

No. 78-6795. JONES *v.* UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT ET AL.; and

No. 79-75. KNIGHT ET AL. *v.* HEANEY, U. S. CIRCUIT JUDGE, ET AL. Motions for leave to file petitions for writs of mandamus and/or prohibition denied.

No. 79-5083. INTERSIMONE *v.* UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT. Motion for leave to file petition for writ of mandamus and other relief denied.

No. 78-6739. MAY *v.* UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT. Motion for leave to file petition for writ of prohibition denied.

No. 79-5181. DAVIS *v.* RUSSELL ET AL., U. S. CIRCUIT JUDGES. Motion for leave to file petition for writ of prohibition and/or mandamus denied.

October 1, 1979

444 U.S.

Probable Jurisdiction Noted

No. 79-45. LEWIS, COMPTROLLER OF FLORIDA *v.* BT INVESTMENT MANAGERS, INC., ET AL. Appeal from D. C. N. D. Fla. Probable jurisdiction noted. Reported below: 461 F. Supp. 1187.

No. 79-134. CONSOLIDATED EDISON COMPANY OF NEW YORK, INC. *v.* PUBLIC SERVICE COMMISSION OF NEW YORK. Appeal from Ct. App. N. Y. Probable jurisdiction noted. Reported below: 47 N. Y. 2d 94, 390 N. E. 2d 749.

No. 78-1604. CENTRAL MACHINERY Co. *v.* ARIZONA STATE TAX COMMISSION. Appeal from Sup. Ct. Ariz. Probable jurisdiction noted, and case set for oral argument in tandem with No. 78-1177, *White Mountain Apache Tribe v. Bracker* [certiorari granted, *infra*, p. 823]. Reported below: 121 Ariz. 183, 589 P. 2d 426.

Certiorari Granted

No. 78-1693. UNITED STATES *v.* CLARKE ET AL. C. A. 9th Cir. Certiorari granted. Reported below: 590 F. 2d 765.

No. 78-1729. UNITED STATES *v.* PAYNER. C. A. 6th Cir. Certiorari granted. Reported below: 590 F. 2d 206.

No. 78-1779. OWEN *v.* CITY OF INDEPENDENCE, MISSOURI, ET AL. C. A. 8th Cir. Certiorari granted. Reported below: 589 F. 2d 335.

No. 78-1793. ROBERTS *v.* UNITED STATES. C. A. D. C. Cir. Certiorari granted. Reported below: 195 U. S. App. D. C. 1, 600 F. 2d 815.

No. 78-1815. ANDRUS, SECRETARY OF THE INTERIOR *v.* SHELL OIL Co. ET AL. C. A. 10th Cir. Certiorari granted. Reported below: 591 F. 2d 597.

No. 78-1821. UNITED STATES *v.* MENDENHALL. C. A. 6th Cir. Certiorari granted. Reported below: 596 F. 2d 706.

444 U.S.

October 1, 1979

No. 78-1845. ILLINOIS *v.* VITALE. Sup. Ct. Ill. Certiorari granted. Reported below: 71 Ill. 2d 229, 375 N. E. 2d 87.

No. 78-1862. WALKER *v.* ARMCO STEEL CORP. C. A. 10th Cir. Certiorari granted. Reported below: 592 F. 2d 1133.

No. 78-1870. WHIRLPOOL CORP. *v.* MARSHALL, SECRETARY OF LABOR. C. A. 6th Cir. Certiorari granted. Reported below: 593 F. 2d 715.

No. 78-1918. HARRISON, REGIONAL ADMINISTRATOR, ENVIRONMENTAL PROTECTION AGENCY, ET AL. *v.* PPG INDUSTRIES, INC., ET AL. C. A. 5th Cir. Certiorari granted. Reported below: 587 F. 2d 237.

No. 79-105. CURTISS-WRIGHT CORP. *v.* GENERAL ELECTRIC Co. C. A. 3d Cir. Certiorari granted. Reported below: 597 F. 2d 35.

No. 78-1177. WHITE MOUNTAIN APACHE TRIBE ET AL. *v.* BRACKER ET AL. Ct. App. Ariz. Certiorari granted limited to Questions 1, 2, and 5 presented by the petition, and case set for oral argument in tandem with No. 78-1604, *Central Machinery Co. v. Arizona State Tax Commission* [probable jurisdiction noted, *supra*, p. 822]. Reported below: 120 Ariz. 282, 585 P. 2d 891.

No. 78-1577. SEARS, ROEBUCK & Co. *v.* COUNTY OF LOS ANGELES ET AL. Ct. App. Cal., 2d App. Dist. Certiorari granted. MR. JUSTICE STEWART took no part in the consideration or decision of this petition. Reported below: 85 Cal. App. 3d 763, 149 Cal. Rptr. 750.

No. 78-1832. CUYLER, CORRECTIONAL SUPERINTENDENT, ET AL. *v.* SULLIVAN. C. A. 3d Cir. Motion of respondent for leave to proceed *in forma pauperis* and certiorari granted. Reported below: 593 F. 2d 512.

October 1, 1979

444 U. S.

No. 78-1874. MASSACHUSETTS *v.* MEEHAN. Sup. Jud. Ct. Mass. Motion of respondent for leave to proceed *in forma pauperis* and certiorari granted. Reported below: 377 Mass. 552, 387 N. E. 2d 527.

No. 78-1888. MAHER, COMMISSIONER OF INCOME MAINTENANCE OF CONNECTICUT *v.* GAGNE. C. A. 2d Cir. Motion of respondent for leave to proceed *in forma pauperis* and certiorari granted. Reported below: 594 F. 2d 336.

No. 79-8. UNITED STATES *v.* RADDATZ. C. A. 7th Cir. Motion of respondent for leave to proceed *in forma pauperis* and certiorari granted. Reported below: 592 F. 2d 976.

No. 79-121. UNITED STATES *v.* HENRY. C. A. 4th Cir. Motion of respondent for leave to proceed *in forma pauperis* and certiorari granted. Reported below: 590 F. 2d 544.

No. 78-6809. JENKINS *v.* ANDERSON, WARDEN. C. A. 6th Cir. Motion of petitioner for leave to proceed *in forma pauperis* and certiorari granted. Reported below: 599 F. 2d 1055.

No. 79-97. CALIFORNIA RETAIL LIQUOR DEALERS ASSN. *v.* MIDCAL ALUMINUM, INC., ET AL. Ct. App. Cal., 3d App. Dist. Certiorari granted. MR. JUSTICE BRENNAN took no part in the consideration or decision of this petition. Reported below: 90 Cal. App. 3d 979, 153 Cal. Rptr. 757.

Certiorari Denied. (See also Nos. 78-1671, 78-1833, 78-6645, 78-6743, 78-6765, 78-6768, 78-6771, 78-6875, 78-6876, 78-6896, 78-6904, 79-5072, and 79-5100, *supra*.)

No. 78-1218. SMITH *v.* MICHOT, SUPERINTENDENT OF EDUCATION OF LOUISIANA. C. A. 5th Cir. Certiorari denied. Reported below: 583 F. 2d 540.

No. 78-1351. INDIANA & MICHIGAN ELECTRIC Co. *v.* UNITED STEELWORKERS OF AMERICA, AFL-CIO-CLC. C. A. 4th Cir. Certiorari denied. Reported below: 588 F. 2d 1352.

444 U.S.

October 1, 1979

No. 78-1386. *SHERMAN v. AMERICAN FEDERATION OF MUSICIANS*. C. A. 10th Cir. Certiorari denied. Reported below: 588 F. 2d 1313.

No. 78-1402. *WILBOURN v. LOUISIANA*. Sup. Ct. La. Certiorari denied. Reported below: 364 So. 2d 995.

No. 78-1407. *BOONE v. LOUISIANA*. Sup. Ct. La. Certiorari denied. Reported below: 364 So. 2d 978.

No. 78-1423. *OLITT v. MURPHY, JUDGE, ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 591 F. 2d 1331.

No. 78-1449. *HARTMAN ET AL. v. VIRGINIA*. Cir. Ct. Prince William County, Va. Certiorari denied.

No. 78-1462. *WHAT IT IS, INC., ET AL. v. JACKSON, MAYOR OF ATLANTA, ET AL.* Ct. App. Ga. Certiorari denied. Reported below: 146 Ga. App. 574, 246 S. E. 2d 693.

No. 78-1468. *FIRST NATIONAL BANK OF PEORIA v. CHILDS*. C. A. 7th Cir. Certiorari denied. Reported below: 583 F. 2d 918.

No. 78-1494. *STOVALL ET AL. v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 590 F. 2d 338.

No. 78-1498. *MICHEL ET AL. v. UNITED STATES*; and
No. 78-6412. *BELMARES v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 588 F. 2d 986.

No. 78-1499. *MILESTONE v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 591 F. 2d 1337.

No. 78-1506. *MACE v. MATTHEWS, MAYOR OF NEWBURYPORT*. Sup. Jud. Ct. Mass. Certiorari denied.

No. 78-1512. *SCHWARTZ v. GILSTER, SHERIFF*. C. A. 8th Cir. Certiorari denied. Reported below: 590 F. 2d 341.

No. 78-1518. *GRIFFIN v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 589 F. 2d 200.

October 1, 1979

444 U. S.

No. 78-1520. ALABAMA HOSPITAL ASSN. ET AL. *v.* HARRIS, SECRETARY OF HEALTH, EDUCATION, AND WELFARE, ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 587 F. 2d 762.

No. 78-1526. ABEL ET AL. *v.* UNITED STATES. Ct. Cl. Certiorari denied.

No. 78-1538. CALLAHAN ET AL. *v.* KIMBALL ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 590 F. 2d 768.

No. 78-1539. KEAUKAHA-PANAWEA COMMUNITY ASSN. ET AL. *v.* HAWAIIAN HOMES COMMISSION ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 588 F. 2d 1216.

No. 78-1540. GREENWALD *v.* CITY OF NORTH MIAMI BEACH, FLORIDA, ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 587 F. 2d 779.

No. 78-1547. SUN OIL COMPANY OF PENNSYLVANIA *v.* MARSHALL, SECRETARY OF LABOR. C. A. 10th Cir. Certiorari denied. Reported below: 592 F. 2d 563.

No. 78-1551. ETHIER *v.* UNITED STATES POSTAL SERVICE ET AL. C. A. 8th Cir. Certiorari denied. Reported below: 590 F. 2d 733.

No. 78-1561. CALLAHAN *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 588 F. 2d 1078.

No. 78-1567. HOLLEMAN *v.* UNITED STATES;

No. 78-1568. WINDERS *v.* UNITED STATES;

No. 78-1569. EDWARDS *v.* UNITED STATES; and

No. 78-1570. HARRIS *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 591 F. 2d 1340.

No. 78-1571. WOO *v.* SECURITIES AND EXCHANGE COMMISSION. C. A. D. C. Cir. Certiorari denied. Reported below: 191 U. S. App. D. C. 224, 590 F. 2d 356.

No. 78-1573. JOHNSON *v.* OHIO. Ct. App. Ohio, Cuyahoga County. Certiorari denied.

444 U.S.

October 1, 1979

No. 78-1581. *WILLIAMS v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 595 F. 2d 1227.

No. 78-1584. *MILL v. ALASKA*. Sup. Ct. Alaska. Certiorari denied. Reported below: 585 P. 2d 546.

No. 78-1586. *WINKLE v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 587 F. 2d 705.

No. 78-1596. *LOPEZ v. NEW YORK*. App. Div., Sup. Ct. N. Y., 1st Jud. Dept. Certiorari denied. Reported below: 67 App. Div. 2d 624, 411 N. Y. S. 2d 627.

No. 78-1597. *CERTIFIED GROCERS OF CALIFORNIA, LTD. v. LEYVA ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 593 F. 2d 857.

No. 78-1606. *GOUGER ET VIR v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 591 F. 2d 101.

No. 78-1607. *MARYLAND LUMBER CO. v. UNITED STATES ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 588 F. 2d 419.

No. 78-1608. *WARDELL v. TEXAS*. Ct. Crim. App. Tex. Certiorari denied. Reported below: 571 S. W. 2d 952.

No. 78-1609. *GOINS v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 593 F. 2d 88.

No. 78-1616. *ROGERS ET AL. v. BROCKETTE ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 588 F. 2d 1057.

No. 78-1617. *BAY MEDICAL CENTER, INC. v. NATIONAL LABOR RELATIONS BOARD*. C. A. 6th Cir. Certiorari denied. Reported below: 588 F. 2d 1174.

No. 78-1623. *FOWLER v. STRICKLAND, REVENUE COMMISSIONER OF GEORGIA*. Sup. Ct. Ga. Certiorari denied. Reported below: 243 Ga. 30, 252 S. E. 2d 459.

October 1, 1979

444 U. S.

No. 78-1625. *STONES v. CALIFORNIA*. Ct. App. Cal., 2d App. Dist. Certiorari denied.

No. 78-1627. *CRAMER v. ILLINOIS*. App. Ct. Ill., 4th Dist. Certiorari denied. Reported below: 64 Ill. App. 3d 688, 381 N. E. 2d 827.

No. 78-1628. *HANRAHAN ET AL. v. ILLINOIS*. App. Ct. Ill., 1st Dist. Certiorari denied. Reported below: 64 Ill. App. 3d 207, 380 N. E. 2d 1075.

No. 78-1631. *BERLIN v. NATHAN ET AL.* App. Ct. Ill., 1st Dist. Certiorari denied. Reported below: 64 Ill. App. 3d 940, 381 N. E. 2d 1367.

No. 78-1632. *R. M. SMITH, INC. v. COMMISSIONER OF INTERNAL REVENUE*. C. A. 3d Cir. Certiorari denied. Reported below: 591 F. 2d 248.

No. 78-1633. *HALLMAN v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 594 F. 2d 198.

No. 78-1634. *UNITED STEELWORKERS OF AMERICA, AFL-CIO-CLC v. SOLIEN, REGIONAL DIRECTOR, NATIONAL LABOR RELATIONS BOARD, ET AL.* C. A. 8th Cir. Certiorari denied. Reported below: 593 F. 2d 82.

No. 78-1637. *SHANAHAN v. BOARD OF TRUSTEES OF THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM OF NEW JERSEY ET AL.* Super. Ct. N. J. Certiorari denied.

No. 78-1639. *MORRISON ET AL. v. STETSON, SECRETARY OF THE AIR FORCE*. C. A. D. C. Cir. Certiorari denied. Reported below: 191 U. S. App. D. C. 225, 590 F. 2d 356.

No. 78-1642. *ST. REGIS PAPER Co. v. MARSHALL, SECRETARY OF LABOR, ET AL.* C. A. 10th Cir. Certiorari denied. Reported below: 591 F. 2d 612.

No. 78-1644. *KANE v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 591 F. 2d 1337.

444 U.S.

October 1, 1979

No. 78-1647. *L. H. FEDER CORP., DBA PIONEER INSTITUTIONAL TRADING CO. v. ATLANTIC OVERSEAS CORP.* C. A. 2d Cir. Certiorari denied. Reported below: 594 F. 2d 851.

No. 78-1648. *JARECKI ET AL. v. UNITED STATES.* C. A. 7th Cir. Certiorari denied. Reported below: 590 F. 2d 670.

No. 78-1652. *HODDER ET AL. v. UNITED STATES NUCLEAR REGULATORY COMMISSION ET AL.* C. A. D. C. Cir. Certiorari denied. Reported below: 191 U. S. App. D. C. 212, 589 F. 2d 1115.

No. 78-1656. *INDEPENDENT STAVE CO., DIVERSIFIED INDUSTRIES DIVISION v. NATIONAL LABOR RELATIONS BOARD.* C. A. 8th Cir. Certiorari denied. Reported below: 591 F. 2d 443.

No. 78-1658. *GORDON v. UNITED STATES.* C. A. 6th Cir. Certiorari denied. Reported below: 595 F. 2d 1226.

No. 78-1663. *NEW YORK STATE TEAMSTERS CONFERENCE PENSION AND RETIREMENT FUND ET AL. v. PENSION BENEFIT GUARANTY CORP. ET AL.* C. A. D. C. Cir. Certiorari denied. Reported below: 192 U. S. App. D. C. 344, 591 F. 2d 953.

No. 78-1667. *CITIZENS BANK & TRUST COMPANY OF PARK RIDGE, ILLINOIS v. FEDERAL DEPOSIT INSURANCE CORP.* C. A. 7th Cir. Certiorari denied. Reported below: 592 F. 2d 364.

No. 78-1668. *BYRD ET AL. v. CITY OF SAN ANTONIO, TEXAS, ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 587 F. 2d 184.

No. 78-1669. *FOX ET AL. v. GENERAL TELEPHONE COMPANY OF WISCONSIN.* Ct. App. Wis. Certiorari denied. Reported below: 85 Wis. 2d 698, 271 N. W. 2d 161.

No. 78-1670. *MILLEN v. UNITED STATES.* C. A. 6th Cir. Certiorari denied. Reported below: 594 F. 2d 1085.

October 1, 1979

444 U. S.

No. 78-1672. *BOISE CASCADE CORP. v. UNITED STEELWORKERS OF AMERICA, AFL-CIO, LOCAL UNION No. 7001.* C. A. 5th Cir. Certiorari denied. Reported below: 588 F. 2d 127.

No. 78-1673. *MARENGO COUNTY BOARD OF EDUCATION v. LEE ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 588 F. 2d 1134.

No. 78-1674. *L. W. BENNETT & SONS, INC. v. ANICHINAPEO ET AL.* App. Div., Sup. Ct. N. Y., 3d Jud. Dept. Certiorari denied. Reported below: 65 App. Div. 2d 105, 411 N. Y. S. 2d 414.

No. 78-1677. *PACIFIC LEGAL FOUNDATION ET AL. v. DEPARTMENT OF TRANSPORTATION.* C. A. D. C. Cir. Certiorari denied. Reported below: 193 U. S. App. D. C. 184, 593 F. 2d 1338.

No. 78-1679. *CANAL BARGE Co., INC. v. PPG INDUSTRIES, INC., ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 592 F. 2d 138.

No. 78-1682. *FORAN v. METZ, CORRECTIONAL SUPERINTENDENT.* C. A. 2d Cir. Certiorari denied.

No. 78-1685. *CBS INC. v. UNITED STATES DISTRICT COURT FOR THE CENTRAL DISTRICT OF CALIFORNIA ET AL.* C. A. 9th Cir. Certiorari denied.

No. 78-1686. *HOFFMAN v. UNITED STATES.* C. A. 2d Cir. Certiorari denied. Reported below: 595 F. 2d 1209.

No. 78-1687. *WHITE v. OFFICE OF PERSONNEL MANAGEMENT ET AL.* C. A. D. C. Cir. Certiorari denied. Reported below: 191 U. S. App. D. C. 190, 589 F. 2d 713.

No. 78-1690. *UNION BANK v. BLOOR, TRUSTEE, ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 592 F. 2d 134.

444 U. S.

October 1, 1979

No. 78-1692. *SOLOMON v. WEST VIRGINIA*. Sup. Ct. App. W. Va. Certiorari denied.

No. 78-1694. *C. DOUGLAS WILSON & Co. v. INSURANCE COMPANY OF NORTH AMERICA ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 590 F. 2d 1275.

No. 78-1696. *DAYTON HYDRAULIC CO. v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 592 F. 2d 937.

No. 78-1698. *DE TENORIO ET AL. v. LIGHTSEY ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 589 F. 2d 911.

No. 78-1699. *AYERS ET AL. v. SPARTAN GRAIN & MILL CO.* C. A. 5th Cir. Certiorari denied. Reported below: 581 F. 2d 419.

No. 78-1700. *CONROY ET AL. v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 589 F. 2d 1258.

No. 78-1705. *MCCUTCHEON v. CHICAGO BOARD OF EDUCATION ET AL.* C. A. 7th Cir. Certiorari denied.

No. 78-1706. *CROUCH v. UNITED STATES*. C. A. 9th Cir. Certiorari denied.

No. 78-1707. *DALY v. NEBRASKA*. Sup. Ct. Neb. Certiorari denied. Reported below: 202 Neb. 217, 274 N. W. 2d 557.

No. 78-1708. *SHAPIRO v. COLUMBIA UNION NATIONAL BANK & TRUST CO. ET AL.* Sup. Ct. Mo. Certiorari denied. Reported below: 576 S. W. 2d 310.

No. 78-1709. *JACKSON ET AL. v. GEORGIA*. Super. Ct. Ga., Fulton County. Certiorari denied.

No. 78-1701. *PARKER, TRUSTEE IN BANKRUPTCY v. KLOCHKO EQUIPMENT RENTAL CO., INC., ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 590 F. 2d 649.

October 1, 1979

444 U.S.

No. 78-1714. *POSTAL ET AL. v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 589 F. 2d 862.

No. 78-1716. *21ST PHOENIX CORP. ET AL. v. ENGLISH ET AL.* C. A. 8th Cir. Certiorari denied. Reported below: 590 F. 2d 723.

No. 78-1717. *DOTTINO v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 595 F. 2d 1214.

No. 78-1719. *SKEHAN v. BOARD OF TRUSTEES OF BLOOMSBURG STATE COLLEGE ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 590 F. 2d 470.

No. 78-1721. *WLLE, INC. v. FEDERAL COMMUNICATIONS COMMISSION*. C. A. D. C. Cir. Certiorari denied.

No. 78-1722. *BENNER ET AL. v. OSWALD ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 592 F. 2d 174.

No. 78-1725. *ARTICLES OF FOOD v. UNITED STATES*. C. A. 8th Cir. Certiorari denied.

No. 78-1726. *SOUTHARD ET AL. v. FORBES, INC.* C. A. 5th Cir. Certiorari denied. Reported below: 588 F. 2d 140.

No. 78-1727. *FRESNO UNIFIED SCHOOL DISTRICT ET AL. v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 592 F. 2d 1088.

No. 78-1730. *SMITH v. FEDERAL DEPOSIT INSURANCE CORP. ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 594 F. 2d 242.

No. 78-1731. *NEW MEXICO ET AL. v. UNITED STATES*. C. A. 10th Cir. Certiorari denied. Reported below: 590 F. 2d 323.

No. 78-1732. *H. RAY BAKER, INC., ET AL. v. ASSOCIATED BANKING CORP.* C. A. 9th Cir. Certiorari denied. Reported below: 592 F. 2d 550.

444 U.S.

October 1, 1979

No. 78-1734. *GOLOMB v. WADSWORTH*. C. C. P. A. Certiorari denied. Reported below: 592 F. 2d 1184.

No. 78-1740. *LUBBOCK POSTER Co. v. CITY OF LUBBOCK, TEXAS, ET AL.* Ct. Civ. App. Tex., 7th Sup. Jud. Dist. Certiorari denied. Reported below: 569 S. W. 2d 935.

No. 78-1741. *ALABAMA v. ZUCK*. C. A. 5th Cir. Certiorari denied. Reported below: 588 F. 2d 436.

No. 78-1742. *WOLF v. ILLINOIS*; and

No. 78-1744. *BERLAND v. ILLINOIS*. Sup. Ct. Ill. Certiorari denied. Reported below: 74 Ill. 2d 286, 385 N. E. 2d 649.

No. 78-1745. *SIMKO, ADMINISTRATOR, ET AL. v. C & C MARINE MAINTENANCE Co. ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 594 F. 2d 960.

No. 78-1746. *DIAZ-BUXO v. MONGE, CHIEF JUSTICE, SUPREME COURT OF PUERTO RICO, ET AL.* C. A. 1st Cir. Certiorari denied. Reported below: 593 F. 2d 153.

No. 78-1747. *UNITED STATES BREWERS ASSN., INC., ET AL. v. PEREZ, SECRETARY, DEPARTMENT OF TREASURY OF PUERTO RICO, ET AL.* C. A. 1st Cir. Certiorari denied. Reported below: 592 F. 2d 1212.

No. 78-1748. *LEAVITT ET AL. v. UNITED STATES*. C. A. 10th Cir. Certiorari denied. Reported below: 599 F. 2d 355.

No. 78-1751. *McPARTLIN v. UNITED STATES*;

No. 78-1754. *BULL v. UNITED STATES*;

No. 78-1755. *JANICKI v. UNITED STATES*; and

No. 78-1903. *INGRAM v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 595 F. 2d 1321.

No. 78-1753. *TOOKE ET UX. v. COMMISSIONER OF INTERNAL REVENUE*. C. A. 9th Cir. Certiorari denied. Reported below: 595 F. 2d 1229.

October 1, 1979

444 U.S.

No. 78-1757. *RENZ ET AL. v. BEEMAN, TRUSTEE, ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 589 F. 2d 735.

No. 78-1758. *BRICKLAYERS FRINGE BENEFIT FUNDS, METROPOLITAN AREA, ET AL. v. NORTH PERRY BAPTIST CHURCH OF PONTIAC ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 590 F. 2d 207.

No. 78-1759. *HELM, GUARDIAN AD LITEM v. PACIFIC POWER & LIGHT CO. ET AL.* C. A. 9th Cir. Certiorari denied.

No. 78-1760. *OREGON v. FONDREN.* Sup. Ct. Ore. Certiorari denied. Reported below: 285 Ore. 361, 591 P. 2d 1374.

No. 78-1764. *RYAN v. UNITED STATES.* C. A. 9th Cir. Certiorari denied. Reported below: 594 F. 2d 242.

No. 78-1766. *MENDOLA ET AL. v. LEES CARPETS ET AL.* C. A. 7th Cir. Certiorari denied. Reported below: 590 F. 2d 337.

No. 78-1767. *WILMINGTON TRUST CO. v. PENN CENTRAL TRANSPORTATION CO.* C. A. 3d Cir. Certiorari denied. Reported below: 596 F. 2d 1127.

No. 78-1768. *ROWEN v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. Reported below: 594 F. 2d 98.

No. 78-1769. *NICKOLS v. KENTUCKY.* Sup. Ct. Ky. Certiorari denied. Reported below: See 585 S. W. 2d 414.

No. 78-1770. *KAYE v. UNITED STATES.* C. A. 7th Cir. Certiorari denied. Reported below: 595 F. 2d 1121.

No. 78-1771. *WEIBEL v. CLARK, DBA CLARK BUILDING, ET AL.* Sup. Ct. Wis. Certiorari denied. Reported below: 87 Wis. 2d 696, 275 N. W. 2d 686.

444 U. S.

October 1, 1979

No. 78-1773. BECKFORD ET AL. *v.* DADE COUNTY SCHOOL BOARD. C. A. 5th Cir. Certiorari denied. Reported below: 588 F. 2d 501.

No. 78-1774. ADAMS ET AL. *v.* UNITED STATES ET AL. Temp. Emerg. Ct. App. Certiorari denied.

No. 78-1775. SCHAFER ET AL. *v.* PENN CENTRAL CORP. ET AL. C. A. 3d Cir. Certiorari denied. Reported below: 596 F. 2d 1155.

No. 78-1776. KEY *v.* PENN CENTRAL CORP. ET AL. C. A. 3d Cir. Certiorari denied.

No. 78-1777. BREWERY DRIVERS & HELPERS LOCAL NO. 133 *v.* GREY EAGLE DISTRIBUTORS, INC., ET AL. C. A. 8th Cir. Certiorari denied. Reported below: 593 F. 2d 288.

No. 78-1778. MOORE *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 594 F. 2d 865.

No. 78-1781. IN RE LEFKOWITZ. C. A. 2d Cir. Certiorari denied. Reported below: 603 F. 2d 213.

No. 78-1782. BOWLING *v.* MATHEWS ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 587 F. 2d 229.

No. 78-1783. SIMONS ET UX. *v.* UNITED STATES ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 592 F. 2d 251.

No. 78-1784. MANSION HOUSE CENTER NORTH REDEVELOPMENT CO. ET AL. *v.* UNITED STATES ET AL. C. A. 8th Cir. Certiorari denied. Reported below: 594 F. 2d 653.

No. 78-1785. GROGAN ET AL. *v.* KENTUCKY ET AL. Sup. Ct. Ky. Certiorari denied. Reported below: 577 S. W. 2d 4.

No. 78-1787. BARBER *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 594 F. 2d 1242.

October 1, 1979

444 U.S.

No. 78-1788. *HENRY POLLAK, INC., ET AL. v. MILLER, SECRETARY OF THE TREASURY, ET AL.* C. A. D. C. Cir. Certiorari denied. Reported below: 193 U. S. App. D. C. 217, 593 F. 2d 1371.

No. 78-1790. *DAVIS v. GENERAL MOTORS CORP.* C. A. 7th Cir. Certiorari denied. Reported below: 588 F. 2d 840.

No. 78-1792. *WORNOCK ET AL. v. UNITED STATES.* C. A. 7th Cir. Certiorari denied. Reported below: 595 F. 2d 1121.

No. 78-1794. *COUGHLIN, COMMISSIONER, NEW YORK STATE OFFICE OF MENTAL RETARDATION AND DEVELOPMENTAL DISABILITIES, ET AL. v. NEW YORK STATE ASSOCIATION FOR RETARDED CHILDREN, INC., ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 596 F. 2d 27.

No. 78-1795. *HARDWICK v. NU-WAY OIL Co., INC., ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 589 F. 2d 806.

No. 78-1796. *GRAHAM ET AL. v. UNITED STATES.* C. A. 2d Cir. Certiorari denied.

No. 78-1797. *NEWHOUSE v. UNITED STATES.* C. A. 2d Cir. Certiorari denied. Reported below: 603 F. 2d 216.

No. 78-1798. *BLUE DIAMOND COAL Co. v. BOGGS ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 590 F. 2d 655.

No. 78-1800. *LOUCHHEIM v. NORTH CAROLINA.* Sup. Ct. N. C. Certiorari denied. Reported below: 296 N. C. 314, 250 S. E. 2d 630.

No. 78-1802. *AMERICAN MOTORS SALES CORP. v. DIVISION OF MOTOR VEHICLES OF VIRGINIA ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 592 F. 2d 219.

No. 78-1805. *McTIGHE v. UNIVERSITY OF THE AMERICAS FOUNDATION, INC., ET AL.* Ct. App. Ky. Certiorari denied. Reported below: 581 S. W. 2d 365.

444 U.S.

October 1, 1979

No. 78-1806. *BRANDON ET AL. v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 599 F. 2d 112.

No. 78-1807. *AULT v. GEORGIA*. Ct. App. Ga. Certiorari denied. Reported below: 148 Ga. App. 761, 252 S. E. 2d 668.

No. 78-1809. *PEREZ v. STEVENS*. Dist. Ct. App. Fla., 3d Dist. Certiorari denied. Reported below: 362 So. 2d 998.

No. 78-1810. *WEST v. JANING, SHERIFF*. Sup. Ct. Neb. Certiorari denied. Reported below: 202 Neb. 141, 274 N. W. 2d 161.

No. 78-1813. *SLOAN v. RAICHLER, TRUSTEE, ET AL.* C. A. 2d Cir. Certiorari denied.

No. 78-1814. *MELVIN v. UNITED STATES*. C. A. 1st Cir. Certiorari denied. Reported below: 596 F. 2d 492.

No. 78-1816. *PARNES v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 595 F. 2d 1209.

No. 78-1817. *FORD MOTOR CREDIT CO. v. COLONIAL FORD, INC.*; and

No. 78-1818. *FORD MOTOR CO. v. COLONIAL FORD, INC.* C. A. 10th Cir. Certiorari denied. Reported below: 592 F. 2d 1126.

No. 78-1820. *ASSOCIATED THIRD CLASS MAIL USERS v. UNITED STATES POSTAL SERVICE ET AL.* C. A. D. C. Cir. Certiorari denied. Reported below: 195 U. S. App. D. C. 10, 600 F. 2d 824.

No. 78-1822. *VILA v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 599 F. 2d 21.

No. 78-1823. *TEAMSTERS LOCAL UNION NO. 30 ET AL. v. HELMS EXPRESS, INC., A DIVISION OF RYDER TRUCK LINES, ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 591 F. 2d 211.

October 1, 1979

444 U.S.

No. 78-1824. *IN RE SCHULMAN*. C. A. 6th Cir. Certiorari denied. Reported below: 599 F.2d 1056.

No. 78-1825. *LIBERTY LIFE INSURANCE CO. v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 594 F.2d 21.

No. 78-1826. *RESETAR v. STATE BOARD OF EDUCATION OF MARYLAND ET AL.* Ct. App. Md. Certiorari denied. Reported below: 284 Md. 537, 399 A.2d 225.

No. 78-1827. *MOORE v. MOORE*. Ct. App. D. C. Certiorari denied. Reported below: 398 A.2d 32.

No. 78-1829. *MIKE ET AL. v. SIGMA NU FRATERNITY ET AL.* Ct. App. Ind. Certiorari denied.

No. 78-1830. *IAMPIERI v. MARYLAND*. Ct. Sp. App. Md. Certiorari denied.

No. 78-1831. *HESSTON CORP. v. DEERE & Co.* C. A. 10th Cir. Certiorari denied. Reported below: 593 F.2d 956.

No. 78-1834. *MUÑIZ ET AL. v. SOUTH PUERTO RICO SUGAR CORP. ET AL.* Super. Ct. P. R., Ponce Sec. Certiorari denied.

No. 78-1835. *WOLD v. WOLD ET AL.* C. A. 7th Cir. Certiorari denied. Reported below: 601 F.2d 593.

No. 78-1837. *ELLIS ET AL. v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 595 F.2d 154.

No. 78-1842. *GOLDMAN v. MERRILL LYNCH, PIERCE, FENNER & SMITH, INC.*; and *GOLDMAN v. MEREDITH, CHIEF JUDGE, U. S. DISTRICT COURT, ET AL.* C. A. 8th Cir. Certiorari denied. Reported below: 593 F.2d 129 (first case); 596 F.2d 1353 (second case).

No. 78-1843. *SCHONWALD v. NEW JERSEY*. Super. Ct. N. J. Certiorari denied.

444 U. S.

October 1, 1979

No. 78-1844. UNION ELECTRIC CO. *v.* ENVIRONMENTAL PROTECTION AGENCY. C. A. 8th Cir. Certiorari denied. Reported below: 593 F. 2d 299.

No. 78-1846. STOVALL ET AL. *v.* PATTERSON ET AL. C. A. 7th Cir. Certiorari denied. Reported below: 590 F. 2d 338.

No. 78-1847. GERACI *v.* ST. XAVIER HIGH SCHOOL ET AL. Ct. App. Ohio, Hamilton County. Certiorari denied.

No. 78-1848. UNITED STATES EX REL. PETROFSKY *v.* VAN COTT, BAGLEY, CORNWALL & MCCARTHY ET AL. C. A. 10th Cir. Certiorari denied. Reported below: 588 F. 2d 1327.

No. 78-1851. HARRIS *v.* H. SCHULDT REEDEREI. C. A. 4th Cir. Certiorari denied.* Reported below: 596 F. 2d 92.

No. 78-1853. McDONNELL DOUGLAS CORP. *v.* GENERAL TELEPHONE COMPANY OF CALIFORNIA ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 594 F. 2d 720.

No. 78-1857. BLASI *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied. Reported below: 601 F. 2d 594.

No. 78-1858. NATIONAL CAUCUS OF LABOR COMMITTEES ET AL. *v.* INTERNATIONAL UNION, UNITED AUTOMOBILE, AEROSPACE & AGRICULTURAL IMPLEMENT WORKERS OF AMERICA (UAW). C. A. 2d Cir. Certiorari denied.

No. 78-1859. GREY LINE AUTO PARTS, INC. *v.* THARP ET AL. C. A. 4th Cir. Certiorari denied. Reported below: 598 F. 2d 616.

No. 78-1860. LEAVITT *v.* FLORIDA. Dist. Ct. App. Fla., 1st Dist. Certiorari denied. Reported below: 369 So. 2d 993.

No. 78-1861. MIKE YUROSEK & SONS, INC. *v.* NATIONAL LABOR RELATIONS BOARD ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 597 F. 2d 661.

*[REPORTER'S NOTE: This order was vacated on May 4, 1981. 451 U. S. 965.]

October 1, 1979

444 U.S.

No. 78-1863. *PEREZ, SECRETARY OF THE TREASURY OF PUERTO RICO, ET AL. v. RODRIGUEZ DE QUIÑONEZ ET AL.* C. A. 1st Cir. Certiorari denied. Reported below: 596 F. 2d 486.

No. 78-1864. *BROWN v. UNITED STATES.* C. A. 10th Cir. Certiorari denied. Reported below: 594 F. 2d 1330.

No. 78-1865. *MCCABE v. GREENBERG*; and

No. 78-1875. *MCCABE v. GREENBERG.* C. A. 3d Cir. Certiorari denied. Reported below: 594 F. 2d 854.

No. 78-1866. *INTERNATIONAL ASSOCIATION OF MACHINISTS & AEROSPACE WORKERS, LODGE No. 82 v. DETROIT COIL CO.* C. A. 6th Cir. Certiorari denied. Reported below: 594 F. 2d 575.

No. 78-1867. *AMALGAMATED MEAT CUTTERS & BUTCHER WORKMEN OF NORTH AMERICA, AFL-CIO, ET AL. v. IOWA BEEF PROCESSORS, INC.* C. A. 8th Cir. Certiorari denied. Reported below: 597 F. 2d 1138.

No. 78-1868. *LEMELSON v. CENTSABLE PRODUCTS, INC.* C. A. 7th Cir. Certiorari denied. Reported below: 591 F. 2d 400.

No. 78-1869. *REHAHN ET AL. v. GENERAL MOTORS CORP. ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 595 F. 2d 1225.

No. 78-1872. *BRIGHTON BUILDING & MAINTENANCE CO. ET AL. v. UNITED STATES*; and

No. 79-111. *PALUMBO EXCAVATING CO. ET AL. v. UNITED STATES.* C. A. 7th Cir. Certiorari denied. Reported below: 598 F. 2d 1101.

No. 78-1876. *DEL RIO DISTRIBUTORS, INC. v. ADOLPH COORS CO.* C. A. 5th Cir. Certiorari denied. Reported below: 589 F. 2d 176.

444 U. S.

October 1, 1979

No. 78-1873. *GABAUER ET AL. v. WOODCOCK ET AL.* C. A. 8th Cir. Certiorari denied. Reported below: 594 F. 2d 662.

No. 78-1877. *VISERTO ET AL. v. UNITED STATES.* C. A. 2d Cir. Certiorari denied. Reported below: 596 F. 2d 531.

No. 78-1879. *GALANTE ET AL. v. STEEL CITY NATIONAL BANK OF CHICAGO ET AL.* App. Ct. Ill., 1st Dist. Certiorari denied. Reported below: 66 Ill. App. 3d 476, 384 N. E. 2d 57.

No. 78-1880. *BOARD OF ASSESSORS OF THE CITY OF BOSTON v. TREGOR, TRUSTEE.* Sup. Jud. Ct. Mass. Certiorari denied. Reported below: 377 Mass. 602, 387 N. E. 2d 538.

No. 78-1883. *EXECUTIVE JET AVIATION, INC. v. BOYLE, U. S. DISTRICT JUDGE.* C. A. 6th Cir. Certiorari denied.

No. 78-1884. *LERNER, ADMINISTRATOR v. HAAS ET AL.* Sup. Ct. Pa. Certiorari denied.

No. 78-1885. *DEPLANE v. CALIFORNIA.* Ct. App. Cal., 2d App. Dist. Certiorari denied. Reported below: 88 Cal. App. 3d 223, 151 Cal. Rptr. 843.

No. 78-1886. *SIRICO ET AL. v. UNITED STATES.* C. A. 3d Cir. Certiorari denied. Reported below: 595 F. 2d 1215.

No. 78-1887. *SMITH v. ATTORNEY REGISTRATION AND DISCIPLINARY COMMISSION OF THE SUPREME COURT OF ILLINOIS.* Sup. Ct. Ill. Certiorari denied. Reported below: 75 Ill. 2d 134, 387 N. E. 2d 316.

No. 78-1889. *BUTLER ET AL. v. GOLDBLATT BROS., INC., ET AL.;* and

No. 78-1908. *KOWALSKI ET AL. v. BUTLER ET AL.* C. A. 7th Cir. Certiorari denied. Reported below: 589 F. 2d 323.

No. 78-1890. *FRISSELL v. RIZZO, MAYOR OF PHILADELPHIA, ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 597 F. 2d 840.

October 1, 1979

444 U. S.

No. 78-1891. *LATTIMORE ET AL. v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 591 F. 2d 1151.

No. 78-1892. *CHAMBERLAIN v. KURTZ, COMMISSIONER OF INTERNAL REVENUE, ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 589 F. 2d 827.

No. 78-1893. *BIRELINE v. SEAGONDOLLAR ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 567 F. 2d 260.

No. 78-1894. *FORT PIERCE UTILITIES AUTHORITY OF THE CITY OF FORT PIERCE ET AL. v. UNITED STATES ET AL.* C. A. D. C. Cir. Certiorari denied. Reported below: 196 U. S. App. D. C. 79, 606 F. 2d 986.

No. 78-1895. *SEDAK, ATTORNEY GENERAL OF INDIANA v. CITIZENS ENERGY COALITION OF INDIANA, DBA CITIZENS ACTION COALITION OF INDIANA, ET AL.* C. A. 7th Cir. Certiorari denied. Reported below: 594 F. 2d 1158.

No. 78-1896. *KAHN ET AL. v. EAST BAY MUNICIPAL UTILITY DISTRICT*. Sup. Ct. Cal. Certiorari denied. Reported below: 23 Cal. 3d 839, 591 P. 2d 1249.

No. 78-1897. *HAK YUNG SZE v. UNITED STATES*. C. A. 2d Cir. Certiorari denied.

No. 78-1898. *ATLANTIC RICHFIELD Co. ET AL. v. NEWMAN OIL Co. ET AL.*; and

No. 78-1906. *ALKEK ET AL. v. NEWMAN OIL Co. ET AL.* Temp. Emerg. Ct. App. Certiorari denied. Reported below: 597 F. 2d 275.

No. 78-1899. *DEMOSS ET AL. v. INDIAN HEAD, INC.* Sup. Ct. Del. Certiorari denied. Reported below: 397 A. 2d 1378.

No. 78-1901. *HERSCHENSOHN ET AL. v. HOFFMAN ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 593 F. 2d 893.

444 U. S.

October 1, 1979

No. 78-1900. *SMYER ET AL. v. UNITED STATES*. C. A. 10th Cir. Certiorari denied. Reported below: 596 F. 2d 939.

No. 78-1910. *DAVIS v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 599 F. 2d 1049.

No. 78-1911. *ROBERT L. GUYLER Co. v. UNITED STATES*. Ct. Cl. Certiorari denied. Reported below: 219 Ct. Cl. 403, 593 F. 2d 406.

No. 78-1912. *PAPPAS v. ILLINOIS*. App. Ct. Ill., 1st Dist. Certiorari denied. Reported below: 66 Ill. App. 3d 360, 383 N. E. 2d 1190.

No. 78-1915. *YAFFE IRON & METAL CORP. v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 593 F. 2d 832.

No. 78-1916. *TONKA v. AMERICAN TELEPHONE & TELEGRAPH Co.* C. A. 5th Cir. Certiorari denied. Reported below: 592 F. 2d 1189.

No. 78-1919. *DAVILA v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 592 F. 2d 1261.

No. 78-1920. *EISENBERG v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 596 F. 2d 522.

No. 78-1923. *KITCHIN v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 592 F. 2d 900.

No. 78-1925. *MILLER & SON PAVING, INC. v. WRIGHTSTOWN TOWNSHIP CIVIC ASSN. ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 595 F. 2d 1213.

No. 78-1926. *SCHREIBER v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 599 F. 2d 534.

No. 78-1927. *GENOVESE v. ILLINOIS*. App. Ct. Ill., 2d Dist. Certiorari denied. Reported below: 65 Ill. App. 3d 819, 382 N. E. 2d 872.

October 1, 1979

444 U.S.

No. 78-1928. *STUART, CO-TRUSTEE, ET AL. v. CONTINENTAL ILLINOIS NATIONAL BANK & TRUST COMPANY OF CHICAGO, CO-TRUSTEE, ET AL.* Sup. Ct. Ill. Certiorari denied. Reported below: 75 Ill. 2d 22, 387 N. E. 2d 312.

No. 78-1929. *BRODY v. MONTALBANO ET AL.* Ct. App. Cal., 2d App. Dist. Certiorari denied. Reported below: 87 Cal. App. 3d 725, 151 Cal. Rptr. 206.

No. 78-1930. *THEODORE D. BROSS LINE CONSTRUCTION CORP. v. WENDELL, SECRETARY OF REVENUE OF SOUTH DAKOTA.* C. A. 2d Cir. Certiorari denied.

No. 78-1932. *NORTHERN ILLINOIS AUTOMOBILE WRECKERS & REBUILDERS ASSN. ET AL. v. DIXON, SECRETARY OF STATE OF ILLINOIS.* Sup. Ct. Ill. Certiorari denied. Reported below: 75 Ill. 2d 53, 387 N. E. 2d 320.

No. 78-1934. *AVARELLO v. UNITED STATES;*

No. 78-6924. *BOWERS v. UNITED STATES;* and

No. 79-18. *AVERY v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. Reported below: 592 F. 2d 1339.

No. 78-1935. *JOHN O. BUTLER Co. v. LAFF.* App. Ct. Ill., 1st Dist. Certiorari denied. Reported below: 64 Ill. App. 3d 603, 381 N. E. 2d 423.

No. 78-1938. *HAUSER v. UNITED STATES.* C. A. 9th Cir. Certiorari denied. Reported below: 595 F. 2d 1229.

No. 78-1939. *COLOGNINO v. UNITED STATES.* C. A. 2d Cir. Certiorari denied.

No. 78-1941. *INENDINO v. UNITED STATES.* C. A. 7th Cir. Certiorari denied. Reported below: 601 F. 2d 599.

No. 78-1942. *BROWN, COMMISSIONER OF PUBLIC SAFETY OF THE CITY OF ATLANTA v. MINTER.* Sup. Ct. Ga. Certiorari denied. Reported below: 243 Ga. 397, 254 S. E. 2d 326.

444 U.S.

October 1, 1979

No. 78-1944. *STEWART v. ATTORNEY GRIEVANCE COMMISSION OF MARYLAND*. Ct. App. Md. Certiorari denied. Reported below: 285 Md. 251, 401 A. 2d 1026.

No. 78-1946. *WILKES v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 601 F. 2d 604.

No. 78-1947. *ABRAMOVICH v. BOARD OF EDUCATION OF CENTRAL SCHOOL DISTRICT No. 1 OF THE TOWN OF BROOKHAVEN ET AL., SUFFOLK COUNTY, NEW YORK, AKA THREE VILLAGE CENTRAL SCHOOL DISTRICT No. 1*. Ct. App. N. Y. Certiorari denied. Reported below: 46 N. Y. 2d 450, 386 N. E. 2d 1077.

No. 78-1948. *BORRE v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 598 F. 2d 612.

No. 78-1949. *PARDON-GONZALEZ ET AL. v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 591 F. 2d 1091.

No. 78-6333. *WING v. WHITE, WARDEN*. C. A. 8th Cir. Certiorari denied.

No. 78-6378. *CHRISTIAN v. OREGON*. Ct. App. Ore. Certiorari denied. Reported below: 35 Ore. App. 339, 581 P. 2d 132.

No. 78-6388. *CLEMENT v. KANSAS*. Ct. App. Kan. Certiorari denied. Reported below: 2 Kan. App. 2d xxiii, 588 P. 2d 492.

No. 78-6406. *BECK v. HANBERRY, WARDEN*. C. A. 5th Cir. Certiorari denied. Reported below: 589 F. 2d 901.

No. 78-6424. *PONTING v. CALIFORNIA*. Sup. Ct. Cal. Certiorari denied. Reported below: 22 Cal. 3d 946, 587 P. 2d 1144.

No. 78-6454. *FOX v. HOPPER, WARDEN*. Super. Ct. Ga., Tattnall County. Certiorari denied.

October 1, 1979

444 U.S.

No. 78-6457. *MARLIN v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 595 F. 2d 1226.

No. 78-6458. *LINAM v. NEW MEXICO*. Sup. Ct. N. M. Certiorari denied. Reported below: 93 N. M. 307, 600 P. 2d 253.

No. 78-6478. *DODARO v. UNITED STATES*;

No. 78-6487. *LYNCH v. UNITED STATES*;

No. 78-6509. *BERTOLOTTI v. UNITED STATES*;

No. 78-6511. *DODARO v. UNITED STATES*; and

No. 78-6512. *MALATESTA v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 590 F. 2d 1379.

No. 78-6479. *MIMS v. FLORIDA*. Sup. Ct. Fla. Certiorari denied. Reported below: 368 So. 2d 1371.

No. 78-6481. *BACA v. UNITED STATES*. C. A. 10th Cir. Certiorari denied.

No. 78-6492. *TYNER v. PERINI, CORRECTIONAL SUPERINTENDENT*. C. A. 6th Cir. Certiorari denied. Reported below: 595 F. 2d 1225.

No. 78-6493. *WASHINGTON v. GEORGIA*. Sup. Ct. Ga. Certiorari denied. Reported below: 243 Ga. 329, 253 S. E. 2d 719.

No. 78-6514. *QUICK v. HARRIS, SECRETARY OF HEALTH, EDUCATION, AND WELFARE*. C. A. 4th Cir. Certiorari denied. Reported below: 580 F. 2d 1049.

No. 78-6531. *WALKER v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 603 F. 2d 216.

No. 78-6537. *LAWRENCE v. LOUISIANA*. Sup. Ct. La. Certiorari denied. Reported below: 365 So. 2d 1356.

No. 78-6546. *NORRIS v. WAINWRIGHT, SECRETARY, DEPARTMENT OF OFFENDER REHABILITATION OF FLORIDA*. C. A. 5th Cir. Certiorari denied. Reported below: 588 F. 2d 130.

444 U.S.

October 1, 1979

No. 78-6550. HAYES ET AL. *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 589 F. 2d 811.

No. 78-6554. McMAHON *v.* HARRIS, SECRETARY OF HEALTH, EDUCATION, AND WELFARE. C. A. 2d Cir. Certiorari denied. Reported below: 605 F. 2d 49.

No. 78-6565. SMITH *v.* LEEKE ET AL. C. A. 4th Cir. Certiorari denied. Reported below: 588 F. 2d 1351.

No. 78-6569. HOLDER *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. Reported below: 593 F. 2d 182.

No. 78-6572. LAWRENCE ET AL. *v.* FLORIDA; and BARFIELD *v.* FLORIDA. Dist. Ct. App. Fla., 1st Dist. Certiorari denied. Reported below: 357 So. 2d 424 (first case); 360 So. 2d 1251 (second case).

No. 78-6582. BRADLEY *v.* JAGO, CORRECTIONAL SUPERINTENDENT. C. A. 6th Cir. Certiorari denied. Reported below: 594 F. 2d 1100.

No. 78-6587. THOMAS *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 591 F. 2d 1342.

No. 78-6592. BRUNEAU *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied. Reported below: 594 F. 2d 1190.

No. 78-6593. PRIEST *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. Reported below: 594 F. 2d 1383.

No. 78-6597. NEVITT *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 595 F. 2d 1230.

No. 78-6598. NICHOLAS *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. Reported below: 603 F. 2d 214.

No. 78-6601. NELSON *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied. Reported below: 593 F. 2d 543.

No. 78-6605. TOWNES *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied. Reported below: 595 F. 2d 1215.

October 1, 1979

444 U.S.

No. 78-6611. *LERMA v. ESTELLE, CORRECTIONS DIRECTOR*. C. A. 5th Cir. Certiorari denied. Reported below: 585 F. 2d 1297.

No. 78-6612. *SCOTT v. UNITED STATES*. C. A. 10th Cir. Certiorari denied.

No. 78-6614. *OATLEY v. CITY OF ATHENS*. Ct. App. Ohio, Athens County. Certiorari denied.

No. 78-6615. *HENSON v. UNITED STATES*. Ct. App. D. C. Certiorari denied. Reported below: 399 A. 2d 16.

No. 78-6620. *CARDILLO v. UNITED STATES PAROLE COMMISSION ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 595 F. 2d 1211.

No. 78-6624. *WEEMS v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 594 F. 2d 860.

No. 78-6626. *KYLES v. GEORGIA*. Sup. Ct. Ga. Certiorari denied. Reported below: 243 Ga. 490, 255 S. E. 2d 10.

No. 78-6627. *HALL, AKA THOMAS v. NEW YORK*. Ct. App. N. Y. Certiorari denied. Reported below: 46 N. Y. 2d 873, 387 N. E. 2d 610.

No. 78-6629. *DOCTOR v. DOCTOR*. C. A. 9th Cir. Certiorari denied.

No. 78-6633. *ERB ET AL. v. UNITED STATES*. C. A. 10th Cir. Certiorari denied. Reported below: 596 F. 2d 412.

No. 78-6635. *SPRUYTTE v. KOEHLER, WARDEN*. C. A. 6th Cir. Certiorari denied. Reported below: 590 F. 2d 335.

No. 78-6638. *MEJIA v. RUE SERVICE CORP.* App. Term, Sup. Ct. N. Y., 1st Jud. Dept. Certiorari denied.

No. 78-6639. *COLLINS v. ALEXANDER, SECRETARY OF THE ARMY*. C. A. 5th Cir. Certiorari denied. Reported below: 591 F. 2d 1341.

444 U.S.

October 1, 1979

No. 78-6641. *OLGUIN v. ROMERO, WARDEN*. C. A. 10th Cir. Certiorari denied.

No. 78-6644. *CANCILLA v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 594 F. 2d 859.

No. 78-6647. *WITTEBORT v. MICHIGAN*. Sup. Ct. Mich. Certiorari denied.

No. 78-6651. *WEST v. NEW YORK ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 603 F. 2d 216.

No. 78-6652. *EBENHART v. HELLER ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 598 F. 2d 609.

No. 78-6653. *SISBARRO v. WARDEN, MASSACHUSETTS STATE PENITENTIARY*. C. A. 1st Cir. Certiorari denied. Reported below: 592 F. 2d 1.

No. 78-6654. *OWENS v. MISSOURI*. Ct. App. Mo., St. Louis Dist. Certiorari denied. Reported below: 574 S. W. 2d 436.

No. 78-6655. *WALDEN v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 590 F. 2d 85.

No. 78-6656. *DARROW v. GUNN, WARDEN*. C. A. 9th Cir. Certiorari denied. Reported below: 594 F. 2d 767.

No. 78-6660. *CAMERON v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 595 F. 2d 1229.

No. 78-6661. *McCLENDON v. BRIGGS ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 595 F. 2d 1224.

No. 78-6662. *CLOUDY v. NEIER ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 603 F. 2d 212.

No. 78-6663. *DAVIS v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 594 F. 2d 862.

October 1, 1979

444 U.S.

No. 78-6664. *SARLI v. OVERBERG, CORRECTIONAL SUPERINTENDENT*. C. A. 6th Cir. Certiorari denied. Reported below: 595 F. 2d 1225.

No. 78-6665. *PAYNE v. CALIFORNIA*. App. Dept., Super. Ct. Cal., County of Los Angeles. Certiorari denied.

No. 78-6668. *KUDAROSKI v. MAZZOLA ET AL.* C. A. 1st Cir. Certiorari denied.

No. 78-6669. *ANDREWS v. OKLAHOMA ET AL.* Ct. Crim. App. Okla. Certiorari denied.

No. 78-6670. *PERKINS ET UX. v. MILLER, SECRETARY OF THE TREASURY, ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 585 F. 2d 518.

No. 78-6671. *BEGLEY v. KENTUCKY ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 588 F. 2d 830.

No. 78-6676. *BRYANT v. OHIO*. Ct. App. Ohio, Hamilton County. Certiorari denied.

No. 78-6677. *FIGUEROA v. LEFEVRE, CORRECTIONAL SUPERINTENDENT*. C. A. 2d Cir. Certiorari denied.

No. 78-6678. *BLAKENEY v. UNITED STATES*. Ct. App. D. C. Certiorari denied.

No. 78-6679. *STEVENSON v. CAREY, GOVERNOR OF NEW YORK, ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 603 F. 2d 215.

No. 78-6681. *KIRBY v. HANBERRY, WARDEN, ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 594 F. 2d 239.

No. 78-6683. *STODDARD v. WEAVER ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 588 F. 2d 831.

No. 78-6684. *BALDWIN v. NORTH CAROLINA ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 588 F. 2d 1347.

444 U.S.

October 1, 1979

No. 78-6685. *TAYLOR v. DEPARTMENT FOR HUMAN RESOURCES OF KENTUCKY*. Sup. Ct. Ky. Certiorari denied.

No. 78-6688. *ROWLETT v. UNITED STATES*. C. A. 10th Cir. Certiorari denied.

No. 78-6689. *GEHRING v. CRIST, WARDEN*. Sup. Ct. Mont. Certiorari denied.

No. 78-6691. *HARRELL v. HOPE, CLERK, UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF OKLAHOMA*. C. A. 10th Cir. Certiorari denied.

No. 78-6692. *JOHNSON v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 594 F. 2d 862.

No. 78-6694. *THIESS v. FRANKLIN SQUARE HOSPITAL, INC., ET AL.* Ct. App. Md. Certiorari denied.

No. 78-6697. *COX v. RIGGSBY, WARDEN*. C. A. 9th Cir. Certiorari denied. Reported below: 595 F. 2d 517.

No. 78-6700. *HANLEY v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 588 F. 2d 824.

No. 78-6701. *VANZANDT v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 591 F. 2d 1342.

No. 78-6702. *CONNER v. AUGER, WARDEN*. C. A. 8th Cir. Certiorari denied. Reported below: 595 F. 2d 407.

No. 78-6703. *CROSBY v. OREGON*. Ct. App. Ore. Certiorari denied. Reported below: 35 Ore. App. 617, 582 P. 2d 40.

No. 78-6706. *STUART v. UNITED STATES*. Ct. Cl. Certiorari denied.

No. 78-6709. *MANTHE v. OREGON*. Ct. App. Ore. Certiorari denied. Reported below: 38 Ore. App. 90, 588 P. 2d 1131.

No. 78-6710. *HERSHBERGER v. HERSHBERGER*. Ct. App. Cal., 4th App. Dist. Certiorari denied.

October 1, 1979

444 U.S.

No. 78-6711. *HUNTOON v. DEPARTMENT OF JOB SERVICES OF IOWA ET AL.* Sup. Ct. Iowa. Certiorari denied. Reported below: 275 N. W. 2d 445.

No. 78-6712. *FRANCIOTTI v. SMITH, CORRECTIONAL SUPERINTENDENT.* C. A. 2d Cir. Certiorari denied.

No. 78-6714. *PALMER v. YOUNGSTOWN CIVIL SERVICE COMMISSION.* Ct. App. Ohio, Mahoning County. Certiorari denied.

No. 78-6716. *MILLS v. ALABAMA.* Ct. Crim. App. Ala. Certiorari denied. Reported below: 367 So. 2d 547.

No. 78-6717. *DARABAN v. CALIFORNIA.* Ct. App. Cal., 4th App. Dist. Certiorari denied.

No. 78-6718. *KROPIWKA v. DEPARTMENT OF INDUSTRY, LABOR AND HUMAN RELATIONS OF WISCONSIN.* Sup. Ct. Wis. Certiorari denied. Reported below: 87 Wis. 2d 709, 275 N. W. 2d 881.

No. 78-6719. *DUNN v. UNITED STATES.* C. A. 10th Cir. Certiorari denied. Reported below: 594 F. 2d 1367.

No. 78-6721. *COOPER v. CAMPBELL, CORRECTION SUPERINTENDENT, ET AL.* C. A. 8th Cir. Certiorari denied. Reported below: 597 F. 2d 628.

No. 78-6722. *REYNOLDS v. UNITED STATES.* C. A. 6th Cir. Certiorari denied. Reported below: 595 F. 2d 1226.

No. 78-6723. *ROSENBERG v. UNITED STATES.* C. A. 2d Cir. Certiorari denied. Reported below: 598 F. 2d 610.

No. 78-6727. *BOWERS v. UNITED STATES.* C. A. 10th Cir. Certiorari denied. Reported below: 593 F. 2d 376.

No. 78-6728. *ROBBINS ET VIR v. DISTRICT COURT OF WORTH COUNTY, IOWA, ET AL.* C. A. 8th Cir. Certiorari denied. Reported below: 592 F. 2d 1015.

444 U.S.

October 1, 1979

No. 78-6729. *YOUNG v. MABRY, CORRECTION COMMISSIONER*. C. A. 8th Cir. Certiorari denied. Reported below: 596 F. 2d 339.

No. 78-6731. *BECKNELL v. TEXAS BUS LINES*. C. A. 5th Cir. Certiorari denied.

No. 78-6732. *PARRIS v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 601 F. 2d 594.

No. 78-6735. *JOHNSON v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 594 F. 2d 862.

No. 78-6736. *HICKEY v. UNITED STATES*. C. A. 1st Cir. Certiorari denied. Reported below: 596 F. 2d 1082.

No. 78-6737. *COLE v. RADFORD ET AL.* Sup. Ct. Va. Certiorari denied.

No. 78-6738. *ROSS v. REED, SECRETARY, DEPARTMENT OF CORRECTION, ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 598 F. 2d 616.

No. 78-6741. *LAWRENCE v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 595 F. 2d 1149.

No. 78-6742. *NORRIS v. MINTZ ET AL.* C. A. 3d Cir. Certiorari denied.

No. 78-6744. *GREEN v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 594 F. 2d 1227.

No. 78-6749. *KLEASEN v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 591 F. 2d 1342.

No. 78-6751. *BARNES v. JONES, CORRECTIONAL SUPERINTENDENT ET AL.* C. A. 2d Cir. Certiorari denied.

No. 78-6752. *ELMORE v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 599 F. 2d 1056.

No. 78-6753. *GONZALES v. TEXAS*. Ct. Crim. App. Tex. Certiorari denied. Reported below: 577 S. W. 2d 226.

October 1, 1979

444 U.S.

- No. 78-6754. *HOOD v. UNITED STATES*; and
No. 78-6774. *THURMOND v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 599 F. 2d 1056.
- No. 78-6755. *GIBBS v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 594 F. 2d 125.
- No. 78-6756. *GEORGE v. GOVERNMENT OF THE VIRGIN ISLANDS*. C. A. 3d Cir. Certiorari denied.
- No. 78-6757. *GRIFFIN ET AL. v. TENNESSEE*. Ct. Crim. App. Tenn. Certiorari denied. Reported below: 578 S. W. 2d 654.
- No. 78-6758. *RICH v. MAINE*. Sup. Jud. Ct. Me. Certiorari denied. Reported below: 395 A. 2d 1123.
- No. 78-6759. *HILL v. LANE, WARDEN*. C. A. 6th Cir. Certiorari denied. Reported below: 594 F. 2d 864.
- No. 78-6761. *DINCER v. 1901 WYOMING AVENUE COOPERATIVE ASSN.* Ct. App. D. C. Certiorari denied.
- No. 78-6762. *ROGERS v. LING ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 598 F. 2d 610.
- No. 78-6763. *PETERS v. UNITED STATES*. C. A. 2d Cir. Certiorari denied.
- No. 78-6764. *COLLIER v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 588 F. 2d 1352.
- No. 78-6766. *RANDLE v. PLANK ET AL.* C. A. 7th Cir. Certiorari denied. Reported below: 601 F. 2d 596.
- No. 78-6767. *BARNES v. UNITED STATES PAROLE COMMISSION*. C. A. 3d Cir. Certiorari denied. Reported below: 594 F. 2d 854.
- No. 78-6769. *TYSON v. UNITED STATES*. C. A. 10th Cir. Certiorari denied.

444 U.S.

October 1, 1979

No. 78-6770. *CARLTON v. UNITED STATES*. C. A. 2d Cir. Certiorari denied.

No. 78-6775. *BOYCE v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 594 F. 2d 1246.

No. 78-6776. *PAPADAKIS v. SECRETARY OF HEALTH, EDUCATION, AND WELFARE*. C. A. 2d Cir. Certiorari denied. Reported below: 603 F. 2d 214.

No. 78-6778. *WASHINGTON v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 595 F. 2d 1230.

No. 78-6779. *CHAFFIN v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 595 F. 2d 1220.

No. 78-6781. *MENDENHALL v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 597 F. 2d 639.

No. 78-6782. *BRYAN v. UNITED STATES ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 594 F. 2d 856.

No. 78-6783. *DECKER v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 600 F. 2d 733.

No. 78-6785. *SILLO v. WARDEN, HOLMESBURG PRISON, ET AL.* C. A. 3d Cir. Certiorari denied.

No. 78-6786. *JORDAN v. UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF MICHIGAN*. C. A. 6th Cir. Certiorari denied.

No. 78-6787. *PETITO v. HARRIS, CORRECTIONAL SUPERINTENDENT, ET AL.* C. A. 2d Cir. Certiorari denied.

No. 78-6789. *INMAN v. INDIANA*. Sup. Ct. Ind. Certiorari denied. Reported below: 270 Ind. —, 383 N. E. 2d 820.

No. 78-6790. *HERNANDEZ ET AL. v. GOVERNMENT OF THE CANAL ZONE*. C. A. 5th Cir. Certiorari denied. Reported below: 591 F. 2d 1341.

October 1, 1979

444 U. S.

No. 78-6791. *WALLACE v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 597 F. 2d 641.

No. 78-6792. *THACKER v. SOUTH CAROLINA ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 594 F. 2d 859.

No. 78-6793. *JOHNSON v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 594 F. 2d 859.

No. 78-6794. *LEE v. LEFEVRE, CORRECTIONAL SUPERINTENDENT*. C. A. 2d Cir. Certiorari denied.

No. 78-6796. *FIELDS v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 599 F. 2d 1058.

No. 78-6797. *BLANKENSHIP v. ESTELLE, CORRECTIONS DIRECTOR*. C. A. 5th Cir. Certiorari denied. Reported below: 592 F. 2d 270.

No. 78-6800. *KELLY v. UNITED STATES*. C. A. 8th Cir. Certiorari denied.

No. 78-6803. *GRIFFIN v. MICHIGAN*. Ct. App. Mich. Certiorari denied.

No. 78-6804. *LUCAS v. KOCH MARKETING Co.* Dist. Ct. App. Fla., 1st Dist. Certiorari denied. Reported below: 361 So. 2d 194.

No. 78-6806. *FERRARA ET AL. v. HENDRY COUNTY SCHOOL BOARD*. Dist. Ct. App. Fla., 2d Dist. Certiorari denied. Reported below: 362 So. 2d 371.

No. 78-6807. *TURNER v. WYRICK, WARDEN*. C. A. 8th Cir. Certiorari denied. Reported below: 594 F. 2d 1207.

No. 78-6808. *LINDSEY v. DAYTON HUDSON CORP., DBA TARGET STORES*. C. A. 10th Cir. Certiorari denied. Reported below: 592 F. 2d 1118.

444 U.S.

October 1, 1979

No. 78-6810. *JOHNSON v. NEW YORK*. Ct. App. N. Y. Certiorari denied. Reported below: 47 N. Y. 2d 785, 391 N. E. 2d 1006.

No. 78-6811. *WATKINS v. NORTH CAROLINA*. Ct. App. N. C. Certiorari denied. Reported below: 40 N. C. App. 17, 251 S. E. 2d 877.

No. 78-6812. *HENDERSON v. UNITED STATES*. Ct. App. D. C. Certiorari denied.

No. 78-6814. *HORNE v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 599 F. 2d 1055.

No. 78-6815. *WILLBORN v. UNITED STATES PAROLE COMMISSION*. C. A. 10th Cir. Certiorari denied.

No. 78-6816. *MORROW v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 596 F. 2d 857.

No. 78-6817. *HALE v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 595 F. 2d 1226.

No. 78-6818. *FREYRE v. FLORIDA*. Dist. Ct. App. Fla., 3d Dist. Certiorari denied. Reported below: 362 So. 2d 989.

No. 78-6819. *SHADD v. TRIDICO ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 595 F. 2d 1214.

No. 78-6820. *LAPHAM v. NEW YORK*. App. Div., Sup. Ct. N. Y., 3d Jud. Dept. Certiorari denied.

No. 78-6822. *PAUL v. UNITED STATES*. C. A. D. C. Cir. Certiorari denied.

No. 78-6824. *CAREY v. WAINWRIGHT, SECRETARY, DEPARTMENT OF OFFENDER REHABILITATION OF FLORIDA*. C. A. 5th Cir. Certiorari denied. Reported below: 597 F. 2d 281.

No. 78-6825. *SAULSBURY v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 591 F. 2d 1028.

October 1, 1979

444 U.S.

No. 78-6826. *BOAG v. CARDWELL, WARDEN*. C. A. 9th Cir. Certiorari denied.

No. 78-6827. *STUTZMAN v. MARYLAND*. Ct. App. Md. Certiorari denied. Reported below: 284 Md. 260, 396 A. 2d 243.

No. 78-6828. *CALICUTT v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 598 F. 2d 1120.

No. 78-6829. *TRACY v. CITY OF DANVILLE, VIRGINIA*. C. A. 4th Cir. Certiorari denied. Reported below: 601 F. 2d 582.

No. 78-6830. *BELCHER v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 600 F. 2d 742.

No. 78-6832. *STRADER v. GARRISON, WARDEN, ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 595 F. 2d 1217.

No. 78-6833. *GABRIEL v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 597 F. 2d 95.

No. 78-6835. *CHESSA v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 598 F. 2d 610.

No. 78-6836. *RICO v. SECRETARY OF HEALTH, EDUCATION, AND WELFARE*. C. A. 1st Cir. Certiorari denied. Reported below: 593 F. 2d 431.

No. 78-6837. *KLUSKA v. PENNSYLVANIA*. Sup. Ct. Pa. Certiorari denied. Reported below: 484 Pa. 508, 399 A. 2d 681.

No. 78-6838. *BRYANT v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 595 F. 2d 1220.

No. 78-6841. *REDDING v. UNITED STATES*. C. A. 10th Cir. Certiorari denied.

No. 78-6842. *POOLE v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 595 F. 2d 1220.

444 U.S.

October 1, 1979

No. 78-6843. *MARQUEZ-MARQUEZ v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 601 F. 2d 604.

No. 78-6844. *INMON v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 594 F. 2d 352.

No. 78-6845. *OGROD v. OGROD*. Super. Ct. Pa. Certiorari denied. Reported below: 263 Pa. Super. 594, 400 A. 2d 622.

No. 78-6846. *NEVELS v. PARRATT, WARDEN*. C. A. 8th Cir. Certiorari denied. Reported below: 596 F. 2d 344.

No. 78-6847. *WHITESIDE v. KENTUCKY*. Sup. Ct. Ky. Certiorari denied. Reported below: 585 S. W. 2d 415.

No. 78-6848. *PITTS v. WAINWRIGHT, SECRETARY, DEPARTMENT OF OFFENDER REHABILITATION OF FLORIDA*. Sup. Ct. Fla. Certiorari denied. Reported below: 372 So. 2d 470.

No. 78-6849. *HATCH v. CALIFORNIA*. Ct. App. Cal., 3d App. Dist. Certiorari denied.

No. 78-6850. *BOWINE v. NEW YORK*. App. Div., Sup. Ct. N. Y., 1st Jud. Dept. Certiorari denied. Reported below: 67 App. Div. 2d 1110, 413 N. Y. S. 2d 796.

No. 78-6851. *POWELL v. GRADDICK, ATTORNEY GENERAL OF ALABAMA, ET AL.* C. A. 5th Cir. Certiorari denied.

No. 78-6852. *WOODSON v. UNITED STATES*. C. A. 2d Cir. Certiorari denied.

No. 78-6854. *MESSINA v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 603 F. 2d 216.

No. 78-6855. *RUNGE v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 593 F. 2d 66.

No. 78-6857. *BRONCHEAU v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 597 F. 2d 1260.

No. 78-6858. *KUNTZ v. UNITED STATES*. Ct. Cl. Certiorari denied.

October 1, 1979

444 U.S.

No. 78-6859. *CROWE v. UNITED STATES*. Ct. App. D. C. Certiorari denied.

No. 78-6861. *FREDERICK v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 583 F. 2d 273.

No. 78-6862. *POWERS v. CICCONE, MEDICAL CENTER DIRECTOR*. C. A. 8th Cir. Certiorari denied.

No. 78-6864. *CYPHERS v. UNITED STATES*. C. A. 2d Cir. Certiorari denied.

No. 78-6865. *GLOVER v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 596 F. 2d 857.

No. 78-6866. *ARGUELLES v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 594 F. 2d 109.

No. 78-6868. *BETHEA v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 598 F. 2d 331.

No. 78-6869. *TILLI v. PENNSYLVANIA*. C. A. 3d Cir. Certiorari denied. Reported below: 591 F. 2d 1336.

No. 78-6870. *STEVENS v. MICHIGAN*. Sup. Ct. Mich. Certiorari denied.

No. 78-6871. *WHEELER v. HILTON, PRISON SUPERINTENDENT, ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 595 F. 2d 1215.

No. 78-6873. *ASHER v. SUPERIOR COURT OF CALIFORNIA, COUNTY OF RIVERSIDE, ET AL.* Ct. App. Cal., 4th App. Dist. Certiorari denied.

No. 78-6877. *KOON v. VETERANS' ADMINISTRATION ET AL.*; and

No. 78-6886. *ALLEN v. VETERANS' ADMINISTRATION ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 591 F. 2d 1334.

444 U.S.

October 1, 1979

No. 78-6874. *TUCHSCHMIDT v. KALISH*. Sup. Ct. Mo. Certiorari denied.

No. 78-6878. *MOODY v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 601 F. 2d 598.

No. 78-6880. *JACKSON v. NEW JERSEY*. Super. Ct. N. J. Certiorari denied.

No. 78-6881. *PRASAD v. MERGES, DIRECTOR OF DEVELOPMENTAL CENTER, ET AL.* App. Div., Sup. Ct. N. Y., 3d Jud. Dept. Certiorari denied. Reported below: 65 App. Div. 2d 663, 409 N. Y. S. 2d 815.

No. 78-6882. *DIXON v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 593 F. 2d 626.

No. 78-6883. *NAZARIO-CASTULO v. UNITED STATES*. C. A. 2d Cir. Certiorari denied.

No. 78-6888. *SWEENEY v. STRYJAK ET AL.* C. A. 3d Cir. Certiorari denied.

No. 78-6889. *TAYLOR v. SCISM, CHAIRMAN, PAROLE COMMISSION OF NORTH CAROLINA, ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 591 F. 2d 1340.

No. 78-6890. *MASSEY v. CUMMINGS, CORRECTIONAL SUPERINTENDENT*. C. A. 2d Cir. Certiorari denied.

No. 78-6892. *NOEL ET AL. v. UNITED STATES*. C. A. 6th Cir. Certiorari denied.

No. 78-6893. *DAVIDSON v. UNITED STATES*. C. A. 10th Cir. Certiorari denied. Reported below: 597 F. 2d 230.

No. 78-6894. *GIBSON v. NEW YORK*. App. Div., Sup. Ct. N. Y., 4th Jud. Dept. Certiorari denied. Reported below: 65 App. Div. 2d 235, 411 N. Y. S. 2d 71.

No. 78-6895. *HULSEY v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 596 F. 2d 125.

October 1, 1979

444 U.S.

No. 78-6898. *ELMS v. UNITED STATES ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 595 F. 2d 1211.

No. 78-6902. *YOUNG v. ATTORNEY GENERAL OF NEW MEXICO.* C. A. 10th Cir. Certiorari denied.

No. 78-6907. *MCRAE v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. Reported below: 593 F. 2d 700.

No. 78-6908. *LINGER v. WEISS, JUDGE, ET AL.* Sup. Ct. Ohio. Certiorari denied. Reported below: 57 Ohio St. 2d 97, 386 N. E. 2d 1354.

No. 78-6909. *JACKSON v. DUCKWORTH, WARDEN.* C. A. 7th Cir. Certiorari denied. Reported below: 588 F. 2d 833.

No. 78-6910. *HARRIS ET VIR v. CALIFORNIA.* Ct. App. Cal., 2d App. Dist. Certiorari denied.

No. 78-6913. *SPERMAN ET VIR v. CODD, POLICE COMMISSIONER OF NEW YORK CITY.* C. A. 2d Cir. Certiorari denied. Reported below: 603 F. 2d 215.

No. 78-6914. *BERRY v. UNITED STATES.* C. A. 8th Cir. Certiorari denied. Reported below: 599 F. 2d 267.

No. 78-6915. *LOCKETT v. GARRISON, WARDEN.* C. A. 4th Cir. Certiorari denied. Reported below: 594 F. 2d 857.

No. 78-6916. *BRADY ET AL. v. UNITED STATES.* C. A. 6th Cir. Certiorari denied. Reported below: 595 F. 2d 359.

No. 78-6917. *GARDNER v. CONTROL NETWORKS CORP. ET AL.* App. Ct. Ill., 1st Dist. Certiorari denied.

No. 78-6918. *HEGWOOD v. LANDRY ET AL.* C. A. 5th Cir. Certiorari denied.

No. 78-6919. *TORRES, AKA LOPEZ v. ILLINOIS.* App. Ct. Ill., 1st Dist. Certiorari denied. Reported below: 66 Ill. App. 3d 1113, 387 N. E. 2d 1300.

444 U. S.

October 1, 1979

No. 78-6920. *MATTHEWS v. HILTON, PRISON SUPERINTENDENT, ET AL.* C. A. 3d Cir. Certiorari denied.

No. 78-6921. *FERRELL v. YOUNG, WARDEN.* C. A. 4th Cir. Certiorari denied. Reported below: 594 F. 2d 857.

No. 78-6925. *HUNDLEY v. FERENCE ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 595 F. 2d 1212.

No. 78-6927. *GILES v. UNITED STATES.* C. A. 4th Cir. Certiorari denied. Reported below: 599 F. 2d 1049.

No. 78-6929. *BROWN v. MEROLA ET AL.* C. A. 2d Cir. Certiorari denied.

No. 78-6930. *EASTON v. MISSOURI.* Ct. App. Mo., Springfield Dist. Certiorari denied. Reported below: 577 S. W. 2d 953.

No. 78-6931. *PITCHFORD v. SUPREME COURT OF ARKANSAS.* Sup. Ct. Ark. Certiorari denied. Reported below: 265 Ark. 752, 581 S. W. 2d 321.

No. 78-6934. *PHILLIPS v. UNITED STATES.* C. A. 9th Cir. Certiorari denied. Reported below: 600 F. 2d 186.

No. 78-6935. *JONES v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. Reported below: 597 F. 2d 770.

No. 78-6937. *BELL v. CHURCH ET AL.* C. A. 5th Cir. Certiorari denied.

No. 78-6939. *KASSIMA v. UNITED STATES.* C. A. D. C. Cir. Certiorari denied.

No. 79-3. *HOUSEN v. DUKE.* Sup. Ct. Wyo. Certiorari denied. Reported below: 589 P. 2d 334.

No. 79-6. *MILLER v. NEW YORK.* County Ct. of Broome County, N. Y. Certiorari denied.

No. 79-7. *MORRIS ET AL. v. UNITED STATES ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 593 F. 2d 851.

October 1, 1979

444 U.S.

No. 79-9. *PLUMAS COUNTY BOARD OF SUPERVISORS ET AL. v. HARRIS, SECRETARY OF HEALTH, EDUCATION, AND WELFARE, ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 594 F. 2d 756.

No. 79-12. *REDDECK v. UNITED STATES.* C. A. 9th Cir. Certiorari denied. Reported below: 591 F. 2d 1345.

No. 79-15. *CALIFORNIA TAHOE REGIONAL PLANNING AGENCY ET AL. v. JENNINGS ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 594 F. 2d 181.

No. 79-17. *RUBIN v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. Reported below: 591 F. 2d 278.

No. 79-20. *FLAT GLASS ASSOCIATION OF JAPAN ET AL. v. CONSUMER PRODUCT SAFETY COMMISSION.* C. A. D. C. Cir. Certiorari denied. Reported below: 193 U. S. App. D. C. 169, 593 F. 2d 1323.

No. 79-21. *ALONZO ET AL. v. VILLAGE OF ROMEVILLE.* C. A. 7th Cir. Certiorari denied. Reported below: 601 F. 2d 595.

No. 79-22. *AIR FREIGHT HAULAGE CO., INC. v. RYD-AIR, INC., ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 603 F. 2d 211.

No. 79-23. *WORLEY v. WHALEY ET AL.* Ct. App. Mo., St. Louis Dist. Certiorari denied.

No. 79-25. *SNYDER v. PENNSYLVANIA.* Sup. Ct. Pa. Certiorari denied.

No. 79-26. *WALKER v. UNITED STATES.* C. A. 9th Cir. Certiorari denied. Reported below: 591 F. 2d 1345.

No. 79-27. *FRIEND v. UNITED STATES.* C. A. 6th Cir. Certiorari denied. Reported below: 594 F. 2d 865.

No. 79-28. *BECKLEAN ET AL. v. UNITED STATES.* C. A. 8th Cir. Certiorari denied. Reported below: 598 F. 2d 1122.

444 U.S.

October 1, 1979

No. 79-29. *PEABODY COAL Co. v. MISSOURI PUBLIC SERVICE Co.* Ct. App. Mo., Kansas City Dist. Certiorari denied. Reported below: 583 S. W. 2d 721.

No. 79-32. *HORSLEY v. UNITED STATES.* C. A. 3d Cir. Certiorari denied. Reported below: 599 F. 2d 1265.

No. 79-33. *GOERES ET AL. v. JAPAN AIR LINES, LTD., ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 594 F. 2d 242.

No. 79-35. *HACKETT ET AL. v. HACKETT.* Ct. App. N. C. Certiorari denied. Reported below: 39 N. C. App. 501, 253 S. E. 2d 366.

No. 79-36. *ROBINSON v. NEBRASKA.* Sup. Ct. Neb. Certiorari denied. Reported below: 202 Neb. 210, 274 N. W. 2d 553.

No. 79-37. *COVERT MARINE, INC., ET AL. v. OUTBOARD MARINE CORP.* C. A. 7th Cir. Certiorari denied. Reported below: 601 F. 2d 595.

No. 79-40. *HOKE v. BOARD OF MEDICAL EXAMINERS OF NORTH CAROLINA ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 595 F. 2d 1217.

No. 79-41. *VALENZUELA v. UNITED STATES.* C. A. 9th Cir. Certiorari denied. Reported below: 596 F. 2d 1361.

No. 79-42. *PAVILONIS v. HARRIS, SECRETARY OF HEALTH, EDUCATION, AND WELFARE.* C. A. 1st Cir. Certiorari denied. Reported below: 601 F. 2d 571.

No. 79-43. *BOBULSKI v. OHIO.* Ct. App. Ohio, Franklin County. Certiorari denied.

No. 79-50. *SATCO, INC. v. TRANSEQUIP, INC., ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 594 F. 2d 1318.

October 1, 1979

444 U.S.

No. 79-51. *DiLAPI ET AL. v. IRVING, GENERAL COUNSEL, NATIONAL LABOR RELATIONS BOARD*. C. A. 2d Cir. Certiorari denied. Reported below: 600 F. 2d 1027.

No. 79-52. *NAIFEH v. UNITED STATES*; and

No. 79-53. *ABRAHAM v. UNITED STATES*. C. A. 10th Cir. Certiorari denied.

No. 79-56. *NARA v. MICHIGAN STATE BOARD OF DENTISTRY*. Sup. Ct. Mich. Certiorari denied.

No. 79-58. *GILLEN v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 599 F. 2d 541.

No. 79-59. *ILLINOIS v. UNITED STATES ET AL.* C. A. 7th Cir. Certiorari denied. Reported below: 601 F. 2d 595.

No. 79-60. *HAYES v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 595 F. 2d 258.

No. 79-61. *TOWN OF MASHPEE ET AL. v. MASHPEE TRIBE*; and

No. 79-62. *MASHPEE TRIBE v. NEW SEABURY CORP. ET AL.* C. A. 1st Cir. Certiorari denied. Reported below: 592 F. 2d 575.

No. 79-65. *GARD v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 594 F. 2d 1230.

No. 79-70. *DRAGOS v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 601 F. 2d 576.

No. 79-71. *BOUTUREIRA ET AL. v. NEW YORK*. App. Div., Sup. Ct. N. Y., 1st Jud. Dept. Certiorari denied. Reported below: 67 App. Div. 2d 20, 414 N. Y. S. 2d 159.

No. 79-72. *BROWN v. UNITED STATES*. C. A. 2d Cir. Certiorari denied.

No. 79-74. *STEVERS v. OHIO*. Ct. App. Ohio, Cuyahoga County. Certiorari denied.

444 U.S.

October 1, 1979

No. 79-76. *BLACK v. PAYNE ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 591 F. 2d 83.

No. 79-77. *OREGON v. MCGREW.* Ct. App. Ore. Certiorari denied. Reported below: 38 Ore. App. 493, 590 P. 2d 755.

No. 79-78. *JACKSON v. UNITED STATES.* C. A. 6th Cir. Certiorari denied. Reported below: 595 F. 2d 1223.

No. 79-83. *FINCKH, BY JACKSON, GUARDIAN AD LITEM v. FINCKH ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 601 F. 2d 602.

No. 79-84. *GARRETT v. OHIO.* Ct. App. Ohio, Lucas County. Certiorari denied.

No. 79-87. *CONTRACTORS & BUILDERS ASSOCIATION OF PINELLAS COUNTY ET AL. v. CITY OF DUNEDIN, FLORIDA.* Dist. Ct. App. Fla., 2d Dist. Certiorari denied. Reported below: 358 So. 2d 846.

No. 79-89. *NOLAN v. UNITED STATES.* C. A. 9th Cir. Certiorari denied. Reported below: 601 F. 2d 604.

No. 79-91. *ALEXANDER ET AL. v. UNITED STATES.* C. A. 7th Cir. Certiorari denied. Reported below: 601 F. 2d 600.

No. 79-92. *LINCOLN PARK NURSING HOME ET AL. v. UNITED STATES.* Ct. Cl. Certiorari denied. Reported below: 220 Ct. Cl. 626, 618 F. 2d 121.

No. 79-95. *DEGREGORIO v. SMITH, CORRECTIONAL SUPERINTENDENT.* C. A. 2d Cir. Certiorari denied.

No. 79-96. *WEATHERFORD v. ALABAMA.* Ct. Crim. App. Ala. Certiorari denied. Reported below: 369 So. 2d 863.

No. 79-99. *TREDWAY v. DISTRICT OF COLUMBIA.* Ct. App. D. C. Certiorari denied. Reported below: 403 A. 2d 732.

No. 79-106. *TALLY v. JOHNSON ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 594 F. 2d 862.

October 1, 1979

444 U. S.

No. 79-108. CAMERON *v.* GREENHILL ET AL. Ct. Civ. App. Tex., 3d Sup. Jud. Dist. Certiorari denied. Reported below: 577 S. W. 2d 389.

No. 79-109. UNNAMED PHYSICIAN *v.* MARYLAND COMMISSION ON MEDICAL DISCIPLINE. Ct. App. Md. Certiorari denied. Reported below: 285 Md. 1, 400 A. 2d 396.

No. 79-112. COUNTRYMAN *v.* TEXAS ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 588 F. 2d 1355.

No. 79-113. RAMOS *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. Reported below: 603 F. 2d 216.

No. 79-114. ROGERS ET AL. *v.* MARYLAND. Ct. Sp. App. Md. Certiorari denied.

No. 79-115. POLISHING MACHINE SYSTEMS, INC., ET AL. *v.* COFFIN. C. A. 4th Cir. Certiorari denied. Reported below: 596 F. 2d 1202.

No. 79-117. VITALE *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 596 F. 2d 688.

No. 79-120. CARPENTER ET AL. *v.* EDWARDS & WARREN ET AL. C. A. 4th Cir. Certiorari denied. Reported below: 594 F. 2d 388.

No. 79-122. RATCLIFF *v.* ESTELLE, CORRECTIONS DIRECTOR. C. A. 5th Cir. Certiorari denied. Reported below: 597 F. 2d 474.

No. 79-123. RIVERA *v.* CRUZ ET AL. Sup. Ct. P. R. Certiorari denied. Reported below: — P. R. R. —.

No. 79-124. SHEERAN ET AL. *v.* GENERAL ELECTRIC Co. C. A. 9th Cir. Certiorari denied. Reported below: 593 F. 2d 93.

No. 79-125. McCUTCHEON *v.* CHICAGO BOARD OF EDUCATION ET AL. C. A. 7th Cir. Certiorari denied.

444 U.S.

October 1, 1979

No. 79-127. HARRIS ET AL., T/A LEON L. MOORE OIL Co. v. ATLANTIC RICHFIELD Co. C. A. 4th Cir. Certiorari denied. Reported below: 594 F. 2d 857.

No. 79-135. NATIONAL BROADCASTING Co., INC. v. BURKE. C. A. 1st Cir. Certiorari denied. Reported below: 598 F. 2d 688.

No. 79-141. WAY BAKING Co. v. INTERSTATE BRANDS CORP. Sup. Ct. Mich. Certiorari denied. Reported below: 403 Mich. 479, 270 N. W. 2d 103.

No. 79-144. MERTENS v. MORRIS, WARDEN. C. A. 7th Cir. Certiorari denied. Reported below: 601 F. 2d 601.

No. 79-150. PRAETORIUS v. UNITED STATES; and
No. 79-156. PRAETORIUS v. UNITED STATES. C. A. 2d Cir. Certiorari denied.

No. 79-151. NEW YORK v. ST. AGATHA HOME FOR CHILDREN, INC., ET AL. Ct. App. N. Y. Certiorari denied. Reported below: 47 N. Y. 2d 46, 389 N. E. 2d 1098.

No. 79-152. HOME INDEMNITY Co. v. STILLWELL ET AL. C. A. 6th Cir. Certiorari denied. Reported below: 597 F. 2d 87.

No. 79-159. DELLIGATTE v. UNITED STATES. C. A. 2d Cir. Certiorari denied.

No. 79-160. CONNELLY v. COMMERCIAL TRADING Co., INC. App. Div., Sup. Ct. N. Y., 1st Jud. Dept. Certiorari denied. Reported below: 65 App. Div. 2d 961, 411 N. Y. S. 2d 95.

No. 79-165. TINAWY v. TRAVELERS AID SOCIETY OF NEW YORK, INC., ET AL. App. Div., Sup. Ct. N. Y., 1st Jud. Dept. Certiorari denied. Reported below: 65 App. Div. 2d 682, 409 N. Y. S. 2d 472.

October 1, 1979

444 U.S.

No. 79-163. *HOPMANN v. SOUTHERN PACIFIC TRANSPORTATION Co.* Ct. Civ. App. Tex., 12th Sup. Jud. Dist. Certiorari denied. Reported below: 581 S. W. 2d 532.

No. 79-176. *OSWALD ET AL. v. GENERAL MOTORS CORP.*; and

No. 79-179. *GENERAL MOTORS CORP. v. OSWALD ET AL.* C. A. 7th Cir. Certiorari denied. Reported below: 594 F. 2d 1106.

No. 79-178. *SHUFFMAN, EXECUTRIX v. HARTFORD TEXTILE CORP. ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 588 F. 2d 372.

No. 79-187. *MARCY v. UNITED STATES.* C. A. 7th Cir. Certiorari denied.

No. 79-193. *LIVINGSTON ET UX. v. EWING, DIRECTOR, MUSEUM OF NEW MEXICO, ET AL.* C. A. 10th Cir. Certiorari denied. Reported below: 601 F. 2d 1110.

No. 79-199. *DEJARDIN v. UNION TRUST COMPANY OF MARYLAND.* C. A. 4th Cir. Certiorari denied. Reported below: 590 F. 2d 330.

No. 79-235. *MOLEVER ET AL. v. PREISER ET AL.* C. A. 4th Cir. Certiorari denied.

No. 79-238. *MUTUAL OF OMAHA INSURANCE Co. v. AYLESWORTH.* C. A. 6th Cir. Certiorari denied. Reported below: 598 F. 2d 1040.

No. 79-250. *FRANKLIN v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. Reported below: 598 F. 2d 954.

No. 79-254. *BRUNWASSER v. OFFICE OF DISCIPLINARY COUNSEL.* Sup. Ct. Pa. Certiorari denied.

No. 79-263. *GALBREATH v. NEWSPAPER PRINTING CORP. ET AL.* Sup. Ct. Tenn. Certiorari denied. Reported below: 580 S. W. 2d 777.

444 U. S.

October 1, 1979

No. 79-264. *WATKINS v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 600 F. 2d 201.

No. 79-267. *GIRARD ET AL. v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 601 F. 2d 69.

No. 79-275. *BOOTH v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 601 F. 2d 590.

No. 79-285. *GITCHO v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 601 F. 2d 369.

No. 79-316. *DUNCAN v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 598 F. 2d 839.

No. 79-319. *ROUNDTREE v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 596 F. 2d 672.

No. 79-5001. *FAMBROUGH ET AL. v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 599 F. 2d 1056.

No. 79-5005. *ALLEN v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 596 F. 2d 227.

No. 79-5006. *STANLEY v. HAWAII*. Sup. Ct. Hawaii. Certiorari denied. Reported below: 60 Haw. 527, 592 P. 2d 422.

No. 79-5008. *SALAS v. MILLER, SECRETARY OF THE TREASURY, ET AL.* C. A. D. C. Cir. Certiorari denied. Reported below: 193 U. S. App. D. C. 218, 593 F. 2d 1372.

No. 79-5011. *BUTLER ET AL. v. HARRIS, SECRETARY OF HEALTH, EDUCATION, AND WELFARE, ET AL.* C. A. D. C. Cir. Certiorari denied.

No. 79-5012. *KINNELL v. MARQUEZ, CORRECTIONS SECRETARY, ET AL.* C. A. 10th Cir. Certiorari denied.

No. 79-5014. *RANDALL v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 594 F. 2d 862.

No. 79-5015. *PANTHASRI ET AL. v. UNITED STATES*. C. A. 2d Cir. Certiorari denied.

October 1, 1979

444 U.S.

No. 79-5017. *CARRERAS v. SECRETARY OF HEALTH, EDUCATION, AND WELFARE*. C. A. 1st Cir. Certiorari denied. Reported below: 588 F. 2d 818.

No. 79-5018. *UDELL v. STATE DEPARTMENT OF MASSACHUSETTS ET AL.* C. A. 2d Cir. Certiorari denied.

No. 79-5019. *POTEMRA v. PING ET AL.* C. A. 6th Cir. Certiorari denied.

No. 79-5021. *DYER v. HESS, WARDEN, ET AL.* Ct. Crim. App. Okla. Certiorari denied.

No. 79-5024. *WINSTEAD v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 601 F. 2d 583.

No. 79-5025. *EDMONDSON v. HESS ET AL.* C. A. 10th Cir. Certiorari denied.

No. 79-5027. *CALVIN K. ET UX. v. COMMISSIONER OF INTERNAL REVENUE*. C. A. 2d Cir. Certiorari denied. Reported below: 603 F. 2d 211.

No. 79-5028. *SAYLES v. SHUKER, JUDGE, ET AL.* Ct. App. D. C. Certiorari denied.

No. 79-5029. *YOUNG, AKA CLOUDY v. OWENS, REFORMATORY SUPERINTENDENT*. C. A. 7th Cir. Certiorari denied.

No. 79-5030. *SANDERS ET AL. v. HANKINS ET AL.* Ct. Sp. App. Md. Certiorari denied.

No. 79-5033. *RANDALL v. EISENHOWER MEDICAL CENTER*. Ct. App. Cal., 4th App. Dist. Certiorari denied.

No. 79-5034. *SPIEZIO ET AL. v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 603 F. 2d 227.

No. 79-5037. *CHAMBERLIN v. CALIFORNIA UNEMPLOYMENT INSURANCE APPEALS BOARD ET AL.* Ct. App. Cal., 1st App. Dist. Certiorari denied.

444 U.S.

October 1, 1979

No. 79-5042. *LEFEBRE v. ISRAEL, WARDEN*. C. A. 7th Cir. Certiorari denied.

No. 79-5043. *BRANHAM v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 595 F. 2d 1229.

No. 79-5045. *CARTER v. DEGRAZIA ET AL.* C. A. 1st Cir. Certiorari denied.

No. 79-5046. *MACGREGOR v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 597 F. 2d 1225.

No. 79-5052. *GILBERT v. YALANZON ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 594 F. 2d 239.

No. 79-5054. *LEWIS v. UNITED STATES*. C. A. 2d Cir. Certiorari denied.

No. 79-5057. *DICKERSON v. SMALL BUSINESS ADMINISTRATION*. C. A. 3d Cir. Certiorari denied. Reported below: 595 F. 2d 1211.

No. 79-5058. *MAGGIACOMO v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 601 F. 2d 591.

No. 79-5060. *HARRISON v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 601 F. 2d 604.

No. 79-5062. *CRAVEN v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 601 F. 2d 588.

No. 79-5063. *AGOSTO v. HARRIS, SECRETARY OF HEALTH, EDUCATION, AND WELFARE*. C. A. 3d Cir. Certiorari denied. Reported below: 601 F. 2d 573.

No. 79-5064. *HOLMES v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 594 F. 2d 1167.

No. 79-5069. *TWIGG v. OHIO*. C. A. 6th Cir. Certiorari denied. Reported below: 601 F. 2d 590.

October 1, 1979

444 U.S.

No. 79-5070. *WILSON v. REVIEW BOARD OF THE INDIANA EMPLOYMENT SECURITY DIVISION ET AL.* Sup. Ct. Ind. Certiorari denied. Reported below: — Ind. —, 385 N. E. 2d 438.

No. 79-5071. *GREENING v. UNITED STATES.* C. A. 6th Cir. Certiorari denied. Reported below: 601 F. 2d 591.

No. 79-5073. *CARTER v. CIVILETTI, ATTORNEY GENERAL, ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 591 F. 2d 1341.

No. 79-5074. *FLETCHER v. UNITED STATES.* C. A. 6th Cir. Certiorari denied. Reported below: 601 F. 2d 591.

No. 79-5076. *FLYNN v. UNITED STATES.* C. A. 3d Cir. Certiorari denied. Reported below: 601 F. 2d 576.

No. 79-5081. *CARDEN v. UNITED STATES.* C. A. 4th Cir. Certiorari denied. Reported below: 599 F. 2d 1320.

No. 79-5082. *GASTON v. BORDENKIRCHER, PENITENTIARY SUPERINTENDENT.* C. A. 6th Cir. Certiorari denied. Reported below: 595 F. 2d 1223.

No. 79-5084. *CROUCH v. UNITED PRESS INTERNATIONAL ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 603 F. 2d 212.

No. 79-5086. *GLOVER v. GENERAL MOTORS ACCEPTANCE CORP., INC., ET AL.* C. A. 2d Cir. Certiorari denied.

No. 79-5088. *FAIRCLOTH v. NORTH CAROLINA.* Sup. Ct. N. C. Certiorari denied. Reported below: 297 N. C. 100, 253 S. E. 2d 890.

No. 79-5089. *KARASIK v. NEW YORK.* App. Term, Sup. Ct. N. Y., 1st Jud. Dept. Certiorari denied.

No. 79-5093. *DRIGGERS v. UNITED STATES PAROLE COMMISSION ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 601 F. 2d 588.

444 U.S.

October 1, 1979

No. 79-5096. *LOE v. CLEMENTS, SHERIFF, ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 599 F. 2d 1048.

No. 79-5097. *POLK v. HARRIS.* C. A. 2d Cir. Certiorari denied.

No. 79-5102. *PRENZLER v. UNITED STATES DISTRICT COURT FOR THE CENTRAL DISTRICT OF CALIFORNIA (PIKE ET AL., REAL PARTIES IN INTEREST).* C. A. 9th Cir. Certiorari denied.

No. 79-5106. *GRAYSON v. UNITED STATES.* C. A. 9th Cir. Certiorari denied. Reported below: 597 F. 2d 1225.

No. 79-5107. *MCDONALD v. BIRCH, JUDGE.* Ct. Crim. App. Tenn. Certiorari denied.

No. 79-5111. *MIRENDA v. HARRIS, CORRECTIONAL SUPERINTENDENT.* C. A. 2d Cir. Certiorari denied.

No. 79-5113. *ANTHONY v. BOORSTIN, LIBRARIAN OF CONGRESS.* C. A. D. C. Cir. Certiorari denied.

No. 79-5116. *GREEN v. HUNTER, U. S. DISTRICT JUDGE, ET AL.* C. A. 8th Cir. Certiorari denied.

No. 79-5118. *MITCHELL v. MITCHELL, WARDEN, ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 594 F. 2d 858.

No. 79-5122. *MCDONALD v. UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF TENNESSEE; AND MCDONALD v. YELLOW FREIGHT SYSTEMS, INC.* C. A. 6th Cir. Certiorari denied.

No. 79-5124. *SANKEY v. BUTLER, SHERIFF.* C. A. 5th Cir. Certiorari denied.

No. 79-5126. *ANDREWS v. SOUTH CAROLINA ET AL.* Sup. Ct. S. C. Certiorari denied.

October 1, 1979

444 U.S.

No. 79-5128. *LYONS v. SULLIVAN ET AL.* C. A. 1st Cir. Certiorari denied. Reported below: 602 F. 2d 7.

No. 79-5130. *MAGUIRE v. UNITED STATES.* C. A. 1st Cir. Certiorari denied. Reported below: 600 F. 2d 330.

No. 79-5131. *MONTGOMERY v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. Reported below: 591 F. 2d 1342.

No. 79-5132. *REMIRO v. CALIFORNIA.* Ct. App. Cal., 3d App. Dist. Certiorari denied. Reported below: 89 Cal. App. 3d 809, 153 Cal. Rptr. 89.

No. 79-5134. *DEVONE v. UNITED STATES.* Ct. App. D. C. Certiorari denied. Reported below: 401 A. 2d 971.

No. 79-5135. *WATTS v. UNITED STATES.* C. A. 6th Cir. Certiorari denied. Reported below: 601 F. 2d 591.

No. 79-5136. *GIVENS v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. Reported below: 599 F. 2d 448.

No. 79-5138. *ALIM, AKA MCQUEEN v. METZ, CORRECTIONAL SUPERINTENDENT.* C. A. 2d Cir. Certiorari denied.

No. 79-5140. *PETERS v. GEORGIA.* Ct. App. Ga. Certiorari denied. Reported below: 148 Ga. App. 850, 253 S. E. 2d 214.

No. 79-5141. *LoMONACO v. HARRIS, CORRECTIONAL SUPERINTENDANT.* App. Div., Sup. Ct. N. Y., 2d Jud. Dept. Certiorari denied. Reported below: 68 App. Div. 2d 1019, 414 N. Y. S. 2d 74.

No. 79-5142. *JACKSON v. BEATRICE FOOD Co., DBA MEADOW GOLD DAIRIES.* C. A. 5th Cir. Certiorari denied. Reported below: 595 F. 2d 1219.

No. 79-5144. *COFFEY v. UNITED STATES.* C. A. 2d Cir. Certiorari denied.

444 U.S.

October 1, 1979

No. 79-5148. *MEREDITH v. MACDOUGALL, CORRECTIONS DIRECTOR, ET AL.* Sup. Ct. Ariz. Certiorari denied.

No. 79-5149. *STUDIFIN v. NEW YORK TELEPHONE CO.* C. A. 2d Cir. Certiorari denied. Reported below: 598 F. 2d 610.

No. 79-5151. *WOOD v. JEFFES, CORRECTIONAL SUPERINTENDENT, ET AL.* C. A. 3d Cir. Certiorari denied.

No. 79-5153. *SHAW v. GARRISON ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 601 F. 2d 582.

No. 79-5154. *OLIPHANT v. KOEHLER, WARDEN.* C. A. 6th Cir. Certiorari denied. Reported below: 594 F. 2d 547.

No. 79-5155. *BLOEMHOF v. CALIFORNIA.* Ct. App. Cal., 4th App. Dist. Certiorari denied.

No. 79-5156. *SAMPSON v. BREWER, WARDEN, ET AL.* C. A. 7th Cir. Certiorari denied. Reported below: 593 F. 2d 798.

No. 79-5158. *COY v. UNITED STATES.* C. A. 9th Cir. Certiorari denied. Reported below: 603 F. 2d 226.

No. 79-5160. *STOUT v. UNITED STATES.* C. A. 8th Cir. Certiorari denied. Reported below: 599 F. 2d 866.

No. 79-5161. *SCOTT v. UNITED STATES.* C. A. 6th Cir. Certiorari denied. Reported below: 601 F. 2d 590.

No. 79-5164. *MAXWELL v. UNITED STATES.* C. A. 7th Cir. Certiorari denied. Reported below: 588 F. 2d 568.

No. 79-5166. *WILKINS v. UNITED STATES.* C. A. 3d Cir. Certiorari denied. Reported below: 601 F. 2d 577.

No. 79-5171. *DODARO v. OHIO.* Ct. App. Ohio, Cuyahoga County. Certiorari denied.

No. 79-5186. *EVANS v. UNITED STATES.* C. A. 4th Cir. Certiorari denied. Reported below: 601 F. 2d 582.

October 1, 1979

444 U.S.

No. 79-5190. *THERIAULT ET AL. v. ESTABLISHMENT OF RELIGION ON TAXPAYERS' MONEY IN THE FEDERAL BUREAU OF PRISONS ET AL.* C. A. 7th Cir. Certiorari denied.

No. 79-5192. *ROBERTS v. UNITED STATES.* C. A. 3d Cir. Certiorari denied. Reported below: 601 F. 2d 577.

No. 79-5195. *SCHERZER v. UNITED STATES.* C. A. 9th Cir. Certiorari denied. Reported below: 601 F. 2d 604.

No. 79-5203. *BURNETTE v. UNITED STATES.* C. A. 4th Cir. Certiorari denied. Reported below: 603 F. 2d 219.

No. 79-5207. *DABDOUB-DIAZ v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. Reported below: 599 F. 2d 96.

No. 79-5213. *POTTER v. UNITED STATES.* C. A. 9th Cir. Certiorari denied. Reported below: 601 F. 2d 604.

No. 79-5220. *JORDAN v. UNITED STATES.* C. A. 8th Cir. Certiorari denied. Reported below: 602 F. 2d 171.

No. 79-5221. *ROBINSON v. UNITED STATES.* C. A. 6th Cir. Certiorari denied. Reported below: 602 F. 2d 760.

No. 79-5224. *SIMMONS v. UNITED STATES.* Ct. Cl. Certiorari denied.

No. 79-5235. *VINCENZO v. UNITED STATES.* C. A. 3d Cir. Certiorari denied. Reported below: 601 F. 2d 577.

No. 79-5242. *BROOKS v. UNITED STATES.* C. A. 6th Cir. Certiorari denied. Reported below: See 600 F. 2d 563.

No. 79-5249. *HESTER v. UNITED STATES.* C. A. 9th Cir. Certiorari denied. Reported below: 601 F. 2d 604.

No. 78-986. *ARKANSAS LOUISIANA GAS CO. v. HALL ET AL.* Ct. App. La., 2d Cir. Certiorari denied. MR. JUSTICE STEWART took no part in the consideration or decision of this petition. Reported below: 359 So. 2d 255.

444 U.S.

October 1, 1979

No. 79-5266. SMITH *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied. Reported below: 601 F. 2d 972.

No. 78-1585. LOUISIANA *v.* FEDERAL ENERGY REGULATORY COMMISSION; and

No. 78-1681. TEXAS *v.* FEDERAL ENERGY REGULATORY COMMISSION. C. A. 5th Cir. Certiorari denied. MR. JUSTICE STEWART took no part in the consideration or decision of these petitions. Reported below: 587 F. 2d 716.

No. 78-1662. CHEVRON U. S. A., INC., ET AL. *v.* ANDRUS, SECRETARY OF THE INTERIOR, ET AL. C. A. 5th Cir. Certiorari denied. MR. JUSTICE STEWART took no part in the consideration or decision of this petition. Reported below: 588 F. 2d 1383.

No. 78-1724. CITRONELLE-MOBILE GATHERING, INC. *v.* GULF OIL CORP. ET AL. C. A. 5th Cir. Certiorari denied. MR. JUSTICE STEWART took no part in the consideration or decision of this petition. Reported below: 578 F. 2d 1149.

No. 78-1878. SEBRING UTILITIES COMMISSION ET AL. *v.* FEDERAL ENERGY REGULATORY COMMISSION. C. A. 5th Cir. Certiorari denied. MR. JUSTICE STEWART took no part in the consideration or decision of this petition. Reported below: 591 F. 2d 1003.

No. 78-1464. ILLINOIS *v.* GENERAL PAVING Co. ET AL. C. A. 7th Cir. Motion of Cumberland Farms Dairy, Inc., et al. for leave to file a brief as *amici curiae* granted. Certiorari denied. MR. JUSTICE STEWART and MR. JUSTICE BLACKMUN would grant certiorari. Reported below: 590 F. 2d 680.

No. 78-1562. CITRONELLE-MOBILE GATHERING, INC. *v.* GULF OIL CORP. ET AL. Temp. Emerg. Ct. App. Certiorari denied. MR. JUSTICE WHITE would grant certiorari. MR. JUSTICE STEWART took no part in the consideration or decision of this petition. Reported below: 591 F. 2d 711.

October 1, 1979

444 U. S.

No. 78-1665. *JERSEY CENTRAL POWER & LIGHT CO. v. FEDERAL ENERGY REGULATORY COMMISSION ET AL.* C. A. 3d Cir. Certiorari denied. MR. JUSTICE WHITE would grant certiorari. Reported below: 589 F. 2d 142.

No. 78-1738. *SCHLESINGER v. UNITED STATES.* C. A. 2d Cir. Certiorari denied. MR. JUSTICE WHITE would grant certiorari. Reported below: 598 F. 2d 722.

No. 78-6693. *DIXON v. UNITED STATES.* C. A. 9th Cir. Certiorari denied. MR. JUSTICE WHITE would grant certiorari.

No. 78-6696. *STILLING v. OREGON.* Sup. Ct. Ore. Certiorari denied. MR. JUSTICE WHITE would grant certiorari. Reported below: 285 Ore. 293, 590 P. 2d 1223.

No. 78-6784. *RYAN v. WHITE ET AL.* C. A. 4th Cir. Certiorari denied. MR. JUSTICE WHITE would grant certiorari. Reported below: 598 F. 2d 616.

No. 78-1676. *KENTUCKY v. SIMPSON.* Ct. App. Ky. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 585 S. W. 2d 444.

No. 78-1691. *STARREN v. STARREN.* Ct. App. Cal., 4th App. Dist. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied.

No. 78-1752. *NEW YORK v. WHARTON.* Ct. App. N. Y. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 46 N. Y. 2d 924, 388 N. E. 2d 341.

No. 78-1786. *HUECKER ET AL. v. WEISENBERGER ET AL.* C. A. 6th Cir. Motion of respondents for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 593 F. 2d 49.

444 U.S.

October 1, 1979

No. 78-1819. MASSACHUSETTS *v.* SOARES ET AL. Sup. Jud. Ct. Mass. Motion of respondents for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 377 Mass. 461, 387 N. E. 2d 499.

No. 79-2. WARDEN, ILLINOIS STATE PENITENTIARY, ET AL. *v.* HAIRSTON. C. A. 7th Cir. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 597 F. 2d 604.

No. 79-46. ESTELLE, CORRECTIONS DIRECTOR *v.* FITCH. C. A. 5th Cir. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 587 F. 2d 773.

No. 79-94. CASTELLANO ET AL. *v.* SPEARS. C. A. 7th Cir. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 601 F. 2d 598.

No. 78-1661. CECIL *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied.

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

After his arrest for the sale of cocaine to undercover agents, petitioner was indicted for possession of cocaine with intent to distribute, in violation of 21 U. S. C. § 841 (a)(1) and 18 U. S. C. § 2. He was acquitted following a nonjury trial in the United States District Court for the District of Colorado on a finding by the trial judge that the evidence did not show either actual or constructive possession. No. 78-CR-211 (Sept. 1, 1978). Two weeks later, petitioner was indicted for possession of cocaine with intent to distribute and for distribution of cocaine arising out of the same episode. The Government concedes that this reindictment was designed to correct the prosecutor's error in drawing the original indictment too narrowly to fit the actual offense. Petitioner moved

October 1, 1979

444 U. S.

to dismiss the prosecution under the Double Jeopardy Clause and the motion was denied. On interlocutory appeal, see *Abney v. United States*, 431 U. S. 651 (1977), the Tenth Circuit affirmed in part and reversed in part, holding that the charge of possession was barred by the prior acquittal but that the charge of distribution involved a different offense from possession and therefore was not barred. App. to Pet. for Cert. 6-12. Rehearing and rehearing en banc were denied April 3, 1979.

I would grant the petition for certiorari and reverse the judgment of the Tenth Circuit so far as it permits petitioner to be tried on the distribution charge. I adhere to the view that the Double Jeopardy Clause of the Fifth 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 *Thompson v. Oklahoma*, 429 U. S. 1053 (1977) (BRENNAN, J., dissenting), and cases collected therein.

No. 78-1715. *COLLUM v. LOUISIANA*; and *IN RE COLLUM*. Sup. Ct. La. Certiorari denied. MR. JUSTICE MARSHALL would grant certiorari. Reported below: 368 So. 2d 460.

No. 78-1743. *VAUGHN v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. MR. JUSTICE MARSHALL would grant certiorari. Reported below: 599 F. 2d 1058.

No. 78-6802. *WILSON v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. MR. JUSTICE MARSHALL would grant certiorari. Reported below: See 583 F. 2d 540.

No. 78-1733. *STANTON ET AL. v. MACKEY ET AL.* C. A. 7th Cir. Motion of respondent Catherine Mackey for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 586 F. 2d 1126.

444 U. S.

October 1, 1979

No. 78-1720. WORLDWIDE CHURCH OF GOD, INC., ET AL. v. SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES (CALIFORNIA, REAL PARTY IN INTEREST). Sup. Ct. Cal. Motion of American Civil Liberties Union of Southern California et al. for leave to file a brief as *amici curiae* granted. Certiorari denied.

No. 78-1739. PETTUS v. AMERICAN AIRLINES, INC., ET AL. C. A. 4th Cir. Certiorari denied. MR. JUSTICE BRENNAN and MR. JUSTICE MARSHALL would grant certiorari. Reported below: 587 F. 2d 627.

No. 78-6760. MARTIN v. SOUTH DAKOTA. Sup. Ct. S. D. Certiorari denied. MR. JUSTICE BRENNAN and MR. JUSTICE MARSHALL would grant certiorari. Reported below: 274 N. W. 2d 893.

No. 78-6867. PATE v. KENTUCKY. Sup. Ct. Ky. Certiorari denied. MR. JUSTICE BRENNAN and MR. JUSTICE MARSHALL would grant certiorari. Reported below: 585 S. W. 2d 415.

No. 78-1791. FIRST NATIONAL BANK OF COMMERCE v. SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES (SKOURAS, TRUSTEE, REAL PARTY IN INTEREST). Ct. App. Cal., 2d App. Dist. Certiorari denied. MR. JUSTICE BLACKMUN would grant certiorari.

No. 78-6772. BOGARD v. COOK, PENITENTIARY SUPERINTENDENT, ET AL. C. A. 5th Cir. Certiorari denied. MR. JUSTICE BLACKMUN would grant certiorari. Reported below: 586 F. 2d 399.

No. 78-1801. FLORIDA v. MULLINS. Sup. Ct. Fla. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. MR. JUSTICE WHITE would grant certiorari. Reported below: 366 So. 2d 1162.

October 1, 1979

444 U.S.

No. 78-1804. *BARTANEN v. ARIZONA*. Sup. Ct. Ariz. Certiorari denied. MR. JUSTICE BRENNAN, MR. JUSTICE STEWART, and MR. JUSTICE MARSHALL would grant certiorari and reverse the conviction. Reported below: 121 Ariz. 454, 591 P. 2d 546.

No. 78-6523. *SHORT v. LOUISIANA*. Sup. Ct. La. Certiorari denied. MR. JUSTICE BRENNAN, MR. JUSTICE STEWART, and MR. JUSTICE MARSHALL would grant certiorari and reverse the conviction. Reported below: 368 So. 2d 1078.

No. 78-1852. *CHROMALLOY AMERICAN CORP., FEDERAL MALLEABLE DIVISION v. MARSHALL, SECRETARY OF LABOR*. C. A. 7th Cir. Certiorari denied. MR. JUSTICE WHITE and MR. JUSTICE POWELL would grant certiorari. Reported below: 589 F. 2d 1335.

No. 78-1856. *DORL v. FOSTER WHEELER CORP.* C. A. 3d Cir. Certiorari denied. MR. JUSTICE STEVENS took no part in the consideration or decision of this petition. Reported below: 595 F. 2d 1211.

No. 79-57. *CANADIAN ACE BREWING CO. v. ANHEUSER-BUSCH, INC.* C. A. 7th Cir. Certiorari denied. MR. JUSTICE STEVENS took no part in the consideration or decision of this petition. Reported below: 601 F. 2d 593.

No. 79-79. *PIHER INTERNATIONAL CORP. ET AL. v. CTS CORP.* C. A. 7th Cir. Certiorari denied. MR. JUSTICE STEVENS took no part in the consideration or decision of this petition. Reported below: 593 F. 2d 777.

No. 78-1931. *UNITED STATES GYPSUM CO. ET AL. v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. MR. JUSTICE BLACKMUN took no part in the consideration or decision of this petition. Reported below: 600 F. 2d 414.

444 U. S.

October 1, 1979

No. 78-6567. *LEDUC v. FLORIDA*. Sup. Ct. Fla.;
No. 78-6577. *JORDAN v. MISSISSIPPI*. Sup. Ct. Miss.;
No. 78-6637. *HENRY v. FLORIDA*. Sup. Ct. Fla.;
No. 78-6650. *VILLARREAL v. TEXAS*. Ct. Crim. App. Tex.;
No. 78-6695. *PRESNELL v. GEORGIA*. Sup. Ct. Ga.;
No. 78-6740. *SMITH v. FLORIDA*. Sup. Ct. Fla.;
No. 78-6897. *FLEMING v. GEORGIA*. Sup. Ct. Ga.;
No. 79-5059. *JACKSON v. FLORIDA*. Sup. Ct. Fla.;
No. 79-5075. *SALVATORE v. FLORIDA*. Sup. Ct. Fla.;
No. 79-5115. *SPENCER v. HOPPER, WARDEN*. Sup. Ct. Ga.;
No. 79-5143. *WILLIS v. GEORGIA*. Sup. Ct. Ga.; and
No. 79-5169. *FOSTER v. FLORIDA*. Sup. Ct. Fla. Certiorari denied. Reported below: No. 78-6567, 365 So. 2d 149; No. 78-6577, 365 So. 2d 1198; No. 78-6637, see 328 So. 2d 430; No. 78-6650, 576 S. W. 2d 51; No. 78-6695, 243 Ga. 131, 252 S. E. 2d 625; No. 78-6740, 365 So. 2d 704; No. 78-6897, 243 Ga. 120, 252 S. E. 2d 609; No. 79-5059, 366 So. 2d 752; No. 79-5075, 366 So. 2d 745; No. 79-5115, 243 Ga. 532, 255 S. E. 2d 1; No. 79-5143, 243 Ga. 185, 253 S. E. 2d 70; No. 79-5169, 369 So. 2d 928.

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 grant certiorari and vacate the death sentences in these cases.

No. 78-6745. *AWKARD ET AL. v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. MR. JUSTICE BRENNAN would grant certiorari. Reported below: 597 F. 2d 667.

No. 79-174. *JOHNSON ET AL. v. MOTOR VEHICLE DIVISION, DEPARTMENT OF REVENUE OF COLORADO*. Sup. Ct. Colo. Certiorari denied. MR. JUSTICE BRENNAN would grant certiorari. Reported below: 197 Colo. 455, 593 P. 2d 1363.

October 1, 1979

444 U.S.

No. 78-6872. *MOONEY v. GEORGIA*. Sup. Ct. Ga. Certiorari denied. MR. JUSTICE BRENNAN, MR. JUSTICE WHITE, and MR. JUSTICE MARSHALL would grant certiorari. Reported below: 243 Ga. 373, 254 S. E. 2d 337.

No. 79-5091. *PAPP v. OHIO*. Sup. Ct. Ohio. Certiorari denied. MR. JUSTICE BRENNAN, MR. JUSTICE WHITE, and MR. JUSTICE MARSHALL would grant certiorari.

No. 78-6900. *HERBERT v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. MR. JUSTICE STEWART would grant certiorari. Reported below: 598 F. 2d 344.

No. 79-5003. *DI GERONIMO v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. MR. JUSTICE STEWART would grant certiorari. Reported below: 598 F. 2d 746.

No. 78-6906. *SPEIGHT v. GEORGIA*. Ct. App. Ga. Certiorari denied. MR. JUSTICE BRENNAN and MR. JUSTICE MARSHALL would grant certiorari and reverse the conviction. Reported below: 148 Ga. App. 87, 251 S. E. 2d 36.

No. 79-10. *UNIVERSITY OF TENNESSEE ET AL. v. GEIER ET AL.* C. A. 6th Cir. Motion of University of Tennessee at Nashville Chapter of American Association of University Professors for leave to file a brief as *amicus curiae* granted. Certiorari denied. MR. JUSTICE MARSHALL took no part in the consideration or decision of this motion and petition. Reported below: 597 F. 2d 1056.

No. 79-55. *TENNESSEE HIGHER EDUCATION COMMISSION v. GEIER ET AL.* C. A. 6th Cir. Certiorari denied. MR. JUSTICE MARSHALL took no part in the consideration or decision of this petition. Reported below: 597 F. 2d 1078.

No. 79-5016. *COBB v. SOUTHERN RAILWAY Co.* C. A. 5th Cir. Certiorari denied. MR. JUSTICE POWELL took no part in the consideration or decision of this petition. Reported below: 598 F. 2d 618.

444 U.S.

October 1, 1979

No. 79-145. CALIFORNIA *v.* MINJARES. Sup. Ct. Cal. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. THE CHIEF JUSTICE, MR. JUSTICE BLACKMUN, and MR. JUSTICE REHNQUIST would grant certiorari. Reported below: 24 Cal. 3d 410, 591 P. 2d 514.

No. 79-194. GIGANTE *v.* LANKLER, DEPUTY ATTORNEY GENERAL OF NEW YORK. Ct. App. N. Y. Motions of Roman Catholic Archdiocese of New York and Central Rabbinical Congress of the United States and Canada for leave to file briefs as *amici curiae* granted. Certiorari denied. Reported below: 47 N. Y. 2d 160, 390 N. E. 2d 1151.

No. 79-5223. MASON ET UX. *v.* KOROLOGOS ET AL. C. A. 4th Cir. Certiorari denied. MR. JUSTICE REHNQUIST took no part in the consideration or decision of this petition. Reported below: 601 F. 2d 581.

Rehearing Denied

No. 77-1032. CITY OF COLUMBUS ET AL. *v.* LEONARD ET AL., 443 U. S. 905;

No. 78-329. BELLOTTI, ATTORNEY GENERAL OF MASSACHUSETTS, ET AL. *v.* BAIRD ET AL., 443 U. S. 622;

No. 78-334. FARE, ACTING CHIEF PROBATION OFFICER *v.* MICHAEL C., 442 U. S. 707;

No. 78-610. COLUMBUS BOARD OF EDUCATION ET AL. *v.* PENICK ET AL., 443 U. S. 449;

No. 78-627. DAYTON BOARD OF EDUCATION ET AL. *v.* BRINKMAN ET AL., 443 U. S. 526;

No. 78-749. KENTUCKY *v.* WHORTON, 441 U. S. 786;

No. 78-1084. KENTUCKY *v.* WILLIAMS, 442 U. S. 914;

No. 78-1085. KENTUCKY *v.* AVERY, 442 U. S. 914;

No. 78-1303. CHISNELL *v.* CHISNELL, 442 U. S. 940; and

No. 78-1379. TAHOE NUGGET, INC., DBA JIM KELLEY'S TAHOE NUGGET, ET AL. *v.* NATIONAL LABOR RELATIONS BOARD, 442 U. S. 921. Petitions for rehearing denied.

October 1, 1979

444 U. S.

No. 78-1409. *WILLIAMS v. PORT AUTHORITY OF NEW YORK AND NEW JERSEY ET AL.*, 441 U. S. 945;

No. 78-1430. *PRETERM, INC., ET AL. v. KING, GOVERNOR OF MASSACHUSETTS, ET AL.*, 441 U. S. 952;

No. 78-1465. *SAHARA-TAHOE CORP. v. NATIONAL LABOR RELATIONS BOARD ET AL.*, 442 U. S. 917;

No. 78-1467. *MIDTAUNE v. UNITED STATES*, 442 U. S. 917;

No. 78-1470. *LOPEZ v. UNITED STATES*, 442 U. S. 947;

No. 78-1482. *MEYERS v. CHILCOTE*, 442 U. S. 925;

No. 78-1508. *RUDDER ET AL. v. WISE COUNTY HOUSING AND REDEVELOPMENT AUTHORITY*, 441 U. S. 939;

No. 78-1527. *LUNA v. SECRETARY OF HEALTH, EDUCATION, AND WELFARE*, 442 U. S. 935;

No. 78-1529. *HUNT ET AL. v. COMMODITY FUTURES TRADING COMMISSION*, 442 U. S. 921;

No. 78-1541. *HOWELL v. GATES ET AL.*, 442 U. S. 930;

No. 78-1543. *SPEHLING v. UNITED STATES*, 441 U. S. 947;

No. 78-1554. *BELL v. NEW JERSEY ET AL.*, 442 U. S. 918;

No. 78-1626. *ROSENBAUM v. ROSENBAUM*, 442 U. S. 935;

No. 78-1750. *TUSSEL v. UNITED STATES*, 442 U. S. 943;

No. 78-1922. *AMERICAN FEDERATION OF LABOR & CONGRESS OF INDUSTRIAL ORGANIZATIONS ET AL. v. KAHN, CHAIRMAN, COUNCIL ON WAGE AND PRICE STABILITY, ET AL.*, 443 U. S. 915;

No. 78-6223. *VON BYRD v. TEXAS*, 441 U. S. 967;

No. 78-6282. *WHITEHEAD v. UNITED STATES*, 442 U. S. 911;

No. 78-6308. *RECTOR v. UNITED STATES*, 441 U. S. 963;

No. 78-6330. *VELEZ v. SECRETARY OF HEALTH, EDUCATION, AND WELFARE*, 441 U. S. 963;

No. 78-6375. *FERGUSON v. TEXAS*, 442 U. S. 934;

No. 78-6409. *BELLO v. TEXAS*, 442 U. S. 935; and

No. 78-6420. *FRIEDMAN v. AVON PRODUCTS*, 442 U. S. 911.

Petitions for rehearing denied.

444 U. S.

October 1, 1979

No. 78-6428. *MINER v. CALIFANO*, SECRETARY OF HEALTH, EDUCATION, AND WELFARE, 442 U. S. 931;

No. 78-6444. *SMITH v. KANSAS*, 441 U. S. 964;

No. 78-6461. *PLEASANT v. CALIFORNIA*, 441 U. S. 964;

No. 78-6516. *DARBY ET AL. v. INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS, LOCAL UNION No. 1547, ET AL.*, 442 U. S. 944;

No. 78-6542. *WELCH v. FALKE*, MONTGOMERY COUNTY PROSECUTING ATTORNEY, 442 U. S. 920;

No. 78-6549. *GULLY ET AL. v. KUNZMAN, JUDGE, ET AL.*, 442 U. S. 924;

No. 78-6553. *LUPERT v. COLLEGE OF LAW OF SYRACUSE UNIVERSITY*, 442 U. S. 925;

No. 78-6557. *DINKE v. RIGGS NATIONAL BANK OF WASHINGTON, D. C.*, 442 U. S. 912;

No. 78-6561. *YOUNG v. ZANT, WARDEN*, 442 U. S. 934;

No. 78-6604. *RAITPORT v. CLERK OF THE SUPREME COURT OF THE UNITED STATES*, 442 U. S. 927;

No. 78-6613. *PEERY v. UNITED STATES*, 442 U. S. 913; and

No. 78-6715. *KRIZ v. UNITED STATES*, 442 U. S. 945. Petitions for rehearing denied.

No. 78-432. *UNITED STEELWORKERS OF AMERICA, AFL-CIO-CLC v. WEBER ET AL.*;

No. 78-435. *KAISER ALUMINUM & CHEMICAL CORP. v. WEBER ET AL.*; and

No. 78-436. *UNITED STATES ET AL. v. WEBER ET AL.*, 443 U. S. 193. Motion to dispense with printing petition granted. Petition for rehearing denied. MR. JUSTICE POWELL and MR. JUSTICE STEVENS took no part in the consideration or decision of the motion and petition.

No. 78-479. *EDMONDS v. COMPAGNIE GENERALE TRANSATLANTIQUE*, 443 U. S. 256. Motion to defer consideration and petition for rehearing denied. MR. JUSTICE POWELL took no

October 1, 5, 1979

444 U. S.

part in the consideration or decision of this motion and petition.

No. 78-575. SOUTHERN RAILWAY CO. *v.* SEABOARD ALLIED MILLING CORP. ET AL., 442 U. S. 444;

No. 78-597. INTERSTATE COMMERCE COMMISSION *v.* SEABOARD ALLIED MILLING CORP. ET AL., 442 U. S. 444;

No. 78-604. SEABOARD COAST LINE RAILROAD CO. ET AL. *v.* SEABOARD ALLIED MILLING CORP. ET AL., 442 U. S. 444;

No. 78-685. ABERDEEN & ROCKFISH RAILROAD CO. ET AL. *v.* UNITED STATES ET AL., 442 U. S. 946; and

No. 78-5283. JACKSON *v.* VIRGINIA ET AL., 443 U. S. 307. Petitions for rehearing denied. MR. JUSTICE POWELL took no part in the consideration or decision of these petitions.

No. 78-765. MICHIGAN *v.* CONNER, 441 U. S. 943;

No. 78-1316. FLEX-A-LITE CORP. *v.* SCHWITZER DIVISION, WALLACE-MURRAY CORP., 441 U. S. 952;

No. 78-6237. PHILLIPS *v.* LOUISIANA, 442 U. S. 919;

No. 78-6350. SREMANIAK *v.* UNITED STATES, 441 U. S. 963; and

No. 78-6544. RODES *v.* PRISTO ET AL., 441 U. S. 951. Motions for leave to file petitions for rehearing denied.

No. 78-1610. UNITED AIR LINES, INC. *v.* McDONALD, 442 U. S. 934. Petition for rehearing denied. MR. JUSTICE STEVENS took no part in the consideration or decision of this petition.

OCTOBER 5, 1979

Miscellaneous Order

No. A-290. O'HAIR ET AL. *v.* ANDRUS, SECRETARY OF THE INTERIOR, ET AL. D. C. D. C. Application for injunction, presented to THE CHIEF JUSTICE, and by him referred to the Court, denied.

444 U. S.

OCTOBER 9, 1979

Appeals Dismissed

No. 78-6773. THOMAS *v.* NEW YORK. Appeal from App. Term, Sup. Ct. N. Y., 1st Jud. Dept., dismissed for want of substantial federal question.

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

At issue in this appeal is whether admission into evidence of one's refusal to submit to a blood test to determine inebriation is contrary to the Fifth Amendment's prohibition of compelled testimonial incrimination. In the instant case the New York Court of Appeals, in finding the refusal to be admissible into evidence, upheld in the face of constitutional challenge the state statute authorizing admission. Other state courts have reached identical conclusions. *E. g.*, *Commonwealth v. Robinson*, 229 Pa. Super. 131, 324 A. 2d 441 (1974); *State v. Meints*, 189 Neb. 264, 202 N. W. 2d 202 (1972). But the courts of some States have decided that the Fifth and Fourteenth Amendments require that the evidence be held inadmissible. *E. g.*, *Dudley v. State*, 548 S. W. 2d 706 (Tex. Crim. App. 1977); *State v. Andrews*, 297 Minn. 260, 212 N. W. 2d 863 (1973), cert. denied, 419 U. S. 881 (1974).

Because of this conflict among state courts as to the reach of the Fifth Amendment's protection against compelled testimonial evidence, I dissent from the Court's decision to dismiss this appeal.

No. 79-251. SAPPINGTON *v.* BECKERT, JUDGE, ET AL. Appeal from D. C. E. D. Pa. dismissed for want of jurisdiction.

No. 79-5103. CAREY *v.* NEW YORK STATE HUMAN RIGHTS APPEAL BOARD ET AL. Appeal from Ct. App. N. Y. dismissed for want of substantial federal question. Reported below: 46 N. Y. 2d 1068, 390 N. E. 2d 301.

October 9, 1979

444 U. S.

No. 79-329. *SKINKISS v. OWENS-CORNING FIBERGLAS CORP.* Appeal from Ct. App. Ohio, Lucas County, dismissed for want of substantial federal question.

No. 79-5189. *COLVER v. CALIFORNIA.* Appeal from Ct. App. Cal., 1st App. Dist., dismissed for want of substantial federal question.

No. 79-5101. *PETRILLO v. TOWNSHIP OF WOODBRIDGE.* Appeal from Super. Ct. N. J. dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied.

No. 79-5174. *RAITPORT v. PROVIDENT NATIONAL BANK.* 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: 485 Pa. 201, 401 A. 2d 364.

No. 79-5217. *CORRADO v. GIFFORD.* Appeal from Sup. Ct. R. I. dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied. Reported below: — R. I. —, 401 A. 2d 53.

No. 79-5198. *POWELL v. ESTELLE, CORRECTIONS DIRECTOR.* 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: See 580 S. W. 2d 169.

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 grant certiorari and vacate the death sentence in this case.

444 U.S.

October 9, 1979

Certiorari Granted—Vacated and Remanded. (See also No. 78-6932, *ante*, p. 1.)

No. 79-274. *MOYE v. CONNECTICUT*. Sup. Ct. Conn. Certiorari granted, judgment vacated, and case remanded for further consideration in light of *Sandstrom v. Montana*, 442 U. S. 510 (1979). Reported below: 177 Conn. 487, 418 A. 2d 870.

Miscellaneous Orders

No. A-219. *PROVENZANO v. UNITED STATES*. C. A. 3d Cir. Application for bail pending appeal, addressed to MR. JUSTICE BRENNAN and referred to the Court, denied.

No. A-231. *HUDSON v. PARKS & WILDLIFE DEPARTMENT OF TEXAS ET AL.* C. A. 5th Cir. Application for an injunction pending appeal, addressed to MR. JUSTICE BRENNAN and referred to the Court, denied.

No. A-242 (79-300). *INSPIRATION ENTERPRISES, INC., ET AL. v. INLAND CREDIT CORP. ET AL.* App. Div., Sup. Ct. N. Y., 1st Jud. Dept. Application for stay, addressed to MR. JUSTICE BRENNAN and referred to the Court, denied.

No. A-277. *NATIONAL RAILROAD PASSENGER CORP. v. HALL, MEMBER OF CONGRESS, ET AL.* C. A. D. C. Cir. Motion to vacate stay granted by THE CHIEF JUSTICE on September 30, 1979, denied.

No. D-162. *IN RE DISBARMENT OF TURNER*. Disbarment entered. [For earlier order herein, see 441 U. S. 919.]

No. D-164. *IN RE DISBARMENT OF MACURDY*. Disbarment entered. [For earlier order herein, see 441 U. S. 920.]

No. D-165. *IN RE DISBARMENT OF ROTHBART*. Disbarment entered. [For earlier order herein, see 441 U. S. 920.]

October 9, 1979

444 U. S.

No. D-167. *IN RE DISBARMENT OF REISER*. Disbarment entered. [For earlier order herein, see 441 U. S. 920.]

No. D-170. *IN RE DISBARMENT OF COHEN*. It is ordered that Robert Baer Cohen, of Philadelphia, Pa., 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-171. *IN RE DISBARMENT OF GARCIA*. It is ordered that James Leon Garcia, Jr., 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. D-172. *IN RE DISBARMENT OF BENDES*. It is ordered that Maurice Albert Bendes, of Lawrence, 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-173. *IN RE DISBARMENT OF SALLS*. It is ordered that Eugenio Cornier Salls, 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-174. *IN RE DISBARMENT OF SPOONER*. It is ordered that Daniel J. Spooner, 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.

444 U. S.

October 9, 1979

No. D-175. *IN RE DISBARMENT OF FELDSHUH*. It is ordered that Sidney Feldshuh, of Scarsdale, 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-176. *IN RE DISBARMENT OF PRAVDA*. It is ordered that David A. Pravda, 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. 82, Orig. *NEW MEXICO v. TEXAS*. Motions of Arkansas and Committee on Power for the Southwest, Inc., et al. for leave to intervene denied. Motion for leave to file a bill of complaint denied. [For earlier order herein, see 442 U. S. 908.]

No. 78-1183. *CARBON FUEL CO. v. UNITED MINE WORKERS OF AMERICA ET AL.* C. A. 4th Cir. [Certiorari granted, 440 U. S. 957.] Motion of American Federation of Labor & Congress of Industrial Organizations for leave to file a brief as *amicus curiae* granted.

No. 78-1202. *CHIARELLA v. UNITED STATES*. C. A. 2d Cir. [Certiorari granted, 441 U. S. 942.] Motion of Securities Industry Association for leave to file a brief as *amicus curiae* granted.

No. 78-1323. *NORFOLK & WESTERN RAILWAY CO. v. LIEPELT, ADMINISTRATRIX*. App. Ct. Ill., 1st Dist. [Certiorari granted, 441 U. S. 904.] Motions of National Association of Railroad Trial Counsel, Association of Trial Lawyers of America, and State Trial Lawyers Association for leave to file briefs as *amici curiae*, granted.

October 9, 1979

444 U. S.

No. 78-1335. VILLAGE OF SCHAUMBURG *v.* CITIZENS FOR A BETTER ENVIRONMENT ET AL. C. A. 7th Cir. [Certiorari granted, 441 U. S. 922.] Motions for leave to file briefs as *amici curiae* filed by the following were granted: Coalition of National Voluntary Organizations et al., Los Angeles Council of National Voluntary Health Agencies, National Council of Churches of Christ in the U. S. A. et al., Holy Spirit Association for the Unification of World Christianity, National Committee for Responsive Philanthropy et al., and American Federation of Labor & Congress of Industrial Organizations.

No. 78-1513. UNITED STATES *v.* CLARK, GUARDIAN. Ct. Cl. [Probable jurisdiction postponed, 441 U. S. 960.] Motion of Barbara Jenkins for leave to file a brief as *amicus curiae* granted.

No. 78-1902. INTERNATIONAL LONGSHOREMEN'S ASSN., AFL-CIO *v.* CONSOLIDATED EXPRESS, INC., ET AL.;

No. 78-1905. NEW YORK SHIPPING ASSN., INC., ET AL. *v.* CONSOLIDATED EXPRESS, INC., ET AL.;

No. 79-221. CONSOLIDATED EXPRESS, INC., ET AL. *v.* NEW YORK SHIPPING ASSN., INC., ET AL. C. A. 3d Cir.; and

No. 79-73. ADELAIDE SHIPPING LINES, LTD., ET AL. *v.* SUN-KIST GROWERS, INC. C. A. 9th Cir. The Solicitor General is invited to file briefs in these cases expressing the views of the United States.

No. 79-5204. RAITPORT *v.* PROVIDENT NATIONAL BANK. Motion for leave to file petition for writ of mandamus denied.

Probable Jurisdiction Postponed

No. 79-243. RICHMOND NEWSPAPERS, INC., ET AL. *v.* VIRGINIA ET AL. Appeal from Sup. Ct. Va. Further consideration of question of jurisdiction postponed to hearing of case on the merits.

444 U.S.

October 9, 1979

Certiorari Granted

No. 78-1933. MONTGOMERY, DBA LAMINATING COMPANY OF COLORADO ET AL. *v.* CENTURY LAMINATING, LTD. C. A. 10th Cir. Certiorari granted. Reported below: 595 F. 2d 563.

No. 79-192. NEW YORK GASLIGHT CLUB, INC., ET AL. *v.* CAREY. C. A. 2d Cir. Certiorari granted. Reported below: 598 F. 2d 1253.

No. 78-6621. BECK *v.* ALABAMA. Sup. Ct. Ala. Motion of petitioner for leave to proceed *in forma pauperis* granted. Certiorari granted limited to the question presented by the Court: May a sentence of death constitutionally be imposed after a jury verdict of guilt of a capital offense, when the jury was not permitted to consider a verdict of guilt of a lesser included non-capital offense, and when the evidence would have supported such a verdict? Reported below: 365 So. 2d 1006.

No. 78-6899. GODFREY *v.* GEORGIA. Sup. Ct. Ga. Motion of petitioner for leave to proceed *in forma pauperis* granted. Certiorari granted limited to the question presented by the Court: In affirming the imposition of the death sentence in this case, has the Georgia Supreme Court adopted such a broad and vague construction of Georgia Code Ann. § 27-2534.1 (b)(7) (specifying certain aggravating circumstances) as to violate the Eighth and Fourteenth Amendments to the United States Constitution? Reported below: 243 Ga. 302, 253 S. E. 2d 710.

No. 79-5010. BIFULCO *v.* UNITED STATES. C. A. 2d Cir. Motion of petitioner for leave to proceed *in forma pauperis* and certiorari granted. Reported below: 600 F. 2d 407.

October 9, 1979

444 U.S.

Certiorari Denied. (See also Nos. 79-5101, 79-5174, 79-5217, and 79-5198, *supra.*)

No. 78-1504. *CRUZ v. UNITED STATES.* C. A. 1st Cir. *Certiorari denied.* Reported below: 594 F. 2d 268.

No. 78-1909. *CARCHMAN ET UX. v. KORMAN CORP.* C. A. 3d Cir. *Certiorari denied.* Reported below: 594 F. 2d 354.

No. 78-6788. *DIX v. WISCONSIN.* Sup. Ct. Wis. *Certiorari denied.* Reported below: 86 Wis. 2d 474, 273 N. W. 2d 250.

No. 78-6923. *BELL v. UNITED STATES.* C. A. 7th Cir. *Certiorari denied.* Reported below: 601 F. 2d 598.

No. 79-11. *BOONE v. GEORGIA.* Sup. Ct. Ga. *Certiorari denied.* Reported below: 243 Ga. 416, 254 S. E. 2d 367.

No. 79-19. *PAULEY PETROLEUM, INC., ET AL. v. UNITED STATES ET AL.* Ct. Cl. *Certiorari denied.* Reported below: 219 Ct. Cl. 24, 591 F. 2d 1308.

No. 79-24. *GUZMAN v. UNITED STATES.* C. A. 7th Cir. *Certiorari denied.* Reported below: 601 F. 2d 599.

No. 79-44. *PACIFIC INTERNATIONAL RICE MILLS, INC. v. NATIONAL LABOR RELATIONS BOARD.* C. A. 9th Cir. *Certiorari denied.* Reported below: 594 F. 2d 1323.

No. 79-47. *EMERY v. OHIO.* Sup. Ct. Ohio. *Certiorari denied.*

No. 79-63. *COLUMBIA GAS TRANSMISSION CORP. v. SOUTHGATE DEVELOPMENT CORP.* Ct. App. Ohio, Lorain County. *Certiorari denied.*

No. 79-85. *DAVIDSON SUPPLY CO. v. FEDERAL COMMUNICATIONS COMMISSION ET AL.* C. A. 4th Cir. *Certiorari denied.* Reported below: 598 F. 2d 613.

444 U. S.

October 9, 1979

No. 79-98. JACK'S COOKIE CO. *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 597 F. 2d 395.

No. 79-102. SAJDAK *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied. Reported below: 601 F. 2d 595.

No. 79-103. DORSY *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 592 F. 2d 1189.

No. 79-129. MILLETTE & ASSOCIATES, INC. *v.* COMMISSIONER OF INTERNAL REVENUE. C. A. 5th Cir. Certiorari denied. Reported below: 594 F. 2d 121.

No. 79-175. CITY OF ST. LOUIS *v.* THOMAS W. GARLAND, INC., ET AL.; and

No. 79-206. MANLEY INVESTMENT CO. *v.* THOMAS W. GARLAND, INC., ET AL. C. A. 8th Cir. Certiorari denied. Reported below: 596 F. 2d 784.

No. 79-195. WHEELER ET AL. *v.* ROMAN CATHOLIC ARCHDIOCESE OF BOSTON, INC., ET AL. Sup. Jud. Ct. Mass. Certiorari denied. Reported below: 378 Mass. 58, 389 N. E. 2d 966.

No. 79-202. BOWDEN ET AL. *v.* MCKENNA ET AL. C. A. 1st Cir. Certiorari denied. Reported below: 600 F. 2d 282.

No. 79-204. EASLEY *v.* CALIFORNIA. Ct. App. Cal., 2d App. Dist. Certiorari denied. Reported below: 90 Cal. App. 3d 440, 153 Cal. Rptr. 396.

No. 79-210. ANDREWS *v.* CAHILL, FAMILY COURT COMMISSIONER FOR WAUKESHA COUNTY, ET AL. C. A. 7th Cir. Certiorari denied. Reported below: 601 F. 2d 597.

No. 79-211. ALEXANDER, DBA STRAND THEATER, K.I.M.Y. B.A. CORP., ET AL. *v.* NATIONAL LABOR RELATIONS BOARD. C. A. 8th Cir. Certiorari denied. Reported below: 595 F. 2d 454.

October 9, 1979

444 U. S.

No. 79-213. *HOWELL v. METRO BANK OF DALLAS ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 592 F. 2d 1188.

No. 79-214. *CHINARIAN v. RUCKS, WARDEN.* C. A. 6th Cir. Certiorari denied. Reported below: 601 F. 2d 588.

No. 79-219. *LAMB ET AL. v. BROWN.* Sup. Ct. Ohio. Certiorari denied.

No. 79-225. *SALAS ET AL. v. CORTEZ ET AL.* Sup. Ct. Cal. Certiorari denied. Reported below: 24 Cal. 3d 22, 593 P. 2d 226.

No. 79-227. *SCHULMAN ET AL. v. PATERSON REDEVELOPMENT AGENCY.* Sup. Ct. N. J. Certiorari denied. Reported below: 78 N. J. 378, 396 A. 2d 573.

No. 79-242. *FRANKLIN LIFE INSURANCE Co. v. COMMONWEALTH EDISON Co.* C. A. 7th Cir. Certiorari denied. Reported below: 598 F. 2d 1109.

No. 79-259. *AMF, INC. v. GENERAL MOTORS CORP. ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 591 F. 2d 68.

No. 79-273. *POTTER ET AL., DBA POTTER & POTTER v. JONES ET AL.* Sup. Ct. Ark. Certiorari denied.

No. 79-308. *PROTECTION MARITIME INSURANCE Co., LTD., ET AL. v. PINO ET AL.* C. A. 1st Cir. Certiorari denied. Reported below: 599 F. 2d 10.

No. 79-5079. *CLOUDY v. BOESCH ET AL.* Sup. Ct. Ind. Certiorari denied.

No. 79-5092. *MCDONALD v. UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF TENNESSEE.* C. A. 6th Cir. Certiorari denied.

No. 79-5105. *WEAVER v. UNITED STATES.* C. A. 6th Cir. Certiorari denied. Reported below: 599 F. 2d 1056.

444 U.S.

October 9, 1979

No. 79-5123. *HARGROVE v. CITY OF GARLAND, TEXAS.* Ct. Civ. App. Tex., 5th Sup. Jud. Dist. Certiorari denied. Reported below: 581 S. W. 2d 699.

No. 79-5127. *SHORT v. UNITED STATES.* C. A. 8th Cir. Certiorari denied. Reported below: 597 F. 2d 1122.

No. 79-5133. *CRAWFORD v. CRAWFORD.* Ct. App. Cal., 2d App. Dist. Certiorari denied.

No. 79-5173. *RAUF, AKA JACKSON v. CITY OF ATLANTA BUREAU OF POLICE SERVICES ET AL.* C. A. 5th Cir. Certiorari denied.

No. 79-5185. *GARCIA v. INDIANA.* Sup. Ct. Ind. Certiorari denied. Reported below: — Ind. —, 391 N. E. 2d 604.

No. 79-5193. *PRINCE v. TEXAS.* Ct. Crim. App. Tex. Certiorari denied. Reported below: 579 S. W. 2d 941.

No. 79-5194. *PAGE v. CALIFORNIA.* Ct. App. Cal., 1st App. Dist. Certiorari denied.

No. 79-5201. *AUDI v. ILLINOIS.* Sup. Ct. Ill. Certiorari denied. Reported below: 75 Ill. 2d 535, 389 N. E. 2d 534.

No. 79-5206. *HARRIS v. SACHS, ATTORNEY GENERAL OF MARYLAND, ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 601 F. 2d 580.

No. 79-5208. *GIBSON v. THOMPSON, WARDEN.* C. A. 6th Cir. Certiorari denied. Reported below: 601 F. 2d 588.

No. 79-5211. *McDERMOTT v. NATIONS ET AL.* Sup. Ct. Mo. Certiorari denied. Reported below: 580 S. W. 2d 249.

No. 79-5212. *SLOCUM v. JERNIGAN, CORRECTIONAL SUPERINTENDENT.* C. A. 5th Cir. Certiorari denied.

No. 79-5222. *MYERS v. BULL.* C. A. 8th Cir. Certiorari denied. Reported below: 599 F. 2d 863.

October 9, 1979

444 U.S.

No. 79-5226. *GREER v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 600 F. 2d 468.

No. 79-5229. *JAMISON v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 601 F. 2d 591.

No. 79-5278. *LUGO v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 597 F. 2d 1055.

No. 79-5280. *MALACHESEN v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 597 F. 2d 1232.

No. 79-5281. *WARE v. UNITED STATES*. Ct. App. D. C. Certiorari denied.

No. 79-5282. *McGROARTY v. UNITED STATES*. C. A. 10th Cir. Certiorari denied.

No. 79-5287. *DAY v. UNITED STATES*. C. A. 10th Cir. Certiorari denied. Reported below: See 533 F. 2d 524.

No. 79-5288. *TANGRADI, AKA HOFFMAN v. UNITED STATES*. C. A. 10th Cir. Certiorari denied.

No. 79-5290. *STUCKEY v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 599 F. 2d 1053.

No. 79-5292. *SMITH v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 602 F. 2d 834.

No. 79-5295. *BLUE THUNDER v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 604 F. 2d 550.

No. 79-5309. *MOREL v. UNITED STATES*. C. A. 3d Cir. Certiorari denied.

No. 79-5313. *PAUL v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 605 F. 2d 560.

No. 79-5317. *HAWKINS v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 601 F. 2d 368.

444 U.S.

October 9, 1979

No. 79-5322. REILLY *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied. Reported below: 601 F. 2d 577.

No. 79-5326. ALDERETE-SALAZAR *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 603 F. 2d 226.

No. 79-5327. TOLLIVER *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 605 F. 2d 1207.

No. 79-5328. MOSBY *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 601 F. 2d 585.

No. 79-5339. JIMENEZ *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 600 F. 2d 1172.

No. 78-1702. SOCIALIST WORKERS PARTY ET AL. *v.* ATTORNEY GENERAL OF THE UNITED STATES ET AL. C. A. 2d Cir. Certiorari denied. MR. JUSTICE BRENNAN and MR. JUSTICE MARSHALL would grant certiorari. Reported below: 596 F. 2d 58.

MR. JUSTICE WHITE, dissenting.

In 1973, petitioners instituted a civil action against the United States and various federal officials. Petitioners alleged that for over 40 years the Federal Bureau of Investigation had conducted a systematic, covert campaign to disrupt the lawful activities of petitioner organizations. Pretrial discovery revealed that more than 1,300 unidentified informers had provided the FBI with information concerning petitioners. Petitioners sought production of FBI files concerning the informers, and the FBI resisted with a claim of informer privilege. After conducting an *in camera* review of FBI files concerning 19 representative informers, the District Court ordered the FBI to produce 18 of the files for inspection by petitioners' attorneys.

The United States sought review of the discovery order by means of appeal and mandamus pursuant to 28 U. S. C. §§ 1291 and 1651. Review was denied by the Court of Appeals for the Second Circuit, which held that the discovery

October 9, 1979

444 U. S.

order was not appealable and that mandamus was inappropriate. *In re United States*, 565 F. 2d 19 (1977). A petition by the United States for certiorari was denied, with three Justices dissenting. *Bell v. Socialist Workers Party*, 436 U. S. 962 (1978) (BURGER, C. J., and WHITE and POWELL, JJ., dissenting).

The Attorney General then refused to comply with the discovery order, and the District Court adjudged him in civil contempt. The Attorney General appealed the contempt order and sought mandamus in the Court of Appeals. The Court of Appeals dismissed the appeal, holding that a civil contempt order is not appealable under 28 U. S. C. § 1291. The court nevertheless granted a writ of mandamus, vacated the contempt order, and directed the District Court to consider alternative sanctions against the Attorney General. *In re Attorney General of United States*, 596 F. 2d 58 (1979).

I would grant the petition for certiorari in this case because the decision of the Court of Appeals that mandamus was appropriate is arguably contrary to the prior decisions of this Court. *Will v. Calvert Fire Ins. Co.*, 437 U. S. 655 (1978); *Kerr v. United States District Court*, 426 U. S. 394 (1976). I also believe that this case raises a substantial question concerning the appealability of a civil judgment for disobedience of a discovery order that is not itself appealable. Cf. *United States v. Ryan*, 402 U. S. 530, 532 (1971).

No. 78-1749. *BLAKLEY v. FLORIDA*. Dist. Ct. App. Fla., 4th Dist. Certiorari denied. Reported below: 362 So. 2d 309.

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

I dissent from the denial of certiorari. In *Doyle v. Ohio*, 426 U. S. 610, 619 (1976), the Court held "that the use for impeachment purposes of petitioners' silence, at the time of arrest and after receiving *Miranda* warnings, violated the Due Process Clause of the Fourteenth Amendment."

444 U. S.

October 9, 1979

The petitioner in this case was tried and convicted for the crime of sexual battery involving the use of great force. On direct examination in the State's case in chief a police officer testified that petitioner refused to make a statement after he was arrested and given *Miranda* warnings. Defense objections to this testimony were overruled by the trial court. On appeal, petitioner's conviction was affirmed by a divided Florida District Court of Appeal. 362 So. 2d 309 (1978).

I would grant certiorari in this case because the decision of the Florida District Court of Appeal is in conflict with *Doyle v. Ohio, supra*. Indeed, the conflict with *Doyle* seems sufficiently clear to me to warrant summary reversal of petitioner's conviction.

No. 78-1836. LEWIN *v.* NEW JERSEY. Super. Ct. N. J. Certiorari denied. Reported below: 163 N. J. Super. 439, 395 A. 2d 211.

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

I dissent from the denial of certiorari. The question in this case is whether the requirements of *Miranda v. Arizona*, 384 U. S. 436 (1966), apply to police interrogations of persons arrested for motor vehicle violations.

At the scene of an automobile accident, petitioner was arrested for operating a motor vehicle while under the influence of liquor. Petitioner was taken to police headquarters where he was questioned at length before being given *Miranda* warnings. Petitioner subsequently was charged with the crime of causing death by heedless and careless operation of an automobile. At trial the prosecution introduced into evidence statements made by petitioner before he was given *Miranda* warnings. Petitioner was convicted and sentenced to a 1-year term in county jail.

The Appellate Division of the Superior Court of New Jersey affirmed petitioner's conviction. Citing *State v. Macuk*, 57 N. J. 1, 268 A. 2d 1 (1970), the court held that "[t]he law in

October 9, 1979

444 U. S.

New Jersey is plain that *Miranda* warnings need not be given to a person arrested for or charged with a violation of the motor vehicle laws such as drunken driving, before investigatory questioning of him." 163 N. J. Super. 439, 441, 395 A. 2d 211, 212 (1978).

Following the New Jersey rule, a number of other courts have held that *Miranda* warnings need not be given to persons arrested for traffic offenses or other misdemeanors. See, e. g., *Clay v. Riddle*, 541 F. 2d 456 (CA4 1976); *State v. Neal*, 476 S. W. 2d 547 (Mo. 1972); *State v. Gabrielson*, 192 N. W. 2d 792 (Iowa 1971); *State v. Pyle*, 19 Ohio St. 2d 64, 249 N. E. 2d 826 (1969), cert. denied, 396 U. S. 1007 (1970). Other courts have held to the contrary, relying on the language in *Miranda*, which was reaffirmed in *Orozco v. Texas*, 394 U. S. 324, 327 (1969), "that the warnings were required when the person being interrogated was 'in custody at the station or otherwise deprived of his freedom of action in any significant way.' 384 U. S., at 477." (Emphasis in original.) See, e. g., *State v. Lawson*, 285 N. C. 320, 204 S. E. 2d 843 (1974); *State v. Darnell*, 8 Wash. App. 627, 508 P. 2d 613, cert. denied, 414 U. S. 1112 (1973); *Campbell v. Superior Court*, 106 Ariz. 542, 479 P. 2d 685 (1971).

I would grant the petition for certiorari to resolve this conflict.

No. 78-1917. TRAFELET ET AL., JUDGES *v.* THOMPSON, GOVERNOR OF ILLINOIS, ET AL. C. A. 7th Cir. Certiorari denied. Reported below: 594 F. 2d 623.

MR. JUSTICE WHITE, dissenting.

This case presents the issue whether a state law that requires elected judges to retire at the age of 70, challenged on grounds that it violates the First and Fourteenth Amendments, ought to be subjected to strict scrutiny or to the less exacting rational-relationship test employed by the court below. The determination turns on whether the challenged judicial retirement law is properly regarded as a limitation

444 U. S.

October 9, 1979

on access to the ballot that impairs "the right of individuals to associate for the advancement of political beliefs, and the right of qualified voters, regardless of their political persuasion, to cast their votes effectively." *Williams v. Rhodes*, 393 U. S. 23, 30 (1968). We have held as recently as last Term that a state law limiting access to the ballot "impairs the voters' ability to express their political preferences," and thus could be justified only by a compelling state interest whose presence or absence is determined when a reviewing court subjects the questioned provision to strict scrutiny. *Illinois Elections Bd. v. Socialist Workers Party*, 440 U. S. 173, 184 (1979). Accord, *e. g.*, *Storer v. Brown*, 415 U. S. 724, 728-729 (1974).

Because the decision of the court below as to the appropriate standard of review is possibly in conflict with these and other decisions of this Court, I would grant this petition for certiorari and dissent from the Court's unwillingness to do so.

No. 78-1943. *THOMPSON v. NORTH CAROLINA*. Sup. Ct. N. C. Certiorari denied. MR. JUSTICE BRENNAN and MR. JUSTICE MARSHALL would grant certiorari, vacate judgment, and remand case for further consideration in light of *Brown v. Texas*, 443 U. S. 47 (1979). Reported below: 296 N. C. 703, 252 S. E. 2d 776.

No. 78-6596. *HANSON v. CIRCUIT COURT OF THE FIRST JUDICIAL CIRCUIT OF ILLINOIS*. C. A. 7th Cir. Certiorari denied. MR. JUSTICE BRENNAN would grant certiorari. Reported below: 591 F. 2d 404.

MR. JUSTICE WHITE, dissenting.

I dissent from the denial of certiorari and would vote to grant the petition to resolve the conflict in the decided cases. It is apparent that some federal courts would have entertained petitioner's 42 U. S. C. § 1983 action, see *Strader v. Troy*, 571 F. 2d 1263 (CA4 1978); *Shipp v. Todd*, 568 F. 2d 133 (CA9

October 9, 1979

444 U.S.

1978) (*per curiam*); *Pueschel v. Leuba*, 383 F. Supp. 576 (Conn. 1974), while another, like the court below, would not. *Cavett v. Ellis*, 578 F. 2d 567 (CA5 1978).

No. 78-6603. *LARSEN v. ILLINOIS*. Sup. Ct. Ill. Certiorari denied. Reported below: 74 Ill. 2d 348, 385 N. E. 2d 679.

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

In *United States v. Wade*, 388 U. S. 218 (1967), this Court held that a postindictment lineup is a critical prosecutive stage in which an accused is entitled to have counsel present under the Sixth Amendment. In reliance on *Wade* the highest court of the State of New York has held that a pretrial psychiatric examination is also a critical stage in which the accused has a right to have defense counsel present. *Lee v. County Court*, 27 N. Y. 2d 432, 267 N. E. 2d 452, cert. denied, 404 U. S. 823 (1971). Accord, *State v. Corbin*, 15 Ore. App. 536, 516 P. 2d 1314 (1973); *State v. Anderson*, 8 Wash. App. 782, 509 P. 2d 80 (1973).

In the instant case, however, the Supreme Court of Illinois has refused to extend *Wade's* Sixth Amendment analysis to pretrial psychiatric examinations and thus has aligned itself with every Federal Court of Appeals that has decided the issue, *e. g.*, *United States v. Trapnell*, 495 F. 2d 22 (CA2 1974); *United States v. Greene*, 497 F. 2d 1068 (CA7 1974), cert. denied, 420 U. S. 909 (1975), and with many other state courts, *e. g.*, *People v. Martin*, 386 Mich. 407, 192 N. W. 2d 215 (1971), cert. denied, 408 U. S. 929 (1972); *State v. Wilson*, 26 Ohio App. 2d 23, 268 N. E. 2d 814 (1971).

In view of the conflict among highest state courts over whether a pretrial psychiatric examination constitutes a critical prosecutive stage in which the accused is entitled to have counsel present under the Sixth Amendment, I would grant this petition and accordingly dissent from the Court's refusal to do so.

444 U.S.

October 9, 1979

No. 78-6649. *MILHOLLAN v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 599 F. 2d 518.

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

The Court today denies certiorari in a case which is, in my view, plainly inconsistent with our recent decision in *Arkansas v. Sanders*, 442 U. S. 753 (1979). The facts may be summarized briefly. On September 22, 1977, the petitioner cashed two money orders at a bank in Girard, Pa., after producing identification in the name of John J. Leehy, Jr., the designated payee. On the following day, the petitioner attempted to cash two additional money orders also made out to John J. Leehy, Jr., at a bank in Warren, Pa. Bank officials became suspicious and alerted the police, who asked petitioner for identification. Petitioner responded that he had identification in his car and then began to flee. He was apprehended and taken to the police station, where he was searched. The search uncovered, among other things, a car key on a tag marked "Gold Capri."

After a short time, an officer located a gold-colored Capri in a municipal parking lot about 100 yards from the place of arrest. Noticing a police scanner and a book of police car numbers in the car, the officer opened the car door with the petitioner's key, and drove the vehicle to the police station. There he conducted a warrantless search of the car. Inside he found various items, including a closed satchel. He opened the satchel and discovered 22 money orders, all payable to John J. Leehy, Jr.

Petitioner was convicted on a two-count indictment for transporting stolen money orders in interstate commerce in violation of 18 U. S. C. § 2314. Although only the Girard transaction was alleged in the indictment, the money orders inside the satchel and other evidence seized during the search of the car were admitted at trial over petitioner's objection.

A divided Court of Appeals upheld the warrantless searches

of both the car and the satchel. 599 F. 2d 518 (CA3 1979). According to the majority, the search of the car was lawful because it was supported by probable cause and exigent circumstances were present. The majority found the search of the satchel distinguishable from that in *United States v. Chadwick*, 433 U. S. 1 (1977), where we held that the Fourth Amendment was violated by a warrantless search of a footlocker that had been transported on a train and later loaded into the trunk of an automobile. According to the Court of Appeals, *Chadwick* did not affect what it regarded as the rule for "pure" car searches: "police entitled to search an automobile . . . could also search [containers] carried in that automobile." 599 F. 2d, at 526.

Even assuming the court's ruling on the search of the car does not warrant review, I believe that the search of the satchel cannot stand. In *Arkansas v. Sanders*, *supra*, this Court expressly rejected the reading of *Chadwick* offered by the court below. Speaking three months after the decision of the Court of Appeals in the present case, we observed that a container such as petitioner's "is not necessarily attended by any lesser expectation of privacy . . . merely because [it] is to be carried in an automobile rather than transported by other means." 442 U. S., at 764. We therefore held there was no special rule permitting police to search a container whenever the container is found in an automobile. *Id.*, at 766. "[T]he extent to which the Fourth Amendment applies to containers and other parcels depends not at all upon whether they are seized from an automobile." *Id.*, at 764-765, n. 13. That holding, of course, represents a square repudiation of the reasoning of the Court of Appeals in this case.

I would grant certiorari, vacate the judgment below, and remand for reconsideration in light of *Arkansas v. Sanders*.*

*The United States suggests that the case may be distinguishable from *Arkansas v. Sanders* because the satchel was searched as part of a police inventory after the car's impoundment, and that in any event admission

444 U. S.

October 9, 15, 1979

No. 79-190. GENERAL ATOMIC CO. v. UNITED NUCLEAR CORP. ET AL. Sup. Ct. N. M. Certiorari denied. MR. JUSTICE STEVENS took no part in the consideration or decision of this petition. Reported below: 93 N. M. 105, 597 P. 2d 290.

No. 79-337. ILLINOIS v. TROLIA. App. Ct. Ill., 1st Dist. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 69 Ill. App. 3d 439, 388 N. E. 2d 35.

Rehearing Denied

No. 78-6475. HAUGHEY v. NEW YORK STATE BOARD OF LAW EXAMINERS, 441 U. S. 964. Petition for rehearing denied.

OCTOBER 15, 1979

Dismissal Under Rule 60

No. 79-287. CHICAGO SHERATON CORP. v. ZABAN ET AL. C. A. 7th Cir. Certiorari dismissed under this Court's Rule 60. Reported below: 593 F. 2d 808.

Affirmed on Appeal

No. 79-349. MALONE, COMMISSIONER OF LABOR AND INDUSTRY OF MINNESOTA v. WHITE MOTOR CORP. ET AL. Affirmed on appeal from C. A. 8th Cir. *Allied Structural Steel Co. v. Spannaus*, 438 U. S. 234 (1978). MR. JUSTICE BLACKMUN took no part in the consideration or decision of this case. Reported below: 599 F. 2d 283.

Appeal Dismissed

No. 79-5244. DAWSON v. DAWSON. Appeal from Ct. App. D. C. dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied.

of the satchel's contents was harmless. Neither of these claims was passed on by the Court of Appeals, and I would have that court consider them on remand.

October 15, 1979

444 U. S.

Certiorari Granted—Reversed. (See No. 78-1602, *ante*, p. 4.)

Miscellaneous Orders

No. A-90. *TAYLOR v. UNITED STATES*. C. A. 9th Cir. Application for bail, addressed to MR. JUSTICE MARSHALL and referred to the Court, denied.

No. A-123. *SHELTON v. UNITED STATES*. C. A. 9th Cir. Application for bail, addressed to MR. JUSTICE MARSHALL and referred to the Court, denied.

No. D-177. *IN RE DISBARMENT OF PANEK*. It is ordered that Paul E. Panek, of Belton, 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-178. *IN RE DISBARMENT OF SMITH*. It is ordered that Conrad P. Smith, 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-179. *IN RE DISBARMENT OF KYLE*. It is ordered that Joe Merrill Kyle, of Silver Spring, Md., be suspended from the practice of law in this Court and that a rule issue, returnable within 40 days, requiring him to show cause why he should not be disbarred from the practice of law in this Court.

No. 65, Orig. *TEXAS v. NEW MEXICO*. Report of the Special Master on Obligation of New Mexico to Texas under the Pecos River Compact received and ordered filed. Exceptions, if any, together with supporting briefs to the Report may be filed by the parties within 45 days. Replies, if any, with supporting briefs, to such exceptions may be filed within 30 days. [For earlier order herein, see, *e. g.*, 434 U. S. 809.]

444 U.S.

October 15, 1979

No. 78-756. OHIO *v.* ROBERTS. Sup. Ct. Ohio. [Certiorari granted, 441 U. S. 904.] Motion of Ohio Public Defenders Association for leave to file a brief as *amicus curiae* granted.

No. 78-857. NATIONAL LABOR RELATIONS BOARD *v.* YESHIVA UNIVERSITY; and

No. 78-997. YESHIVA UNIVERSITY FACULTY ASSN. *v.* YESHIVA UNIVERSITY. C. A. 2d Cir. [Certiorari granted, 440 U. S. 906.] Motion of Trustees of Boston University for leave to file a brief as *amicus curiae* denied.

No. 78-959. PERRIN *v.* UNITED STATES. C. A. 5th Cir. [Certiorari granted, 440 U. S. 956.] Motion of petitioner for leave to file a supplemental brief, after argument, granted.

No. 78-1268. MARTINEZ ET AL. *v.* CALIFORNIA ET AL. Ct. App. Cal., 4th App. Dist. [Probable jurisdiction noted, 441 U. S. 960.] Motion of the County of Alameda, Cal., for leave to file a brief as *amicus curiae* denied.

No. 78-1327. BOEING CO. *v.* VAN GEMERT ET AL. C. A. 2d Cir. [Certiorari granted, 441 U. S. 942.] Motions to designate counsel to argue on behalf of all respondents, or, in the alternative, to permit divided argument denied.

No. 78-1522. ANDRUS, SECRETARY OF THE INTERIOR *v.* UTAH. C. A. 10th Cir. [Certiorari granted, 442 U. S. 928.] Motion of Ute Indian Tribe of the Uintah and Ouray Reservation for leave to intervene denied and alternative motion for leave to file a brief as *amicus curiae* granted.

No. 78-1588. VANCE ET AL. *v.* UNIVERSAL AMUSEMENT CO., INC., ET AL. C. A. 5th Cir. [Probable jurisdiction noted, 442 U. S. 928.] Motion of Charles H. Keating, Jr., for leave to file a brief as *amicus curiae* granted.

No. 79-555. DONNELL ET AL. *v.* UNITED STATES ET AL. Appeal from D. C. D. C. Motion of appellants to expedite consideration of the appeal denied.

October 15, 1979

444 U. S.

No. 78-6809. *JENKINS v. ANDERSON, WARDEN*. C. A. 6th Cir. [Certiorari granted, *ante*, p. 824.] Motion for appointment of counsel granted, and it is ordered that Carl Ziembra, Esquire, of Detroit, Mich., be appointed to serve as counsel for petitioner in this case.

No. 79-149. *LYONS v. URBOM, U. S. DISTRICT JUDGE*. Motion for leave to file petition for writ of mandamus and all other relief denied.

Probable Jurisdiction Noted

No. 79-198. *SUPREME COURT OF VIRGINIA ET AL. v. CONSUMERS UNION OF THE UNITED STATES, INC., ET AL.* Appeal from D. C. E. D. Va. Probable jurisdiction noted. MR. JUSTICE POWELL took no part in the consideration or decision of this matter. Reported below: 470 F. Supp. 1055.

Certiorari Granted

No. 79-66. *AARON v. SECURITIES AND EXCHANGE COMMISSION*. C. A. 2d Cir. Certiorari granted. Reported below: 605 F. 2d 612.

No. 79-260. *ANDRUS, SECRETARY OF THE INTERIOR v. IDAHO ET AL.* C. A. 9th Cir. Certiorari granted. Reported below: 595 F. 2d 524.

No. 79-67. *WALTER v. UNITED STATES*; and

No. 79-148. *SANDERS ET AL. v. UNITED STATES*. C. A. 5th Cir. Certiorari granted, cases consolidated, and a total of one hour allotted for oral argument. Reported below: 592 F. 2d 788 and 597 F. 2d 63.

Certiorari Denied. (See also No. 79-5244, *supra*.)

No. 78-1711. *MALLEK v. TEXAS*. County Crim. Ct., Dallas County, Tex. Certiorari denied.

No. 78-6529. *TURNER v. MASSEY, CORRECTIONAL SUPERINTENDENT*. C. A. 5th Cir. Certiorari denied.

444 U. S.

October 15, 1979

No. 78-6805. STEELMAN *v.* COLORADO ET AL. Sup. Ct. Colo. Certiorari denied.

No. 78-6938. GARCIA *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied. Reported below: 601 F. 2d 599.

No. 79-16. CODUTO ET AL. *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied. Reported below: 601 F. 2d 597.

No. 79-39. MARQUETTE ET AL. *v.* UNITED STATES ET AL. C. A. D. C. Cir. Certiorari denied. Reported below: 194 U. S. App. D. C. 80, 595 F. 2d 887.

No. 79-68. PRESTON ET AL. *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied. Reported below: 596 F. 2d 232.

No. 79-100. GRIMES *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 601 F. 2d 591.

No. 79-131. SEA-LAND SERVICE, INC. *v.* UNITED STATES. C. A. D. C. Cir. Certiorari denied. Reported below: 196 U. S. App. D. C. 8, 604 F. 2d 672.

No. 79-133. HANOVER INSURANCE CO., SUCCESSOR TO MASSACHUSETTS BONDING & INSURANCE CO. *v.* COMMISSIONER OF INTERNAL REVENUE. C. A. 1st Cir. Certiorari denied. Reported below: 598 F. 2d 1211.

No. 79-140. FADELL *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied. Reported below: 601 F. 2d 599.

No. 79-157. ORIGINAL COSMETICS PRODUCTS, INC., ET AL. *v.* STRACHAN, POSTMASTER AT NEW YORK CITY, ET AL. C. A. 2d Cir. Certiorari denied. Reported below: 603 F. 2d 214.

No. 79-170. RYAN *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied. Reported below: 601 F. 2d 595.

No. 79-180. SHEEDY *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied. Reported below: 601 F. 2d 598.

October 15, 1979

444 U.S.

No. 79-191. *CLANCEY v. UNITED STATES HOUSE OF REPRESENTATIVES ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 600 F. 2d 237.

No. 79-196. *CONGER ET AL. v. MADISON COUNTY, TENNESSEE, ET AL.* Sup. Ct. Tenn. Certiorari denied. Reported below: 581 S. W. 2d 632.

No. 79-205. *RADER v. SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES (CALIFORNIA, REAL PARTY IN INTEREST).* Ct. App. Cal., 2d App. Dist. Certiorari denied.

No. 79-246. *MCCABE v. BURGESS, STATE'S ATTORNEY FOR CHAMPAIGN COUNTY, ET AL.* Sup. Ct. Ill. Certiorari denied. Reported below: 75 Ill. 2d 457, 389 N. E. 2d 565.

No. 79-266. *SCHLAX v. CALIFORNIA.* Ct. App. Cal., 4th App. Dist. Certiorari denied.

No. 79-271. *BRIDGER v. ARKANSAS.* Sup. Ct. Ark. Certiorari denied. Reported below: 264 Ark. 789, 575 S. W. 2d 154.

No. 79-276. *MITAN v. ATTORNEY REGISTRATION AND DISCIPLINARY COMMISSION OF ILLINOIS.* Sup. Ct. Ill. Certiorari denied. Reported below: 75 Ill. 2d 118, 387 N. E. 2d 278.

No. 79-277. *TUTT v. TENNESSEE.* Ct. Crim. App. Tenn. Certiorari denied.

No. 79-279. *MAGNUS PETROLEUM Co., INC., ET AL. v. SKELLY OIL Co.* C. A. 7th Cir. Certiorari denied. Reported below: 599 F. 2d 196.

No. 79-280. *WESTERN ELECTRIC Co., INC. v. STERN, U. S. DISTRICT JUDGE (KYRIAZI, REAL PARTY IN INTEREST).* C. A. 3d Cir. Certiorari denied.

No. 79-284. *TERRY ET UX. v. KLAMATH PRODUCTION CREDIT ASSN.* Ct. App. Cal., 3d App. Dist. Certiorari denied.

444 U.S.

October 15, 1979

No. 79-293. *YONO v. COLUMBUS LANDINGS, LTD.* C. A. 6th Cir. Certiorari denied. Reported below: 602 F. 2d 129.

No. 79-295. *POLLARD v. METROPOLITAN LIFE INSURANCE Co.* C. A. 3d Cir. Certiorari denied. Reported below: 598 F. 2d 1284.

No. 79-304. *TEICHER v. ATTORNEY REGISTRATION AND DISCIPLINARY COMMISSION OF ILLINOIS.* Sup. Ct. Ill. Certiorari denied. Reported below: 75 Ill. 2d 88, 387 N. E. 2d 265.

No. 79-339. *FUCHS SUGAR & SYRUPS, INC., ET AL. v. AMSTAR CORP.* C. A. 2d Cir. Certiorari denied. Reported below: 602 F. 2d 1025.

No. 79-358. *SWIHART v. OHIO.* Ct. App. Ohio, Medina County. Certiorari denied.

No. 79-360. *STEVENS v. UNITED STATES.* C. A. 9th Cir. Certiorari denied. Reported below: 601 F. 2d 1075.

No. 79-372. *JOHNSON v. UNITED STATES.* C. A. 7th Cir. Certiorari denied. Reported below: 605 F. 2d 558.

No. 79-382. *COTTONE v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. Reported below: 598 F. 2d 619.

No. 79-440. *BROWN v. UNITED STATES.* C. A. 10th Cir. Certiorari denied. Reported below: 600 F. 2d 248.

No. 79-5038. *TEDDER v. PETERS ET AL.* Sup. Ct. Ill. Certiorari denied.

No. 79-5044. *COLON v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. Reported below: 595 F. 2d 1220.

No. 79-5056. *MIZELL v. UNITED STATES.* C. A. D. C. Cir. Certiorari denied.

October 15, 1979

444 U.S.

- No. 79-5090. *McCLAIN v. UNITED STATES*;
- No. 79-5109. *SIMPSON v. UNITED STATES*; and
- No. 79-5129. *BRADSHAW v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 593 F. 2d 658.
- No. 79-5108. *WATSON v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 599 F. 2d 1058.
- No. 79-5120. *FLEMING v. HARRIS, SECRETARY OF HEALTH, EDUCATION, AND WELFARE*. C. A. 5th Cir. Certiorari denied. Reported below: 594 F. 2d 1081.
- No. 79-5168. *McCONNELL v. ALASKA*. Sup. Ct. Alaska. Certiorari denied. Reported below: 595 P. 2d 147.
- No. 79-5219. *MONTOYA, AKA MARTINEZ v. AULT, CORRECTIONS DIRECTOR*. C. A. 10th Cir. Certiorari denied.
- No. 79-5228. *LONDON v. WARDEN, MARYLAND PENITENTIARY*. C. A. 4th Cir. Certiorari denied. Reported below: 599 F. 2d 1048.
- No. 79-5231. *JONES v. PERINI, CORRECTIONAL SUPERINTENDENT*. C. A. 6th Cir. Certiorari denied. Reported below: 599 F. 2d 129.
- No. 79-5232. *MODLIN v. CALIFORNIA*. Ct. App. Cal., 2d App. Dist. Certiorari denied.
- No. 79-5237. *HUFFMAN v. GEORGIA*. Ct. App. Ga. Certiorari denied. Reported below: 149 Ga. App. 464, 254 S. E. 2d 489.
- No. 79-5245. *MABERY v. GARRISON, WARDEN*. C. A. 4th Cir. Certiorari denied. Reported below: 599 F. 2d 1048.
- No. 79-5251. *FILIPAS v. WORKMEN'S COMPENSATION, INDUSTRIAL COMMISSION OF OHIO, ET AL.* C. A. 6th Cir. Certiorari denied.

444 U.S.

October 15, 1979

No. 79-5252. *SHERRILL v. JAGO*, CORRECTIONAL SUPERINTENDENT. C. A. 6th Cir. Certiorari denied. Reported below: 601 F. 2d 590.

No. 79-5254. *TAYLOR v. SAN DIEGO COUNTY DEPARTMENT OF PUBLIC WELFARE ET AL.* Ct. App. Cal., 4th App. Dist. Certiorari denied.

No. 79-5258. *GASKINS v. ASHE, SHERIFF, ET AL.* C. A. 1st Cir. Certiorari denied. Reported below: 601 F. 2d 571.

No. 79-5260. *FLORES v. HENDERSON*, CORRECTIONAL SUPERINTENDENT. C. A. 2d Cir. Certiorari denied.

No. 79-5261. *HARRIS v. ESTELLE*, CORRECTIONS DIRECTOR. C. A. 5th Cir. Certiorari denied.

No. 79-5262. *SMITH v. PERINI*, CORRECTIONAL SUPERINTENDENT. C. A. 6th Cir. Certiorari denied. Reported below: 601 F. 2d 590.

No. 79-5263. *PEELER v. ARIZONA*. Ct. App. Ariz. Certiorari denied.

No. 79-5264. *HOLT v. TENNESSEE*. Ct. Crim. App. Tenn. Certiorari denied.

No. 79-5273. *SINCLAIR v. NEW YORK*. App. Term, Sup. Ct. N. Y., 9th and 10th Jud. Dists. Certiorari denied.

No. 78-6680. *MCCORMICK ET AL. v. TEXAS*. Ct. Crim. App. Tex.;

No. 78-6777. *EARVIN v. TEXAS*. Ct. Crim. App. Tex.;

No. 78-6799. *CORLEY v. TEXAS*. Ct. Crim. App. Tex.;

No. 79-5031. *HARGRAVE v. FLORIDA*. Sup. Ct. Fla.; and

No. 79-5061. *MASON v. VIRGINIA*. Sup. Ct. Va. Certiorari denied. Reported below: No. 78-6680, 582 S. W. 2d 786;

October 15, 1979

444 U. S.

No. 78-6777, 582 S. W. 2d 794; No. 78-6799, 582 S. W. 2d 815; No. 79-5031, 366 So. 2d 1; No. 79-5061, 219 Va. 1091, 254 S. E. 2d 116.

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 grant certiorari and vacate the death sentences in these cases.

No. 79-86. CRITZER *v.* UNITED STATES. Ct. Cl. Certiorari denied. MR. JUSTICE BLACKMUN would grant certiorari. Reported below: 220 Ct. Cl. 43, 597 F. 2d 708.

No. 79-231. PACIFIC TELEPHONE & TELEGRAPH Co. *v.* PUBLIC UTILITIES COMMISSION OF CALIFORNIA ET AL.; and

No. 79-232. GENERAL TELEPHONE COMPANY OF CALIFORNIA *v.* PUBLIC UTILITIES COMMISSION OF CALIFORNIA ET AL. C. A. 9th Cir. Certiorari denied. MR. JUSTICE BLACKMUN would grant certiorari. Reported below: 600 F. 2d 1309.

No. 79-278. CONNELL, CHAIRMAN, NATIONAL CREDIT UNION ADMINISTRATION BOARD, ET AL. *v.* AMERICAN BANKERS ASSN. ET AL. C. A. D. C. Cir. Motion of San Diego Federal Savings & Loan Association for leave to file a brief as *amicus curiae* granted. Certiorari denied. MR. JUSTICE STEWART and MR. JUSTICE POWELL took no part in the consideration or decision of this motion and petition. Reported below: 194 U. S. App. D. C. 80, 595 F. 2d 887.

No. 79-5004. PARKER *v.* ROTH. Sup. Ct. Neb. Certiorari denied. MR. JUSTICE BRENNAN, MR. JUSTICE MARSHALL, and MR. JUSTICE BLACKMUN would grant certiorari. Reported below: 202 Neb. 850, 278 N. W. 2d 106.

444 U.S.

October 19, 29, 1979

OCTOBER 19, 1979

Miscellaneous Order

Nos. A-172 and A-332. LENHARD ET AL., CLARK COUNTY DEPUTY PUBLIC DEFENDERS, INDIVIDUALLY AND AS NEXT FRIENDS OF BISHOP *v.* WOLFF, WARDEN, ET AL. C. A. 9th Cir. Application for stay of execution of sentence of death, presented to MR. JUSTICE BRENNAN, and by him referred to the Court, denied. Petition for rehearing of order of Court entered October 1, 1979 [*ante*, p. 807], denied. MR. JUSTICE BRENNAN would grant the application for stay and petition for rehearing. MR. JUSTICE MARSHALL took no part in the consideration or decision of this application and petition.

OCTOBER 29, 1979

Appeals Dismissed

No. 79-80. QUATTRY *v.* FLORIDA. Appeal from Dist. Ct. App. Fla., 4th Dist., dismissed for want of substantial federal question. Reported below: 362 So. 2d 64.

No. 79-359. LOTZE ET AL. *v.* WASHINGTON. Appeal from Sup. Ct. Wash. dismissed for want of substantial federal question. MR. JUSTICE WHITE, MR. JUSTICE BLACKMUN, and MR. JUSTICE POWELL would note probable jurisdiction and set case for oral argument. Reported below: 92 Wash. 2d 52, 593 P. 2d 811.

No. 79-5285. HAWK *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: 38 Ore. App. 117, 589 P. 2d 1136.

Miscellaneous Orders

No. A-264. WILLIS *v.* UNITED STATES. C. A. 5th Cir. Application for stay, addressed to MR. JUSTICE MARSHALL and referred to the Court, denied.

October 29, 1979

444 U.S.

No. D-181. *IN RE DISBARMENT OF FREEDSON*. It is ordered that Ralph Freedson, of Houston, Tex., 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. 67, Orig. *IDAHO EX REL. EVANS, GOVERNOR OF IDAHO, ET AL. v. OREGON ET AL.* Motion of the Solicitor General for leave to participate in oral argument as *amicus curiae* granted, and 10 additional minutes allotted for that purpose. Plaintiffs also allotted an additional 10 minutes for oral argument. [For earlier order herein, see, *e. g.*, 442 U. S. 937.]

No. 73, Orig. *CALIFORNIA v. NEVADA*. Report of the Special Master received and ordered filed. Exceptions, if any, with supporting briefs to the Report may be filed by the parties within 45 days. Reply briefs, if any, to such exceptions may be filed within 30 days. [For earlier order herein, see, *e. g.*, 439 U. S. 906.]

No. 78-253. *ESTES ET AL. v. METROPOLITAN BRANCHES OF THE DALLAS NAACP ET AL.*;

No. 78-282. *CURRY ET AL. v. METROPOLITAN BRANCHES OF THE DALLAS NAACP ET AL.*; and

No. 78-283. *BRINEGAR ET AL. v. METROPOLITAN BRANCHES OF THE DALLAS NAACP ET AL.* C. A. 5th Cir. [Certiorari granted, 440 U. S. 906.] Motion of Dallas Alliance et al. for leave to participate in oral argument as *amici curiae* denied. MR. JUSTICE MARSHALL took no part in the consideration or decision of this motion.

No. 78-599. *SECRETARY OF THE NAVY ET AL. v. HUFF ET AL.* C. A. D. C. Cir.; and

No. 78-1006. *BROWN, SECRETARY OF DEFENSE, ET AL. v. GLINES.* C. A. 9th Cir. [Certiorari granted, 440 U. S. 957.] Motion of the Solicitor General to permit Kent L. Jones, Esquire, to present oral argument *pro hac vice* granted.

444 U. S.

October 29, 1979

No. 78-1118. FORSHAM ET AL. *v.* HARRIS, SECRETARY OF HEALTH, EDUCATION, AND WELFARE, ET AL. C. A. D. C. Cir. [Certiorari granted *sub nom.* *Forsham v. Califano*, 441 U. S. 942.] Motion of the Solicitor General for divided argument granted.

No. 78-1201. MOBIL OIL CORP. *v.* COMMISSIONER OF TAXES OF VERMONT. Sup. Ct. Vt. [Probable jurisdiction noted, 441 U. S. 941.] Motion of Multistate Tax Commission et al. for divided argument granted. MR. JUSTICE STEWART took no part in the consideration or decision of this motion.

No. 78-1335. VILLAGE OF SCHAUMBURG *v.* CITIZENS FOR A BETTER ENVIRONMENT ET AL. C. A. 7th Cir. [Certiorari granted, 441 U. S. 922.] Motion of Coalition of National Voluntary Organizations et al. for divided argument granted.

No. 78-1604. CENTRAL MACHINERY CO. *v.* ARIZONA STATE TAX COMMISSION. Sup. Ct. Ariz. [Probable jurisdiction noted, *ante*, p. 822.] Motion of appellant to dispense with printing appendix granted.

No. 78-1729. UNITED STATES *v.* PAYNER. C. A. 6th Cir. [Certiorari granted, *ante*, p. 822.] Motion of petitioner to dispense with printing appendix granted.

No. 79-8. UNITED STATES *v.* RADDATZ. C. A. 7th Cir. [Certiorari granted, *ante*, p. 824.] Motion for appointment of counsel granted, and it is ordered that Joan B. Gottschall, of Chicago, Ill., be appointed to serve as counsel for respondent in this case.

No. 79-620. SALA *v.* COUNTY OF SUFFOLK. C. A. 2d Cir. Motion of petitioner to expedite consideration of petition and to consolidate with No. 78-1779, *Owen v. City of Independence, Missouri, et al.* [certiorari granted, *ante*, p. 822], denied.

No. 79-5432. RICHARDSON *v.* FOTI, SHERIFF, ET AL. Motion for leave to file petition for writ of habeas corpus denied.

October 29, 1979

444 U.S.

No. 79-595. SCIENTISTS' INSTITUTE FOR PUBLIC INFORMATION ET AL. *v.* LONG ISLAND LIGHTING Co.; and

No. 79-629. LONG ISLAND LIGHTING Co. *v.* PUBLIC SERVICE COMMISSION OF NEW YORK ET AL. C. A. 2d Cir. Motions of petitioners to expedite consideration of petitions and to consolidate with No. 79-134, *Consolidated Edison Company of New York, Inc. v. Public Service Commission of New York* [probable jurisdiction noted, *ante*, p. 822], denied.

Probable Jurisdiction Noted

No. 79-381. WENGLER *v.* DRUGGISTS MUTUAL INSURANCE Co. ET AL. Appeal from Sup. Ct. Mo. Probable jurisdiction noted. Reported below: 583 S. W. 2d 162.

Certiorari Granted

No. 79-1. AMERICAN EXPORT LINES, INC. *v.* ALVEZ ET AL. Ct. App. N. Y. Certiorari granted. Reported below: 46 N. Y. 2d 634, 389 N. E. 2d 461.

No. 79-81. COFFY *v.* REPUBLIC STEEL CORP. C. A. 6th Cir. Certiorari granted. Reported below: 590 F. 2d 334.

No. 79-136. PARKER, ACTING COMMISSIONER OF PATENTS AND TRADEMARKS *v.* BERGY; and PARKER, ACTING COMMISSIONER OF PATENTS AND TRADEMARKS *v.* CHAKRABARTY. C. C. P. A. Certiorari granted. Reported below: 596 F. 2d 952.

No. 79-5215. IN RE OTIS ET AL. (SUBLER, PETITIONER). Ct. App. Ohio, Van Wert County. Motion of petitioner for leave to proceed *in forma pauperis* and certiorari granted.

Certiorari Denied. (See also No. 79-5285, *supra*.)

No. 78-1689. PALMER *v.* FEMINIST WOMEN'S HEALTH CENTER; and

No. 78-1799. MOHAMMAD ET AL. *v.* FEMINIST WOMEN'S HEALTH CENTER. C. A. 5th Cir. Certiorari denied. Reported below: 586 F. 2d 530.

444 U.S.

October 29, 1979

No. 78-1761. *BALLARD ET AL. v. ILLINOIS*. App. Ct. Ill., 2d Dist. Certiorari denied. Reported below: 65 Ill. App. 3d 831, 382 N. E. 2d 800.

No. 78-1811. *TEXAS STATE BOARD OF PUBLIC ACCOUNTANCY v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 592 F. 2d 919.

No. 78-1907. *GEORGE v. ILLINOIS*. App. Ct. Ill., 2d Dist. Certiorari denied. Reported below: 67 Ill. App. 3d 102, 384 N. E. 2d 377.

No. 78-6801. *ROGERS v. MALLEY, WARDEN, ET AL.* C. A. 10th Cir. Certiorari denied.

No. 78-6831. *REVELS v. OKLAHOMA*. Ct. Crim. App. Okla. Certiorari denied.

No. 78-6863. *PAINE v. BAKER ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 595 F. 2d 197.

No. 78-6901. *JONES v. UNITED STATES*. Ct. App. D. C. Certiorari denied. Reported below: 386 A. 2d 308.

No. 78-6912. *HOLTON v. GEORGIA*. Sup. Ct. Ga. Certiorari denied. Reported below: 243 Ga. 312, 253 S. E. 2d 736.

No. 78-6928. *POPE v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 598 F. 2d 616.

No. 78-6936. *SCOTT v. GEORGIA*. Ct. App. Ga. Certiorari denied. Reported below: 149 Ga. App. 59, 253 S. E. 2d 401.

No. 79-30. *KLEIN v. UNITED STATES*. C. A. 10th Cir. Certiorari denied.

No. 79-104. *SAVE OUR WETLANDS, INC. (SOWL) v. ATTORNEY GENERAL OF THE UNITED STATES ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 594 F. 2d 862.

October 29, 1979

444 U.S.

No. 79-118. *DELLI PAOLI v. UNITED STATES*; and
No. 79-5121. *WARME v. UNITED STATES*. C. A. 2d Cir.
Certiorari denied. Reported below: 603 F. 2d 1029.

No. 79-138. *DELTA COMMUNICATIONS CORP. v. NATIONAL
BROADCASTING CO., INC., ET AL.* C. A. 5th Cir. Certiorari
denied. Reported below: 579 F. 2d 972 and 590 F. 2d 100.

No. 79-147. *FEDERAL EMPLOYEES FOR NON-SMOKERS'
RIGHTS ET AL. v. UNITED STATES ET AL.* C. A. D. C. Cir.
Certiorari denied. Reported below: 194 U. S. App. D. C.
391, 598 F. 2d 310.

No. 79-153. *POTOMAC ELECTRIC POWER Co. v. PUBLIC
SERVICE COMMISSION OF THE DISTRICT OF COLUMBIA ET AL.*
Ct. App. D. C. Certiorari denied. Reported below: 402 A.
2d 14.

No. 79-154. *POTOMAC ELECTIC POWER Co. v. PUBLIC
SERVICE COMMISSION OF THE DISTRICT OF COLUMBIA ET AL.*
Ct. App. D. C. Certiorari denied.

No. 79-155. *POTOMAC ELECTRIC POWER Co. v. PUBLIC
SERVICE COMMISSION OF THE DISTRICT OF COLUMBIA ET AL.*
Ct. App. D. C. Certiorari denied. Reported below: 393
A. 2d 71.

No. 79-158. *HEPA CORP. v. NATIONAL LABOR RELATIONS
BOARD.* C. A. 9th Cir. Certiorari denied. Reported below:
597 F. 2d 166.

No. 79-167. *HERNANDEZ-FERNANDEZ v. UNITED STATES.*
C. A. 5th Cir. Certiorari denied. Reported below: 597 F.
2d 770.

No. 79-171. *COOPER v. DEPARTMENT OF THE NAVY.* C. A.
5th Cir. Certiorari denied. Reported below: 594 F. 2d 484.

444 U.S.

October 29, 1979

No. 79-183. *WHITE AUTOMOTIVE CORP. v. NATIONAL LABOR RELATIONS BOARD*. C. A. 7th Cir. Certiorari denied. Reported below: 601 F. 2d 594.

No. 79-189. *MERCURIO v. UNITED STATES*; *FLORAMO v. UNITED STATES*; *CORSO v. UNITED STATES*; and *RHODES v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 601 F. 2d 576 (second and third cases) and 577 (first and fourth cases).

No. 79-197. *SKOKO ET AL., BOARD OF COUNTY COMMISSIONERS OF CLACKAMAS COUNTY, OREGON v. ANDRUS, SECRETARY OF THE INTERIOR, ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 638 F. 2d 1154.

No. 79-215. *DARK v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 597 F. 2d 1097.

No. 79-217. *RENO-WEST COAST DISTRIBUTION Co., INC. v. MEAD CORP. ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 613 F. 2d 722.

No. 79-223. *GOODBAR ET AL. v. PARKER, ACTING COMMISSIONER OF PATENTS AND TRADEMARKS, ET AL.* C. C. P. A. Certiorari denied. Reported below: 599 F. 2d 431.

No. 79-224. *COLEMAN v. DARDEN ET AL.* C. A. 10th Cir. Certiorari denied. Reported below: 595 F. 2d 533.

No. 79-228. *TEXAS LANDOWNERS RIGHTS ASSN. ET AL. v. DIRECTOR, FEDERAL EMERGENCY MANAGEMENT AGENCY, ET AL.* C. A. D. C. Cir. Certiorari denied. Reported below: 194 U. S. App. D. C. 392, 598 F. 2d 311.

No. 79-230. *KLEINSCHMIDT ET AL. v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 596 F. 2d 133.

No. 79-233. *WINES v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 599 F. 2d 1059.

October 29, 1979

444 U.S.

No. 79-234. OLD NATIONAL BANK IN EVANSVILLE *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied. Reported below: 601 F. 2d 598.

No. 79-236. PLACID OIL CO. *v.* DEPARTMENT OF ENERGY ET AL. Temp. Emerg. Ct. App. Certiorari denied. Reported below: 600 F. 2d 813.

No. 79-240. WALKER *v.* FLORIDA. Dist. Ct. App. Fla., 2d Dist. Certiorari denied. Reported below: 364 So. 2d 898.

No. 79-247. COLPRIT *v.* WESTERLY SCHOOL COMMITTEE. Sup. Ct. R. I. Certiorari denied. Reported below: — R. I. —, 401 A. 2d 1308.

No. 79-249. GENSER ET AL. *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied. Reported below: 602 F. 2d 69.

No. 79-255. BARR *v.* NICKERSON, U. S. DISTRICT JUDGE (GIACOPELLI ET AL., REAL PARTIES IN INTEREST). C. A. 2d Cir. Certiorari denied.

No. 79-256. HEY, JUDGE *v.* HANLEY, PROSECUTING ATTORNEY OF KANAWHA COUNTY. Sup. Ct. App. W. Va. Certiorari denied. Reported below: — W. Va. —, 255 S. E. 2d 354.

No. 79-257. RUBATEX CORP. *v.* NATIONAL LABOR RELATIONS BOARD. C. A. 4th Cir. Certiorari denied. Reported below: 601 F. 2d 147.

No. 79-262. BARCLAY *v.* ALABAMA. Ct. Crim. App. Ala. Certiorari denied. Reported below: 368 So. 2d 579.

No. 79-281. ARNHEITER *v.* SHEEHAN ET AL.; ARNHEITER *v.* DELL PUBLISHING CO., INC., ET AL.; and BROWNLOW *v.* RCA CORP. ET AL. C. A. 2d Cir. Certiorari denied. Reported below: 607 F. 2d 994.

444 U. S.

October 29, 1979

No. 79-269. LORENZ, GUARDIAN, ET AL. *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 599 F. 2d 1057.

No. 79-286. THOMASSEN *v.* COMMISSIONER OF INTERNAL REVENUE; and

No. 79-290. THOMASSEN *v.* COMMISSIONER OF INTERNAL REVENUE. C. A. 9th Cir. Certiorari denied.

No. 79-292. FILE ET AL. *v.* ALASKA. Sup. Ct. Alaska. Certiorari denied. Reported below: 593 P. 2d 268.

No. 79-294. CALHOUN *v.* HOLMES, JUDGE, ET AL. Sup. Ct. Ohio. Certiorari denied.

No. 79-299. BURRUS *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied.

No. 79-303. SPAULDING *v.* ILLINOIS. App. Ct. Ill., 1st Dist. Certiorari denied. Reported below: 68 Ill. App. 3d 663, 386 N. E. 2d 469.

No. 79-310. NIX *v.* SWEENEY. C. A. 8th Cir. Certiorari denied. Reported below: 599 F. 2d 281.

No. 79-311. GENERAL ADJUSTMENT BUREAU, INC., ET AL. *v.* MAC ADJUSTMENT, INC., ET AL. C. A. 10th Cir. Certiorari denied. Reported below: 597 F. 2d 1318.

No. 79-314. HILL ET AL. *v.* WESTERN ELECTRIC Co., INC. C. A. 4th Cir. Certiorari denied. Reported below: 596 F. 2d 99.

No. 79-322. TOLEDO, PEORIA & WESTERN RAILROAD Co. *v.* DEPARTMENT OF TRANSPORTATION OF ILLINOIS. Sup. Ct. Ill. Certiorari denied. Reported below: 75 Ill. 2d 436, 389 N. E. 2d 546.

No. 79-334. SWAINSON *v.* MICHIGAN. Sup. Ct. Mich. Certiorari denied.

October 29, 1979

444 U. S.

No. 79-325. GRAND BAHAMA DEVELOPMENT Co., LTD., ET AL. *v.* ANDERSON ET AL. App. Ct. Ill., 1st Dist. Certiorari denied. Reported below: 67 Ill. App. 3d 687, 384 N. E. 2d 981.

No. 79-331. TOLEDO, PEORIA & WESTERN RAILROAD Co. *v.* BURLINGTON NORTHERN, INC. App. Ct. Ill., 3d Dist. Certiorari denied. Reported below: 67 Ill. App. 3d 928, 385 N. E. 2d 937.

No. 79-336. GUARDIAN INDUSTRIES CORP. *v.* PPG INDUSTRIES, INC. C. A. 6th Cir. Certiorari denied. Reported below: 597 F. 2d 1090.

No. 79-342. REED *v.* WASHINGTON. Sup. Ct. Wash. Certiorari denied. Reported below: 92 Wash. 2d 271, 595 P. 2d 916.

No. 79-344. RENFORTH *v.* FAYETTE MEMORIAL HOSPITAL ASSN. ET AL. Ct. App. Ind. Certiorari denied. Reported below: — Ind. App. —, 383 N. E. 2d 368.

No. 79-345. CHISHOLM *v.* MARYLAND. Ct. Sp. App. Md. Certiorari denied.

No. 79-346. KERRIGAN *v.* FAIR EMPLOYMENT PRACTICE COMMISSION OF CALIFORNIA ET AL. Ct. App. Cal., 4th App. Dist. Certiorari denied. Reported below: 91 Cal. App. 3d 43, 154 Cal. Rptr. 29.

No. 79-348. EQUIPMENT RENTAL CORP., T/A AMERICAN EQUIPMENT RENTAL Co. *v.* TIDEWATER EQUIPMENT Co., INC. C. A. 4th Cir. Certiorari denied. Reported below: 594 F. 2d 859.

No. 79-353. GELFONT *v.* PENNSYLVANIA. Super. Ct. Pa. Certiorari denied. Reported below: 264 Pa. Super. 96, 399 A. 2d 414.

444 U. S.

October 29, 1979

No. 79-365. *CITIZENS UTILITIES CO. ET AL. v. AMERICAN TELEPHONE & TELEGRAPH CO. ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 595 F. 2d 1171.

No. 79-369. *HIRSCH v. UNITED STATES.* C. A. D. C. Cir. Certiorari denied. Reported below: 194 U. S. App. D. C. 400, 600 F. 2d 280.

No. 79-370. *SCHOOL DISTRICT OF PHILADELPHIA v. LAFERTY ET AL.* Pa. Commw. Ct. Certiorari denied.

No. 79-384. *BENSON v. AMERICAN EXPORT ISBRANDTSEN LINES, INC., ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 601 F. 2d 573.

No. 79-387. *BOINEAU v. TARR INVESTMENTS ET AL.* Sup. Ct. S. C. Certiorari denied.

No. 79-398. *PALM v. SECRETARY OF HEALTH, EDUCATION, AND WELFARE.* C. A. D. C. Cir. Certiorari denied.

No. 79-399. *CINCINNATI BENGALS, INC., ET AL. v. HACKBART.* C. A. 10th Cir. Certiorari denied. Reported below: 601 F. 2d 516.

No. 79-405. *DELYRA v. UNITED STATES.* C. A. 2d Cir. Certiorari denied. Reported below: 607 F. 2d 999.

No. 79-406. *ESTATE OF SCOTT v. UNIVERSITY OF DELAWARE ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 601 F. 2d 76.

No. 79-433. *ARNHEITER v. RANDOM HOUSE, INC., ET AL.* C. A. 9th Cir. Certiorari before judgment denied.

No. 79-441. *GRIFFITH v. UNITED STATES.* C. A. 6th Cir. Certiorari denied. Reported below: 601 F. 2d 591.

No. 79-444. *FERNOS-LOPEZ v. UNITED STATES DISTRICT COURT FOR THE DISTRICT OF PUERTO RICO ET AL.* C. A. 1st Cir. Certiorari denied. Reported below: 599 F. 2d 1087.

October 29, 1979

444 U. S.

No. 79-446. *KINSEY, EXECUTRIX v. UNITED STATES*. C. A. 10th Cir. Certiorari denied.

No. 79-447. *WILLIAMS v. UNITED STATES*. C. A. 10th Cir. Certiorari denied. Reported below: 605 F. 2d 495.

No. 79-453. *CAPITANO v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 601 F. 2d 599.

No. 79-455. *INENDINO v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 604 F. 2d 458.

No. 79-459. *LOCAL 736, WILLIAMSPORT FIREFIGHTERS, ET AL. v. CITY OF WILLIAMSPORT ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 601 F. 2d 575.

No. 79-473. *WORLD CARPETS, INC., ET AL. v. ARMSTRONG CORK Co. ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 597 F. 2d 496.

No. 79-484. *WALTERS v. McLUCAS, ADMINISTRATOR, FEDERAL AVIATION ADMINISTRATION*. C. A. 9th Cir. Certiorari denied. Reported below: 597 F. 2d 1230.

No. 79-522. *ALEXANDER v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 598 F. 2d 387.

No. 79-540. *SOUTHERN OREGON BROADCASTING Co., DBA SOUTHERN OREGON CABLE TV v. DEPARTMENT OF REVENUE OF OREGON*. Sup. Ct. Ore. Certiorari denied. Reported below: 287 Ore. 35, 597 P. 2d 795.

No. 79-5009. *BRYANT v. MARYLAND*. Ct. Sp. App. Md. Certiorari denied.

No. 79-5035. *IN RE HAYES ET AL.* Ct. App. Ohio, Stark County. Certiorari denied.

No. 79-5051. *ELLIOTT v. THOMPSON, WARDEN*. C. A. 6th Cir. Certiorari denied. Reported below: 599 F. 2d 767.

444 U.S.

October 29, 1979

No. 79-5066. *AGNES v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 601 F. 2d 576.

No. 79-5067. *NOEL v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 601 F. 2d 577.

No. 79-5068. *BELITZ v. NEBRASKA*. Sup. Ct. Neb. Certiorari denied. Reported below: 203 Neb. 375, 278 N. W. 2d 769.

No. 79-5078. *HUDSPETH v. VIRGINIA*. Sup. Ct. Va. Certiorari denied.

No. 79-5110. *LOVE v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 595 F. 2d 1226.

No. 79-5119. *CAMPBELL v. GEORGIA*. Ct. App. Ga. Certiorari denied. Reported below: 149 Ga. App. 299, 254 S. E. 2d 389.

No. 79-5137. *LEE v. NEW MEXICO*. Ct. App. N. M. Certiorari denied.

No. 79-5147. *SCHEUFLER v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 599 F. 2d 893.

No. 79-5157. *COMPTON v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 601 F. 2d 603.

No. 79-5162. *LEUSCHNER v. MARYLAND*. Ct. Sp. App. Md. Certiorari denied. Reported below: 41 Md. App. 423, 397 A. 2d 622.

No. 79-5163. *ROWTON v. NEW MEXICO*. Ct. App. N. M. Certiorari denied.

No. 79-5167. *ANDERSON v. UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF KENTUCKY*. C. A. 6th Cir. Certiorari denied.

October 29, 1979

444 U. S.

No. 79-5170. *MIERA v. UNITED STATES*;
No. 79-5172. *HENDERSON ET AL. v. UNITED STATES*; and
No. 79-5182. *SIMMONS v. UNITED STATES*. C. A. 10th Cir.
Certiorari denied.

No. 79-5178. *HAYES v. UNITED STATES*. C. A. 6th Cir.
Certiorari denied. Reported below: 601 F. 2d 591.

No. 79-5202. *CAPERS v. UNITED STATES*. Ct. App. D. C.
Certiorari denied. Reported below: 403 A. 2d 1155.

No. 79-5209. *TERRY v. MOULTRIE, CHIEF JUDGE, SUPERIOR
COURT OF THE DISTRICT OF COLUMBIA*. Ct. App. D. C. Cer-
tiorari denied.

No. 79-5210. *NOEL v. UNITED STATES*. C. A. 6th Cir.
Certiorari denied. Reported below: 601 F. 2d 591.

No. 79-5214. *FREDERICKSON v. UNITED STATES*. C. A. 8th
Cir. Certiorari denied. Reported below: 601 F. 2d 1358.

No. 79-5233. *PROUGH v. UNITED STATES*. C. A. 5th Cir.
Certiorari denied. Reported below: 599 F. 2d 1053.

No. 79-5250. *CARTER v. JAGO, CORRECTIONAL SUPERINTEND-
ENT*. C. A. 6th Cir. Certiorari denied. Reported below: 601
F. 2d 587.

No. 79-5253. *LOVELL v. EISENSTADT, SHERIFF, ET AL.* C. A.
1st Cir. Certiorari denied. Reported below: 601 F. 2d 572.

No. 79-5271. *WOOD v. CATANIA, JUDGE*. C. A. 3d Cir.
Certiorari denied.

No. 79-5274. *CORDER v. MISSISSIPPI*. Sup. Ct. Miss. Cer-
tiorari denied. Reported below: 373 So. 2d 611.

No. 79-5276. *CAMPBELL v. FLORIDA*. Dist. Ct. App. Fla.,
1st Dist. Certiorari denied. Reported below: 365 So. 2d 751.

444 U.S.

October 29, 1979

No. 79-5286. *McNAIR ET AL. v. ILLINOIS*. App. Ct. Ill., 1st Dist. Certiorari denied. Reported below: 68 Ill. App. 3d 941, 386 N. E. 2d 416.

No. 79-5289. *SPELLMAN ET AL. v. NORTH CAROLINA*. Ct. App. N. C. Certiorari denied. Reported below: 40 N. C. App. 591, 253 S. E. 2d 320.

No. 79-5294. *JOHNSON v. OHIO*. Sup. Ct. Ohio. Certiorari denied.

No. 79-5297. *PATTERSON ET AL. v. INDIANA*. Sup. Ct. Ind. Certiorari denied. Reported below: — Ind. —, 386 N. E. 2d 936.

No. 79-5298. *McMANUES v. OVERBERG, CORRECTIONAL SUPERINTENDENT*. C. A. 6th Cir. Certiorari denied. Reported below: 605 F. 2d 557.

No. 79-5299. *DEUTSCH v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 599 F. 2d 46.

No. 79-5300. *PISKORSKI v. CONNECTICUT*. Sup. Ct. Conn. Certiorari denied. Reported below: 177 Conn. 677, 419 A. 2d 866.

No. 79-5306. *HOLMES v. SOUTH CAROLINA*. Sup. Ct. S. C. Certiorari denied.

No. 79-5307. *McCULLEY ET AL. v. CALIFORNIA*. Ct. App. Cal., 4th App. Dist. Certiorari denied.

No. 79-5310. *BILLIOT v. LOUISIANA*. Sup. Ct. La. Certiorari denied. Reported below: 370 So. 2d 539.

No. 79-5315. *CHASE v. KENNEDY, UNITED STATES SENATOR, ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 605 F. 2d 561.

No. 79-5316. *ARNOLD ET UX. v. BRUEGMAN ET UX.* Ct. App. Ore. Certiorari denied. Reported below: 38 Ore. App. 319, 589 P. 2d 1213.

October 29, 1979

444 U. S.

No. 79-5318. *MALIN v. OHIO*. Ct. App. Ohio, Cuyahoga County. Certiorari denied.

No. 79-5331. *HERSHIPS v. PRANSKY*. C. A. 9th Cir. Certiorari denied. Reported below: 603 F. 2d 224.

No. 79-5332. *BRADFORD v. GEORGIA*. Ct. App. Ga. Certiorari denied. Reported below: 149 Ga. App. 839, 256 S. E. 2d 84.

No. 79-5334. *ELLISON v. ESTELLE, CORRECTIONS DIRECTOR*. C. A. 5th Cir. Certiorari denied.

No. 79-5340. *STRUGGS v. ALABAMA*. Ct. Crim. App. Ala. Certiorari denied. Reported below: 372 So. 2d 49.

No. 79-5341. *W. D. v. ILLINOIS*. App. Ct. Ill., 2d Dist. Certiorari denied.

No. 79-5342. *PAGE v. NEW YORK*. Ct. App. N. Y. Certiorari denied. Reported below: 47 N. Y. 2d 968, 393 N. E. 2d 1031.

No. 79-5343. *BENNETT v. NORTH CAROLINA*. C. A. 4th Cir. Certiorari denied. Reported below: 598 F. 2d 613.

No. 79-5344. *DOUGLAS ET AL. v. SWOOPE, SHERIFF*. Sup. Ct. Va. Certiorari denied.

No. 79-5346. *POWELL v. OHIO*. Ct. App. Ohio, Hamilton County. Certiorari denied.

No. 79-5356. *GREEN v. WYRICK, WARDEN, ET AL.* C. A. 8th Cir. Certiorari denied.

No. 79-5380. *YODER v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 605 F. 2d 557.

No. 79-5381. *COOK v. BORDENKIRCHER, PENITENTIARY SUPERINTENDENT*. C. A. 6th Cir. Certiorari denied. Reported below: 602 F. 2d 117.

444 U. S.

October 29, 1979

No. 79-5385. SIBLEY *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 595 F. 2d 1162.

No. 79-5390. NIX *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 601 F. 2d 214.

No. 79-5394. ROWEN *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 597 F. 2d 535.

No. 79-5400. DIGREGORIO *v.* UNITED STATES. C. A. 1st Cir. Certiorari denied. Reported below: 605 F. 2d 1184.

No. 79-5421. JOHNSON *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 598 F. 2d 619.

No. 79-5423. CARRENO *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 599 F. 2d 680.

No. 79-5427. HORTON *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied. Reported below: 601 F. 2d 319.

No. 79-132. CALIFORNIA *v.* LITTLE. Ct. App. Cal., 3d App. Dist. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 89 Cal. App. 3d 809, 153 Cal. Rptr. 89.

No. 79-323. MARYLAND *v.* POWERS. Ct. App. Md. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 285 Md. 269, 401 A. 2d 1031.

No. 79-361. MASSACHUSETTS *v.* TAGLIERI. Sup. Jud. Ct. Mass. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 378 Mass. 196, 390 N. E. 2d 727.

No. 79-371. BUTTERWORTH, CORRECTIONAL SUPERINTENDENT, ET AL. *v.* WALKER. C. A. 1st Cir. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 599 F. 2d 1074.

October 29, November 5, 1979

444 U.S.

No. 79-312. *CORENSWET, INC. v. AMANA REFRIGERATION, INC.* C. A. 5th Cir. Motion of National Franchise Association Coalition for leave to file a brief as *amicus curiae* granted. Certiorari denied. Reported below: 594 F. 2d 129.

No. 79-364. *NICKERSON v. CITY OF NORFOLK.* Sup. Ct. Va. Certiorari denied. MR. JUSTICE BRENNAN, MR. JUSTICE STEWART, and MR. JUSTICE MARSHALL would grant certiorari and reverse the conviction.

Rehearing Denied

No. 78-6637. *HENRY v. FLORIDA*, ante, p. 885. Petition for rehearing denied.

NOVEMBER 5, 1979*

Appeals Dismissed

No. 79-208. *KAPLAN, DBA INSJARL REALTY CO. v. PRINCE ET AL.* Appeal from App. Div., Sup. Ct. N. Y., 1st Jud. Dept., dismissed for want of substantial federal question. Reported below: 67 App. Div. 2d 1110, 412 N. Y. S. 2d 717.

No. 79-237. *GREENBERG v. NEW JERSEY.* Appeal from Super. Ct. N. J. dismissed for want of substantial federal question.

Miscellaneous Orders

No. A-291. *NATIONAL RAILROAD PASSENGER CORP. v. KANSAS EX REL. STEPHAN, ATTORNEY GENERAL OF KANSAS, ET AL.* C. A. 10th Cir. Motion for reconsideration of order entered by MR. JUSTICE WHITE, dated October 8, 1979, denied.

No. A-314 (79-5495). *MILLER v. UNITED STATES.* C. A. 5th Cir. Application for stay, addressed to MR. JUSTICE REHNQUIST and referred to the Court, denied.

*MR. JUSTICE MARSHALL took no part in the consideration or decision of the orders announced on this date.

444 U. S.

November 5, 1979

No. A-322. *HANKINS v. UNITED STATES ET AL.* C. A. 5th Cir. Application for bail pending appeal, addressed to MR. JUSTICE REHNQUIST and referred to the Court, denied.

No. D-169. *IN RE DISBARMENT OF CARNOW.* Donald S. Carnow, of Chicago, Ill., 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 May 29, 1979 [442 U. S. 908], is hereby discharged.

No. 78-1945. *UNIVERSITIES RESEARCH ASSN., INC. v. COUTU.* C. A. 7th Cir. The Solicitor General is invited to file a brief in this case expressing the view of the United States.

No. 78-6029. *LARocca v. UNITED STATES.* The order of this Court, dated October 1, 1979, *ante*, p. 820, appointing Michael A. Litman, Esquire, of Pittsburgh, Pa., as counsel for petitioner is vacated.

No. 79-5010. *BIFULCO v. UNITED STATES.* C. A. 2d Cir. [Certiorari granted, *ante*, p. 897.] Motion of Phylis Skloot Bamberger for appointment of counsel granted, and it is ordered that Steven Lloyd Barrett, Esquire, of New York, N. Y., be appointed to serve as counsel for petitioner in this case.

Certiorari Granted

No. 79-394. *UNITED STATES v. WARD, DBA L. O. WARD OIL & GAS OPERATIONS.* C. A. 10th Cir. Certiorari granted. Reported below: 598 F. 2d 1187.

No. 79-424. *BOARD OF REGENTS OF THE UNIVERSITY OF THE STATE OF NEW YORK ET AL. v. TOMANIO.* C. A. 2d Cir. Certiorari granted. Reported below: 603 F. 2d 255.

November 5, 1979

444 U. S.

Certiorari Denied

No. 78-1913. *MYTNIK v. ILLINOIS*. App. Ct. Ill., 1st Dist. Certiorari denied. Reported below: 66 Ill. App. 3d 624, 384 N. E. 2d 435.

No. 78-6879. *FIELDS v. OKLAHOMA*. Ct. Crim. App. Okla. Certiorari denied.

No. 78-6903. *DYKES v. ILLINOIS*. App. Ct. Ill., 1st Dist. Certiorari denied. Reported below: 66 Ill. App. 3d 403, 383 N. E. 2d 1210.

No. 78-6905. *ADAMS v. HULL ET AL.* C. A. 5th Cir. Certiorari denied.

No. 78-6926. *MOSLEY v. ILLINOIS*. Sup. Ct. Ill. Certiorari denied. Reported below: 74 Ill. 2d 527, 387 N. E. 2d 325.

No. 79-82. *GARCIA ET AL. v. FRIESECKE ET AL.* C. A. 1st Cir. Certiorari denied. Reported below: 597 F. 2d 284.

No. 79-119. *VEITCH v. SUPERIOR COURT, COUNTY OF SANTA CLARA, CALIFORNIA (CALIFORNIA, REAL PARTY IN INTEREST)*. Ct. App. Cal., 1st App. Dist. Certiorari denied. Reported below: 89 Cal. App. 3d 722, 152 Cal. Rptr. 822.

No. 79-128. *CONSTANTINO v. GEORGIA*. Sup. Ct. Ga. Certiorari denied. Reported below: 243 Ga. 595, 255 S. E. 2d 710.

No. 79-137. *STEWART v. VIRGINIA*. Cir. Ct. Fairfax County, Va. Certiorari denied.

No. 79-172. *DON BURGESS CONSTRUCTION CORP. ET AL. v. NATIONAL LABOR RELATIONS BOARD ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 596 F. 2d 378.

No. 79-220. *WILLIAMS v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 605 F. 2d 557.

444 U.S.

November 5, 1979

No. 79-282. *IN RE ALADDIN HOTEL CORP.* C. A. 8th Cir. Certiorari denied. Reported below: 605 F. 2d 1209.

No. 79-301. *R & T CONSTRUCTION CO., INC., ET AL. v. ST. LOUIS-SAN FRANCISCO RAILWAY CO.* C. A. 5th Cir. Certiorari denied. Reported below: 594 F. 2d 862.

No. 79-306. *AMERICAN MOTORS CORP. ET AL. v. FEDERAL TRADE COMMISSION ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 601 F. 2d 1329.

No. 79-309. *RENFRO v. UNITED STATES.* C. A. 6th Cir. Certiorari denied. Reported below: 600 F. 2d 55.

No. 79-318. *TORQUATO v. UNITED STATES.* C. A. 3d Cir. Certiorari denied. Reported below: 602 F. 2d 564.

No. 79-328. *GOMEZ-MARTINEZ v. IMMIGRATION AND NATURALIZATION SERVICE.* C. A. 5th Cir. Certiorari denied. Reported below: 593 F. 2d 10.

No. 79-335. *SHELL OIL CO. ET AL. v. WEST MICHIGAN ENVIRONMENTAL ACTION COUNCIL, INC., ET AL.* Sup. Ct. Mich. Certiorari denied. Reported below: 405 Mich. 741, 275 N. W. 2d 538.

No. 79-363. *MADDEN ET AL. v. MERCANTILE-SAFE DEPOSIT & TRUST CO., TRUSTEE, ET AL.* Ct. Sp. App. Md. Certiorari denied. Reported below: 41 Md. App. 519, 398 A. 2d 460.

No. 79-368. *CALIG & WATERMAN ET AL. v. SUPREME COURT OF OHIO ET AL.* Sup. Ct. Ohio. Certiorari denied.

No. 79-388. *RUDISILL v. WESTERN INTERNATIONAL HOTELS Co.* C. A. 7th Cir. Certiorari denied. Reported below: 601 F. 2d 599.

No. 79-401. *BOARD OF COMMISSIONERS OF THE MISSISSIPPI STATE BAR v. FEDERAL LAND BANK OF NEW ORLEANS.* C. A. 5th Cir. Certiorari denied. Reported below: 597 F. 2d 459.

November 5, 1979

444 U. S.

No. 79-402. *SANDSTROM v. KANSAS*. Sup. Ct. Kan. Certiorari denied. Reported below: 225 Kan. 717, 595 P. 2d 324.

No. 79-411. *O. P. MURPHY PRODUCE CO., INC., DBA O. P. MURPHY & SONS v. AGRICULTURAL LABOR RELATIONS BOARD OF CALIFORNIA (UNITED FARM WORKERS OF AMERICA, AFL-CIO, REAL PARTY IN INTEREST)*. Ct. App. Cal., 1st App. Dist. Certiorari denied.

No. 79-414. *BASIC INC. v. ELTRA CORP.* C. A. 6th Cir. Certiorari denied. Reported below: 599 F. 2d 745.

No. 79-430. *NEW JERSEY ET AL. v. MONMOUTH MEDICAL CENTER*. Sup. Ct. N. J. Certiorari denied. Reported below: 80 N. J. 299, 403 A. 2d 487.

No. 79-431. *ROBINSON v. OHIO*. Sup. Ct. Ohio. Certiorari denied. Reported below: 58 Ohio St. 2d 478, 391 N. E. 2d 317.

No. 79-451. *FRAKES v. HUNT ET AL.* Sup. Ct. Ark. Certiorari denied. Reported below: 266 Ark. 171, 583 S. W. 2d 497.

No. 79-454. *SHURE BROTHERS, INC. v. KORVETTES, INC., DBA E. J. KORVETTE*. C. A. 7th Cir. Certiorari denied. Reported below: 601 F. 2d 598.

No. 79-514. *SINAGUB v. UNITED STATES*. C. A. 7th Cir. Certiorari denied.

No. 79-543. *SECURITY TIRE & RUBBER Co. v. GATES RUBBER Co.* C. A. 5th Cir. Certiorari denied. Reported below: 598 F. 2d 962.

No. 79-548. *DIZON v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 601 F. 2d 604.

No. 79-557. *TOWN & COUNTRY ESTATES, INC. v. FONG*. C. A. 8th Cir. Certiorari denied. Reported below: 600 F. 2d 179.

444 U.S.

November 5, 1979

No. 79-572. *CARLONE v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 603 F. 2d 63.

No. 79-581. *LEAGUE TO SAVE LAKE TAHOE, INC., ET AL. v. TROUNDAY, DIRECTOR, DEPARTMENT OF HUMAN RESOURCES OF NEVADA, ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 598 F. 2d 1164.

No. 79-5022. *HOLLAND v. OVERBERG, CORRECTIONAL SUPERINTENDENT*. C. A. 6th Cir. Certiorari denied. Reported below: 595 F. 2d 1223.

No. 79-5023. *PEDRERO v. WAINWRIGHT, SECRETARY, DEPARTMENT OF OFFENDER REHABILITATION OF FLORIDA*. C. A. 5th Cir. Certiorari denied. Reported below: 590 F. 2d 1383.

No. 79-5041. *HORNER v. TEXAS*. Ct. Crim. App. Tex. Certiorari denied.

No. 79-5065. *HERKO v. UNITED STATES*; and

No. 79-5085. *GUGLIELMINI v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 598 F. 2d 1149.

No. 79-5077. *McGUIRE v. NORTH CAROLINA*. Sup. Ct. N. C. Certiorari denied. Reported below: 297 N. C. 69, 254 S. E. 2d 165.

No. 79-5087. *COLEMAN v. WAINWRIGHT, SECRETARY, DEPARTMENT OF OFFENDER REHABILITATION OF FLORIDA*. C. A. 5th Cir. Certiorari denied. Reported below: 594 F. 2d 861.

No. 79-5112. *MAIN v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 598 F. 2d 1086.

No. 79-5117. *CRISAFI v. FENTON, WARDEN*. Ct. App. D. C. Certiorari denied.

No. 79-5125. *RUIZ v. CALIFORNIA*. Ct. App. Cal., 1st App. Dist. Certiorari denied.

November 5, 1979

444 U. S.

- No. 79-5150. *RASCON v. UNITED STATES*; and
No. 79-5152. *LAGUNAS-JARAMILLO v. UNITED STATES*.
C. A. 9th Cir. Certiorari denied. Reported below: No. 79-5150, 603 F. 2d 227; No. 79-5152, 603 F. 2d 226.
- No. 79-5187. *DECOSTER v. UNITED STATES*. C. A. D. C. Cir. Certiorari denied. Reported below: 194 U. S. App. D. C. 392, 598 F. 2d 311.
- No. 79-5239. *JOHNSON v. INDIANA*. Sup. Ct. Ind. Certiorari denied. Reported below: — Ind. —, 390 N. E. 2d 1005.
- No. 79-5240. *LOVE v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 599 F. 2d 107.
- No. 79-5348. *DELVECCHIO v. UNITED STATES*. C. A. 1st Cir. Certiorari denied. Reported below: 605 F. 2d 1184.
- No. 79-5352. *CLOUDY v. DRAKE*; and
No. 79-5366. *CLOUDY v. DRAKE*. C. A. 7th Cir. Certiorari denied. Reported below: 605 F. 2d 560.
- No. 79-5355. *MAHLER v. WEISS*. C. A. D. C. Cir. Certiorari denied.
- No. 79-5358. *OLIVER v. WAINWRIGHT, SECRETARY, DEPARTMENT OF OFFENDER REHABILITATION OF FLORIDA*. C. A. 5th Cir. Certiorari denied.
- No. 79-5359. *JACK v. KOEHLER, WARDEN*. C. A. 6th Cir. Certiorari denied. Reported below: 601 F. 2d 589.
- No. 79-5362. *HERRERA v. ROMERO*. C. A. 10th Cir. Certiorari denied.
- No. 79-5363. *LASHWAY v. NEW YORK*. App. Div., Sup. Ct. N. Y., 3d Jud. Dept. Certiorari denied. Reported below: 70 App. Div. 2d 1062, 417 N. Y. S. 2d 153.

444 U.S.

November 5, 1979

No. 79-5372. *KELLY v. WILLIAMS, WARDEN, ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 601 F. 2d 581.

No. 79-5377. *BEALS v. WILSON ET AL.* Sup. Ct. Colo. Certiorari denied.

No. 79-5388. *WOJLOH v. ADDISON ET AL.* Ct. Sp. App. Md. Certiorari denied.

No. 79-5406. *ORIS v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. Reported below: 598 F. 2d 428.

No. 79-5407. *STEVENS v. HARRIS, SECRETARY OF HEALTH, EDUCATION, AND WELFARE.* C. A. 9th Cir. Certiorari denied. Reported below: 603 F. 2d 225.

No. 79-5408. *CLAYTON v. COUNTY OF MONTEREY ET AL.* C. A. 9th Cir. Certiorari denied.

No. 79-5410. *KASONOVITCH v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. Reported below: 601 F. 2d 1193.

No. 79-5420. *WILSON v. FIRST VALLEY BANK.* C. A. 3d Cir. Certiorari denied.

No. 79-5424. *JAFREE v. SCOTT, ATTORNEY GENERAL OF ILLINOIS.* C. A. 7th Cir. Certiorari denied. Reported below: 601 F. 2d 595.

No. 79-5445. *MALTBY v. COX CONSTRUCTION Co., INC., ET AL.* Sup. Ct. Utah. Certiorari denied. Reported below: 598 P. 2d 336.

No. 79-5461. *LUJAN-CASTRO v. UNITED STATES.* C. A. 9th Cir. Certiorari denied. Reported below: 602 F. 2d 877.

No. 79-5472. *ESTRADA v. UNITED STATES.* C. A. 10th Cir. Certiorari denied.

No. 79-5478. *CONVERY v. UNITED STATES.* C. A. 3d Cir. Certiorari denied. Reported below: 605 F. 2d 1197.

November 5, 1979

444 U. S.

No. 79-5487. *ROBINSON v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 609 F. 2d 512.

No. 78-6821. *STANLEY v. MABRY, CORRECTION COMMISSIONER*. C. A. 8th Cir. Certiorari denied. MR. JUSTICE BRENNAN would grant certiorari. Reported below: 596 F. 2d 332.

No. 79-182. *WAINWRIGHT, SECRETARY, DEPARTMENT OF OFFENDER REHABILITATION OF FLORIDA v. GUNSBY*. C. A. 5th Cir. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 596 F. 2d 654.

No. 79-450. *NEW YORK v. JONES*. Ct. App. N. Y. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 47 N. Y. 2d 409, 391 N. E. 2d 1335.

No. 79-298. *RUSSELL v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. MR. JUSTICE BLACKMUN would grant certiorari. Reported below: 592 F. 2d 1069.

No. 79-362. *HALL, CORRECTIONS COMMISSIONER v. PETTIJOHN*. C. A. 1st Cir. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. MR. JUSTICE BLACKMUN would grant certiorari. Reported below: 599 F. 2d 476.

No. 79-428. *HUNT v. NORTHWEST AIRLINES, INC.* C. A. 8th Cir. Certiorari denied. MR. JUSTICE BLACKMUN took no part in the consideration or decision of this petition.† Reported below: 600 F. 2d 176.

Rehearing Denied

No. 78-1504. *CRUZ v. UNITED STATES*, *ante*, p. 898; and
No. 78-6424. *PONTING v. CALIFORNIA*, *ante*, p. 845. Petitions for rehearing denied.

†See also note, *supra*, p. 938.

444 U.S.

November 5, 9, 13, 1979

- No. 78-6601. NELSON *v.* UNITED STATES, *ante*, p. 847;
No. 78-6689. GEHRING *v.* CRIST, WARDEN, *ante*, p. 851;
No. 78-6851. POWELL *v.* GRADDICK, ATTORNEY GENERAL
OF ALABAMA, ET AL., *ante*, p. 859;
No. 78-6869. TILLI *v.* PENNSYLVANIA, *ante*, p. 860;
No. 78-6918. HEGWOOD *v.* LANDRY ET AL., *ante*, p. 862;
No. 79-5018. UDELL *v.* STATE DEPARTMENT OF MASSACHU-
SETTS ET AL., *ante*, p. 872; and
No. 79-5019. POTEIRA *v.* PING ET AL., *ante*, p. 872. Peti-
tions for rehearing denied.

NOVEMBER 9, 1979

Miscellaneous Order

No. A-381. MASSACHUSETTS ET AL. *v.* ANDRUS, SECRETARY
OF THE INTERIOR, ET AL. Order entered by MR. JUSTICE BRENNAN on November 6, 1979, is vacated and application for stay denied. MR. JUSTICE MARSHALL took no part in the consideration or decision of this application.

NOVEMBER 13, 1979*

Appeals Dismissed

No. 78-6887. MEZA *v.* TEXAS. Appeal from Ct. Crim. App. 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: 577 S. W. 2d 705.

No. 79-69. KELLY *v.* PENNSYLVANIA. Appeal from Sup. Ct. Pa. dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied. Reported below: 484 Pa. 527, 399 A. 2d 1061.

*MR. JUSTICE MARSHALL took no part in the consideration or decision of the orders announced on this date.

November 13, 1979

444 U. S.

No. 79-472. *SMITH v. OREGON*. Appeal from Ct. App. Ore. dismissed for want of substantial federal question. Reported below: 39 Ore. App. 608, 594 P. 2d 440.

No. 79-502. *STRIKE ET UX. v. TRANS-WEST DISCOUNT CORP. ET AL.* Appeal from Ct. App. Cal., 4th App. Dist., dismissed for want of substantial federal question. Reported below: 92 Cal. App. 3d 735, 155 Cal. Rptr. 132.

No. 79-5506. *BRINTLEY ET AL. v. MICHIGAN*. Appeal from Sup. Ct. Mich. dismissed for want of substantial federal question. Reported below: 406 Mich. 374, 280 N. W. 2d 793.

Miscellaneous Orders

No. 78-1007. *FULLILOVE ET AL. v. KREPS, SECRETARY OF COMMERCE, ET AL.* C. A. 2d Cir. [Certiorari granted, 441 U. S. 960.] Motion of petitioners General Building Contractors of New York, Inc., et al. for divided argument granted.

No. 78-1369. *COMMITTEE FOR PUBLIC EDUCATION AND RELIGIOUS LIBERTY ET AL. v. REGAN, COMPTROLLER OF NEW YORK, ET AL.* D. C. S. D. N. Y. [Probable jurisdiction noted, 442 U. S. 928.] Motion of appellees for divided argument granted.

No. 78-1487. *FORD MOTOR CREDIT CO. ET AL. v. MILHOLLIN ET AL.* C. A. 9th Cir. [Certiorari granted, 442 U. S. 940.] Motion of petitioners for divided argument granted.

No. 78-1548. *CALIFORNIA BREWERS ASSN. ET AL. v. BRYANT ET AL.* C. A. 9th Cir. [Certiorari granted, 442 U. S. 916.] Motion of petitioners and respondent unions for additional time for oral argument denied. The alternative request for divided argument granted. Motion of respondent Bryant for divided argument granted.

No. 78-1780. *CROWELL, SECRETARY OF STATE OF TENNESSEE, ET AL. v. MADER ET AL.*, *ante*, p. 806. Appellants requested to file a response to petition for rehearing within 30 days.

444 U. S.

November 13, 1979

Probable Jurisdiction Noted or Postponed

No. 79-253. MARSHALL, SECRETARY OF LABOR, ET AL. *v.* JERRICO, INC. Appeal from D. C. D. C. Probable jurisdiction noted.

No. 79-289. PRUNERYARD SHOPPING CENTER ET AL. *v.* ROBINS ET AL. Appeal from Sup. Ct. Cal. Further consideration of question of jurisdiction postponed to hearing of case on the merits. Reported below: 23 Cal. 3d 899, 592 P. 2d 341.

Certiorari Denied. (See also Nos. 78-6887 and 79-69, *supra.*)

No. 78-1850. PRIVITERA *v.* CALIFORNIA; and

No. 79-5049. TURNER ET AL. *v.* CALIFORNIA. Sup. Ct. Cal. Certiorari denied. Reported below: 23 Cal. 3d 697, 591 P. 2d 919.

No. 78-6823. ADAMSON *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 592 F. 2d 907.

No. 78-6853. VIRES *v.* CAREY, STATE'S ATTORNEY OF COOK COUNTY. Sup. Ct. Ill. Certiorari denied.

No. 78-6922. PHILLIPS *v.* NIGH, GOVERNOR OF OKLAHOMA, ET AL. Sup. Ct. Okla. Certiorari denied.

No. 79-139. BLITSTEIN *v.* FLORIDA BAR. Sup. Ct. Fla. Certiorari denied.

No. 79-177. JACKA *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied.

No. 79-212. FRANCIS-SOBEL *v.* UNIVERSITY OF MAINE ET AL. C. A. 1st Cir. Certiorari denied. Reported below: 597 F. 2d 15.

No. 79-216. PAPPAS ET AL. *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied. Reported below: 602 F. 2d 131.

November 13, 1979

444 U.S.

No. 79-283. *GIBBONS v. UNITED STATES*; and
No. 79-5256. *PERRY v. UNITED STATES*. C. A. 2d Cir.
Certiorari denied. Reported below: 602 F. 2d 1044.

No. 79-330. *MATSUI ET AL. v. PARKER, ACTING COMMIS-
SIONER OF PATENTS AND TRADEMARKS*. C. A. D. C. Cir.
Certiorari denied. Reported below: 193 U. S. App. D. C.
217, 593 F. 2d 1371.

No. 79-332. *MEDDOWS v. ILLINOIS*. App. Ct. Ill., 5th
Dist. Certiorari denied. Reported below: 67 Ill. App. 3d
995, 385 N. E. 2d 765.

No. 79-350. *BUCK, SECRETARY OF HEALTH AND MENTAL
HYGIENE OF MARYLAND v. KIMBLE ET AL.* C. A. 4th Cir.
Certiorari denied. Reported below: 599 F. 2d 599.

No. 79-380. *WHITAKER ET AL. v. UNITED STATES*. C. A.
5th Cir. Certiorari denied. Reported below: 592 F. 2d 826.

No. 79-417. *FIRST NATIONAL BANK OF MONTEREY v. FIRST
UNION BANK & TRUST COMPANY OF WINAMAC, INDIANA,
ET AL.* C. A. 7th Cir. Certiorari denied. Reported below:
600 F. 2d 91.

No. 79-426. *MOELLER v. CONNECTICUT*. Sup. Ct. Conn.
Certiorari denied. Reported below: 178 Conn. 67, 420 A. 2d
1153.

No. 79-437. *MAHONEY, CORRECTIONAL SUPERINTENDENT
v. WYNN*. C. A. 4th Cir. Certiorari denied. Reported be-
low: 600 F. 2d 448.

No. 79-439. *WHITE v. CALIFORNIA*. App. Dept., Super.
Ct. Cal., County of San Diego. Certiorari denied.

No. 79-443. *QUAM v. MOBIL OIL CORP. ET AL.* C. A. 2d
Cir. Certiorari denied. Reported below: 599 F. 2d 42.

444 U.S.

November 13, 1979

No. 79-445. *BARRAZA v. GEORGIA*. Ct. App. Ga. Certiorari denied. Reported below: 149 Ga. App. 738, 256 S. E. 2d 48.

No. 79-452. *OCEAN GROVE CAMP MEETING ASSOCIATION OF THE UNITED METHODIST CHURCH v. CELMER*. Sup. Ct. N. J. Certiorari denied. Reported below: 80 N. J. 405, 404 A. 2d 1.

No. 79-466. *MILLROOD v. HEWITT, CORRECTIONAL SUPERINTENDANT, ET AL.*; and *KIRCHNER v. JOHNSTONE, JUDGE, ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 601 F. 2d 575 (first case); 601 F. 2d 577 (second case).

No. 79-467. *CHIEF PADUKE DISTRIBUTING Co. v. WILSON ET AL.* Ct. App. Ky. Certiorari denied. Reported below: 585 S. W. 2d 450.

No. 79-468. *WINEGARD v. GILVIN, AKA WINEGARD*. Sup. Ct. Iowa. Certiorari denied. Reported below: 278 N. W. 2d 505.

No. 79-474. *INDIANA EMPLOYMENT SECURITY BOARD ET AL. v. INTERNATIONAL UNION, UNITED AUTOMOBILE, AEROSPACE & AGRICULTURAL IMPLEMENT WORKERS OF AMERICA, UAW, ET AL.* C. A. 7th Cir. Certiorari denied. Reported below: 600 F. 2d 118.

No. 79-480. *CARPENTERS DISTRICT COUNCIL OF DETROIT, WAYNE, OAKLAND, AND MACOMB COUNTIES, UNITED BROTHERHOOD OF CARPENTERS & JOINERS OF AMERICA, AFL-CIO, ET AL. v. MORSE, DBA RESIDENTIAL FRAMERS Co., ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 601 F. 2d 587.

No. 79-493. *WHITE v. MARION SUPERIOR COURT, CRIMINAL DIVISION, No. 3, ET AL.* Sup. Ct. Ind. Certiorari denied. Reported below: — Ind. —, 391 N. E. 2d 596.

November 13, 1979

444 U. S.

No. 79-500. *DAVANNE REALTY CO. ET AL. v. MAYOR OF MONTVILLE TOWNSHIP ET AL.* Super. Ct. N. J. Certiorari denied.

No. 79-532. *HARTE v. COUNTY OF LOS ANGELES.* Ct. App. Cal., 2d App. Dist. Certiorari denied. Reported below: 87 Cal. App. 3d 419, 151 Cal. Rptr. 88.

No. 79-587. *PINERO ET AL. v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. Reported below: 602 F. 2d 991.

No. 79-596. *PEACH v. GOVERNMENT OF THE CANAL ZONE.* C. A. 5th Cir. Certiorari denied. Reported below: 602 F. 2d 101.

No. 79-634. *QUINZIO v. MILLER ET AL.* App. Div., Sup. Ct. N. Y., 4th Jud. Dept. Certiorari denied. Reported below: 64 App. Div. 2d 1036, 409 N. Y. S. 2d 471.

No. 79-5183. *FERRELL v. DOWNES, PENITENTIARY SUPERINTENDENT.* Sup. Ct. Va. Certiorari denied.

No. 79-5218. *BURKS v. UNITED STATES.* C. A. D. C. Cir. Certiorari denied. Reported below: 194 U. S. App. D. C. 401, 600 F. 2d 281.

No. 79-5236. *BROWN v. UNITED STATES.* C. A. 2d Cir. Certiorari denied. Reported below: 602 F. 2d 1073.

No. 79-5241. *JONES ET AL. v. UNITED STATES.* C. A. 3d Cir. Certiorari denied. Reported below: 601 F. 2d 577.

No. 79-5270. *CLAYTON v. UNITED STATES.* C. A. 6th Cir. Certiorari denied. Reported below: 599 F. 2d 1056.

No. 79-5275. *HUFF v. UNITED STATES.* C. A. 8th Cir. Certiorari denied. Reported below: 599 F. 2d 860.

No. 79-5283. *DEMANDRE v. HARRIS, SECRETARY OF HEALTH, EDUCATION, AND WELFARE.* C. A. 5th Cir. Certiorari denied. Reported below: 591 F. 2d 1088.

444 U. S.

November 13, 1979

No. 79-5319. *GIBSON v. UNITED STATES*. Ct. App. D. C. Certiorari denied.

No. 79-5320. *KELLY v. UNITED STATES*. C. A. D. C. Cir. Certiorari denied. Reported below: 194 U. S. App. D. C. 401, 600 F. 2d 281.

No. 79-5375. *MADDEN v. GARRISON, WARDEN, ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 598 F. 2d 615.

No. 79-5378. *LONG v. MARYLAND*. Ct. Sp. App. Md. Certiorari denied.

No. 79-5379. *LINGERFELT v. TENNESSEE*. Sup. Ct. Tenn. Certiorari denied.

No. 79-5382. *CONSALVO v. ALABAMA*. Sup. Ct. Ala. Certiorari denied. Reported below: 372 So. 2d 49.

No. 79-5387. *DIXON v. REDMAN, CORRECTIONAL SUPERINTENDENT, ET AL.* C. A. 3d Cir. Certiorari denied.

No. 79-5389. *SOLOMON v. JOLLIFFE*. Sup. Ct. App. W. Va. Certiorari denied.

No. 79-5397. *NAGEL v. OREGON*. Ct. App. Ore. Certiorari denied. Reported below: 39 Ore. App. 607, 594 P. 2d 440.

No. 79-5398. *GEORGE v. LOUISIANA*. Sup. Ct. La. Certiorari denied. Reported below: 371 So. 2d 762.

No. 79-5399. *TORGERSON v. McCLAY*. C. A. 2d Cir. Certiorari denied.

No. 79-5402. *MORALES-ALVIRA v. SECRETARY OF HEALTH, EDUCATION, AND WELFARE*. C. A. 1st Cir. Certiorari denied. Reported below: 601 F. 2d 572.

No. 79-5403. *FLORENCE v. GEORGIA*. Sup. Ct. Ga. Certiorari denied. Reported below: 243 Ga. 738, 256 S. E. 2d 467.

November 13, 1979

444 U. S.

No. 79-5405. *GARRETT v. MITCHELL, WARDEN*. C. A. 4th Cir. Certiorari denied. Reported below: 601 F. 2d 580.

No. 79-5412. *LANE v. GREER, WARDEN, ET AL.* C. A. 7th Cir. Certiorari denied.

No. 79-5413. *GILBERT v. KENTUCKY*. Ct. App. Ky. Certiorari denied. Reported below: 585 S. W. 2d 444.

No. 79-5415. *GARRETT v. MITCHELL, WARDEN*. C. A. 4th Cir. Certiorari denied. Reported below: 605 F. 2d 1202.

No. 79-5416. *GARRETT v. MITCHELL, WARDEN*. C. A. 4th Cir. Certiorari denied. Reported below: 603 F. 2d 217.

No. 79-5417. *GARRETT v. BRABHAM ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 603 F. 2d 217.

No. 79-5419. *FRENCH v. NEW HAMPSHIRE*. Sup. Ct. N. H. Certiorari denied. Reported below: 119 N. H. 500, 403 A. 2d 424.

No. 79-5422. *YANCEY v. STEPHENSON, CORRECTIONAL SUPERINTENDENT, ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 603 F. 2d 220.

No. 79-5425. *LANG v. ILLINOIS*. Sup. Ct. Ill. Certiorari denied. Reported below: 76 Ill. 2d 311, 391 N. E. 2d 350.

No. 79-5435. *MUDD v. UNITED STATES*. C. A. 5th Cir. Certiorari denied.

No. 79-5453. *SOTO-MONTES v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 605 F. 2d 564.

No. 79-5473. *CONNLEY v. NORTH CAROLINA*. Sup. Ct. N. C. Certiorari denied. Reported below: 297 N. C. 584, 256 S. E. 2d 234.

No. 79-5474. *HARBIN v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 601 F. 2d 773.

444 U. S.

November 13, 1979

No. 79-5491. LONG *v.* MARYLAND. Ct. Sp. App. Md. Certiorari denied.

No. 79-5494. SUTTON *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 605 F. 2d 1207.

No. 79-5495. MILLER *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 600 F. 2d 498.

No. 79-5497. RIGGS *v.* FLAMM, WARDEN, ET AL. C. A. 6th Cir. Certiorari denied. Reported below: 601 F. 2d 590.

No. 79-5498. RIGGS *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 605 F. 2d 1207.

No. 79-5500. WAITE *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 601 F. 2d 259.

No. 79-5502. YOUNG *v.* UNITED STATES AIR FORCE VOLUNTARY INDUCTION TESTING CENTER AT INDIANAPOLIS, INDIANA. C. A. 7th Cir. Certiorari denied. Reported below: 607 F. 2d 1008.

No. 79-203. OCHS *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. MR. JUSTICE STEWART would grant certiorari. Reported below: 595 F. 2d 1247.

No. 79-5047. BRITTON *v.* TEXAS. Ct. Crim. App. Tex. Certiorari denied. MR. JUSTICE STEWART would grant certiorari. Reported below: 578 S. W. 2d 685.

No. 79-347. CITY OF LOS ANGELES, CALIFORNIA, ET AL. *v.* GOLDSCHMIDT, SECRETARY OF TRANSPORTATION, ET AL. C. A. D. C. Cir. Motion of Airport Operators Council International for leave to file a brief as *amicus curiae* granted. Certiorari denied. Reported below: 194 U. S. App. D. C. 399 and 400, 600 F. 2d 279 and 280.

November 13, 1979

444 U. S.

No. 79-456. *ARNALL, GOLDEN & GREGORY ET AL. v. SMITH, COHEN, RINGEL, KOHLER & MARTIN ET AL.* C. A. 5th Cir. Certiorari denied. MR. JUSTICE WHITE would grant certiorari. Reported below: 593 F. 2d 642.

No. 79-5114. *WARREN v. MISSISSIPPI.* Sup. Ct. Miss. Certiorari denied. Reported below: 369 So. 2d 483.

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

I dissent from the denial of certiorari. Here, while on their way to investigate a reported disturbance and possible burglary in progress, squad car officers encountered a pedestrian, the petitioner, a block or two from the reported disturbance. He was splattered with blood and had a bloody hand. He explained that he had been in a fight in a nightclub and was headed for home. Some of his answers apparently were improbable, for the officers placed him in the squad car and proceeded to their destination, where investigation immediately revealed the victim of a brutal and bloody murder. When a detective arrived, he placed petitioner under arrest, took him to the police station and sent his clothes to a laboratory for examination. He was later charged with murder. Because he thought petitioner's initial detention had been unlawful, the trial judge suppressed any evidence which was gathered between the time petitioner was first placed in the squad car and the time he was formally arrested. Finding, however, that once the murder had been discovered there was probable cause for the arrest, he refused to suppress the petitioner's clothes, the results of their examination, and any other evidence that was the fruit of the arrest. Petitioner was convicted.

The Supreme Court of Mississippi affirmed, holding the challenged evidence admissible on the ground that it was the product of a proper investigative stop and detention, rather than on the ground of a valid arrest based on probable cause.

444 U. S.

November 13, 1979

The latter would be defensible; but the former, as I understand the holding, cannot be squared with our relevant cases, the most recent being *Dunaway v. New York*, 442 U. S. 200 (1979), which was not issued until after the decision below. It is frequently said that we review judgments, not opinions, and it is true that certiorari is sometimes denied when a judgment can be defended on a ground not relied on by the court below. But to avoid possible misapprehension by Mississippi law enforcement officers that investigative detentions on less than probable cause are constitutionally acceptable, I would at least vacate the judgment of the Mississippi Supreme Court and remand it to that court for reconsideration in the light of *Dunaway v. New York*, *supra*.

No. 79-5247. *SHAW v. SOUTH CAROLINA*. Sup. Ct. S. C.;

No. 79-5376. *JONES v. GEORGIA*. Sup. Ct. Ga.; and

No. 79-5395. *SPIVEY v. ZANT, WARDEN*. Super. Ct. Ga., Butts County. Certiorari denied. Reported below: No. 79-5247, 273 S. C. 194, 255 S. E. 2d 799; No. 79-5376, 243 Ga. 820, 256 S. E. 2d 907.

MR. JUSTICE BRENNAN, dissenting.

Adhering to my 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 (1976), I would grant certiorari and vacate the death sentences in these cases.

Rehearing Denied

No. 78-1512. *SCHWARTZ v. GILSTER, SHERIFF*, *ante*, p. 825;

No. 78-1911. *ROBERT L. GUYLER CO. v. UNITED STATES*, *ante*, p. 843;

No. 78-6657. *SAYLES v. UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT ET AL.*, *ante*, p. 820;

No. 78-6695. *PRESNELL v. GEORGIA*, *ante*, p. 885; and

No. 78-6733. *BARNETT ET UX. v. COX, U. S. DISTRICT JUDGE, ET AL.*, *ante*, p. 821. Petitions for rehearing denied.

November 13, 19, 26, 1979

444 U. S.

No. 78-6881. PRASAD *v.* MERGES, DIRECTOR OF DEVELOPMENTAL CENTER, ET AL., *ante*, p. 861;

No. 79-160. CONNELLY *v.* COMMERCIAL TRADING CO., INC., *ante*, p. 869;

No. 79-251. SAPPINGTON *v.* BECKERT, JUDGE, ET AL., *ante*, p. 891;

No. 79-5131. MONTGOMERY *v.* UNITED STATES, *ante*, p. 876;

No. 79-5148. MEREDITH *v.* MACDOUGALL, CORRECTIONS DIRECTOR, ET AL., *ante*, p. 877;

No. 79-5185. GARCIA *v.* INDIANA, *ante*, p. 901;

No. 79-5194. PAGE *v.* CALIFORNIA, *ante*, p. 901; and

No. 79-5226. GREER *v.* UNITED STATES, *ante*, p. 902. Petitions for rehearing denied.

NOVEMBER 19, 1979

Dismissal Under Rule 60

No. 79-5409. McDERMOTT *v.* NATIONS ET AL. Sup. Ct. Mo. Certiorari dismissed under this Court's Rule 60. Reported below: 580 S. W. 2d 249.

NOVEMBER 26, 1979

Appeals Dismissed

No. 79-458. DONNER *v.* ANTON ET AL. Appeal from Dist. Ct. App. Fla., 3d Dist., dismissed as jurisdictionally out of time. Reported below: 364 So. 2d 753.

No. 79-513. JENNINGS *v.* MOORE ET AL. Appeal from Sup. Ct. Iowa dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied.

No. 79-549. SMART *v.* CALIFORNIA. Appeal from Ct. App. Cal., 2d App. Dist., dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied.

444 U. S.

November 26, 1979

No. 79-5374. *TOPHAM v. KNIGHT ADJUSTMENT BUREAU*. Appeal from Sup. Ct. Utah dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied.

No. 79-610. *HOLWAY ET AL. v. ENGLAND ET AL., DBA FEATHERSTONE SQUARE*. Appeal from Sup. Ct. Va. dismissed for want of substantial federal question.

Certiorari Granted—Vacated and Remanded

No. 77-1717. *FIRST HOUSTON INVESTMENT CORP. ET AL. v. WILSON*. C. A. 5th Cir. Certiorari granted, judgment vacated, and case remanded for further consideration in light of *Transamerica Mortgage Advisors, Inc. v. Lewis, ante*, p. 11. Reported below: 566 F. 2d 1235.

No. 78-463. *CHESTNUTT MANAGEMENT CORP. v. MILLER*. C. A. 2d Cir. Motion of Investment Counsel Association of America, Inc., for leave to file a brief as *amicus curiae* granted. Certiorari granted, judgment vacated, and case remanded for further consideration in light of *Transamerica Mortgage Advisors, Inc. v. Lewis, ante*, p. 11. Reported below: 578 F. 2d 1368.

Miscellaneous Orders

No. A-350 (79-740). *ARTHUR v. UNITED STATES*. C. A. 4th Cir. Application for stay, addressed to MR. JUSTICE REHNQUIST and referred to the Court, denied.

No. A-371. *CRYSTAL THEATER, INC., ET AL. v. WADE, DISTRICT ATTORNEY OF DALLAS COUNTY, ET AL.* D. C. N. D. Tex. Application for stay, addressed to MR. JUSTICE STEWART and referred to the Court, denied. MR. JUSTICE BRENNAN and MR. JUSTICE MARSHALL would grant the application.

No. 78-1175. *HATZLACHH SUPPLY Co., INC. v. UNITED STATES*. Ct. Cl. [Certiorari granted, 441 U. S. 942.] Motion of the Solicitor General to permit Kent L. Jones, Esquire, to present oral argument *pro hac vice* granted.

November 26, 1979

444 U. S.

No. 78-1557. NACHMAN CORP. *v.* PENSION BENEFIT GUARANTY CORP. ET AL. C. A. 7th Cir. [Certiorari granted, 442 U. S. 940.] Motion of General Motors Corp. for leave to file a brief as *amicus curiae* granted.

No. 78-1577. SEARS, ROEBUCK & Co. *v.* COUNTY OF LOS ANGELES ET AL. Ct. App. Cal., 2d App. Dist. [Certiorari granted, *ante*, p. 823.] Motion of Charles R. Ajalat et al. for leave to file a brief as *amici curiae* granted, and motion for leave to participate in oral argument as *amici curiae* denied. MR. JUSTICE STEWART took no part in the consideration or decision of these motions.

No. 78-1651. SEATRAN SHIPBUILDING CORP. ET AL. *v.* SHELL OIL Co. ET AL. C. A. D. C. Cir. [Certiorari granted, 442 U. S. 940.] Motion of the Solicitor General to permit Andrew J. Levander, Esquire, to present oral argument *pro hac vice* on behalf of federal respondents granted.

No. 78-1756. UNITED STATES *v.* MITCHELL ET AL. Ct. Cl. [Certiorari granted, 442 U. S. 940.] Motion of Chloe Whiskers et al. for leave to file a brief as *amici curiae* denied.

No. 78-1821. UNITED STATES *v.* MENDENHALL. C. A. 6th Cir. [Certiorari granted, *ante*, p. 822.] Motion of respondent for leave to proceed further herein *in forma pauperis* granted.

No. 79-64. ZBARAZ ET AL. *v.* QUERN, DIRECTOR, DEPARTMENT OF PUBLIC AID OF ILLINOIS, ET AL. C. A. 7th Cir. Motion of Legal Defense Fund for Unborn Children for leave to file a brief as *amicus curiae* denied. Motion of Alan Ernest for appointment as counsel for children unborn and born alive denied.

No. 79-67. WALTER *v.* UNITED STATES; and

No. 79-148. SANDERS ET AL. *v.* UNITED STATES. C. A. 5th Cir. [Certiorari granted, *ante*, p. 914.] Motion of petitioners for divided argument granted.

444 U. S.

November 26, 1979

No. 79-97. CALIFORNIA RETAIL LIQUOR DEALERS ASSN. *v.* MIDCAL ALUMINUM, INC., ET AL. Ct. App. Cal., 3d App. Dist. [Certiorari granted, *ante*, p. 824.] Motion of the State of California for divided argument granted. MR. JUSTICE BRENNAN took no part in the consideration or decision of this motion.

No. 79-381. WENGLER *v.* DRUGGISTS MUTUAL INSURANCE Co. ET AL. Sup. Ct. Mo. [Probable jurisdiction noted, *ante*, p. 924.] Motion of appellant to dispense with printing appendix granted.

No. 79-408. CITY OF MILWAUKEE ET AL. *v.* ILLINOIS ET AL. C. A. 7th Cir.;

No. 79-571. ILLINOIS *v.* CITY OF MILWAUKEE ET AL. C. A. 7th Cir.; and

No. 79-552. MITSUI & Co., LTD., ET AL. *v.* INDUSTRIAL INVESTMENT DEVELOPMENT CORP. ET AL. C. A. 5th Cir. The Solicitor General is invited to file briefs in these cases expressing the views of the United States.

No. 79-5567. BAKER *v.* GEORGIA. Sup. Ct. Ga. Motion of petitioner to expedite consideration of petition denied.

No. 79-5553. GOODSON *v.* CIVILETTI, ATTORNEY GENERAL, ET AL.; and

No. 79-5561. BROWN *v.* BLACKBURN, WARDEN. Motions for leave to file petitions for writs of habeas corpus denied.

No. 79-5345. WINKLE *v.* GREISA, U. S. DISTRICT JUDGE, ET AL. Motion for leave to file petition for writ of mandamus denied.

Probable Jurisdiction Noted or Postponed

No. 79-509. EXXON CORP. *v.* DEPARTMENT OF REVENUE OF WISCONSIN. Appeal from Sup. Ct. Wis. Probable jurisdiction noted. Reported below: 90 Wis. 2d 700, 281 N. W. 2d 94.

November 26, 1979

444 U. S.

No. 79-565. CENTRAL HUDSON GAS & ELECTRIC CORP. *v.* PUBLIC SERVICE COMMISSION OF NEW YORK. Appeal from Ct. App. N. Y. Probable jurisdiction noted and case set for oral argument in tandem with No. 79-134, *Consolidated Edison Company of New York, Inc. v. Public Service Commission of New York* [probable jurisdiction noted, *ante*, p. 822]. Reported below: 47 N. Y. 2d 94, 390 N. E. 2d 749.

No. 79-4. WILLIAMS ET AL. *v.* ZBARAZ ET AL.;

No. 79-5. QUERN, DIRECTOR, DEPARTMENT OF PUBLIC AID OF ILLINOIS, ET AL. *v.* ZBARAZ ET AL.; and

No. 79-491. UNITED STATES *v.* ZBARAZ ET AL. Appeals from D. C. N. D. Ill. Motions of Legal Defense Fund for Unborn Children and Cora McRae et al. for leave to file briefs as *amici curiae* denied. Motion of Alan Ernest for appointment as counsel for children unborn and born alive denied. Further consideration of question of jurisdiction postponed to hearing of cases on the merits. Cases consolidated and a total of one and one-half hours allotted for oral argument. Reported below: 469 F. Supp. 1212.

Certiorari Granted

No. 79-116. THOMAS *v.* WASHINGTON GAS LIGHT CO. ET AL. C. A. 4th Cir. Certiorari granted. Reported below: 598 F. 2d 617.

No. 79-305. UNITED STATES *v.* HAVENS. C. A. 5th Cir. Certiorari granted. Reported below: 592 F. 2d 848.

No. 79-465. NAVARRO SAVINGS ASSN. *v.* LEE ET AL. C. A. 5th Cir. Certiorari granted. Reported below: 597 F. 2d 421.

No. 79-48. ANDRUS, SECRETARY OF THE INTERIOR, ET AL. *v.* GLOVER CONSTRUCTION Co. C. A. 10th Cir. Motion of Arctic Slope Regional Corp. for leave to file a brief as *amicus curiae* and certiorari granted. Reported below: 591 F. 2d 554.

444 U.S.

November 26, 1979

No. 78-6885. *HICKS v. OKLAHOMA*. Ct. Crim. App. Okla. Motion of petitioner for leave to proceed *in forma pauperis* and certiorari granted.

Certiorari Denied. (See also Nos. 79-513, 79-549, and 79-5374, *supra*.)

No. 79-162. *PENNSYLVANIA NATIONAL MUTUAL CASUALTY CO. v. SPENCE ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 591 F. 2d 985.

No. 79-207. *ALBERT ET AL. v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 595 F. 2d 283.

No. 79-229. *CASTRO ET AL. v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 596 F. 2d 674.

No. 79-239. *BOWEN, GOVERNOR OF INDIANA, ET AL. v. INTERNATIONAL SOCIETY FOR KRISHNA CONSCIOUSNESS, INC.* C. A. 7th Cir. Certiorari denied. Reported below: 600 F. 2d 667.

No. 79-291. *GRISSOM v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 601 F. 2d 591.

No. 79-300. *INSPIRATION ENTERPRISES, INC., ET AL. v. INLAND CREDIT CORP. ET AL.* App. Div., Sup. Ct. N. Y., 1st Jud. Dept. Certiorari denied. Reported below: 69 App. Div. 2d 1024, 415 N. Y. S. 2d 914.

No. 79-307. *STRICKLIN v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 591 F. 2d 1112.

No. 79-315. *WHITE MOUNTAIN BROADCASTING Co., INC. v. FEDERAL COMMUNICATIONS COMMISSION*. C. A. D. C. Cir. Certiorari denied. Reported below: 194 U. S. App. D. C. 355, 598 F. 2d 274.

No. 79-351. *PINE v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 603 F. 2d 219.

November 26, 1979

444 U.S.

No. 79-321. *LACLEDE GAS CO. v. FEDERAL ENERGY REGULATORY COMMISSION ET AL.* C. A. D. C. Cir. Certiorari denied.

No. 79-367. *RAPPAPORT v. NEW YORK.* Ct. App. N. Y. Certiorari denied. Reported below: 47 N. Y. 2d 308, 391 N. E. 2d 1284.

No. 79-392. *MORRIS ET AL. v. McCADDIN ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 598 F. 2d 615.

No. 79-407. *WAGNER ET UX. v. COMMISSIONER OF INTERNAL REVENUE.* C. A. 3d Cir. Certiorari denied. Reported below: 601 F. 2d 577.

No. 79-410. *SCHANBARGER v. MARINE MIDLAND BANK, EXECUTOR.* App. Div., Sup. Ct. N. Y., 4th Jud. Dept. Certiorari denied. Reported below: 415 N. Y. S. 2d 914.

No. 79-412. *RUST v. JOHNSON ET AL.*; and

No. 79-416. *CITY OF LOS ANGELES v. JOHNSON ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 597 F. 2d 174.

No. 79-420. *RICHEY v. UNITED STATES.* C. A. 9th Cir. Certiorari denied. Reported below: 594 F. 2d 1253.

No. 79-457. *PATTERSON ET AL. v. UNITED STATES*;

No. 79-609. *MATASSINI v. UNITED STATES*;

No. 79-5325. *LOPEZ v. UNITED STATES*;

No. 79-5329. *CUESTA v. UNITED STATES*;

No. 79-5347. *TAYLOR v. UNITED STATES*; and

No. 79-5350. *BOWLES v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. Reported below: 597 F. 2d 903.

No. 79-460. *SANCHEZ v. NEW YORK.* App. Div., Sup. Ct. N. Y., 1st Jud. Dept. Certiorari denied. Reported below: 70 App. Div. 2d 538, 416 N. Y. S. 2d 159.

444 U.S.

November 26, 1979

No. 79-462. *HOUDE ET AL. v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 596 F. 2d 696.

No. 79-483. *WHITE v. EXCALIBUR INSURANCE CO.* C. A. 5th Cir. Certiorari denied. Reported below: 599 F. 2d 50.

No. 79-494. *STATISTICAL TABULATING CORP. v. HAMISTER ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 601 F. 2d 588.

No. 79-495. *BROCKETT, PROSECUTING ATTORNEY OF SPOKANE COUNTY v. SPOKANE ARCADES, INC., ET AL.* C. A. 9th Cir. Certiorari before judgment denied.

No. 79-497. *WESTON v. ARKANSAS*. Sup. Ct. Ark. Certiorari denied. Reported below: 265 Ark. 58, 576 S. W. 2d 705.

No. 79-498. *JUPITER INLET CORP. v. VILLAGE OF TEQUESTA ET AL.* Sup. Ct. Fla. Certiorari denied. Reported below: 371 So. 2d 663.

No. 79-501. *MICHAEL v. NEW YORK*. App. Div., Sup. Ct. N. Y., 4th Jud. Dept. Certiorari denied. Reported below: 70 App. Div. 2d 1055, 417 N. Y. S. 2d 821.

No. 79-506. *CATHODIC PROTECTION SERVICE v. AMERICAN SMELTING & REFINING Co. ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 594 F. 2d 499.

No. 79-507. *BOARD OF TRUSTEES OF PICKENS COUNTY SCHOOL DISTRICT A. ET AL. v. MITCHELL*. C. A. 4th Cir. Certiorari denied. Reported below: 599 F. 2d 582.

No. 79-520. *LINFIELD v. BOARD OF HIGHER EDUCATION OF THE CITY OF NEW YORK*. App. Div., Sup. Ct. N. Y., 1st Jud. Dept. Certiorari denied. Reported below: 65 App. Div. 2d 734, 410 N. Y. S. 2d 1014.

November 26, 1979

444 U. S.

No. 79-526. *BEMIS v. CHEVRON RESEARCH Co. ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 599 F. 2d 910.

No. 79-534. *PARRISH v. KENTUCKY.* Sup. Ct. Ky. Certiorari denied. Reported below: 581 S. W. 2d 560.

No. 79-537. *MCDANIEL v. PATY ET AL.; and CITIZENS FOR COURT MODERNIZATION, INC. v. BLANTON, GOVERNOR OF TENNESSEE, ET AL.* Ct. App. Tenn. Certiorari denied.

No. 79-541. *ALLSTON v. GRAYDON.* Sup. Ct. S. C. Certiorari denied.

No. 79-545. *HOLLOWAY v. TIMES MIRROR PRESS Co.* C. A. 9th Cir. Certiorari denied. Reported below: 595 F. 2d 1228.

No. 79-547. *DALY v. TRAVELERS INSURANCE Co. ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 601 F. 2d 588.

No. 79-550. *PERALTA FEDERATION OF TEACHERS LOCAL 1603, AMERICAN FEDERATION OF TEACHERS, AFL-CIO, ET AL. v. PERALTA COMMUNITY COLLEGE DISTRICT ET AL.* Sup. Ct. Cal. Certiorari denied. Reported below: 24 Cal. 3d 369, 595 P. 2d 113.

No. 79-551. *BELL v. NEW YORK STATE LIQUOR AUTHORITY.* C. A. 2d Cir. Certiorari denied. Reported below: 607 F. 2d 994.

No. 79-559. *BEATTIE v. CALIFORNIA.* Ct. App. Cal., 2d App. Dist. Certiorari denied.

No. 79-562. *RANKIN v. TEXACO INC.* C. A. 9th Cir. Certiorari denied. Reported below: 599 F. 2d 1058.

No. 79-566. *MARTINO ET AL. v. McDONALD'S SYSTEM, INC., ET AL.* C. A. 7th Cir. Certiorari denied. Reported below: 598 F. 2d 1079.

444 U.S.

November 26, 1979

No. 79-570. *STONER v. HUTSON ET AL.* Sup. Ct. Ga. Certiorari denied. Reported below: 244 Ga. 52, 257 S. E. 2d 539.

No. 79-574. *OHIO v. TATE.* Sup. Ct. Ohio. Certiorari denied. Reported below: 59 Ohio St. 2d 50, 391 N. E. 2d 738.

No. 79-578. *FLOWERVALE, INC., ET AL. v. INLAND CREDIT CORP. ET AL.* App. Div., Sup. Ct. N. Y., 2d Jud. Dept. Certiorari denied. Reported below: 69 App. Div. 2d 809, 414 N. Y. S. 2d 1012.

No. 79-588. *YORK-HOOVER CORP. ET AL. v. UNITED CASKET Co., INC., ET AL.* C. A. 2d Cir. Certiorari denied.

No. 79-611. *VASILIOS v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. Reported below: 598 F. 2d 387.

No. 79-619. *KENNEDY v. UNITED STATES.* C. A. 2d Cir. Certiorari denied.

No. 79-637. *BARON v. UNITED STATES.* C. A. 7th Cir. Certiorari denied. Reported below: 602 F. 2d 1248.

No. 79-641. *BOWMAN v. UNITED STATES.* C. A. 9th Cir. Certiorari denied. Reported below: 603 F. 2d 226.

No. 79-645. *McKINNEY ET AL. v. PENNZOIL Co.* C. A. 4th Cir. Certiorari denied. Reported below: 598 F. 2d 1339.

No. 79-668. *CARTER v. UNITED STATES.* C. A. 7th Cir. Certiorari denied. Reported below: 602 F. 2d 799.

No. 79-675. *WILLIAMS v. UNITED STATES.* C. A. 4th Cir. Certiorari denied. Reported below: 604 F. 2d 277.

No. 79-688. *BRUNWASSER v. CITY OF PITTSBURGH ET AL.* Pa. Commw. Ct. Certiorari denied. Reported below: 40 Pa. Commw. 197, 396 A. 2d 907.

No. 79-5020. *WILLIAMS v. GROOMES, PRISON SUPERINTENDENT, ET AL.* C. A. 3d Cir. Certiorari denied.

November 26, 1979

444 U. S.

No. 79-5040. *O'SUCH v. WOLFF, PRISONS DIRECTOR*. Sup. Ct. Nev. Certiorari denied.

No. 79-5048. *LACOSTE v. BLACKBURN, WARDEN*. C. A. 5th Cir. Certiorari denied. Reported below: 592 F. 2d 1321.

No. 79-5055. *STRAHAN v. LOUISIANA*. Sup. Ct. La. Certiorari denied.

No. 79-5176. *COLE v. OREGON*. Sup. Ct. Ore. Certiorari denied. Reported below: 286 Ore. 411, 595 P. 2d 466.

No. 79-5177. *MORALES v. CALIFORNIA*. Ct. App. Cal., 2d App. Dist. Certiorari denied.

No. 79-5196. *JOHNSON v. MISSOURI*. Ct. App. Mo., Southern Dist. Certiorari denied. Reported below: 579 S. W. 2d 771.

No. 79-5216. *ABRAMS v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 598 F. 2d 969.

No. 79-5230. *VEGA v. NORTH CAROLINA*. Ct. App. N. C. Certiorari denied. Reported below: 40 N. C. App. 326, 253 S. E. 2d 94.

No. 79-5234. *GOLDFELD v. HENDERSON, CORRECTIONAL SUPERINTENDENT, ET AL.* C. A. 2d Cir. Certiorari denied.

No. 79-5243. *ESTRADA v. ILLINOIS*. App. Ct. Ill., 2d Dist. Certiorari denied. Reported below: 68 Ill. App. 3d 272, 386 N. E. 2d 128.

No. 79-5257. *CARLEN v. UNITED STATES*. C. A. 9th Cir. Certiorari denied.

No. 79-5272. *PESCI v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 605 F. 2d 1198.

No. 79-5277. *MEZA-VILLARELLO v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 602 F. 2d 209.

444 U.S.

November 26, 1979

No. 79-5279. *LEE v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 589 F. 2d 980.

No. 79-5284. *GOMEZ v. UNITED STATES*. C. A. 10th Cir. Certiorari denied. Reported below: 603 F. 2d 147.

No. 79-5293. *SMITH v. STEPHENSON, CORRECTIONAL SUPERINTENDENT, ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 605 F. 2d 1205.

No. 79-5296. *WILLIAMS v. UNITED STATES*; and
No. 79-5337. *THOMPSON v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 597 F. 2d 667.

No. 79-5303. *GASKINS v. SKARMEAS ET AL.* C. A. 1st Cir. Certiorari denied. Reported below: 601 F. 2d 572.

No. 79-5312. *McDOWELL v. CIVILETTI, ATTORNEY GENERAL, ET AL.* C. A. 3d Cir. Certiorari denied.

No. 79-5321. *LUCATERO-LOPEZ v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 603 F. 2d 226.

No. 79-5324. *COUNCIL v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 591 F. 2d 1337.

No. 79-5349. *BOODLE v. NEW YORK*. Ct. App. N. Y. Certiorari denied. Reported below: 47 N. Y. 2d 398, 391 N. E. 2d 1329.

No. 79-5351. *SANITI v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 604 F. 2d 603.

No. 79-5361. *REYES-SALAS v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 599 F. 2d 1053.

No. 79-5365. *BENSON v. NEW YORK*. Ct. App. N. Y. Certiorari denied.

No. 79-5369. *FARRAR v. JENKINS, WARDEN*. C. A. 7th Cir. Certiorari denied. Reported below: 601 F. 2d 600.

November 26, 1979

444 U.S.

No. 79-5371. *LAPINSKY v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 601 F. 2d 589.

No. 79-5384. *GOOLSBY v. MILLER, SECRETARY OF THE TREASURY, ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 597 F. 2d 934.

No. 79-5428. *PEAK v. FLORIDA*. Dist. Ct. App. Fla., 3d Dist. Certiorari denied. Reported below: 363 So. 2d 1166.

No. 79-5429. *REESE v. NELSON ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 598 F. 2d 822.

No. 79-5433. *COLBERT v. MARYLAND*. C. A. 4th Cir. Certiorari denied. Reported below: 603 F. 2d 217.

No. 79-5434. *JACKSON v. CALIFORNIA*. C. A. 9th Cir. Certiorari denied. Reported below: 605 F. 2d 562.

No. 79-5437. *THOMAS v. ESTELLE, CORRECTIONS DIRECTOR*. C. A. 5th Cir. Certiorari denied. Reported below: 599 F. 2d 447.

No. 79-5451. *BURNEY v. GEORGIA*. Sup. Ct. Ga. Certiorari denied. Reported below: 244 Ga. 33, 257 S. E. 2d 543.

No. 79-5454. *HENDERSON v. ROACH ET AL.* C. A. 10th Cir. Certiorari denied.

No. 79-5455. *BRUCE v. ESTELLE, CORRECTIONS DIRECTOR*. C. A. 5th Cir. Certiorari denied. Reported below: 599 F. 2d 1051.

No. 79-5456. *ORSCANIN v. MINNESOTA*. Sup. Ct. Minn. Certiorari denied. Reported below: 283 N. W. 2d 897.

No. 79-5457. *GARCIA v. HARRIS, CORRECTIONAL SUPERINTENDENT*. C. A. 2d Cir. Certiorari denied.

No. 79-5459. *HOLLEY v. ARIZONA*. Ct. App. Ariz. Certiorari denied. Reported below: 123 Ariz. 382, 599 P. 2d 835.

444 U. S.

November 26, 1979

No. 79-5466. *BUIE v. NORTH CAROLINA*. Sup. Ct. N. C. Certiorari denied. Reported below: 297 N. C. 159, 254 S. E. 2d 26.

No. 79-5468. *MARNER v. NEW YORK*. Ct. App. N. Y. Certiorari denied. Reported below: 47 N. Y. 2d 982, 393 N. E. 2d 1036.

No. 79-5479. *SECHLER v. JAGO, CORRECTIONAL SUPERINTENDENT*. C. A. 6th Cir. Certiorari denied. Reported below: 601 F. 2d 590.

No. 79-5481. *McELROY v. WILSON ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 601 F. 2d 1193.

No. 79-5484. *FORD v. BORDENKIRCHER, PENITENTIARY SUPERINTENDENT*. C. A. 6th Cir. Certiorari denied. Reported below: 601 F. 2d 588.

No. 79-5508. *GRIMALDI v. UNITED STATES*. C. A. 1st Cir. Certiorari denied. Reported below: 606 F. 2d 332.

No. 79-5531. *WILLIAMS v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 603 F. 2d 859.

No. 79-5538. *JOOST v. UNITED STATES*. C. A. 2d Cir. Certiorari denied.

No. 79-5539. *JACKSON v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 605 F. 2d 564.

No. 79-5542. *CONTRERAS v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 602 F. 2d 1237.

No. 79-5543. *WARGO v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 603 F. 2d 227.

No. 79-5564. *MORALES v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 603 F. 2d 859.

November 26, 1979

444 U. S.

No. 79-5569. BROWN, AKA DENNIS *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied. Reported below: 605 F. 2d 389.

No. 78-1855. MILHOUSE ET AL. *v.* UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF CALIFORNIA (TRIGG ET AL., REAL PARTIES IN INTEREST). C. A. 9th Cir. Motions of National Council of the Churches of Christ in the United States of America and Association of United Methodist Theological Schools for leave to file briefs as *amici curiae* granted. Certiorari denied. MR. JUSTICE BLACKMUN took no part in the consideration or decision of these motions and this petition.

No. 79-536. DUCKWORTH ET AL. *v.* ADAMS. C. A. 7th Cir. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 605 F. 2d 558.

No. 79-200. HARRIS, SECRETARY OF HEALTH, EDUCATION, AND WELFARE, ET AL. *v.* ISLESBORO SCHOOL COMMITTEE ET AL. C. A. 1st Cir. Certiorari denied. MR. JUSTICE BRENNAN and MR. JUSTICE MARSHALL would grant certiorari. Reported below: 593 F. 2d 424.

No. 79-201. HARRIS, SECRETARY OF HEALTH, EDUCATION, AND WELFARE, ET AL. *v.* JUNIOR COLLEGE DISTRICT OF ST. LOUIS, ST. LOUIS COUNTY, MISSOURI. C. A. 8th Cir. Certiorari denied. MR. JUSTICE BRENNAN and MR. JUSTICE MARSHALL would grant certiorari. Reported below: 597 F. 2d 119.

No. 79-442. UNITED STATES DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE ET AL. *v.* ROMEO COMMUNITY SCHOOLS ET AL. C. A. 6th Cir. Certiorari denied. MR. JUSTICE BRENNAN and MR. JUSTICE MARSHALL would grant certiorari. Reported below: 600 F. 2d 581.

444 U.S.

November 26, 1979

No. 79-5469. LARSON *v.* MINNESOTA. Sup. Ct. Minn. Certiorari denied. MR. JUSTICE BRENNAN and MR. JUSTICE MARSHALL would grant certiorari. Reported below: 281 N. W. 2d 481.

No. 79-222. ELLIS *v.* REED, CORRECTIONS SECRETARY, ET AL. C. A. 4th Cir. Certiorari denied. MR. JUSTICE WHITE and MR. JUSTICE BLACKMUN would grant certiorari. Reported below: 596 F.2d 1195.

No. 79-366. ARGENTINE AIRLINES *v.* ROSS, INDUSTRIAL COMMISSIONER OF NEW YORK. App. Div., Sup. Ct. N. Y., 3d Jud. Dept. Certiorari denied. MR. JUSTICE WHITE and MR. JUSTICE BLACKMUN would grant certiorari. Reported below: 64 App. Div. 2d 994, 408 N. Y. S. 2d 831.

No. 79-226. FARE *v.* SCOTT K. Sup. Ct. Cal. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 24 Cal. 3d 395, 595 P. 2d 105.

No. 79-245. UNITED METHODIST CHURCH ET AL. *v.* BARR ET AL. Ct. App. Cal., 4th App. Dist. Motion of Association of United Methodist Theological Schools for leave to file a brief as *amicus curiae* granted. Certiorari denied. MR. JUSTICE BLACKMUN took no part in the consideration or decision of this motion and petition. Reported below: 90 Cal. App. 3d 259, 153 Cal. Rptr. 322.

No. 79-340. WESTERN SHOSHONE IDENTIFIABLE GROUP, TE-MOAK BANDS OF WESTERN SHOSHONE INDIANS, NEVADA *v.* UNITED STATES. Ct. Cl. Motion of Western Shoshone Legal Defense and Education Association et al. for leave to file a brief as *amici curiae* granted. Certiorari denied. Reported below: 219 Ct. Cl. 346 and 361, 593 F. 2d 994.

November 26, 1979

444 U. S.

No. 79-558. PRESBYTERY OF RIVERSIDE ET AL. *v.* COMMUNITY CHURCH OF PALM SPRINGS. Ct. App. Cal., 4th App. Dist. Motion of Lutheran Church in America for leave to file a brief as *amicus curiae* granted. Certiorari denied. Reported below: 89 Cal. App. 3d 910, 152 Cal. Rptr. 854.

No. 79-5255. AMADEO *v.* GEORGIA. Sup. Ct. Ga. Certiorari denied. Reported below: 243 Ga. 627, 255 S. E. 2d 718.

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 grant certiorari and vacate the death sentence in this case.

No. 79-5430. SKIPPER *v.* WAINWRIGHT, SECRETARY, DEPARTMENT OF OFFENDER REHABILITATION OF FLORIDA. C. A. 5th Cir. Application for stay, addressed to THE CHIEF JUSTICE and referred to the Court, denied. Certiorari denied. Reported below: 598 F. 2d 425.

Rehearing Denied

No. 78-1423. OLITT *v.* MURPHY, JUDGE, ET AL., *ante*, p. 825;

No. 78-1631. BERLIN *v.* NATHAN ET AL., *ante*, p. 828;

No. 78-1642. ST. REGIS PAPER CO. *v.* MARSHALL, SECRETARY OF LABOR, ET AL., *ante*, p. 828;

No. 78-1652. HODDER ET AL. *v.* UNITED STATES NUCLEAR REGULATORY COMMISSION ET AL., *ante*, p. 829;

No. 78-1674. L. W. BENNETT & SONS, INC. *v.* ANICHINAPPEO ET AL., *ante*, p. 830;

No. 78-1764. RYAN *v.* UNITED STATES, *ante*, p. 834;

No. 78-1782. BOWLING *v.* MATHEWS ET AL., *ante*, p. 835;

No. 78-1836. LEWIN *v.* NEW JERSEY, *ante*, p. 905; and

No. 78-1869. REHAHN ET AL. *v.* GENERAL MOTORS CORP. ET AL., *ante*, p. 840. Petitions for rehearing denied.

444 U. S.

November 26, 1979

- No. 78-1937. METRO BROADCASTING Co., INC. v. SECRETARY OF THE TREASURY OF PUERTO RICO, *ante*, p. 805;
- No. 78-1944. STEWART v. ATTORNEY GRIEVANCE COMMISSION OF MARYLAND, *ante*, p. 845;
- No. 78-6665. PAYNE v. CALIFORNIA, *ante*, p. 850;
- No. 78-6693. DIXON v. UNITED STATES, *ante*, p. 880;
- No. 78-6694. THIESS v. FRANKLIN SQUARE HOSPITAL, INC., ET AL., *ante*, p. 851;
- No. 78-6872. MOONEY v. GEORGIA, *ante*, p. 886;
- No. 78-6931. PITCHFORD v. SUPREME COURT OF ARKANSAS, *ante*, p. 863;
- No. 79-22. AIR FREIGHT HAULAGE Co., INC. v. RYD-AIR, INC., ET AL., *ante*, p. 864;
- No. 79-112. COUNTRYMAN v. TEXAS ET AL., *ante*, p. 868;
- No. 79-123. RIVERA v. CRUZ ET AL., *ante*, p. 868;
- No. 79-166. ERNEST v. UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT, *ante*, p. 820;
- No. 79-178. SHUFFMAN, EXECUTRIX v. HARTFORD TEXTILE CORP. ET AL., *ante*, p. 870;
- No. 79-180. SHEEDY v. UNITED STATES, *ante*, p. 915;
- No. 79-188. ERNEST v. SIRICA, U. S. DISTRICT JUDGE, ET AL., *ante*, p. 820;
- No. 79-271. BRIDGER v. ARKANSAS, *ante*, p. 916;
- No. 79-5028. SAYLES v. SHUKER, JUDGE, ET AL., *ante*, p. 872;
- No. 79-5030. SANDERS ET AL. v. HANKINS ET AL., *ante*, p. 872;
- No. 79-5059. JACKSON v. FLORIDA, *ante*, p. 885;
- No. 79-5075. SALVATORE v. FLORIDA, *ante*, p. 885;
- No. 79-5105. WEAVER v. UNITED STATES, *ante*, p. 900;
- No. 79-5143. WILLIS v. GEORGIA, *ante*, p. 885;
- No. 79-5165. POSTELL v. TEXAS, *ante*, p. 805;
- No. 79-5258. GASKINS v. ASHE, SHERIFF, ET AL., *ante*, p. 919; and
- No. 79-5341. W. D. v. ILLINOIS, *ante*, p. 936. Petitions for rehearing denied.

November 26, December 3, 1979

444 U. S.

No. 78-6140. *MORGAN v. GEORGIA*, 441 U. S. 967. Petition for rehearing denied. MR. JUSTICE BRENNAN, MR. JUSTICE STEWART, MR. JUSTICE MARSHALL, and MR. JUSTICE STEVENS dissent.

DECEMBER 3, 1979

Appeals Dismissed

No. 79-324. *ESTATE OF W. T. GRANT CO. v. LEWIS, CONTROLLER OF FLORIDA, ET AL.* Appeal from Sup. Ct. Fla. dismissed for want of substantial federal question. Reported below: 370 So. 2d 764.

No. 79-597. *WEBBER ET AL. v. CITY OF SACRAMENTO 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: 24 Cal. 3d 862, 598 P. 2d 844.

No. 79-623. *EISENBERG v. EISENBERG.* Appeal from Ct. App. Wis. dismissed for want of substantial federal question. Reported below: 90 Wis. 2d 620, 280 N. W. 2d 359.

Certiorari Granted—Vacated and Remanded

No. 79-173. *KENTUCKY v. WELLS.* Ct. App. Ky. Motion of respondent for leave to proceed *in forma pauperis* and certiorari granted. Judgment vacated and case remanded for further consideration in light of *Kentucky v. Whorton*, 441 U. S. 786 (1979).

Miscellaneous Orders

No. A-377 (79-121). *UNITED STATES v. HENRY.* C. A. 4th Cir. [Certiorari granted, *ante*, p. 824.] Application for release of respondent pending disposition of the writ of certiorari, addressed to MR. JUSTICE BRENNAN and referred to the Court, denied.

444 U. S.

December 3, 1979

No. A-385 (79-696). *COUGHLIN v. ALABAMA*. Sup. Ct. Ala. Application for stay, addressed to MR. JUSTICE BRENNAN and referred to the Court, denied.

No. A-411 (79-5669). *PFISTER v. ANDERSON CLINIC, INC., ET AL.* C. A. 4th Cir. Application for recall and stay of mandate, addressed to MR. JUSTICE MARSHALL and referred to the Court, denied.

No. A-447. *BURLINGTON NORTHERN, INC. v. UNITED STATES ET AL.* C. A. D. C. Cir. Application for stay, presented to THE CHIEF JUSTICE, and by him referred to the Court, denied.

No. D-182. *IN RE DISBARMENT OF BLONDES*. It is ordered that Leonard Saul Blondes, of Silver Spring, Md., be suspended from the practice of law in this Court and that a rule issue, returnable within 40 days, requiring him to show cause why he should not be disbarred from the practice of law in this Court.

No. 78-990. *UNITED STATES v. BAILEY ET AL.*; and *UNITED STATES v. COGDELL*. C. A. D. C. Cir. [Certiorari granted, 440 U. S. 957.] Motion of respondents for leave to file supplemental brief after argument granted.

No. 78-1177. *WHITE MOUNTAIN APACHE TRIBE ET AL. v. BRACKER ET AL.* Ct. App. Ariz. [Certiorari granted, *ante*, p. 823.] Motion of the Solicitor General for leave to participate in oral argument as *amicus curiae* granted, and 10 additional minutes allotted for that purpose. Respondents also allotted an additional 10 minutes for oral argument.

No. 78-1522. *ANDRUS, SECRETARY OF THE INTERIOR v. UTAH*. C. A. 10th Cir. [Certiorari granted, 442 U. S. 928.] Motion of the Solicitor General to permit Peter Buscemi, Esquire, to present oral argument *pro hac vice* granted.

December 3, 1979

444 U.S.

No. 78-1604. *CENTRAL MACHINERY CO. v. ARIZONA STATE TAX COMMISSION*. Sup. Ct. Ariz. [Probable jurisdiction noted, *ante*, p. 822.] Motion of the Solicitor General for divided argument granted.

No. 78-1815. *ANDRUS, SECRETARY OF THE INTERIOR v. SHELL OIL CO. ET AL.* C. A. 10th Cir. [Certiorari granted, *ante*, p. 822.] Motion of respondents to require the Solicitor General to file a brief conforming to the petition for certiorari, or, in the alternative, to amend the order of the Court granting the petition, denied.

No. 79-374. *BIRMINGHAM TRUST NATIONAL BANK v. HARRISON ET AL.*; and

No. 79-386. *HARRISON v. BIRMINGHAM TRUST NATIONAL BANK ET AL.* Sup. Ct. Ala. The Solicitor General is invited to file a brief in these cases expressing the views of the United States.

No. 79-5489. *CLARK v. NEW JERSEY*; and

No. 79-5492. *DONAHUE v. KANSAS*. Motions for leave to file petitions for writs of certiorari denied.

No. 79-5493. *LEBEDUN v. UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT*. Motion for leave to file petition for writ of mandamus denied.

No. 79-5501. *SELLARS v. COMMUNITY RELEASE BOARD OF CALIFORNIA ET AL.* Motion for leave to file petition for writ of mandamus and/or prohibition denied.

Certiorari Granted

No. 79-421. *BRYANT ET AL. v. YELLEN ET AL.*;

No. 79-425. *CALIFORNIA ET AL. v. YELLEN ET AL.*; and

No. 79-435. *IMPERIAL IRRIGATION DISTRICT ET AL. v. YELLEN ET AL.* C. A. 9th Cir. Certiorari granted, cases consolidated, and a total of one hour allotted for oral argument. Reported below: 559 F. 2d 509; 595 F. 2d 524 and 525.

444 U.S.

December 3, 1979

No. 79-521. CONSUMER PRODUCT SAFETY COMMISSION ET AL. *v.* GTE SYLVANIA, INC., ET AL. C. A. 3d Cir. Certiorari granted. Reported below: 598 F. 2d 790.

Certiorari Denied. (See also No. 79-597, *supra.*)

No. 79-143. MARTINEZ *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 597 F. 2d 509.

No. 79-209. BENEFIELD *v.* FLORDIA. Dist. Ct. App. Fla., 2d Dist. Certiorari denied. Reported below: 351 So. 2d 56.

No. 79-252. LASKY *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 600 F. 2d 765.

No. 79-268. GIESE *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 597 F. 2d 1170.

No. 79-272. BROWN ET AL. *v.* TRAUB, JUDGE. Sup. Ct. N. M. Certiorari denied.

No. 79-288. VANCE *v.* BARKSDALE, SHERIFF, ET AL. C. A. 6th Cir. Certiorari denied. Reported below: 601 F. 2d 591.

No. 79-317. SHELL OIL CO. *v.* OLSEN ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 595 F. 2d 1099.

No. 79-356. ERICKSON *v.* UNITED STATES; and

No. 79-5304. WILSON *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied. Reported below: 601 F. 2d 296.

No. 79-389. STOUT *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied. Reported below: 601 F. 2d 325.

No. 79-403. CRUMPACKER *v.* INDIANA SUPREME COURT DISCIPLINARY COMMISSION ET AL. Sup. Ct. Ind. Certiorari denied. Reported below: 269 Ind. 630, 383 N. E. 2d 36.

No. 79-418. LINCOLN SCHOOL DISTRICT No. 48 *v.* MARSHALL, SECRETARY OF LABOR. C. A. 8th Cir. Certiorari denied. Reported below: 600 F. 2d 147.

December 3, 1979

444 U.S.

No. 79-423. *SMITH v. HARRIS, SECRETARY OF HEALTH, EDUCATION, AND WELFARE*. C. A. 9th Cir. Certiorari denied. Reported below: 597 F. 2d 152.

No. 79-434. *JAY NORRIS, INC., ET AL. v. FEDERAL TRADE COMMISSION*. C. A. 2d Cir. Certiorari denied. Reported below: 598 F. 2d 1244.

No. 79-436. *HARAPAT v. HARRIS, SECRETARY OF HEALTH, EDUCATION, AND WELFARE*. C. A. 8th Cir. Certiorari denied. Reported below: 598 F. 2d 474.

No. 79-463. *CITY OF BETHEL, ALASKA, ET AL. v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 594 F. 2d 1301.

No. 79-469. *OPPENHEIMER v. ELECTRO-NUCLEONICS, INC., ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 603 F. 2d 214.

No. 79-476. *MICHIGAN OIL Co. v. NATURAL RESOURCES COMMISSION ET AL.* Sup. Ct. Mich. Certiorari denied. Reported below: 406 Mich. 1, 276 N. W. 2d 141.

No. 79-487. *RINALDI v. UNITED STATES*. C. A. 6th Cir. Certiorari denied.

No. 79-490. *PENNSYLVANIA BANK & TRUST Co., EXECUTOR v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 597 F. 2d 382.

No. 79-576. *STEPHENS ET AL. v. COLLIER COUNTY BOARD OF COMMISSIONERS, COLLIER COUNTY, FLORIDA*. Dist. Ct. App. Fla., 2d Dist. Certiorari denied. Reported below: 366 So. 2d 897.

No. 79-580. *COUNTY OF NASSAU v. OWENS*. C. A. 2d Cir. Certiorari denied. Reported below: 601 F. 2d 1242.

444 U.S.

December 3, 1979

No. 79-590. *TELEX CORP. ET AL. v. BROBECK, PHLEGER & HARRISON*. C. A. 9th Cir. Certiorari denied. Reported below: 602 F. 2d 866.

No. 79-591. *NOVAK v. NOVAK*. Ct. App. Cal., 2d App. Dist. Certiorari denied.

No. 79-605. *CASPER, DBA ABBY SALES v. METAL TRADES, INC.* C. A. 4th Cir. Certiorari denied. Reported below: 604 F. 2d 299.

No. 79-607. *ADVOCATES FOR THE HANDICAPPED ET AL. v. SEARS, ROEBUCK & Co.* App. Ct. Ill., 1st Dist. Certiorari denied. Reported below: 67 Ill. App. 3d 512, 385 N. E. 2d 39.

No. 79-625. *BURGUIERES v. MORTON-NORWICH PRODUCTS, INC., ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 599 F. 2d 1052.

No. 79-636. *CROSS v. JARVIS, SHERIFF*. Sup. Ct. Ga. Certiorari denied.

No. 79-720. *VAZQUEZ v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 605 F. 2d 1269.

No. 79-5104. *CLERK v. ILLINOIS*. App. Ct. Ill., 1st Dist. Certiorari denied. Reported below: 68 Ill. App. 3d 1021, 386 N. E. 2d 630.

No. 79-5205. *SOUSA v. UNITED STATES*;

No. 79-5354. *DIAMEN, AKA INFANTOLINO v. UNITED STATES*; and

No. 79-5357. *EASTRIDGE v. UNITED STATES*. Ct. App. D. C. Certiorari denied. Reported below: 400 A. 2d 1036.

No. 79-5225. *NASH v. ESTELLE, CORRECTIONS DIRECTOR*. C. A. 5th Cir. Certiorari denied. Reported below: 597 F. 2d 513.

December 3, 1979

444 U.S.

No. 79-5227. *PARKER v. OREGON*. Ct. App. Ore. Certiorari denied. Reported below: 39 Ore. App. 411, 593 P. 2d 532.

No. 79-5238. *SHAKUR v. BLANTON, GOVERNOR OF TENNESSEE*. C. A. 6th Cir. Certiorari denied.

No. 79-5248. *BOOTH v. NEBRASKA*. Sup. Ct. Neb. Certiorari denied. Reported below: 202 Neb. 692, 276 N. W. 2d 673.

No. 79-5259. *ESTRADA v. HALVONIK ET AL.* C. A. 9th Cir. Certiorari denied.

No. 79-5265. *WRIGHT v. ESTELLE, CORRECTIONS DIRECTOR*. C. A. 5th Cir. Certiorari denied.

No. 79-5302. *KROGER v. ENGLE, CORRECTIONAL SUPERINTENDENT*. C. A. 6th Cir. Certiorari denied.

No. 79-5314. *BENAVIDES v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 605 F. 2d 1197.

No. 79-5333. *THORNTON v. UNITED STATES*. C. A. 5th Cir. Certiorari denied.

No. 79-5367. *JONES v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 601 F. 2d 589.

No. 79-5393. *PUGLISI v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 601 F. 2d 1194.

No. 79-5443. *FILLMORE v. OKLAHOMA*. Ct. Crim. App. Okla. Certiorari denied. Reported below: 483 P. 2d 750.

No. 79-5463. *TAYLOR v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 603 F. 2d 732.

No. 79-5470. *WILLIAMS v. WAINWRIGHT, SECRETARY, DEPARTMENT OF OFFENDER REHABILITATION OF FLORIDA*. Dist. Ct. App. Fla., 4th Dist. Certiorari denied.

444 U. S.

December 3, 1979

No. 79-5476. REESE *v.* WAINWRIGHT, SECRETARY, DEPARTMENT OF OFFENDER REHABILITATION OF FLORIDA. C. A. 5th Cir. Certiorari denied. Reported below: 600 F. 2d 1085.

No. 79-5486. RIVIERA *v.* HEWITT, CORRECTIONAL SUPERINTENDENT, ET AL. C. A. 3d Cir. Certiorari denied. Reported below: 605 F. 2d 1197.

No. 79-5488. CAMPOS *v.* MALLEY, WARDEN. C. A. 10th Cir. Certiorari denied.

No. 79-5490. PATTERSON *v.* JAGO, CORRECTIONAL SUPERINTENDENT. C. A. 6th Cir. Certiorari denied. Reported below: 605 F. 2d 557.

No. 79-5496. McCRARY *v.* LEFEVRE ET AL. C. A. 2d Cir. Certiorari denied.

No. 79-5505. CAREY *v.* LEVERETTE, WARDEN. C. A. 4th Cir. Certiorari denied. Reported below: 605 F. 2d 745.

No. 79-5509. SINICROPI *v.* NASSAU COUNTY ET AL. C. A. 2d Cir. Certiorari denied. Reported below: 601 F. 2d 60.

No. 79-5510. MARTIN *v.* MICHIGAN. Sup. Ct. Mich. Certiorari denied.

No. 79-5512. JUNKIN *v.* ARIZONA. Ct. App. Ariz. Certiorari denied. Reported below: 123 Ariz. 288, 599 P. 2d 244.

No. 79-5528. PALMER *v.* TEXAS. Ct. Crim. App. Tex. Certiorari denied. Reported below: 584 S. W. 2d 283.

No. 79-5576. YANIS ET AL. *v.* UNITED STATES. C. A. 1st Cir. Certiorari denied. Reported below: 605 F. 2d 1184.

No. 79-5577. PATTERSON *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied.

No. 79-5585. GUTIERREZ-BARRON *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 602 F. 2d 722.

December 3, 1979

444 U. S.

No. 79-5594. VALDEZ *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 605 F. 2d 553.

No. 79-5599. FAISON *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied. Reported below: 609 F. 2d 501.

No. 79-5605. JONES *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 603 F. 2d 226.

No. 79-313. GORDON *v.* UNITED STATES; and

No. 79-503. FRIEDLANDER ET AL. *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. MR. JUSTICE BRENNAN, MR. JUSTICE STEWART, and MR. JUSTICE MARSHALL would grant certiorari and reverse the convictions. Reported below: 605 F. 2d 210.

No. 79-556. MITCHELL ET AL. *v.* BINDRIM; and

No. 79-585. DOUBLEDAY & Co., INC. *v.* BINDRIM. Ct. App. Cal., 2d App. Dist. Motion of Association of American Publishers, Inc., for leave to file a brief as *amicus curiae* in No. 79-585 granted. Certiorari denied. MR. JUSTICE BRENNAN, MR. JUSTICE STEWART, and MR. JUSTICE MARSHALL would grant certiorari. Reported below: 92 Cal. App. 3d 61, 155 Cal. Rptr. 29.

No. 79-627. NEWCOMER *v.* INTERNATIONAL BUSINESS MACHINES CORP. C. A. 5th Cir. Certiorari denied. MR. JUSTICE BLACKMUN took no part in the consideration or decision of this petition. Reported below: 598 F. 2d 968.

No. 79-5391. LEGARE *v.* GEORGIA. Sup. Ct. Ga.; and

No. 79-5449. SMITH, AKA MACHETTI *v.* HURLEY, ACTING WARDEN. Super. Ct. Ga., Baldwin County. Certiorari denied. Reported below: No. 79-5391, 243 Ga. 744, 257 S. E. 2d 247.

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

444 U. S.

December 3, 4, 1979

Eighth and Fourteenth Amendments, *Gregg v. Georgia*, 428 U. S. 153, 227, 231 (1976), we would grant certiorari and vacate the death sentences in these cases.

Rehearing Denied

- No. 78-6680. *McCORMICK ET AL. v. TEXAS*, *ante*, p. 919;
No. 78-6777. *EARVIN v. TEXAS*, *ante*, p. 919;
No. 78-6805. *STEELMAN v. COLORADO ET AL.*, *ante*, p. 915;
No. 79-34. *STINSON v. LOUISIANA STATE BAR ASSN.*, *ante*, p. 803;
No. 79-76. *BLACK v. PAYNE ET AL.*, *ante*, p. 867;
No. 79-295. *POLLARD v. METROPOLITAN LIFE INSURANCE Co.*, *ante*, p. 917;
No. 79-5031. *HARGRAVE v. FLORIDA*, *ante*, p. 919;
No. 79-5263. *PEELER v. ARIZONA*, *ante*, p. 919;
No. 79-5285. *HAWK v. OREGON*, *ante*, p. 921; and
No. 79-5385. *SIBLEY v. UNITED STATES*, *ante*, p. 937. Petitions for rehearing denied.

No. 79-5420. *WILSON v. FIRST VALLEY BANK*, *ante*, p. 945. Petition for rehearing denied. MR. JUSTICE MARSHALL took no part in the consideration or decision of this petition.

- No. 78-6567. *LEDUC v. FLORIDA*, *ante*, p. 885;
No. 78-6671. *BEGLEY v. KENTUCKY ET AL.*, *ante*, p. 850;
No. 78-6939. *KASSIMA v. UNITED STATES*, *ante*, p. 863;
No. 79-5027. *CALVIN K. ET UX. v. COMMISSIONER OF INTERNAL REVENUE*, *ante*, p. 872; and

No. 79-5149. *STUDIFIN v. NEW YORK TELEPHONE Co.*, *ante*, p. 877. Motions for leave to file petitions for rehearing denied.

DECEMBER 4, 1979

Dismissal Under Rule 60

No. 79-595. *NATURAL RESOURCES DEFENSE COUNCIL, INC., ET AL. v. LONG ISLAND LIGHTING Co.* C. A. 2d Cir. Certiorari dismissed before judgment as to petitioner Scientists' Institute for Public Information under this Court's Rule 60.

December 5, 6, 10, 1979

444 U. S.

DECEMBER 5, 1979

Dismissal Under Rule 60

No. 79-470. HUDSON ET AL. *v.* SMITH ET AL. C. A. 6th Cir. Certiorari dismissed under this Court's Rule 60. Reported below: 600 F. 2d 60.

DECEMBER 6, 1979

Dismissal Under Rule 60

No. 79-669. DAWSON CHEMICAL CO. ET AL. *v.* ROHM & HAAS CO. C. A. 5th Cir. Certiorari dismissed as to petitioner Helena Chemical Co. under this Court's Rule 60.

DECEMBER 10, 1979

Appeals Dismissed

No. 79-161. MASQUELETTE *v.* TEXAS. Appeal from Ct. Crim. App. 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: 579 S. W. 2d 478.

No. 79-302. RANKINS ET AL. *v.* COMMISSION ON PROFESSIONAL COMPETENCE OF THE DUCOR UNION SCHOOL DISTRICT ET AL. Appeal from Sup. Ct. Cal. 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. Reported below: 24 Cal. 3d 167, 593 P. 2d 852.

No. 79-617. SMITH *v.* PENTA ET AL. Appeal from Sup. Ct. N. J. dismissed for want of substantial federal question. Reported below: 81 N. J. 65, 405 A. 2d 350.

No. 79-628. CALIFORNIA ASSOCIATION OF UTILITY SHAREHOLDERS *v.* PUBLIC UTILITIES COMMISSION OF CALIFORNIA ET AL. Appeal from Sup. Ct. Cal. dismissed for want of substantial federal question.

444 U. S.

December 10, 1979

No. 79-5507. *J. K. S. v. COLORADO*. Appeal from Sup. Ct. Colo. dismissed for want of substantial federal question. Reported below: 198 Colo. 11, 596 P. 2d 747.

No. 79-5545. *WHITE v. NEW JERSEY*. Appeal from Sup. Ct. N. J. dismissed for want of substantial federal question. Reported below: 81 N. J. 45, 404 A. 2d 1145.

No. 79-5323. *APODACA v. TEXAS*. Appeal from County Ct. at Law No. 2, El Paso County, Tex., dismissed for want of substantial federal question. MR. JUSTICE STEWART would dismiss the appeal for want of a properly presented federal question. MR. JUSTICE MARSHALL would note probable jurisdiction and set case for oral argument.

Certiorari Granted—Vacated and Remanded

No. 77-1543. *POWELL v. CARGILL, INC., ET AL.* C. A. 9th Cir. Certiorari granted, judgment vacated, and case remanded for further consideration in light of *P. C. Pfeiffer Co. v. Ford*, ante, p. 69. MR. JUSTICE BLACKMUN took no part in the consideration or decision of this case. Reported below: 573 F. 2d 561.

No. 78-6153. *FERRI v. ROSSETTI*. Sup. Ct. Pa. Motion of petitioner for leave to proceed *in forma pauperis* and certiorari granted. Judgment vacated and case remanded for further consideration in light of *Ferri v. Ackerman*, ante, p. 193. Reported below: 483 Pa. 327, 396 A. 2d 1193.

Certiorari Dismissed

No. 78-1933. *MONTGOMERY, DBA LAMINATING COMPANY OF COLORADO ET AL. v. CENTURY LAMINATING, LTD.* C. A. 10th Cir. [Certiorari granted, ante, p. 897.] Motion of respondent to dismiss granted. Certiorari dismissed as improvidently granted. Reported below: 595 F. 2d 563.

December 10, 1979

444 U. S.

Miscellaneous Orders

No. A-430. SCHUELLER *v.* LYON MOVING & STORAGE CO. Ct. App. Wash. Application for extension of time in which to file petition for writ of certiorari, addressed to MR. JUSTICE MARSHALL and referred to the Court, denied.

No. A-458. LERMAN *v.* INHABITANTS OF THE CITY OF PORTLAND. Sup. Jud. Ct. Me. Application for stay, addressed to MR. JUSTICE MARSHALL and referred to the Court, denied.

No. 78-1418. BLOOMER *v.* LIBERTY MUTUAL INSURANCE CO. C. A. 2d Cir. [Certiorari granted, 441 U. S. 942.] Motion of Hudson Waterways Corp. et al. for leave to file a brief as *amici curiae* denied.

No. 78-1693. UNITED STATES *v.* CLARKE ET AL. C. A. 9th Cir. [Certiorari granted, *ante*, p. 822.] Motion of the Solicitor General for divided argument granted.

No. 78-1793. ROBERTS *v.* UNITED STATES. C. A. D. C. Cir. [Certiorari granted, *ante*, p. 822.] Motion of American Civil Liberties Union et al. for leave to file a brief as *amici curiae* granted.

No. 78-6885. HICKS *v.* OKLAHOMA. Ct. Crim. App. Okla. [Certiorari granted, *ante*, p. 963.] Motion of petitioner for appointment of counsel granted, and it is ordered that David M. Ebel, Esquire, of Denver, Colo., be appointed to serve as counsel for petitioner in this case.

No. 79-539. MAINE *v.* DANA ET AL. Sup. Jud. Ct. Me. The Solicitor General is invited to file a brief in this case expressing the views of the United States.

No. 79-755. LECHT *v.* LEVINSON ET AL; and

No. 79-5653. KIERSTEAD *v.* PRINCI, U. S. MAGISTRATE. Motions for leave to file petitions for writs of habeas corpus denied.

444 U. S.

December 10, 1979

No. 79-97. CALIFORNIA RETAIL LIQUOR DEALERS ASSN. *v.* MIDCAL ALUMINUM, INC., ET AL. Ct. App. Cal., 3d App. Dist. [Certiorari granted, *ante*, p. 824.] Motion of respondent Midcal Aluminum, Inc., for reconsideration of order of November 26, 1979 [*ante*, p. 961], granting divided argument denied. Further consideration of suggestion of mootness of respondent Midcal Aluminum, Inc., is deferred to hearing of case on the merits. MR. JUSTICE BRENNAN took no part in the consideration or decision of these matters.

No. 79-5516. JAFFER *v.* WHITE, CLERK, SUPREME COURT OF FLORIDA. Motion for leave to file petition for writ of mandamus denied.

No. 79-5514. KENNEDY *v.* SHELLINGER, WARDEN, ET AL. Motion for leave to file petition for writ of mandamus and other relief denied.

Certiorari Granted

No. 79-488. GENERAL TELEPHONE COMPANY OF THE NORTHWEST, INC., ET AL. *v.* EQUAL EMPLOYMENT OPPORTUNITY COMMISSION ET AL. C. A. 9th Cir. Certiorari granted. Reported below: 599 F. 2d 322.

No. 79-639. UNITED STATES *v.* SIOUX NATION OF INDIANS ET AL. Ct. Cl. Certiorari granted. Reported below: 220 Ct. Cl. 442, 601 F. 2d 1157.

No. 79-244. UNITED STATES *v.* SALVUCCI ET AL. C. A. 1st Cir. Motions of respondents for leave to proceed *in forma pauperis* granted. Certiorari granted and case set for oral argument in tandem with No. 79-5146, *Rawlings v. Kentucky*, immediately *infra*. Reported below: 599 F. 2d 1094.

No. 79-5146. RAWLINGS *v.* KENTUCKY. Sup. Ct. Ky. Motion of petitioner for leave to proceed *in forma pauperis* granted. Certiorari granted and case set for oral argument in tandem with No. 79-244, *United States v. Salvucci*, immediately *supra*. Reported below: 581 S. W. 2d 348.

December 10, 1979

444 U. S.

No. 79-616. *MOHASCO CORP. v. SILVER*. C. A. 2d Cir. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari granted limited to Question 1 presented by the petition. Reported below: 602 F. 2d 1083.

No. 79-5175. *ADAMS v. TEXAS*. Ct. Crim. App. Tex. Motion of petitioner for leave to proceed *in forma pauperis* granted. Certiorari granted limited to the questions presented by the Court:

(1) Is the doctrine of *Witherspoon v. Illinois*, 391 U. S. 510, applicable to the bifurcated procedure employed by Texas in capital cases? (2) If so, did the exclusion from jury service in the present case of prospective jurors pursuant to Texas Penal Code § 12.31 (b) violate the doctrine of *Witherspoon v. Illinois*, *supra*?

Reported below: 577 S. W. 2d 717.

No. 79-5364. *BROWN v. LOUISIANA*. Sup. Ct. La. Motion of petitioner for leave to proceed *in forma pauperis* and certiorari granted. Reported below: 371 So. 2d 746.

Certiorari Denied. (See also No. 79-161, *supra*.)

No. 78-5855. *LEVY v. UNITED STATES*; and

No. 78-5930. *LA FONT v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 580 F. 2d 730.

No. 79-169. *PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE v. FEDERAL ENERGY REGULATORY COMMISSION ET AL.*; and

No. 79-544. *PENNSYLVANIA ELECTRIC CO. ET AL. v. FEDERAL ENERGY REGULATORY COMMISSION ET AL.* C. A. D. C. Cir. Certiorari denied. Reported below: 195 U. S. App. D. C. 130, 600 F. 2d 944.

No. 79-296. *BARRENTINE ET AL. v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 591 F. 2d 1069.

444 U.S.

December 10, 1979

- No. 79-327. *CBS INC. v. UNITED STATES ET AL.*; and
No. 79-354. *COLUMBIA PICTURES INDUSTRIES, INC., ET AL. v. UNITED STATES ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 603 F. 2d 227.
- No. 79-397. *PIHAKIS ET AL. v. UNITED STATES.* C. A. 2d Cir. Certiorari denied. Reported below: 607 F. 2d 1000.
- No. 79-479. *GENINS v. GEIGER ET UX.* Ct. App. Ga. Certiorari denied. Reported below: 149 Ga. App. 526, 254 S. E. 2d 913.
- No. 79-481. *HANCOCK ET AL. v. UNITED STATES.* C. A. 7th Cir. Certiorari denied. Reported below: 605 F. 2d 558.
- No. 79-510. *AMERICAN TRUCKING ASSNS., INC. v. UNITED STATES ET AL.* C. A. D. C. Cir. Certiorari denied. Reported below: 195 U. S. App. D. C. 266, 602 F. 2d 444.
- No. 79-511. *BREWSTER v. COMMISSIONER OF INTERNAL REVENUE.* C. A. D. C. Cir. Certiorari denied. Reported below: 197 U. S. App. D. C. 184, 607 F. 2d 1369.
- No. 79-516. *INLAND OIL & TRANSPORT Co. v. UNITED STATES ET AL.* C. A. 8th Cir. Certiorari denied. Reported below: 600 F. 2d 725.
- No. 79-523. *LEESONA CORP. v. UNITED STATES.* Ct. Cl. Certiorari denied. Reported below: 220 Ct. Cl. 234, 599 F. 2d 958.
- No. 79-524. *KAYE v. UNITED STATES.* C. A. 6th Cir. Certiorari denied. Reported below: 605 F. 2d 236.
- No. 79-525. *MOENCKMEIER v. UNITED STATES ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 601 F. 2d 575.
- No. 79-530. *TEXAS OIL & GAS CORP. ET AL. v. MICHIGAN WISCONSIN PIPE LINE Co. ET AL.* C. A. 10th Cir. Certiorari denied. Reported below: 601 F. 2d 1144.

December 10, 1979

444 U. S.

No. 79-553. *PARK WEST MANAGEMENT CORP. v. MITCHELL ET AL.* Ct. App. N. Y. Certiorari denied. Reported below: 47 N. Y. 2d 316, 391 N. E. 2d 1288.

No. 79-618. *GOOD HOPE REFINERIES, INC. v. BENAVIDES ET AL.* C. A. 1st Cir. Certiorari denied. Reported below: 602 F. 2d 998.

No. 79-626. *ANCARROW ET UX. v. CITY OF RICHMOND.* C. A. 4th Cir. Certiorari denied. Reported below: 600 F. 2d 443.

No. 79-630. *HUNT ET AL. v. COASTAL STATES GAS PRODUCING Co. ET AL.* Sup. Ct. Tex. Certiorari denied. Reported below: 583 S. W. 2d 322.

No. 79-631. *OKLAHOMA v. C. M. G.* Ct. Crim. App. Okla. Certiorari denied. Reported below: 594 P. 2d 798.

No. 79-642. *DOUGHERTY v. HAALAND.* C. A. 3d Cir. Certiorari denied. Reported below: 601 F. 2d 574.

No. 79-689. *GAGNE v. MEACHUM.* C. A. 1st Cir. Certiorari denied. Reported below: 602 F. 2d 471.

No. 79-740. *ARTHUR v. UNITED STATES.* C. A. 4th Cir. Certiorari denied. Reported below: 602 F. 2d 660.

No. 79-744. *ALBERICO v. UNITED STATES.* C. A. 10th Cir. Certiorari denied. Reported below: 604 F. 2d 1315.

No. 79-5039. *JOINER v. YOUNGBLOOD ET AL.* Sup. Ct. La. Certiorari denied. Reported below: 370 So. 2d 586.

No. 79-5268. *GILLION v. ILLINOIS.* Sup. Ct. Ill. Certiorari denied. Reported below: 76 Ill. 2d 256, 390 N. E. 2d 900.

No. 79-5308. *GAERTNER v. WISCONSIN.* Sup. Ct. Wis. Certiorari denied. Reported below: 90 Wis. 2d 867, 280 N. W. 2d 789.

444 U. S.

December 10, 1979

No. 79-5336. *McCONKEY v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 605 F. 2d 564.

No. 79-5353. *DRYE v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 605 F. 2d 1207.

No. 79-5368. *CROWDER v. LOUISIANA*. Sup. Ct. La. Certiorari denied. Reported below: 371 So. 2d 821.

No. 79-5418. *WALDROP v. COMMISSIONER OF INTERNAL REVENUE*. C. A. 4th Cir. Certiorari denied. Reported below: 601 F. 2d 730.

No. 79-5426. *QURESHI v. COMMISSIONER OF INTERNAL REVENUE*. C. A. D. C. Cir. Certiorari denied. Reported below: 194 U. S. App. D. C. 400, 600 F. 2d 280.

No. 79-5441. *HARRIS v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 607 F. 2d 1251.

No. 79-5444. *KEEFER v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 603 F. 2d 226.

No. 79-5450. *YOUNG ET AL. v. LANDRIEAU, SECRETARY, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT, ET AL.* C. A. 8th Cir. Certiorari denied. Reported below: 599 F. 2d 870.

No. 79-5460. *GREER v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 607 F. 2d 1251.

No. 79-5467. *MARCUS v. INTERNAL REVENUE SERVICE ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 595 F. 2d 1228.

No. 79-5482. *GRIZZELL v. TENNESSEE*. Sup. Ct. Tenn. Certiorari denied.

No. 79-5504. *JOHNSTONE v. NEW YORK*. App. Div., Sup. Ct. N. Y., 1st Jud. Dept. Certiorari denied. Reported below: 70 App. Div. 2d 791, 415 N. Y. S. 2d 916.

December 10, 1979

444 U.S.

No. 79-5517. *HOWERY v. NEW JERSEY*. Sup. Ct. N. J. Certiorari denied. Reported below: 80 N. J. 563, 404 A. 2d 632.

No. 79-5524. *GERRY ET AL. v. WASHINGTON*. Ct. App. Wash. Certiorari denied. Reported below: 23 Wash. App. 166, 595 P. 2d 49.

No. 79-5546. *PLATEL v. CLARK, JUDGE, ET AL.* C. A. 5th Cir. Certiorari denied.

No. 79-5565. *NICKERSON v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 606 F. 2d 156.

No. 79-5570. *DRAKEFORD v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 605 F. 2d 1197.

No. 79-5573. *SMITH v. UNITED STATES*. C. A. 4th Cir. Certiorari denied.

No. 79-5610. *RAIA v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 605 F. 2d 1198.

No. 79-5617. *BELVIN ET AL. v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 603 F. 2d 226.

No. 79-5618. *ELSBERY v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 602 F. 2d 1054.

No. 79-5620. *CARRA v. UNITED STATES*. C. A. 10th Cir. Certiorari denied. Reported below: 604 F. 2d 1271.

No. 79-5621. *BRETZ v. MONTANA*. Sup. Ct. Mont. Certiorari denied.

No. 79-5631. *PEREZ v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 605 F. 2d 553.

No. 79-5634. *VAN DYKE v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 605 F. 2d 220.

No. 79-5635. *YOUNG v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 603 F. 2d 642.

444 U. S.

December 10, 1979

No. 79-5644. JANKOWSKI *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied. Reported below: 609 F. 2d 504.

No. 78-6687. RUFFIN *v.* GEORGIA. Sup. Ct. Ga. Certiorari denied. Reported below: 243 Ga. 95, 252 S. E. 2d 472.

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 grant certiorari and vacate the death sentence in this case.

No. 79-461. WATERBURY URBAN RENEWAL AGENCY *v.* WATERBURY ACTION TO CONSERVE OUR HERITAGE, INC., ET AL. C. A. 2d Cir. Motion of Connecticut Community Development Association for leave to file a brief as *amicus curiae* granted. Certiorari denied. Reported below: 603 F. 2d 310.

No. 79-475. JICARILLA APACHE TRIBE *v.* UNITED STATES ET AL. C. A. 10th Cir. Certiorari denied. MR. JUSTICE BRENNAN and MR. JUSTICE BLACKMUN would grant certiorari. Reported below: 601 F. 2d 1116.

No. 79-478. ALMA SOCIETY, INC., ET AL. *v.* MELLON ET AL. C. A. 2d Cir. Motion of counsel for respondent natural parents who have surrendered their children for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 601 F. 2d 1225.

No. 79-632. SMITH, CORRECTIONAL SUPERINTENDENT *v.* GRAHAM. C. A. 2d Cir. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 602 F. 2d 1078.

No. 79-640. GOLDBERG, TRUSTEE, ET AL. *v.* KIRSHNER. C. A. 2d Cir. Motion of Merrill Lynch, Pierce, Fenner & Smith, Inc., for leave to file a brief as *amicus curiae* granted. Certiorari denied. Reported below: 603 F. 2d 234.

December 10, 13, 1979

444 U. S.

No. 79-643. COMMISSIONER OF INTERNAL REVENUE *v.* QUINLIVAN ET AL. C. A. 8th Cir. Certiorari denied. MR. JUSTICE STEWART and MR. JUSTICE POWELL would grant certiorari. MR. JUSTICE BLACKMUN took no part in the consideration or decision of this petition. Reported below: 599 F. 2d 269.

No. 79-663. FRIAS *v.* BOARD OF TRUSTEES OF ECTOR COUNTY INDEPENDENT SCHOOL DISTRICT ET AL. Ct. Civ. App. Tex., 8th Sup. Jud. Dist. Motion of respondent Board of Trustees of Ector County Independent School District for damages and certiorari denied. Reported below: 584 S. W. 2d 944.

Rehearing Denied

No. 78-6936. SCOTT *v.* GEORGIA, *ante*, p. 925. Petition for rehearing denied.

No. 78-1692. SOLOMON *v.* WEST VIRGINIA, *ante*, p. 831. Motion for leave to proceed further herein *in forma pauperis* granted. Petition for rehearing denied.

No. 78-6677. FIGUEROA *v.* LEFEVRE, CORRECTIONAL SUPERINTENDENT, *ante*, p. 850;

No. 79-5095. DAVIS *v.* BRYAN, U. S. DISTRICT JUDGE, *ante*, p. 821; and

No. 79-5181. DAVIS *v.* RUSSELL ET AL., U. S. CIRCUIT JUDGES, *ante*, p. 821. Motions for leave to file petitions for rehearing denied.

DECEMBER 13, 1979

Certiorari Granted—Vacated and Remanded

No. 79-856. GOLDWATER ET AL. *v.* CARTER, PRESIDENT OF THE UNITED STATES, ET AL. C. A. D. C. Cir. Certiorari granted, judgment vacated, and case remanded with directions to dismiss the complaint. MR. JUSTICE MARSHALL concurs in the result. MR. JUSTICE POWELL concurs in the judgment

and filed a statement. MR. JUSTICE REHNQUIST concurs in the judgment and filed a statement in which THE CHIEF JUSTICE, MR. JUSTICE STEWART, and MR. JUSTICE STEVENS join. MR. JUSTICE WHITE and MR. JUSTICE BLACKMUN join in the grant of the petition for writ of certiorari but would set the case for argument and give it plenary consideration. MR. JUSTICE BLACKMUN filed a statement in which MR. JUSTICE WHITE joins. MR. JUSTICE BRENNAN would grant the petition for writ of certiorari and affirm the judgment of the Court of Appeals and filed a statement. Reported below: 199 U. S. App. D. C. 115, 617 F. 2d 697.

MR. JUSTICE POWELL, concurring in the judgment.

Although I agree with the result reached by the Court, I would dismiss the complaint as not ripe for judicial review.

I

This Court has recognized that an issue should not be decided if it is not ripe for judicial review. *Buckley v. Valeo*, 424 U. S. 1, 113-114 (1976) (*per curiam*). Prudential considerations persuade me that a dispute between Congress and the President is not ready for judicial review unless and until each branch has taken action asserting its constitutional authority. Differences between the President and the Congress are commonplace under our system. The differences should, and almost invariably do, turn on political rather than legal considerations. The Judicial Branch should not decide issues affecting the allocation of power between the President and Congress until the political branches reach a constitutional impasse. Otherwise, we would encourage small groups or even individual Members of Congress to seek judicial resolution of issues before the normal political process has the opportunity to resolve the conflict.

In this case, a few Members of Congress claim that the President's action in terminating the treaty with Taiwan has deprived them of their constitutional role with respect to

POWELL, J., concurring in judgment

444 U. S.

a change in the supreme law of the land. Congress has taken no official action. In the present posture of this case, we do not know whether there ever will be an actual confrontation between the Legislative and Executive Branches. Although the Senate has considered a resolution declaring that Senate approval is necessary for the termination of any mutual defense treaty, see 125 Cong. Rec. 13672, 13695-13697 (1979), no final vote has been taken on the resolution. See *id.*, at 32522-32531. Moreover, it is unclear whether the resolution would have retroactive effect. See *id.*, at 13711-13721; *id.*, at 15210. It cannot be said that either the Senate or the House has rejected the President's claim. If the Congress chooses not to confront the President, it is not our task to do so. I therefore concur in the dismissal of this case.

II

MR. JUSTICE REHNQUIST suggests, however, that the issue presented by this case is a nonjusticiable political question which can never be considered by this Court. I cannot agree. In my view, reliance upon the political-question doctrine is inconsistent with our precedents. As set forth in the seminal case of *Baker v. Carr*, 369 U. S. 186, 217 (1962), the doctrine incorporates three inquiries: (i) Does the issue involve resolution of questions committed by the text of the Constitution to a coordinate branch of Government? (ii) Would resolution of the question demand that a court move beyond areas of judicial expertise? (iii) Do prudential considerations counsel against judicial intervention? In my opinion the answer to each of these inquiries would require us to decide this case if it were ready for review.

First, the existence of "a textually demonstrable constitutional commitment of the issue to a coordinate political department," *ibid.*, turns on an examination of the constitutional provisions governing the exercise of the power in question.

Powell v. McCormack, 395 U. S. 486, 519 (1969). No constitutional provision explicitly confers upon the President the power to terminate treaties. Further, Art. II, § 2, of the Constitution authorizes the President to make treaties with the advice and consent of the Senate. Article VI provides that treaties shall be a part of the supreme law of the land. These provisions add support to the view that the text of the Constitution does not unquestionably commit the power to terminate treaties to the President alone. Cf. *Gilligan v. Morgan*, 413 U. S. 1, 6 (1973); *Luther v. Borden*, 7 How. 1, 42 (1849).

Second, there is no "lack of judicially discoverable and manageable standards for resolving" this case; nor is a decision impossible "without an initial policy determination of a kind clearly for nonjudicial discretion." *Baker v. Carr*, *supra*, at 217. We are asked to decide whether the President may terminate a treaty under the Constitution without congressional approval. Resolution of the question may not be easy, but it only requires us to apply normal principles of interpretation to the constitutional provisions at issue. See *Powell v. McCormack*, *supra*, at 548-549. The present case involves neither review of the President's activities as Commander in Chief nor impermissible interference in the field of foreign affairs. Such a case would arise if we were asked to decide, for example, whether a treaty required the President to order troops into a foreign country. But "it is error to suppose that every case or controversy which touches foreign relations lies beyond judicial cognizance." *Baker v. Carr*, *supra*, at 211. This case "touches" foreign relations, but the question presented to us concerns only the constitutional division of power between Congress and the President.

A simple hypothetical demonstrates the confusion that I find inherent in MR. JUSTICE REHNQUIST's opinion concurring in the judgment. Assume that the President signed a mutual defense treaty with a foreign country and announced that it

would go into effect despite its rejection by the Senate. Under MR. JUSTICE REHNQUIST'S analysis that situation would present a political question even though Art. II, § 2, clearly would resolve the dispute. Although the answer to the hypothetical case seems self-evident because it demands textual rather than interstitial analysis, the nature of the legal issue presented is no different from the issue presented in the case before us. In both cases, the Court would interpret the Constitution to decide whether congressional approval is necessary to give a Presidential decision on the validity of a treaty the force of law. Such an inquiry demands no special competence or information beyond the reach of the Judiciary. Cf. *Chicago & Southern Air Lines v. Waterman S.S. Corp.*, 333 U. S. 103, 111 (1948).¹

Finally, the political-question doctrine rests in part on prudential concerns calling for mutual respect among the three branches of Government. Thus, the Judicial Branch should avoid "the potentiality of embarrassment [that would result] from multifarious pronouncements by various departments on one question." Similarly, the doctrine restrains judicial action where there is an "unusual need for unquestioning adherence to a political decision already made." *Baker v. Carr*, *supra*, at 217.

If this case were ripe for judicial review, see Part I, *supra*, none of these prudential considerations would be present.

¹The Court has recognized that, in the area of foreign policy, Congress may leave the President with wide discretion that otherwise might run afoul of the nondelegation doctrine. *United States v. Curtiss-Wright Export Corp.*, 299 U. S. 304 (1936). As stated in that case, "the President alone has the power to speak or listen as a representative of the Nation. He makes treaties with the advice and consent of the Senate; but he alone negotiates." *Id.*, at 319 (emphasis in original). Resolution of this case would interfere with neither the President's ability to negotiate treaties nor his duty to execute their provisions. We are merely being asked to decide whether a treaty, which cannot be ratified without Senate approval, continues in effect until the Senate or perhaps the Congress takes further action.

Interpretation of the Constitution does not imply lack of respect for a coordinate branch. *Powell v. McCormack*, *supra*, at 548. If the President and the Congress had reached irreconcilable positions, final disposition of the question presented by this case would eliminate, rather than create, multiple constitutional interpretations. The specter of the Federal Government brought to a halt because of the mutual intransigence of the President and the Congress would require this Court to provide a resolution pursuant to our duty "to say what the law is." *United States v. Nixon*, 418 U. S. 683, 703 (1974), quoting *Marbury v. Madison*, 1 Cranch 137, 177 (1803).

III

In my view, the suggestion that this case presents a political question is incompatible with this Court's willingness on previous occasions to decide whether one branch of our Government has impinged upon the power of another. See *Buckley v. Valeo*, 424 U. S. , at 138; *United States v. Nixon*, *supra*, at 707; *The Pocket Veto Case*, 279 U. S. 655, 676-678 (1929); *Myers v. United States*, 272 U. S. 52 (1926).² Under the

² *Coleman v. Miller*, 307 U. S. 433 (1939), is not relevant here. In that case, the Court was asked to review the legitimacy of a State's ratification of a constitutional amendment. Four Members of the Court stated that Congress has exclusive power over the ratification process. *Id.*, at 456-460 (Black, J., concurring, joined by Roberts, Frankfurter, and Douglas, JJ.). Three Members of the Court concluded more narrowly that the Court could not pass upon the efficacy of state ratification. They also found no standards by which the Court could fix a reasonable time for the ratification of a proposed amendment. *Id.*, at 452-454.

The proposed constitutional amendment at issue in *Coleman* would have overruled decisions of this Court. Compare *id.*, at 435, n. 1, with *Child Labor Tax Case*, 259 U. S. 20 (1922); *Hammer v. Dagenhart*, 247 U. S. 251 (1918). Thus, judicial review of the legitimacy of a State's ratification would have compelled this Court to oversee the very constitutional process used to reverse Supreme Court decisions. In such circumstances it may be entirely appropriate for the Judicial Branch of Government to step aside. See Scharpf, *Judicial Review and The Political*

REHNQUIST, J., concurring in judgment

444 U.S.

criteria enunciated in *Baker v. Carr*, we have the responsibility to decide whether both the Executive and Legislative Branches have constitutional roles to play in termination of a treaty. If the Congress, by appropriate formal action, had challenged the President's authority to terminate the treaty with Taiwan, the resulting uncertainty could have serious consequences for our country. In that situation, it would be the duty of this Court to resolve the issue.

MR. JUSTICE REHNQUIST, with whom THE CHIEF JUSTICE, MR. JUSTICE STEWART, and MR. JUSTICE STEVENS join, concurring in the judgment.

I am of the view that the basic question presented by the petitioners in this case is "political" and therefore nonjusticiable because it involves the authority of the President in the conduct of our country's foreign relations and the extent to which the Senate or the Congress is authorized to negate the action of the President. In *Coleman v. Miller*, 307 U. S. 433 (1939), a case in which members of the Kansas Legislature brought an action attacking a vote of the State Senate in favor of the ratification of the Child Labor Amendment, Mr. Chief Justice Hughes wrote in what is referred to as the "Opinion of the Court":

"We think that . . . the question of the efficacy of ratifications by state legislatures, in the light of previous rejection or attempted withdrawal, should be regarded as a political question pertaining to the political departments, with the ultimate authority in the Congress in the exercise of its control over the promulgation of the adoption of the Amendment.

"The precise question as now raised is whether, when the legislature of the State, as we have found, has actually ratified the proposed amendment, the Court should

Question: A Functional Analysis, 75 Yale L. J. 517, 589 (1966). The present case involves no similar principle of judicial nonintervention.

restrain the state officers from certifying the ratification to the Secretary of State, because of an earlier rejection, and thus prevent the question from coming before the political departments. We find no basis in either Constitution or statute for such judicial action. Article V, speaking solely of ratification, contains no provision as to rejection. . . ." *Id.*, at 450.

Thus, Mr. Chief Justice Hughes' opinion concluded that "Congress in controlling the promulgation of the adoption of a constitutional amendment has the final determination of the question whether by lapse of time its proposal of the amendment had lost its vitality prior to the required ratifications." *Id.*, at 456.

I believe it follows *a fortiori* from *Coleman* that the controversy in the instant case is a nonjusticiable political dispute that should be left for resolution by the Executive and Legislative Branches of the Government. Here, while the Constitution is express as to the manner in which the Senate shall participate in the ratification of a treaty, it is silent as to that body's participation in the abrogation of a treaty. In this respect the case is directly analogous to *Coleman, supra*. As stated in *Dyer v. Blair*, 390 F. Supp. 1291, 1302 (ND Ill. 1975) (three-judge court):

"A question that might be answered in different ways for different amendments must surely be controlled by political standards rather than standards easily characterized as judicially manageable."

In light of the absence of any constitutional provision governing the termination of a treaty, and the fact that different termination procedures may be appropriate for different treaties (see, *e. g.*, n. 1, *infra*), the instant case in my view also "must surely be controlled by political standards."

I think that the justifications for concluding that the question here is political in nature are even more compelling than in *Coleman* because it involves foreign relations—specifically

a treaty commitment to use military force in the defense of a foreign government if attacked. In *United States v. Curtiss-Wright Corp.*, 299 U. S. 304 (1936), this Court said:

“Whether, if the Joint Resolution had related solely to internal affairs it would be open to the challenge that it constituted an unlawful delegation of legislative power to the Executive, we find it unnecessary to determine. The whole aim of the resolution is to affect a situation entirely external to the United States, and falling within the category of foreign affairs. . . .” *Id.*, at 315.

The present case differs in several important respects from *Youngstown Sheet & Tube Co. v. Sawyer*, 343 U. S. 579 (1952), cited by petitioners as authority both for reaching the merits of this dispute and for reversing the Court of Appeals. In *Youngstown*, private litigants brought a suit contesting the President’s authority under his war powers to seize the Nation’s steel industry, an action of profound and demonstrable domestic impact. Here, by contrast, we are asked to settle a dispute between coequal branches of our Government, each of which has resources available to protect and assert its interests, resources not available to private litigants outside the judicial forum.¹ Moreover, as in *Curtiss-Wright*, the

¹ As observed by Chief Judge Wright in his concurring opinion below:

“Congress has initiated the termination of treaties by directing or requiring the President to give notice of termination, without any prior presidential request. Congress has annulled treaties without any presidential notice. It has conferred on the President the power to terminate a particular treaty, and it has enacted statutes practically nullifying the domestic effects of a treaty and thus caused the President to carry out termination. . . .

“Moreover, Congress has a variety of powerful tools for influencing foreign policy decisions that bear on treaty matters. Under Article I, Section 8 of the Constitution, it can regulate commerce with foreign nations, raise and support armies, and declare war. It has power over the appointment of ambassadors and the funding of embassies and consulates.

effect of this action, as far as we can tell, is "entirely external to the United States, and [falls] within the category of foreign affairs." Finally, as already noted, the situation presented here is closely akin to that presented in *Coleman*, where the Constitution spoke only to the procedure for ratification of an amendment, not to its rejection.

Having decided that the question presented in this action is nonjusticiable, I believe that the appropriate disposition is for this Court to vacate the decision of the Court of Appeals and remand with instructions for the District Court to dismiss the complaint. This procedure derives support from our practice in disposing of moot actions in federal courts.² For more than 30 years, we have instructed lower courts to vacate any decision on the merits of an action that has become moot prior to a resolution of the case in this Court. *United States v. Munsingwear, Inc.*, 340 U. S. 36 (1950). The Court has required such decisions to be vacated in order to "prevent a judgment, unreviewable because of mootness, from spawning any legal consequences." *Id.*, at 41. It is even more imperative that this Court invoke this procedure to ensure that resolution of a "political question," which should not have been decided by a lower court, does not "spawn any legal consequences." An Art. III court's resolution of a question that is "political" in character can create far more dis-

Congress thus retains a strong influence over the President's conduct in treaty matters.

"As our political history demonstrates, treaty creation and termination are complex phenomena rooted in the dynamic relationship between the two political branches of our government. We thus should decline the invitation to set in concrete a particular constitutionally acceptable arrangement by which the President and Congress are to share treaty termination." App. to Pet. for Cert. 44A-45A (footnotes omitted).

² This Court, of course, may not prohibit state courts from deciding political questions, any more than it may prohibit them from deciding questions that are moot, *Doremus v. Board of Education*, 342 U. S. 429, 434 (1952), so long as they do not trench upon exclusively federal questions of foreign policy. *Zschernig v. Miller*, 389 U. S. 429, 441 (1968).

ruption among the three coequal branches of Government than the resolution of a question presented in a moot controversy. Since the political nature of the questions presented should have precluded the lower courts from considering or deciding the merits of the controversy, the prior proceedings in the federal courts must be vacated, and the complaint dismissed.

MR. JUSTICE BLACKMUN, with whom MR. JUSTICE WHITE joins, dissenting in part.

In my view, the time factor and its importance are illusory; if the President does not have the power to terminate the treaty (a substantial issue that we should address only after briefing and oral argument), the notice of intention to terminate surely has no legal effect. It is also indefensible, without further study, to pass on the issue of justiciability or on the issues of standing or ripeness. While I therefore join in the grant of the petition for certiorari, I would set the case for oral argument and give it the plenary consideration it so obviously deserves.

MR. JUSTICE BRENNAN, dissenting.

I respectfully dissent from the order directing the District Court to dismiss this case, and would affirm the judgment of the Court of Appeals insofar as it rests upon the President's well-established authority to recognize, and withdraw recognition from, foreign governments. App. to Pet. for Cert. 27A-29A.

In stating that this case presents a nonjusticiable "political question," MR. JUSTICE REHNQUIST, in my view, profoundly misapprehends the political-question principle as it applies to matters of foreign relations. Properly understood, the political-question doctrine restrains courts from reviewing an exercise of foreign policy judgment by the coordinate political branch to which authority to make that judgment has been "constitutional[ly] commit[ted]." *Baker v. Carr*, 369 U. S.

444 U.S.

December 13, 1979, January 7, 1980

186, 211-213, 217 (1962). But the doctrine does not pertain when a court is faced with the *antecedent* question whether a particular branch has been constitutionally designated as the repository of political decisionmaking power. Cf. *Powell v. McCormack*, 395 U. S. 486, 519-521 (1969). The issue of decisionmaking authority must be resolved as a matter of constitutional law, not political discretion; accordingly, it falls within the competence of the courts.

The constitutional question raised here is prudently answered in narrow terms. Abrogation of the defense treaty with Taiwan was a necessary incident to Executive recognition of the Peking Government, because the defense treaty was predicated upon the now-abandoned view that the Taiwan Government was the only legitimate political authority in China. Our cases firmly establish that the Constitution commits to the President alone the power to recognize, and withdraw recognition from, foreign regimes. See *Banco Nacional de Cuba v. Sabbatino*, 376 U. S. 398, 410 (1964); *Baker v. Carr*, *supra*, at 212; *United States v. Pink*, 315 U. S. 203, 228-230 (1942). That mandate being clear, our judicial inquiry into the treaty rupture can go no further. See *Baker v. Carr*, *supra*, at 212; *United States v. Pink*, *supra*, at 229.

JANUARY 7, 1980

Affirmed on Appeal

No. 79-704. *SLATE v. NOLL*. Affirmed on appeal from D. C. W. D. Wis. MR. JUSTICE MARSHALL would note probable jurisdiction and set case for oral argument. Reported below: 474 F. Supp. 882.

Appeals Dismissed

No. 79-409. *CAHILL v. GOVERNMENTAL ETHICS COMMISSION*. Appeal from Sup. Ct. Kan. dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied. Reported below: 225 Kan. 772, 594 P. 2d 1103.

January 7, 1980

444 U. S.

No. 79-270. *HEADS v. LOUISIANA*. Appeal from Sup. Ct. La. dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari granted, judgment vacated, and case remanded for further consideration in light of *Sandstrom v. Montana*, 442 U. S. 510 (1979). Reported below: 370 So. 2d 564.

No. 79-665. *PICKERING v. COMMISSIONER OF INTERNAL REVENUE*. Appeal from C. A. 2d Cir. dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied.

No. 79-699. *HEYNE v. HEYNE ET AL.* Appeal from Ct. App. Ohio, Summit County, dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied.

No. 79-413. *CRAWFORD v. NEW YORK*. Appeal from Ct. App. N. Y. dismissed for want of a properly presented federal question. Reported below: 47 N. Y. 2d 884, 393 N. E. 2d 488.

No. 79-5411. *SAMMONS v. OHIO*. Appeal from Sup. Ct. Ohio dismissed for want of substantial federal question. Reported below: 58 Ohio St. 2d 460, 391 N. E. 2d 713.

Certiorari Granted—Vacated and Remanded. (See No. 79-270, *supra*.)

Certiorari Granted—Reversed. (See Nos. 79-168, 79-181, and 79-184, *ante*, p. 223.)

Miscellaneous Orders

No. A-154. *STEPPE v. WAINWRIGHT, SECRETARY, DEPARTMENT OF OFFENDER REHABILITATION OF FLORIDA*. D. C. N. D. Fla. Application for bail, addressed to MR. JUSTICE BRENNAN and referred to the Court, denied.

444 U. S.

January 7, 1980

No. A-465 (79-5777). HAYES *v.* BOARD OF TRUSTEES OF CLARK COUNTY SCHOOL DISTRICT. Sup. Ct. Nev. Application for an extension of time to docket appeal, addressed to MR. JUSTICE BRENNAN and referred to the Court, denied.

No. A-507. SAYLES *v.* HART, U. S. DISTRICT JUDGE. C. A. D. C. Cir. Application for injunction, addressed to MR. JUSTICE BRENNAN and referred to the Court, denied.

No. D-177. IN RE DISBARMENT OF PANEK. Disbarment entered. [For earlier order herein, see *ante*, p. 912.]

No. 8, Orig. ARIZONA *v.* CALIFORNIA ET AL. Memorandum and Report of the Special Master on preliminary issues received and ordered filed. Motion of Arizona et al. for leave to file exceptions to the Memorandum and Report of the Special Master denied. MR. JUSTICE MARSHALL took no part in the consideration or decision of these matters. [For earlier order herein, see, *e. g.*, 440 U. S. 942.]

No. 78-1557. NACHMAN CORP. *v.* PENSION BENEFIT GUARANTY CORPORATION ET AL. C. A. 7th Cir. [Certiorari granted, 442 U. S. 940.] Motion of respondent union for divided argument granted.

No. 78-1577. SEARS, ROEBUCK & Co. *v.* COUNTY OF LOS ANGELES ET AL. Ct. App. Cal., 2d App. Dist. [Certiorari granted, *ante*, p. 823.] Motion of petitioner for divided argument granted. MR. JUSTICE STEWART took no part in the consideration or decision of this motion.

No. 78-1870. WHIRLPOOL CORP. *v.* MARSHALL, SECRETARY OF LABOR. C. A. 6th Cir. [Certiorari granted, *ante*, p. 823.] Motions of Philadelphia Area Project on Occupational Safety & Health, American Public Health Association, and American Federation of Labor & Congress of Industrial Organizations et al. for leave to file briefs as *amici curiae* granted.

January 7, 1980

444 U. S.

No. 78-1595. *LEWIS v. UNITED STATES*. C. A. 4th Cir. [Certiorari granted, 442 U. S. 939.] Motion of the Solicitor General to permit Andrew J. Levander, Esquire, to present oral argument *pro hac vice* granted.

No. 79-97. *CALIFORNIA RETAIL LIQUOR DEALERS ASSN. v. MIDCAL ALUMINUM, INC., ET AL.* Ct. App. Cal., 3d App. Dist. [Certiorari granted, *ante*, p. 824.] Motion of Consumers Union of the United States, Inc., for leave to file a brief as *amicus curiae* granted. MR. JUSTICE BRENNAN took no part in the consideration or decision of this motion.

No. 79-584. *RESEARCH EQUITY FUND, INC. v. INSURANCE COMPANY OF NORTH AMERICA*. C. A. 9th Cir. The Solicitor General is invited to file a brief in this case expressing the views of the United States. MR. JUSTICE REHNQUIST took no part in the consideration or decision of this order.

No. 79-621. *ARIZONA v. MANYPENNY*. C. A. 9th Cir.; and

No. 79-664. *VENTURA COUNTY v. GULF OIL CORP.* C. A. 9th Cir. The Solicitor General is invited to file briefs in these cases expressing the views of the United States.

No. 79-5114. *WARREN v. MISSISSIPPI*, *ante*, p. 956. Respondent requested to file a response to petition for rehearing within 30 days.

No. 79-5604. *LOCKETT v. BLACKBURN, WARDEN*. Motion for leave to file petition for writ of certiorari denied.

No. 79-676. *CHILDS v. APPELLATE DIVISION OF THE SUPREME COURT OF NEW YORK, SECOND JUDICIAL DEPARTMENT, ET AL.*;

No. 79-5547. *WATKINS v. MARTIN, WARDEN, ET AL.*;

No. 79-5554. *WILLIAMS v. UNITED STATES*; and

No. 79-5598. *FERRANTE v. BRANWELL*, U. S. DISTRICT JUDGE. Motions for leave to file petitions for writs of mandamus denied.

444 U. S.

January 7, 1980

No. 79-5686. *BARR v. PHELPS, CORRECTIONS SECRETARY*. Motion for leave to file petition for writ of habeas corpus denied.

No. 79-681. *SHUFFMAN, EXECUTRIX v. HARTFORD TEXTILE CORP. ET AL.* Motion of petitioner to strike memorandum for federal respondents in opposition denied. Motion for leave to file petition for writ of mandamus denied.

No. 79-5667. *PAUL v. STAFFORD, U. S. DISTRICT JUDGE, ET AL.* Motion for leave to file petition for writ of mandamus and other relief denied.

No. 79-5609. *BOTTOS v. PIVARNICK ET AL.* Motion for leave to file petition for writ of prohibition denied.

Probable Jurisdiction Noted

No. 79-343. *SUN SHIP, INC. v. PENNSYLVANIA ET AL.* Appeal from Pa. Commw. Ct. Probable jurisdiction noted. Reported below: 41 Pa. Commw. 302, 398 A. 2d 1111.

No. 79-602. *AGINS ET UX. v. CITY OF TIBURON*. Appeal from Sup. Ct. Cal. Probable jurisdiction noted. Reported below: 24 Cal. 3d 266, 598 P. 2d 25.

No. 79-703. *CAREY, STATE'S ATTORNEY OF COOK COUNTY v. BROWN ET AL.* Appeal from C. A. 7th Cir. Probable jurisdiction noted. Reported below: 602 F. 2d 791.

Certiorari Granted

No. 79-383. *STANDEFER v. UNITED STATES*. C. A. 3d Cir. Certiorari granted. Reported below: 610 F. 2d 1076.

No. 79-672. *NATIONAL LABOR RELATIONS BOARD v. RETAIL STORE EMPLOYEES UNION, LOCAL 1001, RETAIL CLERKS INTERNATIONAL ASSN., AFL-CIO, ET AL.* C. A. D. C. Cir. Certiorari granted. Reported below: 194 U. S. App. D. C. 400, 600 F. 2d 280 and 201 U. S. App. D. C. 147, 627 F. 2d 1133.

January 7, 1980

444 U.S.

No. 79-701. ROADWAY EXPRESS, INC. *v.* MONK ET AL. C. A. 5th Cir. Certiorari granted. Reported below: 599 F. 2d 1378.

No. 79-669. DAWSON CHEMICAL CO. ET AL. *v.* ROHM & HAAS Co. C. A. 5th Cir. Motions of American Rice Growers Exchange and Pesticide Producers Association for leave to file briefs as *amici curiae* and certiorari granted. Reported below: 599 F. 2d 685.

No. 79-5499. SKIPPER *v.* BRUMMER ET AL. C. A. 5th Cir. Motion of petitioner for leave to proceed *in forma pauperis* and certiorari granted. Reported below: 598 F. 2d 427.

Certiorari Denied. (See also Nos. 79-409, 79-665, and 79-699, *supra*.)

No. 79-73. ADELAIDE SHIPPING LINES, LTD., ET AL. *v.* SUNKIST GROWERS, INC. C. A. 9th Cir. Certiorari denied. Reported below: 603 F. 2d 1327.

No. 79-142. WELLS FARGO BANK, N. A., ET AL. *v.* GARFINKLE ET VIR. Ct. App. Cal., 1st App. Dist. Certiorari denied.

No. 79-320. HALL *v.* ILLINOIS. App. Ct. Ill., 4th Dist. Certiorari denied. Reported below: 66 Ill. App. 3d 891, 384 N. E. 2d 578.

No. 79-338. CASKEY *v.* SOUTH CAROLINA. Sup. Ct. S. C. Certiorari denied. Reported below: 273 S. C. 325, 256 S. E. 2d 737.

No. 79-341. FIRSTENBERG *v.* CALIFORNIA. Ct. App. Cal., 2d App. Dist. Certiorari denied. Reported below: 92 Cal. App. 3d 570, 155 Cal. Rptr. 80.

No. 79-352. DELAY *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied. Reported below: 602 F. 2d 173.

No. 79-391. LUKEFAHR ET AL. *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 595 F. 2d 1086.

444 U. S.

January 7, 1980

No. 79-396. *ROSE ET AL. v. BRADLEY, MAYOR OF LOS ANGELES, ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 605 F. 2d 563.

No. 79-400. *GEORGIA ET AL. v. FREEMAN.* C. A. 5th Cir. Certiorari denied. Reported below: 599 F. 2d 65.

No. 79-429. *LUCKY STORES, INC. v. VILLAGE OF LOMBARD.* C. A. 7th Cir. Certiorari denied. Reported below: 601 F. 2d 598.

No. 79-432. *EL CAMINO COMMUNITY COLLEGE DISTRICT ET AL. v. UNITED STATES.* C. A. 9th Cir. Certiorari denied. Reported below: 600 F. 2d 1258.

No. 79-449. *TURCIO v. CONNECTICUT.* Sup. Ct. Conn. Certiorari denied. Reported below: 178 Conn. 116, 422 A. 2d 749.

No. 79-464. *OSTROW v. UNITED STATES.* C. A. 2d Cir. Certiorari denied. Reported below: 608 F. 2d 1370.

No. 79-477. *FIRST STATE BANK OF HUDSON COUNTY v. UNITED STATES.* C. A. 3d Cir. Certiorari denied. Reported below: 599 F. 2d 558.

No. 79-508. *AMOCO PRODUCTION Co. v. FEDERAL ENERGY REGULATORY COMMISSION.* C. A. 5th Cir. Certiorari denied. Reported below: 598 F. 2d 370.

No. 79-515. *AMERICAN SECURITY COUNCIL EDUCATION FOUNDATION v. FEDERAL COMMUNICATIONS COMMISSION ET AL.* C. A. D. C. Cir. Certiorari denied. Reported below: 197 U. S. App. D. C. 124, 607 F. 2d 438.

No. 79-518. *TERKEL v. WEBSTER, DIRECTOR, FEDERAL BUREAU OF INVESTIGATION, ET AL.* C. A. 7th Cir. Certiorari denied. Reported below: 599 F. 2d 214.

No. 79-535. *LAMPKIN-ASAM v. SUPREME COURT OF FLORIDA.* C. A. 5th Cir. Certiorari denied. Reported below: 601 F. 2d 760.

January 7, 1980

444 U.S.

No. 79-560. *VISLISEL v. UNITED STATES DEPARTMENT OF LABOR ET AL.* C. A. 8th Cir. Certiorari denied. Reported below: 605 F. 2d 1209.

No. 79-563. *LIOSI v. UNITED STATES.* C. A. 3d Cir. Certiorari denied. Reported below: 605 F. 2d 1196.

No. 79-564. *INDIANA & MICHIGAN ELECTRIC Co. v. NATIONAL LABOR RELATIONS BOARD.* C. A. 7th Cir. Certiorari denied. Reported below: 599 F. 2d 185.

No. 79-575. *RICHARDSON ET UX. v. UNITED STATES.* C. A. 9th Cir. Certiorari denied. Reported below: 599 F. 2d 290.

No. 79-577. *DAMERON v. UNITED STATES.* C. A. 6th Cir. Certiorari denied. Reported below: 601 F. 2d 590.

No. 79-582. *COLORADO ET AL. v. VETERANS' ADMINISTRATION ET AL.* C. A. 10th Cir. Certiorari denied. Reported below: 602 F. 2d 926.

No. 79-586. *KRAYNAK ET AL. v. MARSHALL, SECRETARY OF LABOR.* C. A. 3d Cir. Certiorari denied. Reported below: 604 F. 2d 231.

No. 79-589. *LULL ET AL. v. COMMISSIONER OF INTERNAL REVENUE.* C. A. 4th Cir. Certiorari denied. Reported below: 602 F. 2d 1166.

No. 79-592. *LARIMER COUNTY DEPARTMENT OF SOCIAL SERVICES ET AL. v. KANE, U. S. DISTRICT JUDGE, ET AL.* C. A. 10th Cir. Certiorari denied.

No. 79-599. *RIZZO v. COMMISSIONER OF INTERNAL REVENUE.* C. A. 3d Cir. Certiorari denied.

No. 79-600. *SARMIENTO ET AL. v. UNITED STATES.* C. A. 4th Cir. Certiorari denied. Reported below: 604 F. 2d 304.

No. 79-604. *MOUNTAIN FUEL SUPPLY Co. ET AL. v. UTAH COMMITTEE OF CONSUMER SERVICES ET AL.* Sup. Ct. Utah. Certiorari denied. Reported below: 595 P. 2d 871.

444 U.S.

January 7, 1980

No. 79-612. *RUNCK v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 601 F. 2d 968.

No. 79-614. *STOUDT'S FERRY PREPARATION CO. v. MARSHALL, SECRETARY OF LABOR*. C. A. 3d Cir. Certiorari denied. Reported below: 602 F. 2d 589.

No. 79-615. *BOARD OF EDUCATION OF THE CITY SCHOOL DISTRICT OF CINCINNATI ET AL. v. WALTER, SUPERINTENDENT OF PUBLIC INSTRUCTION, ET AL.* Sup. Ct. Ohio. Certiorari denied. Reported below: 58 Ohio St. 2d 368, 390 N. E. 2d 813.

No. 79-635. *DEUTSCH v. COMMISSIONER OF INTERNAL REVENUE*. C. A. 2d Cir. Certiorari denied. Reported below: 599 F. 2d 44.

No. 79-638. *POE v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 599 F. 2d 1058.

No. 79-644. *ATELIERS ROANNAIS DE CONSTRUCTIONS TEXTILES ET AL. v. DUPLAN CORP. ET AL.*;

No. 79-658. *DEERING MILLIKEN RESEARCH CORP. ET AL. v. DUPLAN CORP. ET AL.*;

No. 79-659. *DEERING MILLIKEN, INC. v. DUPLAN CORP. ET AL.*; and

No. 79-660. *DUPLAN CORP. ET AL. v. DEERING MILLIKEN, INC., ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 594 F. 2d 979.

No. 79-648. *WOOLSEY v. TRUSTEES FOR WESTGATE-CALIFORNIA CORP.*; and

No. 79-712. *ASH ET UX. v. TRUSTEES FOR WESTGATE-CALIFORNIA CORP.* C. A. 9th Cir. Certiorari denied. Reported below: 609 F. 2d 1274.

No. 79-649. *AVCOLLIE v. CONNECTICUT*. Sup. Ct. Conn. Certiorari denied. Reported below: 178 Conn. 450, 423 A. 2d 118.

January 7, 1980

444 U. S.

No. 79-651. AMES ET UX. *v.* McCARTY ET AL. Ct. App. N. M. Certiorari denied.

No. 79-652. NATIONAL BANCSHARES CORPORATION OF TEXAS ET AL. *v.* BULLOCK, COMPTROLLER OF PUBLIC ACCOUNTS OF TEXAS, ET AL.; and

No. 79-653. REIDY INTERNATIONAL, INC. *v.* BULLOCK, COMPTROLLER OF PUBLIC ACCOUNTS OF TEXAS, ET AL. Sup. Ct. Tex. Certiorari denied. Reported below: 584 S. W. 2d 268.

No. 79-655. J. B. K., INC., ET AL. *v.* CARON ET AL. C. A. 8th Cir. Certiorari denied. Reported below: 600 F. 2d 710.

No. 79-657. AD HOC COMMITTEE TO INVESTIGATE THE FEDERAL GRAND JURY *v.* KOCH, ASSISTANT UNITED STATES ATTORNEY. C. A. 5th Cir. Certiorari denied. Reported below: 601 F. 2d 1192.

No. 79-670. CRANE *v.* ILLINOIS INDUSTRIAL COMMISSION ET AL. C. A. 7th Cir. Certiorari denied. Reported below: 601 F. 2d 596.

No. 79-671. TURNER ET AL. *v.* MARION COUNTY, TEXAS. Ct. Civ. App. Tex., 6th Sup. Jud. Dist. Certiorari denied.

No. 79-680. OLSEN *v.* GUAM. C. A. 9th Cir. Certiorari denied.

No. 79-682. KONCZAK ET UX. *v.* TYRRELL, SHERIFF, ET AL. C. A. 7th Cir. Certiorari denied. Reported below: 603 F. 2d 13.

No. 79-684. VISION CENTER *v.* OPTICKS, INC., ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 596 F. 2d 111.

No. 79-690. MAGBY *v.* MORAN, CORRECTIONS DIRECTOR, ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 605 F. 2d 562.

444 U. S.

January 7, 1980

No. 79-694. *GUNTARP v. PLANTERS OIL MILL*. Sup. Ct. Miss. Certiorari denied. Reported below: 372 So. 2d 1274.

No. 79-696. *COUGHLIN v. ALABAMA*. Sup. Ct. Ala. Certiorari denied. Reported below: 374 So. 2d 291.

No. 79-702. *EKAS ET AL. v. CARLING NATIONAL BREWERIES, INC., ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 602 F. 2d 664.

No. 79-709. *LOCAL 520, INTERNATIONAL UNION OF OPERATING ENGINEERS, ET AL. v. JONES ET AL.* C. A. 7th Cir. Certiorari denied. Reported below: 603 F. 2d 664.

No. 79-714. *MARTY'S FLOOR COVERING Co., INC. v. GAF CORP.* C. A. 4th Cir. Certiorari denied. Reported below: 604 F. 2d 266.

No. 79-715. *NATIONAL STUDENT FILM CORP. v. FENSTER SCHOOL*. Ct. App. Ariz. Certiorari denied.

No. 79-716. *ABBEY v. CONTROL DATA CORP. ET AL.* C. A. 8th Cir. Certiorari denied. Reported below: 603 F. 2d 724.

No. 79-717. *FRISTOE v. REYNOLDS METALS Co.* C. A. 9th Cir. Certiorari denied. Reported below: 603 F. 2d 223.

No. 79-719. *THOMPSON ET UX. v. PEOPLES LIBERTY BANK ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 601 F. 2d 590.

No. 79-722. *JACKSON v. ARKANSAS*. Ct. App. Ark. Certiorari denied. Reported below: 266 Ark. 754, 585 S. W. 2d 367.

No. 79-727. *RENTSCHLER v. FREEMAN ET AL.* Ct. App. Cal., 1st App. Dist. Certiorari denied.

No. 79-728. *STAR SHIPPING A/S ET AL. v. PACIFIC LUMBER & SHIPPING Co., INC., ET AL.* C. A. 9th Cir. Certiorari denied.

January 7, 1980

444 U. S.

No. 79-733. *HIGHWAY & CITY TRANSPORTATION, INC. v. BALESTRI*. Sup. Ct. Ill. Certiorari denied. Reported below: 76 Ill. 2d 451, 394 N. E. 2d 391.

No. 79-734. *MCDONNELL DOUGLAS CORP. v. HYCOM, INC.* C. A. 9th Cir. Certiorari denied. Reported below: 603 F. 2d 224.

No. 79-737. *BLUE BELL, INC. v. FOWLER*. C. A. 5th Cir. Certiorari denied. Reported below: 596 F. 2d 1276.

No. 79-746. *BUCHHOLTZ ET AL. v. SWIFT & CO. ET AL.* C. A. 8th Cir. Certiorari denied. Reported below: 609 F. 2d 317.

No. 79-756. *ABUJASEN v. UNITED STATES*; and
No. 79-5668. *SORZANO v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 602 F. 2d 1201.

No. 79-762. *DI FONZO v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 603 F. 2d 1260.

No. 79-763. *CHAVEZ ET AL. v. UNITED STATES*. C. A. 10th Cir. Certiorari denied. Reported below: 603 F. 2d 143.

No. 79-780. *CONTINENTAL PLASTICS OF OKLAHOMA, INC. v. PLASTIC CONTAINER CORP.* C. A. 10th Cir. Certiorari denied. Reported below: 607 F. 2d 885.

No. 79-786. *MARKS v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 603 F. 2d 582.

No. 79-803. *LARKE v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 603 F. 2d 226.

No. 79-810. *KNAPP v. KENTUCKY*. Sup. Ct. Ky. Certiorari denied. Reported below: 585 S. W. 2d 416.

No. 79-817. *MACKENZIE v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 601 F. 2d 221.

444 U. S.

January 7, 1980

No. 79-852. *LIEBERMAN v. UNITED STATES*. C. A. 1st Cir. Certiorari denied. Reported below: 608 F. 2d 889.

No. 79-859. *CORTINA ET AL. v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 605 F. 2d 1269.

No. 79-864. *PERRY v. UNITED STATES*. C. A. 10th Cir. Certiorari denied.

No. 79-5191. *LAGRONE v. ALFORD, WARDEN, ET AL.* C. A. 10th Cir. Certiorari denied.

No. 79-5246. *MARQUES v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 600 F. 2d 742.

No. 79-5291. *MATTHEWS v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 603 F. 2d 48.

No. 79-5305. *NEUMANN v. UNITED STATES*. Ct. Cl. Certiorari denied.

No. 79-5311. *ROBINSON v. WOLFF, WARDEN, ET AL.* C. A. 7th Cir. Certiorari denied. Reported below: 603 F. 2d 635.

No. 79-5330. *BILLINGSLEY v. GUNN, WARDEN*. C. A. 9th Cir. Certiorari denied. Reported below: 601 F. 2d 602.

No. 79-5335. *WILSON v. WARDEN, ILLINOIS STATE PENITENTIARY*. C. A. 7th Cir. Certiorari denied. Reported below: 600 F. 2d 66.

No. 79-5370. *STOUT v. TEXAS*. Ct. Crim. App. Tex. Certiorari denied. Reported below: 578 S. W. 2d 761.

No. 79-5373. *JONAS v. ROBINSON, WARDEN*. C. A. 2d Cir. Certiorari denied.

No. 79-5392. *DOMINGUEZ-LAURA v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 601 F. 2d 1193.

No. 79-5396. *BULLOCK v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 599 F. 2d 1058.

January 7, 1980

444 U. S.

No. 79-5404. *BACA v. MALLEY, WARDEN*. C. A. 10th Cir. Certiorari denied.

No. 79-5414. *BERRY v. WISCONSIN*. Sup. Ct. Wis. Certiorari denied. Reported below: 90 Wis. 2d 316, 280 N. W. 2d 204.

No. 79-5436. *CRAWFORD v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 601 F. 2d 962.

No. 79-5439. *IRVING v. PENNSYLVANIA*. Sup. Ct. Pa. Certiorari denied. Reported below: 485 Pa. 596, 403 A. 2d 549.

No. 79-5442. *GULLEY v. HARRIS, SECRETARY OF HEALTH, EDUCATION, AND WELFARE*. C. A. 5th Cir. Certiorari denied. Reported below: 597 F. 2d 281.

No. 79-5446. *VANDER PAUWERT v. UNITED STATES DEPARTMENT OF JUSTICE*. C. A. 10th Cir. Certiorari denied.

No. 79-5448. *OLIVERO v. NEW YORK*. App. Div., Sup. Ct. N. Y., 1st Jud. Dept. Certiorari denied. Reported below: 70 App. Div. 2d 789, 416 N. Y. S. 2d 159.

No. 79-5471. *JOHNSON v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 605 F. 2d 729.

No. 79-5475. *ENGLAND v. UNITED STATES*; and

No. 79-5541. *SOLANO v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 605 F. 2d 1141.

No. 79-5480. *THORNTON v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 607 F. 2d 1007.

No. 79-5503. *MILLER v. UNITED STATES*. Ct. Cl. Certiorari denied.

No. 79-5513. *ORTIZ v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 603 F. 2d 76.

444 U. S.

January 7, 1980

No. 79-5523. *UMBOWER v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 602 F. 2d 754.

No. 79-5526. *LENZA v. MISSOURI*. Ct. App. Mo., Eastern Dist. Certiorari denied. Reported below: 582 S. W. 2d 703.

No. 79-5534. *HIBBARD-HUGHES v. O'NEIL ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 601 F. 2d 588.

No. 79-5536. *PROPOTNICK v. HENNEPIN COUNTY SHERIFF ET AL.* C. A. 8th Cir. Certiorari denied.

No. 79-5544. *WAGNER v. MABRY, CORRECTION COMMISSIONER*. C. A. 8th Cir. Certiorari denied. Reported below: 615 F. 2d 1365.

No. 79-5548. *FRANCOIS v. FRANCOIS*. C. A. 3d Cir. Certiorari denied. Reported below: 599 F. 2d 1286.

No. 79-5556. *HOLDEN v. CALIFORNIA*. Ct. App. Cal., 3d App. Dist. Certiorari denied.

No. 79-5559. *FERRELL v. GEORGIA*. Ct. App. Ga. Certiorari denied. Reported below: 149 Ga. App. 405, 254 S. E. 2d 404.

No. 79-5562. *CHODOS v. FEDERAL BUREAU OF INVESTIGATION*. C. A. 2d Cir. Certiorari denied.

No. 79-5568. *JOHNSON v. HOWERTON ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 609 F. 2d 507.

No. 79-5581. *BREWSTER v. ALABAMA*. Ct. Crim. App. Ala. Certiorari denied.

No. 79-5582. *SELLERS v. RIDDLE, CORRECTIONAL SUPERINTENDENT*. C. A. 4th Cir. Certiorari denied. Reported below: 609 F. 2d 510.

No. 79-5586. *ROBESON v. MARYLAND*. Ct. App. Md. Certiorari denied. Reported below: 285 Md. 498, 403 A. 2d 1221.

January 7, 1980

444 U. S.

No. 79-5588. *D. C. C. v. COLORADO*. Sup. Ct. Colo. Certiorari denied. Reported below: 198 Colo. 260, 599 P. 2d 881.

No. 79-5591. *MARSH v. MORGAN, MARION COUNTY CLERK*. Sup. Ct. Ore. Certiorari denied.

No. 79-5592. *WOOD v. JEFFES, CORRECTIONAL SUPERINTENDENT, ET AL.*; and *WOOD v. DAVIS ET AL.* C. A. 3d Cir. Certiorari denied.

No. 79-5593. *KIMBLE v. PLEASANT HILLS CHILDREN'S HOME OF THE ASSEMBLIES OF GOD, INC., ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 601 F. 2d 1193.

No. 79-5595. *TENNART v. AUCOIN ET AL.* C. A. 5th Cir. Certiorari denied.

No. 79-5596. *SMITH v. OKLAHOMA*. Ct. Crim. App. Okla. Certiorari denied. Reported below: 599 P. 2d 413.

No. 79-5597. *HAMPTON v. WYRICK, WARDEN, ET AL.* C. A. 8th Cir. Certiorari denied. Reported below: 606 F. 2d 834.

No. 79-5606. *LUMAS v. COMMERCIAL CARTAGE Co.* C. A. 8th Cir. Certiorari denied. Reported below: 605 F. 2d 1209.

No. 79-5608. *BUSACCA v. NEW YORK*. App. Div., Sup. Ct. N. Y., 2d Jud. Dept. Certiorari denied. Reported below: 69 App. Div. 2d 1021, 415 N. Y. S. 2d 314.

No. 79-5611. *MORROW v. DAYTON NEWSPAPERS, INC.* C. A. 6th Cir. Certiorari denied.

No. 79-5615. *TOLBERT v. JAGO, CORRECTIONAL SUPERINTENDENT*. C. A. 6th Cir. Certiorari denied. Reported below: 607 F. 2d 753.

No. 79-5616. *JOHNS v. WOODBRIDGE TOWNSHIP ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 609 F. 2d 501.

No. 79-5622. *CARTER v. LYNN ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 597 F. 2d 281.

444 U.S.

January 7, 1980

No. 79-5627. SANDERS ET AL. *v.* TARBUTTON ET AL. C. A. 4th Cir. Certiorari denied.

No. 79-5628. TEPLITSKY *v.* ENVIRONMENTAL PROTECTION AGENCY ET AL. C. A. 2d Cir. Certiorari denied. Reported below: 608 F. 2d 1369.

No. 79-5630. CHIARELLO *v.* CHAIRMAN OF THE NEW YORK STATE PAROLE BOARD ET AL. C. A. 2d Cir. Certiorari denied.

No. 79-5633. TAMI ET UX. *v.* PENNSYLVANIA. Sup. Ct. Pa. Certiorari denied.

No. 79-5636. GAINES *v.* MERCHANTS NATIONAL BANK & TRUST COMPANY OF INDIANAPOLIS. C. A. 7th Cir. Certiorari denied.

No. 79-5637. FALES *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 607 F. 2d 1003.

No. 79-5638. SINCLAIR *v.* BLACKBURN, WARDEN. C. A. 5th Cir. Certiorari denied. Reported below: 599 F. 2d 673.

No. 79-5640. THOMAS *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 601 F. 2d 590.

No. 79-5646. ESHAM *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 611 F. 2d 374.

No. 79-5651. YOPP *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 611 F. 2d 375.

No. 79-5654. CERVANTES *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. Reported below: 609 F. 2d 974.

No. 79-5656. RODRIGUEZ *v.* SECRETARY OF HEALTH, EDUCATION, AND WELFARE. C. A. 1st Cir. Certiorari denied. Reported below: 607 F. 2d 993.

No. 79-5658. SCRUGGS *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied. Reported below: 610 F. 2d 819.

January 7, 1980

444 U. S.

No. 79-5664. *PHILLIPS v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 606 F. 2d 884.

No. 79-5666. *EVANKO v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 604 F. 2d 21.

No. 79-5671. *NEWTOP v. JAMES ET AL.* C. A. 9th Cir. Certiorari denied.

No. 79-5673. *COOPER v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 606 F. 2d 96.

No. 79-5675. *CHESTNUT v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 608 F. 2d 1374.

No. 79-5690. *FRANKLIN v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 611 F. 2d 374.

No. 79-5692. *ALEXANDER ET AL. v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 610 F. 2d 814.

No. 79-5706. *JOHNSON v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 607 F. 2d 1007.

No. 79-5713. *JOHNSON v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 608 F. 2d 1374.

No. 79-5716. *VEYTIA-BRAVO v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 603 F. 2d 1187.

No. 79-5718. *TENSLEY v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 609 F. 2d 512.

No. 79-5723. *SCALF v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 603 F. 2d 1168.

No. 79-5729. *PALACIOS v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 605 F. 2d 564.

No. 79-5735. *MOORE v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 599 F. 2d 310.

444 U. S.

January 7, 1980

No. 79-5768. LONG *v.* MARYLAND. Ct. Sp. App. Md. Certiorari denied.

No. 79-101. BLUM, COMMISSIONER, DEPARTMENT OF SOCIAL SERVICES OF NEW YORK, ET AL. *v.* SWIFT ET AL. C. A. 2d Cir. Motion of respondents for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 598 F. 2d 312.

No. 79-836. MITCHELL, WARDEN *v.* HARRIS. C. A. 4th Cir. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 607 F. 2d 1081.

No. 79-377. DOW JONES & Co., INC., ET AL. *v.* UNITED STATES POSTAL SERVICE;

No. 79-378. MAGAZINE PUBLISHERS ASSN., INC., ET AL. *v.* UNITED STATES POSTAL SERVICE; and

No. 79-379. AMERICAN BUSINESS PRESS, INC. *v.* UNITED STATES POSTAL SERVICE. C. A. D. C. Cir. Certiorari denied. MR. JUSTICE WHITE would grant certiorari. Reported below: 197 U. S. App. D. C. 78, 607 F. 2d 392.

No. 79-519. HANDGARDS, INC. *v.* ETHICON, INC.; and

No. 79-674. ETHICON, INC. *v.* HANDGARDS, INC. C. A. 9th Cir. Certiorari denied. MR. JUSTICE WHITE would grant certiorari. Reported below: 601 F. 2d 986.

No. 79-667. MICHIGAN *v.* ROSALES. Sup. Ct. Mich. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. MR. JUSTICE BLACKMUN would grant certiorari. Reported below: 406 Mich. 624, 281 N. W. 2d 126.

No. 79-726. LOUISVILLE AND JEFFERSON COUNTY METROPOLITAN SEWER DISTRICT ET AL. *v.* CITY OF EVANSVILLE, INDIANA, ET AL. C. A. 7th Cir. Certiorari denied. MR. JUSTICE STEWART would grant certiorari. Reported below: 604 F. 2d 1008.

January 7, 1980

444 U. S.

No. 79-738. PALMER *v.* BOARD OF EDUCATION OF THE CITY OF CHICAGO ET AL. C. A. 7th Cir. Certiorari denied. MR. JUSTICE BRENNAN would grant certiorari. Reported below: 603 F. 2d 1271.

No. 79-739. THORNBURGH, GOVERNOR OF PENNSYLVANIA, ET AL. *v.* PHILADELPHIA WELFARE RIGHTS ORGANIZATION ET AL. C. A. 3d Cir. Motion of respondent Louise Brookins for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 602 F. 2d 1114.

No. 79-5552. THIGPEN *v.* ALABAMA. Ct. Crim. App. Ala.; and

No. 79-5632. ROACH *v.* SOUTH CAROLINA. Sup. Ct. S. C. Certiorari denied. Reported below: No. 79-5552, 372 So. 2d 385; No. 79-5632, 273 S. C. 194, 255 S. E. 2d 799.

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 grant certiorari and vacate the death sentences in these cases.

No. 79-5575. JAGNANDAN ET AL. *v.* MISSISSIPPI STATE UNIVERSITY ET AL. Sup. Ct. Miss. Certiorari denied. MR. JUSTICE BRENNAN and MR. JUSTICE MARSHALL would grant certiorari. Reported below: 373 So. 2d 252.

Rehearing Denied

No. 78-1848. UNITED STATES EX REL. PETROFSKY *v.* VAN COTT, BAGLEY, CORNWALL & MCCARTHY ET AL., *ante*, p. 839;

No. 78-6529. TURNER *v.* MASSEY, CORRECTIONAL SUPERINTENDENT, *ante*, p. 914;

No. 78-6683. STODDARD *v.* WEAVER ET AL., *ante*, p. 850; and

No. 78-6785. SILO *v.* WARDEN, HOLMESBURG PRISON, ET AL., *ante*, p. 855. Petitions for rehearing denied.

444 U.S.

January 7, 1980

No. 78-6928. POPE *v.* UNITED STATES, *ante*, p. 925;

No. 79-197. SKOKO ET AL., BOARD OF COUNTY COMMISSIONERS OF CLACKAMAS COUNTY, OREGON *v.* ANDRUS, SECRETARY OF THE INTERIOR, ET AL., *ante*, p. 927;

No. 79-570. STONER *v.* HUTSON ET AL., *ante*, p. 967;

No. 79-5052. GILBERT *v.* YALANZON ET AL., *ante*, p. 873;
and

No. 79-5162. LEUSCHNER *v.* MARYLAND, *ante*, p. 933.
Petitions for rehearing denied.

No. 78-6903. DYKES *v.* ILLINOIS, *ante*, p. 940;

No. 79-454. SHURE BROTHERS, INC. *v.* KORVETTES, INC.,
DBA E. J. KORVETTE, *ante*, p. 942;

No. 79-532. HARTE *v.* COUNTY OF LOS ANGELES, *ante*, p.
952;

No. 79-5247. SHAW *v.* SOUTH CAROLINA, *ante*, p. 957;

No. 79-5376. JONES *v.* GEORGIA, *ante*, p. 957;

No. 79-5388. WOJLOH *v.* ADDISON ET AL., *ante*, p. 945;

No. 79-5398. GEORGE *v.* LOUISIANA, *ante*, p. 953;

No. 79-5399. TORGERSON *v.* McCLAY, *ante*, p. 953;

No. 79-5407. STEVENS *v.* HARRIS, SECRETARY OF HEALTH,
EDUCATION, AND WELFARE, *ante*, p. 945; and

No. 79-5424. JAFREE *v.* SCOTT, ATTORNEY GENERAL OF
ILLINOIS, *ante*, p. 945. Petitions for rehearing denied.
MR. JUSTICE MARSHALL took no part in the consideration or
decision of these petitions.

No. 78-6762. ROGERS *v.* LING ET AL., *ante*, p. 854. Mo-
tion for leave to file petition for rehearing denied.

No. 79-203. OCHS *v.* UNITED STATES, *ante*, p. 955; and

No. 79-5125. RUIZ *v.* CALIFORNIA, *ante*, p. 943. Motions
for leave to file petitions for rehearing denied. MR. JUSTICE
MARSHALL took no part in the consideration or decision of
these motions.

January 11, 14, 1980

444 U.S.

JANUARY 11, 1980

Miscellaneous Order

No. A-600 (79-5919). *TRIMBLE v. CONLEY, JUDGE, ET AL.* Sup. Ct. Mo. Application for stay, addressed to THE CHIEF JUSTICE, and by him referred to the Court, denied.

JANUARY 14, 1980

Appeals Dismissed

No. 78-1422. *RETIREMENT FUND TRUST OF THE PLUMBING, HEATING & PIPING INDUSTRY OF SOUTHERN CALIFORNIA v. JOHNS.* Appeal from Ct. App. Cal., 4th App. Dist., dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied. Reported below: 85 Cal. App. 3d 511, 149 Cal. Rptr. 551.

No. 78-1881. *CARPENTERS PENSION TRUST FUND FOR NORTHERN CALIFORNIA v. CAMPA ET AL.* Appeal from Ct. App. Cal., 1st App. Dist., dismissed for want of substantial federal question. Reported below: 89 Cal. App. 3d 113, 152 Cal. Rptr. 362.

Vacated and Remanded After Certiorari Granted

No. 79-136. *DIAMOND, COMMISSIONER OF PATENTS AND TRADEMARKS v. CHAKRABARTY.* C. C. P. A. [Certiorari granted *sub nom. Parker v. Bergy* and *Parker v. Chakrabarty*, *ante*, p. 924.] Judgment as to *In re Bergy et al.* vacated and case remanded with directions to dismiss the appeal as moot. Motion of Cornell D. Cornish for leave to file a brief as *amicus curiae* granted.

Certiorari Granted—Vacated and Remanded. (See also 79-5180, *ante*, p. 248.)

No. 79-759. *PERINI NORTH RIVER ASSOCIATES ET AL. v. FUSCO ET AL.* C. A. 2d Cir. Certiorari granted, judgment vacated, and case remanded for further consideration in light

444 U. S.

January 14, 1980

of *P. C. Pfeiffer Co. v. Ford*, *ante*, p. 69. MR. JUSTICE BRENNAN, MR. JUSTICE MARSHALL, and MR. JUSTICE BLACKMUN dissent. Reported below: 601 F. 2d 659.

Miscellaneous Orders

No. A-538. GUSIKOFF ET AL. *v.* UNITED STATES. D. C. S. D. Fla. Application for stay pending appeal to the United States Court of Appeals for the Fifth Circuit, addressed to MR. JUSTICE MARSHALL and referred to the Court, denied.

No. A-592. BURLINGTON NORTHERN, INC. *v.* UNITED STATES ET AL. Application for stay of an order of the Interstate Commerce Commission pending appeal to the United States Court of Appeals for the Sixth Circuit, presented to MR. JUSTICE STEWART, and by him referred to the Court, denied.

No. D-170. IN RE DISBARMENT OF COHEN. Disbarment entered. [For earlier order herein, see *ante*, p. 894.]

No. D-172. IN RE DISBARMENT OF BENDES. Disbarment entered. [For earlier order herein, see *ante*, p. 894.]

No. D-174. IN RE DISBARMENT OF SPOONER. Disbarment entered. [For earlier order herein, see *ante*, p. 894.]

No. D-183. IN RE DISBARMENT OF BARNES. It is ordered that Harry Davis Barnes, of Elkton, 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. 9, Orig. UNITED STATES *v.* LOUISIANA ET AL. Exceptions to Report of the Special Master set for oral argument in due course. MR. JUSTICE MARSHALL took no part in the consideration or decision of this order. [For earlier order herein, see, *e. g.*, *ante*, p. 816.]

January 14, 1980

444 U. S.

No. 78-6029. *LARocca v. UNITED STATES*. C. A. 3d Cir. [Certiorari granted, 442 U. S. 916.] Motion for appointment of counsel granted, and it is ordered that Gerald Goldman, Esquire, of Washington, D. C., be appointed to serve as counsel for petitioner in this case.

No. 79-4. *WILLIAMS ET AL. v. ZBARAZ ET AL.*;

No. 79-5. *MILLER, ACTING DIRECTOR, DEPARTMENT OF PUBLIC AID OF ILLINOIS, ET AL. v. ZBARAZ ET AL.*; and

No. 79-491. *UNITED STATES v. ZBARAZ ET AL.* D. C. N. D. Ill. [Probable jurisdiction postponed, *ante*, p. 962.] Motion of Alan Ernest to be appointed counsel for children unborn and born alive denied. Motion of Legal Defense Fund for Unborn Children for leave to file a brief as *amicus curiae* denied.

No. 79-48. *ANDRUS, SECRETARY OF THE INTERIOR, ET AL. v. GLOVER CONSTRUCTION Co.* C. A. 10th Cir. [Certiorari granted, *ante*, p. 962.] Motion of petitioner to dispense with printing appendix granted.

No. 79-134. *CONSOLIDATED EDISON COMPANY OF NEW YORK, INC. v. PUBLIC SERVICE COMMISSION OF NEW YORK*. Ct. App. N. Y. [Probable jurisdiction noted, *ante*, p. 822.] Motions of New England Legal Foundation, Long Island Lighting Co., and New York State Consumer Protection Board et al. for leave to file briefs as *amici curiae* granted.

No. 79-192. *NEW YORK GASLIGHT CLUB, INC., ET AL. v. CAREY*. C. A. 2d Cir. [Certiorari granted, *ante*, p. 897.] Motion of New York State Division of Human Rights et al. for leave to file a brief as *amici curiae* granted.

No. 79-5863. *GODWIN v. UNITED STATES*. C. A. 2d Cir. Motion of petitioner to seal petition denied.

444 U. S.

January 14, 1980

Probable Jurisdiction Noted

No. 79-492. FUNGAROLI *v.* FUNGAROLI. Appeal from Ct. App. N. C. Motion of appellee for leave to proceed *in forma pauperis* granted. Probable jurisdiction noted. Reported below: 40 N. C. App. 397, 252 S. E. 2d 849.

Certiorari Granted

No. 79-677. REEVES, INC. *v.* KELLEY ET AL. C. A. 8th Cir. Certiorari granted. Reported below: 603 F. 2d 736.

No. 79-5601. GOMEZ *v.* TOLEDO. C. A. 1st Cir. Motion of petitioner for leave to proceed *in forma pauperis* and certiorari granted. Reported below: 602 F. 2d 1018.

Certiorari Denied. (See also No. 79-1422, *supra.*)

No. 79-107. CONNECTICUT COMMISSION ON HUMAN RIGHTS AND OPPORTUNITIES ET AL. *v.* PERVEL INDUSTRIES, INC. C. A. 2d Cir. Certiorari denied. Reported below: 603 F. 2d 214.

No. 79-218. ZIPERSTEIN ET AL. *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied. Reported below: 601 F. 2d 281.

No. 79-258. BUCYRUS-ERIE Co. *v.* DEPARTMENT OF INDUSTRY, LABOR, AND HUMAN RELATIONS OF WISCONSIN ET AL. C. A. 7th Cir. Certiorari denied. Reported below: 599 F. 2d 205.

No. 79-505. UNIHEALTH SERVICES CORP. *v.* HARRIS, SECRETARY OF HEALTH, EDUCATION, AND WELFARE, ET AL. C. A. 5th Cir. Certiorari denied.

No. 79-554. ALPINE INVESTMENTS, INC. *v.* BARTON ET AL. Sup. Ct. Okla. Certiorari denied. Reported below: 596 P. 2d 532.

January 14, 1980

444 U.S.

No. 79-595. NATURAL RESOURCES DEFENSE COUNCIL, INC., ET AL. *v.* LONG ISLAND LIGHTING CO.; and

No. 79-629. LONG ISLAND LIGHTING CO. *v.* NEW YORK STATE PUBLIC SERVICE COMMISSION ET AL. C. A. 2d Cir. Certiorari before judgment denied.

No. 79-598. MICHAEL *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied. Reported below: 605 F. 2d 1198.

No. 79-603. HOTEL CONQUISTADOR, INC. *v.* UNITED STATES; and

No. 79-742. UNITED STATES *v.* HOTEL CONQUISTADOR, INC. Ct. Cl. Certiorari denied. Reported below: 220 Ct. Cl. 20, 597 F. 2d 1348.

No. 79-661. LAGORGA *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied.

No. 79-662. BIRDMAN *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied. Reported below: 602 F. 2d 547.

No. 79-679. CONTINENTAL GROUP, INC., ET AL. *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied. Reported below: 603 F. 2d 444.

No. 79-758. GASORAMA, INC. *v.* IMPERIAL GAS COMPANY OF PUERTO RICO, INC. Super. Ct. P. R. Certiorari denied.

No. 79-760. FLORES *v.* TEXAS. Ct. Crim. App. Tex. Certiorari denied. Reported below: 581 S. W. 2d 490.

No. 79-767. STATE FARM FIRE & CASUALTY Co. *v.* HIME. Sup. Ct. Minn. Certiorari denied. Reported below: 284 N. W. 2d 829.

No. 79-768. DEJOHN *v.* PENNSYLVANIA. Sup. Ct. Pa. Certiorari denied. Reported below: 486 Pa. 32, 403 A. 2d 1283.

444 U.S.

January 14, 1980

No. 79-769. TRUSTEES OF THE COLORADO CEMENT MASONS APPRENTICE TRUST FUND ET AL. *v.* LEVY ET AL. C. A. 10th Cir. Certiorari denied.

No. 79-773. VAGLE *v.* PICKANDS MATHER & Co. C. A. 8th Cir. Certiorari denied.

No. 79-781. HAMLIN *v.* F. GREGORIE & SON ET AL. Sup. Ct. S. C. Certiorari denied. Reported below: 273 S. C. 412, 257 S. E. 2d 699.

No. 79-785. PEACHES *v.* CITY OF EVANSVILLE, INDIANA, ET AL. Ct. App. Ind. Certiorari denied. Reported below: — Ind. App. —, 389 N. E. 2d 322.

No. 79-806. DUNGAN *v.* KENTUCKY BAR ASSN. Sup. Ct. Ky. Certiorari denied. Reported below: 586 S. W. 2d 15.

No. 79-857. RAIMONDI *v.* COURT OF APPEALS OF MARYLAND. Ct. App. Md. Certiorari denied. Reported below: 285 Md. 607, 403 A. 2d 1234.

No. 79-865. SCHIFALACQUA *v.* CONTINENTAL CASUALTY Co., AKA CNA INSURANCE, ET AL. C. A. 3d Cir. Certiorari denied. Reported below: 605 F. 2d 1197.

No. 79-871. MAYO *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 610 F. 2d 814.

No. 79-874. TREASURE ISLE, INC. *v.* CARR, U. S. DISTRICT JUDGE. C. A. 5th Cir. Certiorari denied.

No. 79-5139. SINCLAIR *v.* BLACKBURN, WARDEN. C. A. 5th Cir. Certiorari denied.

No. 79-5520. JOHNSON *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied. Reported below: 605 F. 2d 1025.

No. 79-5527. TONEY ET AL. *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 598 F. 2d 1349.

January 14, 1980

444 U.S.

No. 79-5529. *COOK v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 608 F. 2d 1175.

No. 79-5535. *WILLIAMS v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 600 F. 2d 14.

No. 79-5574. *DE VITO v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 609 F. 2d 503.

No. 79-5589. *RIVERA v. SECRETARY OF HEALTH, EDUCATION, AND WELFARE*. C. A. 1st Cir. Certiorari denied. Reported below: 607 F. 2d 993.

No. 79-5645. *KYLES v. KLEIN, DIRECTOR, DEPARTMENT OF HEALTH AND WELFARE OF IDAHO, ET AL.* C. A. 9th Cir. Certiorari denied.

No. 79-5648. *WILSON v. AMERICAN CAN CO. ET AL.* C. A. 3d Cir. Certiorari denied.

No. 79-5660. *MOLDOVAN v. ALLIS CHALMERS MANUFACTURING CO. ET AL.* Ct. App. Mich. Certiorari denied. Reported below: 83 Mich. App. 373, 268 N. W. 2d 656.

No. 79-5678. *CURRY v. BUREAU OF CORRECTIONS OF KENTUCKY ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 611 F. 2d 371.

No. 79-5687. *RAMSEY v. WESTERN UNION TELEGRAPH CO.* Dist. Ct. App. Fla., 1st Dist. Certiorari denied. Reported below: 368 So. 2d 1377.

No. 79-5743. *MARTINEZ v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 604 F. 2d 361.

No. 79-5749. *BURNET v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 612 F. 2d 575.

No. 79-5750. *LUCK v. STRICKLAND, CORRECTIONS SUPERINTENDENT, ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 605 F. 2d 1203.

444 U. S.

January 14, 1980

No. 79-5756. MANN *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied. Reported below: 612 F. 2d 575.

No. 79-5758. HODGES *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 606 F. 2d 520.

No. 79-5759. MCGILL *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 604 F. 2d 1252.

No. 79-5770. DEL PRETE *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 608 F. 2d 1374.

No. 79-5772. CORRAL *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied. Reported below: 624 F. 2d 1103.

No. 79-5781. WOODING *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 611 F. 2d 375.

No. 78-1445. SOUTHERN CALIFORNIA IBEW-NECA PENSION PLAN ET AL. *v.* JOHNSTON ET VIR. Ct. App. Cal., 2d App. Dist. Motion of respondent Frances E. Johnston for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 85 Cal. App. 3d 900, 149 Cal. Rptr. 798.

No. 79-583. MINNESOTA *v.* HELENBOLT. Sup. Ct. Minn. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 280 N. W. 2d 631.

No. 79-666. BISHOP ET AL. *v.* FURTADO ET AL. C. A. 1st Cir. Motion of respondents for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 604 F. 2d 80.

No. 79-486. UNITED STATES STEEL CORP. ET AL. *v.* UNITED STATES ENVIRONMENTAL PROTECTION AGENCY. C. A. 7th Cir. Certiorari denied. Reported below: 605 F. 2d 283.

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

On August 7, 1977, Congress enacted the Clean Air Act Amendments of 1977, Pub. L. 95-95, 91 Stat. 685. These

Amendments required compliance by 1982 with various ambient air quality standards promulgated earlier by the United States Environmental Protection Agency (EPA). Under the Amendments, the States were to submit to EPA a list of "nonattainment areas," *i. e.*, those regions measured as not complying with EPA's standards. The deadline for this submission was December 5, 1977. EPA was then to promulgate a composite list of nonattainment areas by February 3, 1978. Finally, the States were to rely upon EPA's list in formulating "State Implementation Plans" by January 1, 1979. According to the Amendments, these plans were to impose certain stringent restrictions upon industries located in regions designated as nonattainment areas.

Both petitioners have facilities located in Lake County, Ind., which was included in the list of nonattainment areas submitted by the State of Indiana to EPA on December 5, 1977. EPA promulgated its list, which included Lake County, on March 3, 1978. At the same time, EPA announced that the designations were immediately applicable and effective. In explaining its failure to promulgate the list as a proposed rule and to comply with the notice-and-comment provisions of the Administrative Procedure Act, 5 U. S. C. § 553, EPA asserted that it had "good cause" to dispense with the requirements as provided in 5 U. S. C. §§ 553 (b) (B) and 553 (d) (3). In particular it cited the need to give the States immediate guidance on the location of nonattainment areas so that those States could meet the deadline of January 1, 1979, for their implementation plans. EPA did solicit after-the-fact comments, due by May 2, 1978, and subsequently amended its list in certain respects not relevant here.

Petitioners brought the present action for review in the United States Court of Appeals for the Seventh Circuit, claiming, *inter alia*, that EPA's designation of Lake County as a nonattainment area was "not in accordance with law" under the APA because of EPA's failure to follow the notice-and-

comment procedure. The Court of Appeals rejected this claim on two grounds. First, it held that the tight statutory schedule under which EPA was operating provided that agency with "good cause" to dispense with the usual procedures. 605 F. 2d 283, 286 (1979). Second, it held that, under 42 U. S. C. § 7607 (d)(9) (1976 ed., Supp. I), even if EPA had failed to abide by the procedural requirements of the APA its action would not be reversed unless petitioners demonstrated that they had objected to the procedure during the grace period provided by EPA for after-the-fact comments and that the error was " 'so serious and related to matters of such central relevance to the rule that there is a substantial likelihood that the rule would have been significantly changed if such errors had not been made.' " 605 F. 2d, at 290, quoting 42 U. S. C. § 7607 (d)(8) (1976 ed., Supp. I) as incorporated by § 7607 (d)(9)(D) (1976 ed., Supp. I). According to the Court of Appeals, petitioners had failed to carry their burden as to either of these factors.

The first holding of the court below is in square conflict with the decisions of two other Courts of Appeals. In *Sharon Steel Corp. v. EPA*, 597 F. 2d 377 (CA3 1979), and *United States Steel Corp. v. EPA*, 595 F. 2d 207 (CA5 1979), the Courts of Appeals for the Third and Fifth Circuits held that EPA did not have good cause to dispense with notice-and-comment rulemaking in promulgating the very list at issue here.

While conceding that a conflict exists, EPA argues that "the unique statutory circumstances that created the practical need to promulgate the original designations without prior notice and comment no longer exist, and the issue presented . . . will not recur." Brief in Opposition 7. In the area of environmental regulation, however, tight statutory schedules are both quite common and frequently unmet. If EPA's actions in the present case pass without review by this Court, persons subject to EPA's jurisdiction in different parts of the country will be entitled to different procedural protections when either they or EPA find themselves up against a dead-

line. Moreover, these recurring deadlines will almost invariably have passed by the time this Court receives a petition, allowing EPA to argue in each case that, because the deadline has passed, the issue is no longer ripe for review. While no party claims this case is moot, the fact that the issue is "capable of repetition, yet evad[es] review," *Southern Pacific Terminal Co. v. ICC*, 219 U. S. 498, 515 (1911), makes this a classic case for a grant of certiorari.

As for the alternative holding of the court below, it appears that the unusually strong showing demanded by § 7607 (d)(9)(D), but not by the APA, is required only in certain types of actions listed in § 7607 (d)(1). See 42 U. S. C. § 7607 (d)(9) (1976 ed., Supp. I). Although the Court of Appeals suggested that promulgation of the list "arguably" could be characterized as one of those enumerated actions, it went well beyond the statutory language to hold that "Congress meant this limitation on review of procedural errors to extend to all rulemaking by the EPA whether or not it is in the explicit categories covered by all the provisions of section 7607 (d)." 605 F. 2d, at 291. As petitioners point out, this ruling has the effect of establishing two Administrative Procedure Acts, one for the EPA and one for all other agencies.

Apparently uncomfortable with this holding, EPA attempts to dismiss it as dicta. Brief in Opposition 9. It clearly is not. It was an independent, alternative basis for the decision of the court below, no more dicta than its companion holding that EPA demonstrated good cause. In fact, the Court of Appeals relied on its interpretation of § 7607 (d)(9) as a reason for rejecting the conclusions of the Third Circuit and the Fifth Circuit as to the legality of EPA's action. See 605 F. 2d, at 291, n. 14.

Either of these issues might merit certiorari in its own right; in tandem they present a formidable candidate for review. The fact that the requirements of the Clean Air Act Amendments virtually swim before one's eyes is not a rational basis, under these circumstances, for refusing to exercise our discre-

444 U. S.

January 14, 1980

tionary jurisdiction. Admittedly, it would be easier to decide a case turning on common-law principles of property or contract, and more interesting to decide a case involving competing fundamental principles of constitutional law. But here, in grappling with the problem of air pollution on a nationwide basis, Congress has quite understandably enacted a very complex statute that seeks to accomplish regulatory goals while at the same time providing procedural protection for the regulated. It might have avoided some of the complexity by making the EPA administrator a virtual czar to the extent allowed by the Constitution, but it chose a more balanced approach. Congress has made this choice and has designated the courts of appeals to construe the innumerable provisions of the Act. We can avoid invocation of our jurisdiction to resolve conflicts among the decisions of the courts of appeals construing important sections of the statute only by breaking faith with the spirit, if not the letter, of those Acts of Congress making our jurisdiction in virtually all cases discretionary rather than obligatory. I therefore would grant the writ of certiorari.

No. 79-765. WEBSTER *v.* BOARD OF EDUCATION OF THE CITY OF CHICAGO ET AL. C. A. 7th Cir. Motion of Chicago Lawyers' Committee for Civil Rights Under Law, Inc., for leave to file a brief as *amicus curiae* granted. Certiorari denied. Reported below: 599 F. 2d 793.

No. 79-766. MCGHEE *v.* IOWA. Sup. Ct. Iowa. Certiorari denied. MR. JUSTICE WHITE would grant certiorari. Reported below: 280 N. W. 2d 436.

No. 79-5383. G. G. *v.* ILLINOIS. App. Ct. Ill., 2d Dist. Certiorari denied. MR. JUSTICE MARSHALL would grant certiorari.

No. 79-5401. T.A.S. *v.* ILLINOIS. App. Ct. Ill., 2d Dist. Certiorari denied. MR. JUSTICE MARSHALL would grant certiorari.

January 14, 17, 21, 1980

444 U.S.

No. 79-5462. KAUFMAN *v.* TENNESSEE. Ct. Crim. App. Tenn. Certiorari denied. MR. JUSTICE BRENNAN, MR. JUSTICE STEWART, and MR. JUSTICE MARSHALL would grant certiorari and reverse the conviction.

Rehearing Denied

No. 79-585. DOUBLEDAY & Co., INC. *v.* BINDRIM, *ante*, p. 984. Petition for rehearing denied.

JANUARY 17, 1980

Dismissal Under Rule 60

No. 79-438. GALLAGHER ET AL. *v.* UNITED STATES. C. A. 3d Cir. Certiorari dismissed under this Court's Rule 60. Reported below: 602 F. 2d 1139.

JANUARY 21, 1980

Appeals Dismissed

No. 79-606. LUMBER, PRODUCTION & INDUSTRIAL WORKERS LOCAL 2362 *v.* WONDZELL ET AL. Appeal from Sup. Ct. Alaska dismissed for want of substantial federal question. MR. JUSTICE WHITE and MR. JUSTICE REHNQUIST would note probable jurisdiction and set case for oral argument. Reported below: 601 P. 2d 584.

No. 79-776. KOKER ET UX. *v.* SAGE ET AL. Appeal from Ct. App. Wash. dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied.

No. 79-834. AUTOMOBILE DRIVERS & DEMONSTRATORS UNION LOCAL No. 882 ET AL. *v.* DEPARTMENT OF RETIREMENT SYSTEMS OF WASHINGTON. Appeal from Sup. Ct. Wash. dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied. Reported below: 92 Wash. 2d 415, 598 P. 2d 379.

444 U. S.

January 21, 1980

No. 79-5694. *PARISH v. PARISH*. Appeal from Sup. Ct. Ala. dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied. Reported below: 374 So. 2d 351.

No. 79-820. *MINNESOTA MINING & MANUFACTURING CO. v. MINNESOTA, BY WILSON, COMMISSIONER, DEPARTMENT OF HUMAN RIGHTS*. Appeal from Sup. Ct. Minn. dismissed for want of substantial federal question. THE CHIEF JUSTICE and MR. JUSTICE BLACKMUN took no part in the consideration or decision of this case. Reported below: 289 N. W. 2d 396.

No. 79-5465. *MARKOFF v. AMERICAN HERITAGE LIFE INSURANCE CORP. ET AL.* Appeal from Sup. Ct. Nev. dismissed for want of a properly presented federal question.

No. 79-787. *KAVANAGH ET AL. v. LONDON GROVE TOWNSHIP ET AL.* Appeal from Sup. Ct. Pa. dismissed for want of substantial federal question. Reported below: 486 Pa. 133, 404 A. 2d 393.

Certiorari Granted—Reversed and Remanded. (See No. 79-5386, *ante*, p. 469.)

Miscellaneous Orders

No. A-435 (79-851). *CLAUSER v. ILLINOIS*. App. Ct. Ill., 3d Dist. Application for bail, addressed to MR. JUSTICE POWELL and referred to the Court, denied.

No. A-576. *CITIZENS CONCERNED FOR SEPARATION OF CHURCH AND STATE v. CITY AND COUNTY OF DENVER*. Application to vacate stay entered by the United States Court of Appeals for the Tenth Circuit, presented to MR. JUSTICE WHITE, and by him referred to the Court, denied. MR. JUSTICE MARSHALL would grant the application.

No. A-596. *IN RE OBERKOETTER*. C. A. 1st Cir. Application for stay, addressed to MR. JUSTICE MARSHALL and referred to the Court, denied.

January 21, 1980

444 U. S.

No. D-181. *IN RE DISBARMENT OF FREEDSON*. Disbarment entered. [For earlier order herein, see *ante*, p. 922.]

No. D-184. *IN RE DISBARMENT OF CAIN*. It is ordered that Carl L. Cain, 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. 5, Orig. *UNITED STATES v. CALIFORNIA*. Exception to Report of the Special Master set for oral argument in due course. MR. JUSTICE MARSHALL took no part in the consideration or decision of this order. [For earlier order herein, see, *e. g.*, *ante*, p. 816.]

No. 79-66. *AARON v. SECURITIES AND EXCHANGE COMMISSION*. C. A. 2d Cir. [Certiorari granted, *ante*, p. 914.] Motion of Securities Industry Association for leave to file a brief as *amicus curiae* granted.

No. 79-192. *NEW YORK GASLIGHT CLUB, INC., ET AL. v. CAREY*. C. A. 2d Cir. [Certiorari granted, *ante*, p. 897.] Motion of the Attorney General of New York et al. for leave to participate in oral argument as *amici curiae* denied.

No. 79-813. *AMERICAN COMMERCIAL LINES, INC. v. GRIFFITH ET AL.* C. A. 3d Cir. The Solicitor General is invited to file a brief in this case expressing the views of the United States.

Certiorari Granted

No. 79-1082. *NATIONAL LABOR RELATIONS BOARD v. INTERNATIONAL LONGSHOREMEN'S ASSN., AFL-CIO, ET AL.* C. A. D. C. Cir. Certiorari granted. Reported below: 198 U. S. App. D. C. 157, 613 F. 2d 890.

No. 79-838. *MAINE ET AL. v. THIBOUTOT ET VIR.* Sup. Jud. Ct. Me. Motion of respondents for leave to proceed *in forma pauperis* and certiorari granted. Reported below: 405 A. 2d 230.

444 U. S.

January 21, 1980

Certiorari Denied. (See also Nos. 79-776, 79-834, and 79-5694, *supra*.)

No. 78-1737. FOLEY ET AL. *v.* UNITED STATES;

No. 78-1838. ROBERT L. GRUEN, INC. *v.* UNITED STATES;

No. 79-93. SHANNON & LUCHS Co. *v.* UNITED STATES;
and

No. 79-186. BOGLEY, INC., ET AL. *v.* UNITED STATES. C. A. 4th Cir. *Certiorari denied.* Reported below: 598 F. 2d 1323.

No. 79-248. CERILLI ET AL. *v.* UNITED STATES. C. A. 3d Cir. *Certiorari denied.* Reported below: 603 F. 2d 415.

No. 79-355. SANCHEZ *v.* TEXAS. Ct. Crim. App. Tex. *Certiorari denied.* Reported below: 582 S. W. 2d 813.

No. 79-373. JONES *v.* UNITED STATES. C. A. 5th Cir. *Certiorari denied.* Reported below: 597 F. 2d 485.

No. 79-385. MCCARTHY *v.* UNITED STATES. C. A. 3d Cir. *Certiorari denied.* Reported below: 602 F. 2d 1139.

No. 79-471. STRINGER *v.* CALIFORNIA. Ct. App. Cal., 4th App. Dist. *Certiorari denied.*

No. 79-496. MOORE *v.* ILLINOIS. App. Ct. Ill., 2d Dist. *Certiorari denied.* Reported below: 65 Ill. App. 3d 712, 382 N. E. 2d 810.

No. 79-529. CHURCH OF SCIENTOLOGY OF CALIFORNIA *v.* UNITED STATES. C. A. 9th Cir. *Certiorari denied.* Reported below: 591 F. 2d 533.

No. 79-531. NEWELL ET AL. *v.* ORLEANS PARISH SCHOOL BOARD. Ct. App. La., 4th Cir. *Certiorari denied.* Reported below: 370 So. 2d 655 and 658.

No. 79-542. HAY *v.* TEXAS BOARD OF PARDONS AND PAROLE. C. A. 5th Cir. *Certiorari denied.* Reported below: 599 F. 2d 447.

January 21, 1980

444 U. S.

No. 79-568. OCCIDENTAL LIFE INSURANCE COMPANY OF CALIFORNIA *v.* SAFFO ET AL.; and

No. 79-573. KAVNER *v.* OCCIDENTAL LIFE INSURANCE COMPANY OF CALIFORNIA ET AL. C. A. 8th Cir. Certiorari denied. Reported below: 602 F. 2d 1265.

No. 79-569. WEATHERSBY *v.* CALIFORNIA. Ct. App. Cal., 1st App. Dist. Certiorari denied.

No. 79-647. COPELAND *v.* MARTINEZ, DIRECTOR, COMMUNITY SERVICES ADMINISTRATION. C. A. D. C. Cir. Certiorari denied. Reported below: 195 U. S. App. D. C. 399, 603 F. 2d 981.

No. 79-685. DRESSER INDUSTRIES, INC. *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 596 F. 2d 1231.

No. 79-686. POWER *v.* UNITED STATES. Ct. Cl. Certiorari denied. Reported below: 220 Ct. Cl. 157, 597 F. 2d 258.

No. 79-687. KYZAR *v.* HARRIS, SECRETARY OF HEALTH, EDUCATION, AND WELFARE. C. A. 5th Cir. Certiorari denied. Reported below: 597 F. 2d 68.

No. 79-691. INDIANAPOLIS POWER & LIGHT Co. ET AL. *v.* UNITED STATES ENVIRONMENTAL PROTECTION AGENCY. C. A. 7th Cir. Certiorari denied. Reported below: 605 F. 2d 559.

No. 79-695. BOSCH *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 590 F. 2d 165.

No. 79-705. HOUSEHOLD FINANCE CORP. ET AL. *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied. Reported below: 602 F. 2d 1255.

No. 79-707. UPTEGROVE ET AL. *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 600 F. 2d 1248.

444 U. S.

January 21, 1980

No. 79-708. PHILADELPHIA FOOD STORE EMPLOYERS' LABOR COUNCIL *v.* RETAIL CLERKS INTERNATIONAL ASSOCIATION, LOCAL 1349, ET AL. C. A. 3d Cir. Certiorari denied. Reported below: 601 F. 2d 575.

No. 79-723. SHELBY COUNTY GOVERNMENT *v.* EQUAL EMPLOYMENT OPPORTUNITY COMMISSION. C. A. 6th Cir. Certiorari denied. Reported below: 601 F. 2d 588.

No. 79-730. PUERTO RICO ET AL. *v.* COMMONWEALTH OIL REFINING CO., INC., ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 596 F. 2d 1239.

No. 79-732. PHELPS *v.* KANSAS. Sup. Ct. Kan. Certiorari denied. Reported below: 226 Kan. 371, 598 P. 2d 180.

No. 79-778. BOARD OF TRUSTEES OF KEENE STATE COLLEGE ET AL. *v.* SWEENEY. C. A. 1st Cir. Certiorari denied. Reported below: 604 F. 2d 106.

No. 79-794. DEVITO, DIRECTOR, DEPARTMENT OF MENTAL HEALTH & DEVELOPMENTAL DISABILITIES *v.* LANG. Sup. Ct. Ill. Certiorari denied. Reported below: 76 Ill. 2d 311, 391 N. E. 2d 350.

No. 79-798. DEAN ET AL. *v.* AUSTIN, SECRETARY OF STATE OF MICHIGAN, ET AL. C. A. 6th Cir. Certiorari denied. Reported below: 602 F. 2d 121.

No. 79-818. KARIJOLIC *v.* ILLINOIS BELL TELEPHONE Co. C. A. 7th Cir. Certiorari denied. Reported below: 601 F. 2d 596.

No. 79-821. MORGAN & Co., INC. *v.* OLIN CORP., INC. C. A. 4th Cir. Certiorari denied. Reported below: 599 F. 2d 1048.

No. 79-828. EDWARDS & HANLEY *v.* WELLS FARGO SECURITIES CLEARANCE CORP. C. A. 2d Cir. Certiorari denied. Reported below: 602 F. 2d 478.

January 21, 1980

444 U. S.

No. 79-845. *ALAMEDA COUNTY WATER DISTRICT v. SETHY*. C. A. 9th Cir. Certiorari denied. Reported below: 602 F. 2d 894.

No. 79-891. *SAXON v. JOHNSTON ET AL.* Sup. Ct. Miss. Certiorari denied.

No. 79-892. *DORMINEY v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 602 F. 2d 1220.

No. 79-941. *EDGEWOOD HEALTH CARE CENTER, INC. v. UNITED STATES* C. A. 1st Cir. Certiorari denied. Reported below: 608 F. 2d 13.

No. 79-5447. *IN RE APPLICATION FOR ADMISSION TO THE BAR OF MASSACHUSETTS*. Sup. Jud. Ct. Mass. Certiorari denied. Reported below: 378 Mass. 795, 392 N. E. 2d 533.

No. 79-5452. *FELTS ET AL. v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 602 F. 2d 146.

No. 79-5511. *WILLIAMS v. ANDERSON ET AL.* C. A. 10th Cir. Certiorari denied. Reported below: 599 F. 2d 923.

No. 79-5558. *EATON v. NEW JERSEY DIVISION OF YOUTH AND FAMILY SERVICES*. Super. Ct. N. J. Certiorari denied.

No. 79-5572. *LILLIBRIDGE ET UX. v. MORTON, COMMISSIONER OF INTERNAL REVENUE, ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 605 F. 2d 557.

No. 79-5600. *HINES v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 605 F. 2d 132.

No. 79-5603. *COLON v. FLORIDA*. Dist. Ct. App. Fla., 4th Dist. Certiorari denied. Reported below: 364 So. 2d 899.

No. 79-5607. *DAVIS v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 609 F. 2d 503.

No. 79-5643. *FORD v. CIMINO ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 601 F. 2d 574.

444 U. S.

January 21, 1980

No. 79-5661. THOMAS *v.* OKLAHOMA. Ct. Crim. App. Okla. Certiorari denied.

No. 79-5669. PFISTER *v.* ANDERSON CLINIC, INC., ET AL. C. A. 4th Cir. Certiorari denied. Reported below: 601 F. 2d 581.

No. 79-5676. GATTERMANN ET AL. *v.* VIRGINIA. Sup. Ct. Va. Certiorari denied.

No. 79-5682. JASPER *v.* BLACKBURN, WARDEN. C. A. 5th Cir. Certiorari denied.

No. 79-5684. BRINLEE *v.* CRISP, WARDEN, ET AL. C. A. 10th Cir. Certiorari denied. Reported below: 608 F. 2d 839.

No. 79-5689. WILLIS *v.* CUYLER, CORRECTIONAL SUPERINTENDENT, ET AL. C. A. 3d Cir. Certiorari denied.

No. 79-5691. McCLOUD *v.* FOGG, WARDEN. C. A. 2d Cir. Certiorari denied.

No. 79-5695. SANDERS *v.* GEORGIA. Ct. App. Ga. Certiorari denied. Reported below: 151 Ga. App. 590, 260 S. E. 2d 504.

No. 79-5696. KENNEDY *v.* INDIANA. Sup. Ct. Ind. Certiorari denied. Reported below: — Ind. —, 393 N. E. 2d 139.

No. 79-5698. FRANCISSE *v.* HOLLYWOOD CHEROKEE APARTMENTS ET AL. Ct. App. Cal., 2d App. Dist. Certiorari denied.

No. 79-5701. TIAO-MING WU *v.* BOARD OF HIGHER EDUCATION, CUNY, ET AL. C. A. 2d Cir. Certiorari denied.

No. 79-5708. PHILLIPS *v.* SMITH, CORRECTIONAL SUPERINTENDENT. App. Div., Sup. Ct. N. Y., 4th Jud. Dept. Certiorari denied. Reported below: 70 App. Div. 2d 764, 419 N. Y. S. 2d 440.

January 21, 1980

444 U.S.

No. 79-5711. *SAYLOR v. OVERBERG, CORRECTIONAL SUPERINTENDENT*. C. A. 6th Cir. Certiorari denied. Reported below: 614 F. 2d 773.

No. 79-5715. *GERSON v. NEW JERSEY*. Super. Ct. N. J. Certiorari denied.

No. 79-5717. *TAYLOR v. DALSHHEIM, CORRECTIONAL SUPERINTENDENT*. C. A. 2d Cir. Certiorari denied. Reported below: 610 F. 2d 807.

No. 79-5720. *STONECIPHER v. TEXAS*. Ct. Crim. App. Tex. Certiorari denied. Reported below: 581 S. W. 2d 491.

No. 79-5730. *CRANE v. YOUNGER, ATTORNEY GENERAL OF CALIFORNIA, ET AL.* C. A. 9th Cir. Certiorari denied.

No. 79-5748. *WRAY v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 608 F. 2d 722.

No. 79-5766. *DOBY v. SOUTH CAROLINA*. Sup. Ct. S. C. Certiorari denied. Reported below: 273 S. C. 704, 258 S. E. 2d 896.

No. 79-5771. *GRINDSTAFF v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 614 F. 2d 773.

No. 79-5786. *LANCELIN v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 624 F. 2d 1103.

No. 79-5787. *MONTOYA v. UNITED STATES*. C. A. 10th Cir. Certiorari denied.

No. 79-5796. *HILL ET AL. v. UNITED STATES*. C. A. 10th Cir. Certiorari denied.

No. 79-5810. *SHANKS v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 608 F. 2d 73.

No. 79-777. *VERMONT v. WILLIAMS*. Sup. Ct. Vt. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 137 Vt. 360, 406 A. 2d 375.

444 U. S.

January 21, 1980

No. 79-772. CALIFORNIA FAIR POLITICAL PRACTICES COMMISSION *v.* SUPERIOR COURT OF LOS ANGELES COUNTY (INSTITUTE OF GOVERNMENTAL ADVOCATES, REAL PARTY IN INTEREST). Sup. Ct. Cal. Certiorari denied. MR. JUSTICE WHITE and MR. JUSTICE BLACKMUN would grant certiorari. Reported below: 25 Cal. 3d 33, 599 P. 2d 46.

No. 79-5704. CLARK *v.* VIRGINIA. Sup. Ct. Va.; and
No. 79-5722. CARRIGER *v.* ARIZONA. Sup. Ct. Ariz. Certiorari denied. Reported below: No. 79-5704, 219 Va. 237, 257 S. E. 2d 784; No. 79-5722, 123 Ariz. 335, 599 P. 2d 788.

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 grant certiorari and vacate the death sentences in these cases.

Rehearing Denied

No. 78-5937. YBARRA *v.* ILLINOIS, *ante*, p. 85;
No. 79-534. PARRISH *v.* KENTUCKY, *ante*, p. 966;
No. 79-611. VASILIOS *v.* UNITED STATES, *ante*, p. 967;
No. 79-5255. AMADEO *v.* GEORGIA, *ante*, p. 974; and
No. 79-5418. WALDROP *v.* COMMISSIONER OF INTERNAL REVENUE, *ante*, p. 993. Petitions for rehearing denied.

No. 79-245. UNITED METHODIST CHURCH ET AL. *v.* BARR ET AL., *ante*, p. 973. Petition for rehearing denied. MR. JUSTICE BLACKMUN took no part in the consideration or decision of this petition.

No. 79-5355. MAHLER *v.* WEISS, *ante*, p. 944. Motion for leave to file petition for rehearing denied. MR. JUSTICE MARSHALL took no part in the consideration or decision of this motion.

February 4, 12, 19, 1980

444 U. S.

FEBRUARY 4, 1980

Dismissal Under Rule 60

No. 79-847. *SANDINI v. UNITED STATES*. C. A. 5th Cir. Certiorari dismissed under this Court's Rule 60.

FEBRUARY 12, 1980

Dismissal Under Rule 60

No. 79-713. *MORRILTON SCHOOL DISTRICT No. 32 ET AL. v. UNITED STATES*. C. A. 8th Cir. Certiorari dismissed as to petitioner Plumerville School District No. 39 under this Court's Rule 60. [See also *post*, p. 1071.] Reported below: 606 F. 2d 222.

FEBRUARY 19, 1980

Affirmed on Appeal

No. 79-504. *UNITED STATES ET AL. v. MISSISSIPPI*; and
No. 79-528. *HENRY ET AL. v. MISSISSIPPI*. Affirmed on appeal from D. C. D. C. Reported below: 490 F. Supp. 569.

MR. JUSTICE STEVENS, concurring in the judgment.

In 1965, a three-judge District Court was convened in Mississippi to deal with allegations of malapportionment in Mississippi's State Legislature. By 1975, an acceptable reapportionment plan still had not been formulated; nevertheless, quadrennial elections were held under a court-ordered plan.¹ In 1978, the Mississippi Legislature enacted a statutory reapportionment plan, which was submitted to the Attorney General of the United States for preclearance under the Voting Rights Act of 1965, 79 Stat. 437, as amended, 42 U. S. C. § 1973 *et seq.* When the Attorney General objected to the plan, the State brought this action in a three-judge District Court in the District of Columbia, seeking a declaratory judgment that the plan was in compliance with the Act. In 1979, while the Voting Rights Act case was still pending, the three-judge court in Mississippi entered a judgment putting into

¹ The history of that litigation is described at length in MR. JUSTICE MARSHALL's dissenting opinion in *Connor v. Coleman*, 440 U. S. 612, 614.

1050

STEVENS, J., concurring in judgment

effect a reapportionment plan agreed to by all parties. *Connor v. Finch*, 469 F. Supp. 693 (SD Miss.). That plan was essentially a modified version of the statutory plan.

Under the Voting Rights Act the task confronting the District of Columbia court was to determine whether the statutory plan had the purpose or effect of denying or abridging the right to vote on account of race or color. 42 U. S. C. § 1973c. An impermissible effect is created whenever a reapportionment plan has the effect of diluting existing black voting strength. See *Beer v. United States*, 425 U. S. 130, 141. The District of Columbia court compared the statutory reapportionment plan to the 1979 court-ordered plan in order to determine whether any prohibited retrogression had occurred. Concluding that it had not and that there was no purpose to discriminate evident in the statutory plan, the court granted the State a declaratory judgment approving the plan. Both the United States and intervenors (black voters in Mississippi) appealed. The Court today affirms, without opinion.

In my judgment the only significant issue presented on appeal is whether the statutory plan had the impermissible effect of diluting black voting strength. In his dissenting opinion MR. JUSTICE MARSHALL presents a persuasive case that there were significant discrepancies between the statutory plan and the 1979 court-ordered plan. Because I believe that the 1979 plan was not the proper benchmark to be used in determining whether there was an impermissible effect, I have no occasion to comment on his conclusion that the differences between the two plans were sufficient to constitute a "dilution" of black voting strength.

As a technical matter, the court-ordered plan was the plan "in effect" at the time the District of Columbia court decided the case.² Nevertheless, all of the parties to both actions realized that the statutory plan would be used in the 1979

² The statutory plan could not become effective until it was cleared pursuant to the Voting Rights Act by either the Attorney General or the three-judge court in the District of Columbia. *Connor v. Waller*, 421

elections if it received court approval in time. See *Connor v. Coleman*, 440 U. S. 612, 622 (MARSHALL, J., dissenting). Thus, in practical terms, the court-ordered plan was never more than a backup. To use such a plan as a benchmark for judging the effect of the statutory plan on voting rights seems to me to be logically indefensible. No voting rights in Mississippi were ever affected by the backup plan and thus any "changes" due to the imposition of the statutory plan could hardly have diluted those rights. Moreover, to require a state legislature to predict what court-ordered plans may be entered while a Voting Rights Act suit is pending and then to draw its plan to ensure that no dilution occurs seems to me to be a futile exercise clearly not required by the statute.

Thus, in my view the statutory plan was permissible under the Act so long as it did not have a discriminatory purpose and did not dilute black voting strength as it existed at the time the legislation was passed. The District Court's findings of fact make it clear that the plan met these conditions.³ I therefore concur in the judgment affirming the decision of the court below.

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

For more than 15 years private litigants, often joined by the United States, have sought to obtain an apportionment

U. S. 656. The judgment entered by the Mississippi court, on the other hand, specifically provided that the court-ordered plan was to be in "full force and effect for the 1979 regular state legislative elections and thereafter unless and until altered according to law." *Connor v. Finch*, 469 F. Supp. 693, 694 (SD Miss. 1979). Thus, the court-ordered plan would have remained in effect if the District of Columbia court had not approved the statutory plan.

³ The court noted that when compared to the 1975 apportionment plan that had governed the last elections, the statutory plan constituted a "clear enhancement of the position of racial minorities with respect to their effective exercise of the electoral franchise. . . ." App. to Juris. Statement in No. 79-504, p. 32a, n. 6.

1050

MARSHALL, J., dissenting

plan in Mississippi which satisfies the requirements of the Equal Protection Clause and the Voting Rights Act of 1965. By today's summary affirmance, the Court assures that these efforts will remain to a substantial degree unsuccessful. I dissent.

I

Brought in 1965, this case has a procedural history that can charitably be described as bizarre. Both state officials and the three-judge District Court for the Southern District of Mississippi have shown a firm determination to avoid implementation of an apportionment plan which complies with constitutional and statutory requirements.¹ The case has been before this Court no fewer than eight times; we have invalidated plans proposed by the District Court on four occasions. *Connor v. Johnson*, 402 U. S. 690 (1971); *Connor v. Williams*, 404 U. S. 549 (1972); *Connor v. Waller*, 421 U. S. 656 (1975); *Connor v. Finch*, 431 U. S. 407 (1977).

In *Connor v. Finch*, we ordered the District Court to draw a lawful apportionment plan "with a compelling awareness of the need for its expeditious accomplishment, so that the citizens of Mississippi at long last will be enabled to elect a legislature that properly represents them." *Id.*, at 426. Two more years passed, and no such plan was drawn. When the case was here last Term, the plaintiffs sought leave to file a petition for a writ of mandamus to require the District Court to do what we have ordered. On March 26, 1979, the Court granted leave to file the petition, but it postponed action for 30 days, instructing the District Court to enter a plan "forthwith and without further delay." *Connor v. Coleman*, 440 U. S. 612, 614.² On April 13, 1979, the District Court entered a final judgment embodying a plan agreed to by all

¹The procedural background is described in detail in my dissenting opinion in *Connor v. Coleman*, 440 U. S. 612, 614-621 (1979).

²I would have issued the writ immediately. See *Connor v. Coleman*, *supra*, at 614 (dissenting opinion).

parties.³ Unfortunately, this settlement plan did not end the litigation.

Almost a year earlier, on April 21, 1978, the Governor of Mississippi had approved a statutory reapportionment plan designed to supersede any court-ordered plan to be produced in this litigation. The statutory plan was submitted to the Attorney General of the United States for preclearance under the Voting Rights Act of 1965, 42 U. S. C. § 1973 *et seq.* On July 31, 1978, the Attorney General entered a timely objection on the ground that the State had failed to carry its burden of proving the absence of a discriminatory purpose or effect. See 42 U. S. C. § 1973c. The State of Mississippi filed the present action in the United States District Court for the District of Columbia, seeking a declaratory judgment under the Voting Rights Act that the statutory plan did not have the prohibited purpose or effect. Ten Mississippi Negro voters intervened, urging that the statutory plan be declared invalid. On June 1, 1979, the District Court entered the declaration requested by the State, and it is that judgment which is the subject of the present appeal.

II

The legality of the statutory plan depends on whether it has the purpose or effect of diluting Negro voting strength in Mississippi. If the statutory plan is retrogressive, it is forbidden under the Voting Rights Act. *Beer v. United States*, 425 U. S. 130 (1976). The District Court correctly measured the statutory plan against the present apportionment of the Mississippi Legislature, which is the settlement plan embodied in the final judgment entered by the District Court for the

³ The petition for a writ of mandamus was denied on May 21, 1979, *Connor v. Coleman*, 441 U. S. 792; we noted that the Clerk of the District Court had "stated that all parties to the litigation have announced in open court that there will be no appeal." *Ibid.*

Southern District of Mississippi in response to our instruction to enter a plan "forthwith and without further delay."⁴

The District Court's findings reveal a long history of denial of Negro voting rights in Mississippi. Official use of racially discriminatory devices such as literacy tests, poll taxes, and white primaries effectively excluded Negroes from participation in the electoral process until the passage of the Voting Rights Act in 1965. The current effects of past discrimination are manifested in serious underrepresentation of Negroes in the state legislature. Although the latest census showed that Mississippi's population is 36.8% Negro, prior to the 1979 elections there were only four Negroes in the 122-member House of Representatives and none in the 52-member Senate. Because of racial bloc voting and low Negro voter registration and turnout, Negroes must constitute a substantial majority of citizens in a district in order to have a reasonable opportunity to elect a candidate of their choice. The court concluded that either a Negro population of 65% or a Negro voting age population of 60% was necessary to provide such an opportunity.

⁴The argument that retrogression should be measured against the 1975 court-ordered plan which was in effect when the legislature adopted the statutory plan is manifestly incorrect. The mandate of the Voting Rights Act is that a plan may not be adopted if it would dilute existing Negro voting strength. There is no dispute that the 1979 court-ordered plan was the governing law at the time the court below rendered its decision. If the statutory plan were not put into effect, future elections would be conducted under the court-ordered plan. Accordingly, it is simply incorrect to suggest that Negro voting rights were not "affected" by the 1979 court-ordered plan or that a subsequent statutory plan could not dilute the rights won under that plan. To suggest, as does Mr. JUSTICE STEVENS, *ante*, p. 1050, that the court-ordered plan that is now the law in Mississippi may be disregarded because the parties viewed it as a mere "backup" not only denigrates a final judgment of a federal court, entered at our direction after over a decade of litigation; it would also permit a state legislature freely to dilute Negro voting strength gained through any court-ordered plan under which elections had not yet been held. Such a result is plainly contrary to the Voting Rights Act.

It is evident from the findings of the District Court that the statutory plan significantly weakens the voting strength of Negroes in a number of ways. The statutory plan divides and diminishes Negro population concentrations, combines them with heavily white populations, and creates oddly shaped districts for no apparent reason other than to dilute the Negro vote. Under the plan presently in effect, 49 districts contain a majority of Negro voters; the statutory plan contains only 46 such districts. As the District Court acknowledged, under "the statutory plan's redistricting of Warren County, a heavy black population concentration is divided among three proposed house districts, turning a black majority into a black minority in all three districts." App. to Juris. Statement in No. 79-504, pp. 18a-19a.

The court concluded that the elimination of three majority districts was insignificant, relying on its finding that a Negro voting-age population of 60% was necessary in order for Negroes to have a fair opportunity to elect a candidate of their choice. Apparently the court reasoned that the diminution in the number of districts with a mere majority of Negro voters was not retrogressive since even under the plan presently in effect, Negro voters in those districts could not elect candidates. But a majority population gives Negroes at least some opportunity to elect a candidate of their choice; a minority gives them practically none. Indeed, in some of the counties with Negro majorities under the existing plan but not under the statutory plan, Negroes have been extremely active in city government and have a genuine opportunity to elect a candidate of their choice.⁵ The District Court's mechanical application of the 60% standard eliminates that opportunity.

In a number of other districts appellee failed to carry

⁵ For example, in the Warren County district the community of Vicksburg has recently elected a Negro to the City Council. In addition, Bolton and Edwards, primarily Negro towns in the Hinds County district, have predominantly Negro city governments.

its burden of disproving retrogression within the meaning of *Beer*. In Leflore County, for example, existing law provides for a Negro voting-age population of 71.72%; the statutory plan reduces that population to 64.26%. The statutory plan fragments a heavily Negro population in that county, combining the larger portion with a white community. The record showed that because of past discrimination, Negro voting strength was severely inhibited in the county, in part because most Negroes reside in rural areas, where voter turnout is far less than in urban districts. There was testimony that a 65% Negro voting-age population substantially composed of rural Negroes was insufficient to provide a fair opportunity to elect candidates. By contrast, the 71.72% population provided by the existing plan is fully adequate.

The District Court's findings show that the statutory plan fragments a number of cohesive voting districts, combining communities where Negroes have been politically active with white populations for no discernible reason. There was uncontradicted testimony that in seven districts, the statutory plan deprives Negro voters of an opportunity to elect a candidate of their choice.⁶ In these circumstances, I am unable to accept

⁶ For example, in western Hinds County, a heavily Negro district under the present law is divided into three sections, each of which is combined with greater white populations in surrounding suburbs. In Marshall County, the only district that has elected a Negro supervisor is split up, and the voting strength of Negro voters in the county's House district is diluted by the inclusion of the predominantly white Holly Springs precinct. The county's Negro voting population is thus reduced from 62% to 56%. In Adams County, the statutory plan divides the only supervisors' district with a majority Negro population into two districts. The northern portion of Adams County is then combined with heavily white populations, which reduces the Negro population from almost 70% to 63%.

The District Court altogether ignored the retrogression in the electoral strength of Negro voters within the counties. This was a serious error, for county delegations to the Mississippi Legislature play a crucial role in local government. Legislation affecting the county is enacted by a scheme

the conclusion that the statutory plan would not lead to a retrogression in the position of Negro voters.

The District Court acknowledged these differences between the two plans, but upheld the statutory plan nonetheless, concluding that the differences were insufficient to constitute a discriminatory effect. The court pointed out that both plans had the same number of districts with Negro voting-age populations of 60% or more, and it relied heavily on "the fact that legislative reapportionment is the preferred vehicle for reapportionment, as is reflected by the broader tolerances which are allowed to legislatures, but not to courts, in the matter of deviations from uniform population requirements." App. to Juris. Statement in No. 79-504, p. 32a.⁷ It also relied on findings that the intervenors had not offered sufficient objections during the formulation of the statutory plan.

The District Court's reasoning amounts to a conclusion that there is a *de minimis* exception to the fundamental proposition that changes may not be made if they would produce a retrogression in the electoral potential of Negro voters. *Beer v. United States*, 425 U. S. 130 (1976). I am unable to dis-

of bills of local application in the state legislature; boards of supervisors exercise little legislative power. As a result, the county delegation is largely responsible for local governance. If the statutory plan is viewed from the perspective of particular counties, it is even more difficult to account for the District Court's finding that any retrogression was "insignificant."

⁷ The court also found that the State had carried its burden of proving that the statutory plan was not the product of a discriminatory intent, a conclusion that is in my view highly questionable. The unexplained discriminatory elements of the statutory plan, when combined with the State's prior history of discrimination, suggest that the State had not carried its burden. Indeed, the court entirely ignored testimony tending to show that members of the state legislature's joint reapportionment committee were aware that the statutory plan dilutes the strength of the Negro vote and that alternative configurations would preserve existing Negro population concentrations.

444 U. S.

February 19, 1980

cern such an exception in the Voting Rights Act or in any of our decisions. Such a gloss on the Act would invite a series of changes, seemingly insignificant in themselves, which over the course of years could result in a substantial decline in Negro voting strength. Nor is the decision below justified by the principle that legislatures may deviate more broadly than courts from uniform population requirements. The Voting Rights Act flatly prohibits state legislatures from “‘undo[ing] or defeat[ing] the rights recently won’ by Negroes.” *Beer v. United States, supra*, at 140. Finally, the asserted failure of the intervenors to offer sufficient objections to the statutory plan is wholly irrelevant to the inquiry required by the Voting Rights Act. The Act’s proscription on retrogression is simply not subject to waiver. The District Court’s conclusion would permit a State freely to dilute Negro voting strength whenever the Negro community is unable or unwilling to participate in the apportionment process.

By today’s summary affirmance, the Court permits the rights won less than a year ago, after generations of political efforts and well over a decade of litigation, to be thwarted by recalcitrant state officials. In so doing, the Court appears to condone a novel interpretation of the law that would find a *de minimis* exception to the clear and absolute requirements of the Voting Rights Act, and sanctions the application of this new doctrine to a case in which, as the record amply demonstrates, the dilution of Negro voting strength is not *de minimis* at all, but substantial. The plan approved today ensures that the Negro voters of Mississippi will not yet obtain an apportionment plan which meets the requirements of the Act. I dissent.

No. 79-555. DONNELL ET AL. v. UNITED STATES ET AL.
Affirmed on appeal from D. C. D. C. MR. JUSTICE BRENNAN
and MR. JUSTICE WHITE would note probable jurisdiction and
set case for oral argument.

February 19, 1980

444 U. S.

Appeals Dismissed

No. 78-1914. *UNIROYAL ENGLEBERT BELGIQUE, S. A. v. CONNELLY*. Appeal from Sup. Ct. Ill. dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied. Reported below: 75 Ill. 2d 393, 389 N. E. 2d 155.

No. 79-771. *ORR v. ORR*. Appeal from Ct. Civ. App. Ala. dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied. Reported below: 374 So. 2d 895.

No. 79-894. *PARKER v. TEXAS*. Appeal from Ct. Crim. App. 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: 578 S. W. 2d 755.

No. 79-925. *BAKER ET AL. v. OREGON STATE BAR ET AL.* 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: 40 Ore. App. 133, 595 P. 2d 850.

No. 79-945. *WALL v. VERMONT*. Appeal from Sup. Ct. Vt. dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied. Reported below: 137 Vt. 482, 408 A. 2d 632.

No. 79-971. *CEFALU v. GLOBE NEWSPAPER Co.* 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: 8 Mass. App. 71, 391 N. E. 2d 935.

444 U. S.

February 19, 1980

No. 79-5740. *WAYLAND v. KURTZ ET AL.* Appeal from C. A. 1st Cir. dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied. Reported below: 607 F. 2d 993.

No. 79-5777. *HAYES v. BOARD OF TRUSTEES OF CLARK COUNTY SCHOOL DISTRICT.* Appeal from Sup. Ct. Nev. dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied.

No. 79-533. *JACKSON v. WHITE, ADMINISTRATOR, ET AL.* Appeal from Sup. Ct. Ohio dismissed for want of substantial federal question. MR. JUSTICE WHITE and MR. JUSTICE STEVENS would note probable jurisdiction and set case for oral argument. Reported below: 59 Ohio St. 2d 6, 391 N. E. 2d 333.

No. 79-546. *HOME FEDERAL SAVINGS & LOAN ASSOCIATION OF HOLLYWOOD v. CHEMICAL REALTY CORP.* Appeal from Ct. App. N. C. dismissed for want of substantial federal question. Reported below: 40 N. C. App. 675, 253 S. E. 2d 621.

No. 79-841. *BAILEY ET UX. v. PENNINGTON.* Appeal from Sup. Ct. Del. dismissed for want of substantial federal question. Reported below: 406 A. 2d 44.

No. 79-844. *FURMAN, DBA NORTHSIDE SECRETARIAL SERVICE v. FLORIDA BAR.* Appeal from Sup. Ct. Fla. dismissed for want of substantial federal question. Reported below: 376 So. 2d 378.

No. 79-933. *PORTER v. PORTER.* Appeal from Ct. App. Tenn. dismissed for want of substantial federal question.

No. 79-1007. *HUGHES v. HUGHES.* Appeal from Ct. Civ. App. Ala. dismissed for want of substantial federal question. Reported below: 372 So. 2d 845.

February 19, 1980

444 U. S.

No. 79-948. *NORTH RIDGE GENERAL HOSPITAL, INC., ET AL. v. CITY OF OAKLAND PARK ET AL.* Appeal from Sup. Ct. Fla. dismissed for want of substantial federal question. Reported below: 374 So. 2d 461.

No. 79-981. *MINNESOTA EDUCATION ASSN. ET AL. v. MINNESOTA ET AL.* Appeal from Sup. Ct. Minn. dismissed for want of substantial federal question. Reported below: 282 N. W. 2d 915.

No. 79-1023. *POLYVEND, INC. v. PUCKORIUS ET AL.* Appeal from Sup. Ct. Ill. dismissed for want of substantial federal question. Reported below: 77 Ill. 2d 287, 395 N. E. 2d 1376.

No. 79-1048. *CARLSON v. MINNESOTA.* Appeal from Sup. Ct. Minn. dismissed for want of substantial federal question. Reported below: 283 N. W. 2d 516.

No. 79-992. *AUSTIN MUTUAL INSURANCE CO. v. GUDVANGEN.* Appeal from Sup. Ct. Minn. dismissed for want of substantial federal question. MR. JUSTICE BLACKMUN would note probable jurisdiction and set case for oral argument. Reported below: 284 N. W. 2d 813.

No. 79-5521. *THOMPSON v. THOMPSON.* Appeal from Ct. App. Md. dismissed for want of substantial federal question. MR. JUSTICE STEVENS would note probable jurisdiction and set case for oral argument. Reported below: 285 Md. 488, 404 A. 2d 269.

No. 79-5816. *FIELDHOUSE ET UX. v. PUBLIC HEALTH TRUST OF DADE COUNTY.* Appeal from Sup. Ct. Fla. dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied. MR. JUSTICE BRENNAN and MR. JUSTICE WHITE would note probable jurisdiction and set case for oral argument. Reported below: 374 So. 2d 476.

444 U.S.

February 19, 1980

No. 79-5532. *STRUBE v. SUMNER*. Appeal from Ct. App. Ind. dismissed for want of substantial federal question. Reported below: — Ind. App. —, 385 N. E. 2d 948.

Certiorari Granted—Reversed in Part and Remanded. (See Nos. 78-1871 and 79-265, *ante*, p. 507.)

Certiorari Granted—Vacated and Remanded

No. 78-1005. *BROWN, SECRETARY OF DEFENSE, ET AL. v. ALLEN ET AL.* C. A. 9th Cir. Certiorari granted, judgment vacated, and case remanded for further consideration in light of *Secretary of Navy v. Huff*, *ante*, p. 453. Reported below: 583 F. 2d 438.

No. 79-517. *ESCHMANN BROS. & WALSH, LTD. v. V. MUELLER & Co.* Ct. App. Colo. Certiorari granted, judgment vacated, and case remanded for further consideration in light of *World-Wide Volkswagen Corp. v. Woodson*, *ante*, p. 286.

Vacated and Remanded After Certiorari Granted

No. 79-5215. *IN RE OTIS ET AL. (SUBLER, PETITIONER)*. Ct. App. Ohio, Van Wert County. [Certiorari granted, *ante*, p. 924.] Upon consideration of motion of petitioner for summary reversal, it is ordered that the judgment be vacated and case remanded for further consideration in light of *State ex rel. Heller v. Miller*, 61 Ohio St. 2d 6, 399 N. E. 2d 66 (1980).

No. 79-5499. *SKIPPER v. BRUMMER ET AL.* C. A. 5th Cir. [Certiorari granted, *ante*, p. 1012.] Upon consideration of motion of the State of Florida for reconsideration of the order of this Court entered on January 7, 1980 [*ante*, p. 1012], it is ordered that the judgment be vacated and case remanded for further consideration in light of subsequent proceedings referred to in respondent's motion for reconsideration and supplement thereto.

February 19, 1980

444 U. S.

Miscellaneous Orders

No. A-636. CALIFORNIA *v.* BRAESEKE. Application for stay of execution and enforcement of judgment of the Supreme Court of California, presented to MR. JUSTICE REHNQUIST, and by him referred to the Court, granted pending timely filing and disposition of petition for writ of certiorari. MR. JUSTICE BRENNAN, MR. JUSTICE MARSHALL, and MR. JUSTICE STEVENS would deny the application.

No. A-644. MEAD CORP. ET AL. *v.* ADAMS EXTRACT CO. ET AL. Application for stay of order of the United States District Court for the Southern District of Texas, addressed to MR. JUSTICE BRENNAN and referred to the Court, denied. MR. JUSTICE POWELL took no part in the consideration or decision of this application.

No. A-663. BUCKLEY ET AL. *v.* McRAE ET AL. Application for stay of judgment of the United States District Court for the Eastern District of New York, presented to MR. JUSTICE MARSHALL, and by him referred to the Court, denied. THE CHIEF JUSTICE, MR. JUSTICE POWELL, and MR. JUSTICE REHNQUIST would grant the application.

No. 9, Orig. UNITED STATES *v.* LOUISIANA ET AL. Motion of Mississippi for entry of a supplemental decree and cross-motion of the United States referred to the Special Master. [For earlier order herein, see, *e. g.*, *ante*, p. 1029.]

No. 65, Orig. TEXAS *v.* NEW MEXICO. Motion of New Mexico to strike response of the United States denied. Alternative request to file a reply granted. Objections to Report of the Special Master on the obligations of New Mexico to Texas under the Pecos River Compact set for oral argument in due course. [For earlier order herein, see, *e. g.*, *ante*, p. 912.]

444 U. S.

February 19, 1980

No. 73, Orig. CALIFORNIA *v.* NEVADA. Exceptions to Report of the Special Master set for oral argument in due course. The Solicitor General is invited to file a brief in this case expressing the views of the United States. [For earlier order herein, see, *e. g., ante*, p. 922.]

No. 84, Orig. UNITED STATES *v.* ALASKA. It is ordered that J. Keith Mann, Esquire, of Stanford, Cal., be 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. [For earlier order herein, see 442 U. S. 937.]

No. 85, Orig. TEXAS *v.* OKLAHOMA. Motion for leave to file a bill of complaint granted and the defendant shall have 60 days to answer.

No. 78-1793. ROBERTS *v.* UNITED STATES. C. A. D. C. Cir. [Certiorari granted, *ante*, p. 822.] Motion of petitioner for leave to file a supplemental brief after argument granted.

February 19, 1980

444 U. S.

No. 78-6899. GODFREY *v.* GEORGIA. Sup. Ct. Ga. [Certiorari granted, *ante*, p. 897.] Motion of Rayfield Newlon for leave to file a brief as *amicus curiae* denied.

No. 79-1. AMERICAN EXPORT LINES, INC. *v.* ALVEZ ET AL. Ct. App. N. Y. [Certiorari granted, *ante*, p. 924.] Motion of respondent Vinal Ship Maintenance for divided argument denied.

No. 79-4. WILLIAMS ET AL. *v.* ZBARAZ ET AL.;

No. 79-5. MILLER, ACTING DIRECTOR, DEPARTMENT OF PUBLIC AID OF ILLINOIS, ET AL. *v.* ZBARAZ ET AL.; and

No. 79-491. UNITED STATES *v.* ZBARAZ ET AL. D. C. N. D. Ill. [Probable jurisdiction postponed, *ante*, p. 962.] Motions of Washington Legal Foundation and United States Catholic Conference for leave to file briefs as *amici curiae* granted.

No. 79-8. UNITED STATES *v.* RADDATZ. C. A. 7th Cir. [Certiorari granted, *ante*, p. 824.] Motion of the Solicitor General to permit Andrew J. Levander, Esquire, to present oral argument *pro hac vice* granted.

No. 79-48. ANDRUS, SECRETARY OF THE INTERIOR, ET AL. *v.* GLOVER CONSTRUCTION Co. C. A. 10th Cir. [Certiorari granted, *ante*, p. 962.] Motion of Association of American Indian Affairs et al. for leave to file a brief as *amici curiae* granted.

No. 79-81. COFFY *v.* REPUBLIC STEEL CORP. C. A. 6th Cir. [Certiorari granted, *ante*, p. 924.] Motion of the Solicitor General to permit Alan I. Horowitz, Esquire, to present oral argument *pro hac vice* granted.

No. 79-116. THOMAS *v.* WASHINGTON GAS LIGHT Co. ET AL. C. A. 4th Cir. [Certiorari granted, *ante*, p. 962.] Motion of the Solicitor General for divided argument granted.

444 U.S.

February 19, 1980

No. 79-192. NEW YORK GASLIGHT CLUB, INC., ET AL. v. CAREY. C. A. 2d Cir. [Certiorari granted, *ante*, p. 897.] Motion of the Solicitor General for divided argument granted.

No. 79-244. UNITED STATES v. SALVUCCI ET AL. C. A. 1st Cir. [Certiorari granted, *ante*, p. 989.] Motions of respondents for appointment of counsel granted, and it is ordered that John C. McBride, Esquire, of Everett, Mass., be appointed to serve as counsel for respondent Zackular; and it is ordered that Willie J. Davis, Esquire, of Boston, Mass., be appointed to serve as counsel for respondent Salvucci in this case. Motions of respondents for divided argument granted.

No. 79-394. UNITED STATES v. WARD, DBA L. O. WARD OIL & GAS OPERATIONS. C. A. 10th Cir. [Certiorari granted, *ante*, p. 939.] Motion of Mountain States Legal Foundation et al. for leave to participate in oral argument as *amici curiae* denied.

No. 79-421. BRYANT ET AL. v. YELLEN ET AL.;

No. 79-425. CALIFORNIA ET AL. v. YELLEN ET AL.; and

No. 79-435. IMPERIAL IRRIGATION DISTRICT ET AL. v. YELLEN ET AL. C. A. 9th Cir. [Certiorari granted, *ante*, p. 978.] Motion of petitioners for additional time for oral argument granted, and 15 additional minutes allotted for that purpose. Respondents also allotted 15 additional minutes for oral argument.

No. 79-509. EXXON CORP. v. DEPARTMENT OF REVENUE OF WISCONSIN. Sup. Ct. Wis. [Probable jurisdiction noted, *ante*, p. 961.] Motion of Associated Dry Goods Corp. for leave to file a brief as *amicus curiae* granted.

No. 79-701. ROADWAY EXPRESS, INC. v. MONK ET AL. C. A. 5th Cir. [Certiorari granted, *ante*, p. 1012.] Joint motion to dispense with printing appendix granted.

February 19, 1980

444 U. S.

No. 79-725. MAINE PUBLIC UTILITIES COMMISSION *v.* CENTRAL MAINE POWER Co. Sup. Jud. Ct. Me.; and

No. 79-907. INGRAM, SECRETARY, DEPARTMENT OF HUMAN SERVICES OF NEW MEXICO *v.* NOLAN. C. A. 10th Cir. The Solicitor General is invited to file briefs in these cases expressing the views of the United States.

No. 79-972. WESTVACO CORP. ET AL. *v.* ADAMS EXTRACT CO. ET AL. C. A. 5th Cir. The Solicitor General is invited to file a brief in this case expressing the views of the United States. MR. JUSTICE POWELL took no part in the consideration or decision of this order.

No. 79-5927. BURKS *v.* UNITED STATES. Motion for leave to file petition for writ of certiorari denied.

No. 79-5888. BRADIN *v.* DAY, WARDEN. Motion for leave to file petition for writ of habeas corpus denied.

No. 79-5857. CLARK *v.* UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEW MEXICO; and

No. 79-5925. FORD *v.* ALDISERT, U. S. CIRCUIT JUDGE, ET AL. Motions for leave to file petitions for writs of mandamus denied.

No. 79-5699. RYAN ET AL. *v.* UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT. Motion for leave to file a petition for writ of mandamus denied. MR. JUSTICE STEVENS took no part in the consideration or decision of this motion.

Probable Jurisdiction Noted or Postponed

No. 79-983. UNITED STATES *v.* WILL ET AL. Appeal from D. C. N. D. Ill. Further consideration of question of jurisdiction postponed to hearing of case on the merits. In addition to the questions presented by the statement as to jurisdiction, the parties are directed to address the effect of 28 U. S. C. § 455 on the jurisdiction of the District Court and on the jurisdiction of this Court. Reported below: 478 F. Supp. 621.

444 U.S.

February 19, 1980

No. 79-870. UNITED STATES RAILROAD RETIREMENT BOARD *v.* FRITZ. Appeal from D. C. S. D. Ind. Motions of National Railway Conference and Railway Labor Executives' Association for leave to file briefs as *amici curiae* granted. Probable jurisdiction noted.

No. 79-1268. HARRIS, SECRETARY OF HEALTH, EDUCATION, AND WELFARE *v.* McRAE ET AL. Application for stay of judgment of the United States District Court for the Eastern District of New York, presented to MR. JUSTICE MARSHALL, and by him referred to the Court, denied. THE CHIEF JUSTICE, MR. JUSTICE POWELL, and MR. JUSTICE REHNQUIST would grant the application. Treating the application as a statement as to jurisdiction, probable jurisdiction noted. Appellees' request to expedite the briefing schedule granted. Opening briefs on the merits shall be filed on or before March 18, 1980. Replies thereto shall be filed on or before April 10, 1980. Case set for oral argument in tandem with No. 79-4, *Williams v. Zbaraz*; No. 79-5, *Miller v. Zbaraz*; and No. 79-491, *United States v. Zbaraz* [probable jurisdiction postponed, *ante*, p. 962]. Reported below: 491 F. Supp. 630.

Certiorari Granted

No 78-1841. CUYLER, CORRECTIONAL SUPERINTENDENT, ET AL. *v.* ADAMS. C. A. 3d Cir. Certiorari granted. Reported below: 592 F. 2d 720.

No. 79-770. ENVIRONMENTAL PROTECTION AGENCY *v.* NATIONAL CRUSHED STONE ASSN. ET AL.; and COSTLE, ADMINISTRATOR, ENVIRONMENTAL PROTECTION AGENCY *v.* CONSOLIDATION COAL Co. ET AL. C. A. 4th Cir. Certiorari granted. Reported below: 601 F. 2d 111 (first case); 604 F. 2d 239 (second case).

No. 79-816. POTOMAC ELECTRIC POWER Co. *v.* DIRECTOR, OFFICE OF WORKERS' COMPENSATION PROGRAMS, U. S. DEPARTMENT OF LABOR, ET AL. C. A. D. C. Cir. Certiorari granted. Reported below: 196 U. S. App. D. C. 417, 606 F. 2d 1324.

February 19, 1980

444 U.S.

No. 79-927. BOARD OF GOVERNORS OF FEDERAL RESERVE SYSTEM *v.* INVESTMENT COMPANY INSTITUTE. C. A. D. C. Cir. Certiorari granted. Reported below: 196 U. S. App. D. C. 97, 606 F. 2d 1004.

No. 79-938. ALLSTATE INSURANCE CO. *v.* HAGUE, PERSONAL REPRESENTATIVE OF HAGUE'S ESTATE. Sup. Ct. Minn. Certiorari granted. Reported below: 289 N. W. 2d 43.

No. 79-952. THOMAS *v.* REVIEW BOARD OF THE INDIANA EMPLOYMENT SECURITY DIVISION ET AL. Sup. Ct. Ind. Certiorari granted. Reported below: — Ind. —, 391 N. E. 2d 1127.

No. 79-567. UNITED STATES *v.* DiFRANCESCO. C. A. 2d Cir. Motion of respondent for leave to proceed *in forma pauperis* and certiorari granted. Reported below: 604 F. 2d 769.

No. 79-935. ALLEN ET AL. *v.* McCURRY. C. A. 8th Cir. Motion of respondent for leave to proceed *in forma pauperis* and certiorari granted. Reported below: 606 F. 2d 795.

No. 79-939. DELAWARE STATE COLLEGE ET AL. *v.* RICKS. C. A. 3d Cir. Certiorari granted limited to Questions 1, 2, and 3 presented by the petition. Reported below: 605 F. 2d 710.

No. 79-5267. PEREZ *v.* WAINWRIGHT, SECRETARY, DEPARTMENT OF OFFENDER REHABILITATION OF FLORIDA. C. A. 5th Cir. Motion of petitioner for leave to proceed *in forma pauperis* and certiorari granted. Reported below: 594 F. 2d 159.

No. 79-5602. FEDORENKO *v.* UNITED STATES. C. A. 5th Cir. Motion of petitioner for leave to proceed *in forma pauperis* and certiorari granted. Reported below: 597 F. 2d 946.

Certiorari Denied. (See also Nos. 78-1914, 79-771, 79-894, 79-825, 79-945, 79-971, 79-5740, 79-5777, and 79-5816, *supra.*)

No. 78-1100. BROWN *v.* BLAMEY. Sup. Ct. Minn. Certiorari denied. Reported below: 270 N. W. 2d 884.

444 U.S.

February 19, 1980

No. 78-6798. BRYAN *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 591 F. 2d 1161.

No. 79-419. WEAVER *v.* IOWA. Ct. App. Iowa. Certiorari denied. Reported below: 281 N. W. 2d 38.

No. 79-422. TAIBE *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. Reported below: 591 F. 2d 1333.

No. 79-527. JOCK ET AL. *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied. Reported below: 601 F. 2d 577.

No. 79-579. ERWIN ET AL. *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 602 F. 2d 1183.

No. 79-601. DRIVER ET AL. *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 599 F. 2d 1056.

No. 79-613. MOSS *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied. Reported below: 604 F. 2d 569.

No. 79-650. CRUZ *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied. Reported below: 603 F. 2d 673.

No. 79-654. MERLINO *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 595 F. 2d 1016.

No. 79-673. PROVIDENCE JOURNAL CO. *v.* FEDERAL BUREAU OF INVESTIGATION ET AL. C. A. 1st Cir. Certiorari denied. Reported below: 602 F. 2d 1010.

No. 79-692. SCHWARTZE ET AL. *v.* WENZ ET AL. Sup. Ct. Mont. Certiorari denied. Reported below: — Mont. —, 598 P. 2d 1086.

No. 79-713. MORRILTON SCHOOL DISTRICT No. 32 ET AL. *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied. [See also *ante*, p. 1050.] Reported below: 606 F. 2d 222.

February 19, 1980

444 U. S.

No. 79-710. *HONICKER v. HENDRIE ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 605 F. 2d 556.

No. 79-718. *VIGNOLA v. UNITED STATES.* C. A. 3d Cir. Certiorari denied. Reported below: 605 F. 2d 1199.

No. 79-724. *CORTELLESSO ET AL. v. UNITED STATES.* C. A. 1st Cir. Certiorari denied. Reported below: 601 F. 2d 28.

No. 79-736. *SOUTH AFRICAN MARINE CORP., LTD. v. ELGIE & Co.* C. A. 2d Cir. Certiorari denied. Reported below: 599 F. 2d 1177.

No. 79-741. *SAFEWAY TRAILS, INC. v. NATIONAL LABOR RELATIONS BOARD.* C. A. D. C. Cir. Certiorari denied. Reported below: 205 U. S. App. D. C. 440, 641 F. 2d 930.

No. 79-745. *CHENOWETH ET AL. v. NEVADA ET AL.* C. A. 9th Cir. Certiorari denied.

No. 79-747. *NAVAJO TRIBE OF INDIANS v. UNITED STATES.* Ct. Cl. Certiorari denied. Reported below: 220 Ct. Cl. 360, 601 F. 2d 536.

No. 79-748. *GOLDMAN ET AL., TRUSTEES v. WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY.* C. A. 4th Cir. Certiorari denied. Reported below: 599 F. 2d 1050.

No. 79-749. *BLANCO ET UX. v. UNITED STATES.* Ct. Cl. Certiorari denied. Reported below: 221 Ct. Cl. 68, 602 F. 2d 324.

No. 79-750. *LIBERTY NATIONAL LIFE INSURANCE Co. v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. Reported below: 600 F. 2d 1106.

No. 79-752. *CERTIFIED MEATS, INC., ET AL. v. NATIONAL LABOR RELATIONS BOARD.* C. A. 7th Cir. Certiorari denied. Reported below: 605 F. 2d 559.

444 U. S.

February 19, 1980

No. 79-753. *HOFFMAN ET AL. v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 600 F. 2d 590.

No. 79-754. *JONES v. LOUISIANA STATE BAR ASSN.* Sup. Ct. La. Certiorari denied. Reported below: 372 So. 2d 1186.

No. 79-757. *CUMMINS ENGINE CO., INC. v. CARNEY*. C. A. 7th Cir. Certiorari denied. Reported below: 602 F. 2d 763.

No. 79-761. *PACKARD v. UNITED STATES*. C. A. 9th Cir. Certiorari denied.

No. 79-774. *LABRIOLA v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 614 F. 2d 1292.

No. 79-779. *DRYWALL TAPERS & POINTERS OF GREATER NEW YORK, LOCAL 1974, ET AL. v. OPERATIVE PLASTERERS' & CEMENT MASONS' INTERNATIONAL ASSOCIATION OF THE UNITED STATES AND CANADA ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 601 F. 2d 675.

No. 79-789. *FATICO v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 603 F. 2d 1053.

No. 79-791. *CONSOLIDATED GAS SUPPLY CORP. v. FEDERAL ENERGY REGULATORY COMMISSION ET AL.* C. A. D. C. Cir. Certiorari denied. Reported below: 196 U. S. App. D. C. 57, 606 F. 2d 323.

No. 79-792. *HIATT GRAIN & FEED, INC. v. BERGLAND, SECRETARY OF AGRICULTURE, ET AL.* C. A. 10th Cir. Certiorari denied. Reported below: 602 F. 2d 929.

No. 79-793. *HOUSTON LIGHTING & POWER CO. ET AL. v. INTERSTATE COMMERCE COMMISSION ET AL.* C. A. D. C. Cir. Certiorari denied. Reported below: 196 U. S. App. D. C. 224, 606 F. 2d 1131.

February 19, 1980

444 U.S.

No. 79-799. *JONES ET AL. v. FEDERAL ELECTION COMMISSION ET AL.* C. A. D. C. Cir. Certiorari denied. Reported below: 198 U. S. App. D. C. 131, 613 F. 2d 864.

No. 79-800. *COMMITTEE TO ELECT LYNDON LAROCHE ET AL. v. FEDERAL ELECTION COMMISSION.* C. A. D. C. Cir. Certiorari denied. Reported below: 198 U. S. App. D. C. 116, 613 F. 2d 849.

No. 79-801. *COMMITTEE TO ELECT LYNDON LAROCHE ET AL. v. FEDERAL ELECTION COMMISSION.* C. A. D. C. Cir. Certiorari denied. Reported below: 198 U. S. App. D. C. 101, 613 F. 2d 834.

No. 79-805. *COMMUNITY CASH STORES, INC. v. NATIONAL LABOR RELATIONS BOARD.* C. A. 4th Cir. Certiorari denied. Reported below: 603 F. 2d 217.

No. 79-808. *FREZZO BROTHERS, INC., ET AL. v. UNITED STATES.* C. A. 3d Cir. Certiorari denied. Reported below: 602 F. 2d 1123.

No. 79-811. *CLAIBORNE HARDWARE CO. ET AL. v. HENRY ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 595 F. 2d 291.

No. 79-823. *HANSON v. UNITED STATES ET AL.* C. A. 5th Cir. Certiorari denied.

No. 79-829. *FIRST JERSEY SECURITIES, INC., ET AL. v. BIUNNO, U. S. DISTRICT JUDGE (BERGEN ET AL., REAL PARTIES IN INTEREST).* C. A. 3d Cir. Certiorari denied. Reported below: 605 F. 2d 690.

No. 79-830. *VINSON v. UNITED STATES.* C. A. 6th Cir. Certiorari denied. Reported below: 606 F. 2d 149.

No. 79-831. *CROWN CENTRAL PETROLEUM CORP. v. PHILLIPS ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 602 F. 2d 616.

444 U.S.

February 19, 1980

No. 79-832. *DEAN v. CALIFORNIA*. Ct. App. Cal., 1st App. Dist. Certiorari denied.

No. 79-833. *KONDRAT v. CITY OF WILLOUGHBY HILLS ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 601 F. 2d 589.

No. 79-835. *WILSON ET AL. v. CALIFORNIA*. Ct. App. Cal., 4th App. Dist. Certiorari denied.

No. 79-839. *IRONS & SEARS v. COMMISSIONER OF PATENTS AND TRADEMARKS*. C. A. D. C. Cir. Certiorari denied. Reported below: 196 U. S. App. D. C. 308, 606 F. 2d 1215.

No. 79-840. *WICKHAM CONTRACTING Co., INC., ET AL. v. ROBERT J. HARDER, INC., ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 607 F. 2d 1000.

No. 79-842. *RIVERSIDE MEMORIAL MAUSOLEUM, INC., T/A DELAWARE VALLEY MEMORIAL CENTER, ET AL. v. SONNENBLICK-GOLDMAN CORP.* C. A. 3d Cir. Certiorari denied. Reported below: 605 F. 2d 1196.

No. 79-846. *BRAMSCHER, TRUSTEE IN BANKRUPTCY v. ZAHN ET UX.* C. A. 7th Cir. Certiorari denied. Reported below: 605 F. 2d 323.

No. 79-858. *KIRKPATRICK v. UNITED STATES*. C. A. 10th Cir. Certiorari denied. Reported below: 605 F. 2d 1160.

No. 79-849. *SMITH'S FOOD KING v. RETAIL CLERKS UNION, LOCAL 1442, RETAIL CLERKS INTERNATIONAL ASSN., AFL-CIO*. C. A. 9th Cir. Certiorari denied. Reported below: 605 F. 2d 563.

No. 79-853. *ELIAS ET AL. v. A & C DISTRIBUTING Co., INC., ET AL.* Ct. App. Tenn. Certiorari denied. Reported below: 588 S. W. 2d 768.

February 19, 1980

444 U.S.

No. 79-860. *ROBERTS v. UPPER MILFORD TOWNSHIP ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 605 F. 2d 1197.

No. 79-861. *CONNELLY CONTAINERS, INC. v. LAKE UTOPIA PAPER, LTD.* C. A. 2d Cir. Certiorari denied. Reported below: 608 F. 2d 928.

No. 79-863. *GREGG v. U. S. INDUSTRIES, INC., ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 605 F. 2d 1199.

No. 79-866. *JAGO, CORRECTIONAL SUPERINTENDENT v. SPEIGNER.* C. A. 6th Cir. Certiorari denied.

No. 79-867. *THOMPSON v. KENTUCKY.* Sup. Ct. Ky. Certiorari denied. Reported below: 589 S. W. 2d 897.

No. 79-868. *ADOLPH COORS Co. v. R. E. SPRIGGS Co., INC., ET AL.* Ct. App. Cal., 2d App. Dist. Certiorari denied. Reported below: 94 Cal. App. 3d 419, 156 Cal. Rptr. 738.

No. 79-869. *CHAUFFEURS, TEAMSTERS & HELPERS LOCAL 150 ET AL. v. SHERROD.* Ct. App. Cal., 3d App. Dist. Certiorari denied.

No. 79-872. *BAILEY, ADMINISTRATRIX v. UNITED STATES.* C. A. 2d Cir. Certiorari denied. Reported below: 614 F. 2d 1285.

No. 79-873. *LITTLE ROCK NEWSPAPERS, INC. v. DODRILL.* Sup. Ct. Ark. Certiorari denied. Reported below: 265 Ark. 628, 590 S. W. 2d 840.

No. 79-875. *SHUI PING WU ET AL. v. MARYLAND.* Ct. Sp. App. Md. Certiorari denied. Reported below: 43 Md. App. 109, 403 A. 2d 819.

No. 79-877. *LORCH ET AL. v. COMMISSIONER OF INTERNAL REVENUE.* C. A. 2d Cir. Certiorari denied. Reported below: 605 F. 2d 657.

444 U.S.

February 19, 1980

No. 79-878. WESTMORELAND HOSPITAL ASSN. ET AL. *v.* BLUE CROSS OF WESTERN PENNSYLVANIA. C. A. 3d Cir. Certiorari denied. Reported below: 605 F. 2d 119.

No. 79-879. TRACY, JUDGE *v.* GOLSTON ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 603 F. 2d 225.

No. 79-887. TERRY *v.* INDIANA SUPREME COURT DISCIPLINARY COMMISSION. Sup. Ct. Ind. Certiorari denied. Reported below: — Ind. —, 394 N. E. 2d 94.

No. 79-888. BILLINGSLEY ET UX. *v.* MOORE ET AL. Ct. Sp. App. Md. Certiorari denied.

No. 79-889. ROMEROS *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 600 F. 2d 1104.

No. 79-890. LAMERS DAIRY, INC., ET AL. *v.* SECRETARY OF AGRICULTURE. C. A. 7th Cir. Certiorari denied. Reported below: 607 F. 2d 1007.

No. 79-893. ROY ET UX. *v.* ONONDAGA COUNTY DEPARTMENT OF SOCIAL SERVICES. App. Div., Sup. Ct. N. Y., 4th Jud. Dept. Certiorari denied. Reported below: 71 App. Div. 2d 815, 418 N. Y. S. 2d 913.

No. 79-895. INTERNATIONAL UNION OF OPERATING ENGINEERS, LOCAL 701, ET AL. *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 638 F. 2d 1161.

No. 79-898. EDGAR ET UX. *v.* WASHINGTON. Sup. Ct. Wash. Certiorari denied. Reported below: 92 Wash. 2d 217, 595 P. 2d 534.

No. 79-905. JOSIAH *v.* GOVERNMENT OF THE VIRGIN ISLANDS;

No. 79-916. RIVERA *v.* GOVERNMENT OF THE VIRGIN ISLANDS; and

No. 79-5734. RIOS *v.* GOVERNMENT OF THE VIRGIN ISLANDS. C. A. 3d Cir. Certiorari denied. Reported below: 609 F. 2d 501.

February 19, 1980

444 U.S.

No. 79-906. RANCHO LA COSTA, INC., DBA LA COSTA COUNTRY CLUB *v.* ALCOHOLIC BEVERAGE CONTROL APPEALS BOARD ET AL. Ct. App. Cal., 4th App. Dist. Certiorari denied.

No. 79-909. SMITH *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 611 F. 2d 375.

No. 79-911. KOEHL, ADMINISTRATOR, ET AL. *v.* UNITED STATES FIRE INSURANCE Co. Ct. App. Ohio, Hamilton County. Certiorari denied.

No. 79-918. SHUFFMAN, EXECUTRIX *v.* HARTFORD TEXTILE CORP. ET AL. C. A. 2d Cir. Certiorari denied.

No. 79-919. WHISKERS ET AL. *v.* UNITED STATES ET AL. C. A. 10th Cir. Certiorari denied. Reported below: 600 F. 2d 1332.

No. 79-922. GOULD *v.* GAVETT ET AL. C. A. 4th Cir. Certiorari denied. Reported below: 591 F. 2d 1339.

No. 79-931. HAYES ET AL. *v.* SOLOMON ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 597 F. 2d 958.

No. 79-940. DE TOLEDANO *v.* NADER. Ct. App. D. C. Certiorari denied. Reported below: 408 A. 2d 31.

No. 79-942. SHUFFMAN, EXECUTRIX *v.* HARTFORD TEXTILE CORP. ET AL. C. A. 2d Cir. Certiorari denied.

No. 79-946. RAMEY *v.* RAMEY. Sup. Ct. S. C. Certiorari denied. Reported below: 273 S. C. 680, 258 S. E. 2d 883.

No. 79-947. CALHOUN ET AL. *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 604 F. 2d 647.

No. 79-950. SAVERSLAK, TRUSTEE *v.* DAVIS-CLEAVER PRODUCE Co. C. A. 7th Cir. Certiorari denied. Reported below: 606 F. 2d 208.

444 U. S.

February 19, 1980

No. 79-954. *SHANAHAN v. MAINE*. Sup. Jud. Ct. Me. Certiorari denied. Reported below: 404 A. 2d 975.

No. 79-957. *PANARELLA v. NEW YORK*. Ct. App. N. Y. Certiorari denied. Reported below: 48 N. Y. 2d 783, 399 N. E. 2d 952.

No. 79-961. *AMBASSADOR COLLEGE v. GOETZKE*. Sup. Ct. Ga. Certiorari denied. Reported below: 244 Ga. 322, 260 S. E. 2d 27.

No. 79-964. *HIKSON v. ARKANSAS*. Ct. App. Ark. Certiorari denied. Reported below: 266 Ark. 778, 587 S. W. 2d 70.

No. 79-966. *LYKOS ET AL. v. AMERICAN HOME ASSURANCE Co.* C. A. 7th Cir. Certiorari denied. Reported below: 609 F. 2d 314.

No. 79-967. *FLOYD v. ALABAMA*. Sup. Ct. Ala. Certiorari denied. Reported below: 375 So. 2d 280.

No. 79-968. *COUGHENOUR v. MILLS*. Ct. Sp. App. Md. Certiorari denied.

No. 79-970. *LLINAS v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 603 F. 2d 506.

No. 79-976. *FALSTAFF BREWING CORP. v. LOCAL No. 153, INTERNATIONAL BROTHERHOOD OF TEAMSTERS, CHAUFFEURS, WAREHOUSEMEN & HELPERS OF AMERICA*. C. A. 3d Cir. Certiorari denied. Reported below: 609 F. 2d 501.

No. 79-977. *NEILSON ET AL. v. WYOMING*. Sup. Ct. Wyo. Certiorari denied. Reported below: 599 P. 2d 1326.

No. 79-982. *ROBERTS, ATTORNEY GENERAL OF RHODE ISLAND v. NARRAGANSETT ELECTRIC Co.* Sup. Ct. R. I. Certiorari denied. Reported below: — R. I. —, 404 A. 2d 821.

February 19, 1980

444 U. S.

No. 79-985. *SEWELL v. PHILLIPS PETROLEUM Co.* C. A. 10th Cir. Certiorari denied. Reported below: 606 F. 2d 274.

No. 79-987. *JONES ET AL. v. WOLF ET AL.* Sup. Ct. Ga. Certiorari denied. Reported below: 244 Ga. 388, 260 S. E. 2d 84.

No. 79-988. *KRAUSE ET AL. v. CITY OF BRUNSWICK ET AL.* Sup. Ct. Ga. Certiorari denied. Reported below: 244 Ga. 395, 260 S. E. 2d 348.

No. 79-990. *CAMPBELL v. DISCIPLINARY BOARD OF THE WASHINGTON STATE BAR ASSN.* Sup. Ct. Wash. Certiorari denied.

No. 79-993. *JACKSON v. UNITED STATES.* C. A. 8th Cir. Certiorari denied. Reported below: 607 F. 2d 1219.

No. 79-995. *AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES (AFL-CIO) v. GALE, JUDGE.* Dist. Ct. App. Fla., 3d Dist. Certiorari denied. Reported below: 366 So. 2d 901.

No. 79-997. *LIBRACH v. UNITED STATES.* C. A. 8th Cir. Certiorari denied. Reported below: 609 F. 2d 919.

No. 79-998. *GLICKMAN ET AL. v. UNITED STATES.* C. A. 9th Cir. Certiorari denied. Reported below: 604 F. 2d 625.

No. 79-999. *FLORIDA EAST COAST RAILROAD Co. v. DEPARTMENT OF REVENUE OF FLORIDA.* Sup. Ct. Fla. Certiorari denied. Reported below: 378 So. 2d 344.

No. 79-1001. *SHUFFMAN, EXECUTRIX v. HARTFORD TEXTILE CORP. ET AL.* C. A. 2d Cir. Certiorari denied.

No. 79-1002. *MARCHIONDO v. TRAUB, JUDGE.* Sup. Ct. N. M. Certiorari denied.

No. 79-1004. *STUYVESANT INSURANCE Co. v. MASSACHUSETTS.* Ct. App. Mass. Certiorari denied. Reported below: 8 Mass. App. 871, 391 N. E. 2d 277.

444 U.S.

February 19, 1980

No. 79-1008. *ILLINOIS v. BISHOP*. App. Ct. Ill., 5th Dist. Certiorari denied. Reported below: 71 Ill. App. 3d 52, 388 N. E. 2d 1144.

No. 79-1010. *SIEBERT v. ILLINOIS*. App. Ct. Ill., 1st Dist. Certiorari denied. Reported below: 72 Ill. App. 3d 895, 390 N. E. 2d 1322.

No. 79-1011. *RANDELL v. BANZHOFF*. Sup. Ct. Ala. Certiorari denied. Reported below: 375 So. 2d 445.

No. 79-1012. *LASHMETT v. ILLINOIS*. App. Ct. Ill., 4th Dist. Certiorari denied. Reported below: 71 Ill. App. 3d 429, 389 N. E. 2d 888.

No. 79-1021. *GRANVILLE CENTRAL SCHOOL DISTRICT ET AL. v. THOMAS ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 607 F. 2d 1043.

No. 79-1026. *VAHALIK v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 606 F. 2d 99.

No. 79-1032. *REFRIGERATED FOOD LINE, ET AL. v. REPUBLIC INDUSTRIES, INC., ET AL.* C. A. 8th Cir. Certiorari denied. Reported below: 605 F. 2d 412.

No. 79-1034. *PANKO v. RODAK, CLERK OF U. S. SUPREME COURT, ET AL.* C. A. 7th Cir. Certiorari denied. Reported below: 606 F. 2d 168.

No. 79-1037. *STOCKTON & HING v. EVANS, TRUSTEE, ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 607 F. 2d 1243.

No. 79-1046. *SMITH v. SECRETARY OF HEALTH, EDUCATION, AND WELFARE*. C. A. 6th Cir. Certiorari denied. Reported below: 611 F. 2d 374.

No. 79-1052. *PRICE v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 610 F. 2d 819.

February 19, 1980

444 U. S.

No. 79-1054. *POE v. KING*, U. S. DISTRICT JUDGE. C. A. 9th Cir. Certiorari denied.

No. 79-1066. *FUSELIER v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 606 F. 2d 320.

No. 79-1081. *DRESSEL v. UNITED STATES*. C. A. 10th Cir. Certiorari denied. Reported below: 611 F. 2d 801.

No. 79-1083. *PRIDE v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 612 F. 2d 1311.

No. 79-1086. *FOSHEE ET AL. v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 606 F. 2d 111.

No. 79-1089. *SMITH v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 606 F. 2d 320.

No. 79-1095. *JIZMEJIAN v. DEPARTMENT OF AIR FORCE*. C. A. 4th Cir. Certiorari denied. Reported below: 607 F. 2d 1001.

No. 79-1113. *SCOTT v. MARYLAND*. Ct. Sp. App. Md. Certiorari denied.

No. 79-1114. *CARY v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 612 F. 2d 575.

No. 79-1118. *GLEASON v. UNITED STATES*; and
No. 79-1125. *LUFTIG v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 616 F. 2d 2.

No. 79-1131. *AWERKAMP v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 605 F. 2d 560.

No. 79-5440. *FOLEY v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 605 F. 2d 564.

No. 79-5483. *SOSA v. TEXAS*. Ct. Crim. App. Tex. Certiorari denied. Reported below: 579 S. W. 2d 937.

444 U. S.

February 19, 1980

No. 79-5519. *GREEN v. WHITE, TRAINING CENTER SUPERINTENDENT*. C. A. 8th Cir. Certiorari denied. Reported below: 605 F. 2d 376.

No. 79-5522. *BROWN v. UNITED STATES*;

No. 79-5579. *PARSONS v. UNITED STATES*; and

No. 79-5580. *CALDWELL v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: No. 79-5522, 605 F. 2d 1197; No. 79-5579, 605 F. 2d 1198; No. 79-5580, 605 F. 2d 1197.

No. 79-5537. *WALKER v. ESTELLE, CORRECTIONS DIRECTOR*. C. A. 5th Cir. Certiorari denied. Reported below: 599 F. 2d 448.

No. 79-5540. *HEATH v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 609 F. 2d 503.

No. 79-5550. *DICKINSON v. GOLDEN ET AL.* C. A. 5th Cir. Certiorari denied.

No. 79-5557. *GOODE v. MARKLEY, WARDEN, ET AL.* C. A. D. C. Cir. Certiorari denied. Reported below: 195 U. S. App. D. C. 391, 603 F. 2d 973.

No. 79-5560. *BAILEY v. SOUTH CAROLINA*. Sup. Ct. S. C. Certiorari denied. Reported below: 273 S. C. 467, 257 S. E. 2d 231.

No. 79-5566. *TAYLOR v. HOOPER, WARDEN*. C. A. 5th Cir. Certiorari denied. Reported below: 596 F. 2d 1284.

No. 79-5578. *FIorentino v. UNITED STATES*. Ct. Cl. Certiorari denied. Reported below: 221 Ct. Cl. 545, 607 F. 2d 963.

No. 79-5583. *PERRY v. WAINWRIGHT, SECRETARY, DEPARTMENT OF OFFENDER REHABILITATION OF FLORIDA, ET AL.* C. A. 5th Cir. Certiorari denied.

February 19, 1980

444 U. S.

No. 79-5590. *MAYFIELD v. MOHN, PENITENTIARY SUPER-INTENDENT*. Sup. Ct. App. W. Va. Certiorari denied.

No. 79-5613. *HOUGH v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 598 F. 2d 619.

No. 79-5614. *JACOBS v. SMITH, SUPERINTENDENT, MARYLAND STATE POLICE, ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 605 F. 2d 1202.

No. 79-5619. *MOREL v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 609 F. 2d 502.

No. 79-5623. *McCLANAHAN v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 610 F. 2d 808.

No. 79-5625. *BROWN v. NEW MEXICO*. Ct. App. N. M. Certiorari denied. Reported below: 93 N. M. 236, 599 P. 2d 389.

No. 79-5629. *ALCORTA v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 603 F. 2d 859.

No. 79-5641. *ENRIQUEZ-SANCHEZ v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 604 F. 2d 1184.

No. 79-5642. *HATCHER v. COMMISSIONER OF INTERNAL REVENUE*. C. A. 10th Cir. Certiorari denied.

No. 79-5647. *LAWRENCE v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 605 F. 2d 1321.

No. 79-5650. *FRAZIER v. LANE, WARDEN*. C. A. 6th Cir. Certiorari denied. Reported below: 611 F. 2d 372.

No. 79-5652. *BELVIN v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 608 F. 2d 294.

No. 79-5655. *FLORES v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 598 F. 2d 995.

444 U.S.

February 19, 1980

No. 79-5657. *HILL v. UNITED STATES*. Ct. App. D. C. Certiorari denied. Reported below: 404 A. 2d 525.

No. 79-5659. *MONTALALOU v. SUPERINTENDENT, CLINTON CORRECTIONAL FACILITY, ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 607 F. 2d 997.

No. 79-5665. *JOHNSON v. MICHIGAN*. Ct. App. Mich. Certiorari denied.

No. 79-5674. *HUBER v. UNITED STATES*. C. A. 7th Cir. Certiorari denied.

No. 79-5677. *COYLE v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 611 F. 2d 374.

No. 79-5679. *PATTERSON v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 607 F. 2d 1008.

No. 79-5680. *VITAGLIANO v. UNITED STATES ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 601 F. 2d 73.

No. 79-5681. *YOUNG v. UNITED STATES*. C. A. 6th Cir. Certiorari denied.

No. 79-5683. *JONES ET AL. v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 607 F. 2d 269.

No. 79-5702. *FIGUEROA v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 609 F. 2d 642.

No. 79-5719. *CALFON v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 607 F. 2d 29.

No. 79-5728. *ROSS v. CAREY, GOVERNOR OF NEW YORK, ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 614 F. 2d 1290.

No. 79-5733. *JONES ET UX. v. GEORGIA-PACIFIC CORP.* C. A. 5th Cir. Certiorari denied. Reported below: 604 F. 2d 669.

February 19, 1980

444 U.S.

No. 79-5732. *WOLFEL v. JAGO, CORRECTIONAL SUPERINTENDENT*. C. A. 6th Cir. Certiorari denied. Reported below: 595 F. 2d 1227.

No. 79-5736. *JOHNSON v. HILTON, PRISON SUPERINTENDENT, ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 609 F. 2d 502.

No. 79-5737. *JOHNSON v. MARYLAND*. Ct. Sp. App. Md. Certiorari denied.

No. 79-5738. *SIMS v. ROWE, CORRECTIONS DIRECTOR, ET AL.* C. A. 7th Cir. Certiorari denied. Reported below: 607 F. 2d 1007.

No. 79-5739. *BRICE v. DAY, WARDEN, ET AL.* C. A. 10th Cir. Certiorari denied. Reported below: 604 F. 2d 664.

No. 79-5745. *HAILS v. SMITH, CORRECTIONAL SUPERINTENDENT*. C. A. 2d Cir. Certiorari denied.

No. 79-5746. *TRAYLOR v. ESTELLE, CORRECTIONS DIRECTOR*. C. A. 5th Cir. Certiorari denied.

No. 79-5751. *HUDSON v. BLACKBURN, WARDEN*. C. A. 5th Cir. Certiorari denied. Reported below: 601 F. 2d 785.

No. 79-5752. *JONES v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 608 F. 2d 1004.

No. 79-5753. *RUSSO v. SUPREME COURT OF NEW YORK, KINGS COUNTY, ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 614 F. 2d 1290.

No. 79-5754. *GINSBURG v. OVERLOOK HOSPITAL ET AL.* Sup. Ct. N. J. Certiorari denied.

No. 79-5755. *SOLOMON v. FRAME ET AL.* Sup. Ct. App. W. Va. Certiorari denied.

No. 79-5757. *WILKERSON v. BLAKENSHIP, CORRECTIONAL SUPERINTENDENT, ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 609 F. 2d 512.

444 U.S.

February 19, 1980

No. 79-5761. OSVALDO M. *v.* CITY OF NEW YORK; JOSE L. *v.* CITY OF NEW YORK; and WALTER B. *v.* CITY OF NEW YORK. Ct. App. N. Y. Certiorari denied. Reported below: 48 N. Y. 2d 603, 396 N. E. 2d 207 (first and third cases); 48 N. Y. 2d 633, 396 N. E. 2d 478 (second case).

No. 79-5764. BLAKE *v.* WAINWRIGHT, SECRETARY, DEPARTMENT OF OFFENDER REHABILITATION OF FLORIDA. C. A. 5th Cir. Certiorari denied. Reported below: 603 F. 2d 858.

No. 79-5767. FLOYD *v.* JACKSONVILLE SHIPYARDS, INC., ET AL. C. A. 5th Cir. Certiorari denied.

No. 79-5773. SAWAYA *v.* BERNALILLO COUNTY ASSESSOR. Ct. App. N. M. Certiorari denied.

No. 79-5774. WASILOWSKI *v.* NEW JERSEY. Super. Ct. N. J. Certiorari denied.

No. 79-5776. GORE *v.* LEEKE, CORRECTIONS COMMISSIONER, ET AL. C. A. 4th Cir. Certiorari denied. Reported below: 605 F. 2d 741.

No. 79-5783. GAMEZ *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 610 F. 2d 823.

No. 79-5785. MCPHERSON *v.* TENNESSEE. C. A. 6th Cir. Certiorari denied. Reported below: 611 F. 2d 373.

No. 79-5789. MOORE *v.* CLEMENTS, SHERIFF. C. A. 4th Cir. Certiorari denied. Reported below: 607 F. 2d 1002.

No. 79-5792. FOSTER *v.* SOUTH SUBURBAN SAFEWAY LINES, INC. Sup. Ct. Ill. Certiorari denied.

No. 79-5793. JOHNSON *v.* KOEHLER, WARDEN. C. A. 6th Cir. Certiorari denied.

No. 79-5797. BUSTILLO *v.* WILKINSON, WARDEN. C. A. 7th Cir. Certiorari denied.

February 19, 1980

444 U. S.

No. 79-5798. *BERRY v. CALIFORNIA*. Ct. App. Cal., 3d App. Dist. Certiorari denied.

No. 79-5799. *MOORE v. MITCHELL, WARDEN*. C. A. 4th Cir. Certiorari denied. Reported below: 607 F. 2d 1002.

No. 79-5800. *RINEHART v. IOWA*. Sup. Ct. Iowa. Certiorari denied. Reported below: 283 N. W. 2d 319.

No. 79-5801. *TAYLOR v. GARRISON*. C. A. 4th Cir. Certiorari denied. Reported below: 609 F. 2d 510.

No. 79-5802. *CLARK v. PAYNE ET AL.* C. A. 8th Cir. Certiorari denied.

No. 79-5803. *SIMMONS v. MCDANIEL ET AL.* C. A. 8th Cir. Certiorari denied.

No. 79-5807. *NEWTOP v. MERIT SYSTEMS PROTECTION BOARD*. C. A. 9th Cir. Certiorari denied.

No. 79-5811. *STUART v. PONDER, JUDGE*. Sup. Ct. Ark. Certiorari denied.

No. 79-5812. *SHEPTIN v. CITY OF HOUSTON ET AL.* C. A. 5th Cir. Certiorari denied.

No. 79-5813. *COLE v. RANGLES ET AL.* C. A. 6th Cir. Certiorari denied.

No. 79-5814. *KNOWLES v. UNITED STATES*. C. A. 10th Cir. Certiorari denied.

No. 79-5815. *CONNER v. OHIO*. Ct. App. Ohio, Cuyahoga County. Certiorari denied.

No. 79-5818. *MILLER v. INDIANA*. Sup. Ct. Ind. Certiorari denied. Reported below: — Ind. —, 392 N. E. 2d 445.

No. 79-5819. *REED v. SCHWAB ET AL.* Sup. Ct. Ore. Certiorari denied. Reported below: 287 Ore. 411, 600 P. 2d 387.

444 U.S.

February 19, 1980

No. 79-5822. *PAIGE v. BROOKS, ATTORNEY GENERAL OF NORTH CAROLINA*. C. A. 4th Cir. Certiorari denied. Reported below: 612 F. 2d 1309.

No. 79-5824. *PRENZLER v. PIKE ET AL.* C. A. 9th Cir. Certiorari denied.

No. 79-5827. *AYALA-CARAPIA v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 610 F. 2d 822.

No. 79-5828. *HOLSEY v. WATKINS, U. S. DISTRICT JUDGE*. C. A. 4th Cir. Certiorari denied. Reported below: 605 F. 2d 1202.

No. 79-5829. *KENNEDY v. OHIO*. Ct. App. Ohio, Warren County. Certiorari denied.

No. 79-5832. *FITZPATRICK v. WARD*. C. A. 2d Cir. Certiorari denied.

No. 79-5833. *HANNON v. MAINE*. Sup. Jud. Ct. Me. Certiorari denied. Reported below: 395 A. 2d 118.

No. 79-5834. *CLARK v. UNITED STATES*; and
No. 79-5896. *ARTEZ v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 610 F. 2d 521.

No. 79-5836. *WINFIELD v. VAN MALE BUICK, INC., ET AL.* App. Ct. Ill., 1st Dist. Certiorari denied. Reported below: 71 Ill. App. 3d 1114, 392 N. E. 2d 1387.

No. 79-5843. *LITTLE v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 608 F. 2d 296.

No. 79-5845. *CARTER v. UNITED STATES*. C. A. 2d Cir. Certiorari denied.

No. 79-5847. *SIMMONS v. EGELER ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 605 F. 2d 557.

February 19, 1980

444 U. S.

No. 79-5848. *BEARDSLEE v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 609 F. 2d 914.

No. 79-5850. *RABAGO v. CALIFORNIA*. Sup. Ct. Cal. Certiorari denied.

No. 79-5852. *ZUNIGA v. ILLINOIS*. App. Ct. Ill., 1st Dist. Certiorari denied. Reported below: 70 Ill. App. 3d 1103, 392 N. E. 2d 801.

No. 79-5854. *CRAWFORD v. DIAL, JUDGE, ET AL.* C. A. 5th Cir. Certiorari denied.

No. 79-5855. *BROWN v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 610 F. 2d 814.

No. 79-5856. *OWEN v. HEYNE ET AL.* C. A. 7th Cir. Certiorari denied. Reported below: 605 F. 2d 559.

No. 79-5859. *WHITE v. ILLINOIS*. App. Ct. Ill., 1st Dist. Certiorari denied. Reported below: 69 Ill. App. 3d 830, 387 N. E. 2d 728.

No. 79-5862. *HAYDEN v. KENTUCKY*. Sup. Ct. Ky. Certiorari denied. Reported below: 586 S. W. 2d 720.

No. 79-5865. *WAGNER v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 611 F. 2d 375.

No. 79-5866. *DORTCH v. FENTON, WARDEN*. C. A. 3d Cir. Certiorari denied.

No. 79-5868. *MOORE v. MEDICAB OF MICHIGAN, INC., ET AL.* C. A. 6th Cir. Certiorari denied.

No. 79-5869. *TONEY, DBA TRADEWINDS LTD., INC. v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 605 F. 2d 200.

No. 79-5870. *COLE v. LANE, WARDEN, ET AL.* C. A. 6th Cir. Certiorari denied.

444 U. S.

February 19, 1980

No. 79-5874. *LAWSON v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 608 F. 2d 1129.

No. 79-5875. *MOORE v. ILLINOIS*. App. Ct. Ill., 3d Dist. Certiorari denied. Reported below: 72 Ill. App. 3d 462, 391 N. E. 2d 139.

No. 79-5880. *LANG v. OKLAHOMA*. Ct. Crim. App. Okla. Certiorari denied.

No. 79-5881. *WILSON v. ILLINOIS*. C. A. 7th Cir. Certiorari denied. Reported below: 610 F. 2d 820.

No. 79-5882. *OPDAHL v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 610 F. 2d 490.

No. 79-5884. *GONZALEZ v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 614 F. 2d 774.

No. 79-5887. *LIVINGSTONE v. LITTLE, BROWN & Co. ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 610 F. 2d 812.

No. 79-5889. *SHAPIRO ET AL. v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 610 F. 2d 823.

No. 79-5890. *YAPLE v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 608 F. 2d 1375.

No. 79-5891. *JOHNSON v. CARTER, PRESIDENT OF THE UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 612 F. 2d 581.

No. 79-5907. *MCDONALD v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 612 F. 2d 1311.

No. 79-5912. *KAEWNIL v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 610 F. 2d 823.

No. 79-5913. *HOLLIDAY v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 610 F. 2d 823.

February 19, 1980

444 U.S.

No. 79-5914. *HUMBEL v. FOLTZ, WARDEN*. C. A. 6th Cir. Certiorari denied. Reported below: 611 F. 2d 372.

No. 79-5922. *LAJUNE v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 610 F. 2d 822.

No. 79-5923. *KARSKY v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 610 F. 2d 548.

No. 79-5924. *GARCIA v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 607 F. 2d 1005.

No. 79-5928. *GAMBLE v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 607 F. 2d 820.

No. 79-5955. *MAHLER v. NELSON, WARDEN*. C. A. 2d Cir. Certiorari denied. Reported below: 610 F. 2d 806.

No. 79-5960. *ADAM ET AL. v. UNITED STATES*. Ct. App. D. C. Certiorari denied. Reported below: 408 A. 2d 313.

No. 79-5963. *NELSON v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 618 F. 2d 109.

No. 79-5967. *LYONS v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 609 F. 2d 1338.

No. 79-5972. *NOLEN v. DEPARTMENT OF HUMAN RESOURCES OF GEORGIA*. Ct. App. Ga. Certiorari denied. Reported below: 151 Ga. App. 455, 260 S. E. 2d 353.

No. 79-5981. *RIVERA v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 608 F. 2d 1028.

No. 79-5986. *MAHLER v. NELSON, WARDEN*. C. A. 2d Cir. Certiorari denied. Reported below: 610 F. 2d 806.

No. 79-5990. *TAYLOR v. UNITED STATES*. C. A. 10th Cir. Certiorari denied. Reported below: 612 F. 2d 1272.

444 U. S.

February 19, 1980

No. 79-88. CALIFORNIA *v.* WHYTE. Ct. App. Cal., 1st App. Dist. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 90 Cal. App. 3d 235, 152 Cal. Rptr. 280.

No. 79-920. WHITE, TRAINING CENTER SUPERINTENDENT *v.* GREEN. C. A. 8th Cir. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 605 F. 2d 376.

No. 79-934. PENNSYLVANIA *v.* STARR. Sup. Ct. Pa. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 486 Pa. 530, 406 A. 2d 1017.

No. 79-943. MICHIGAN *v.* GARDNER. Sup. Ct. Mich. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 406 Mich. 369, 279 N. W. 2d 785.

No. 79-427. BERKEY PHOTO, INC. *v.* EASTMAN KODAK Co.; and

No. 79-499. EASTMAN KODAK Co. *v.* BERKEY PHOTO, INC. C. A. 2d Cir. Certiorari denied. MR. JUSTICE BLACKMUN would grant certiorari and set cases for oral argument. Reported below: 603 F. 2d 263.

MR. JUSTICE REHNQUIST, with whom MR. JUSTICE POWELL joins, dissenting.

An obviously carefully considered opinion of the Court of Appeals comprising 99 pages in a separate appendix to the petition for certiorari in this case, dealing as it does with the complexities, refinements, and contradictions embodied in the decisional law construing §§ 1 and 2 of the Sherman Act is obviously not an attractive candidate for review under our discretionary certiorari jurisdiction. Nonetheless, I do not

think we may "let this cup pass from us" unless we are prepared to forgo the opportunity to review some propositions enunciated by the Court of Appeals in this case which strike me as little less than bizarre.

One of the principal issues decided by the Court of Appeals was the obligation of respondent and cross-petitioner Kodak to "predisclose" information about its camera and film system to competing camera manufacturers prior to offering such camera and film for sale to the public. As to the camera market issues, the Court of Appeals held that Kodak had no such obligation, but as to the photofinishing and photofinishing equipment markets, the Court of Appeals held that Kodak violated § 2 of the Sherman Act by using its market power over films and cameras to obtain a competitive advantage with respect to photofinishing and photofinishing equipment. 603 F. 2d 263, 279-285, 304. And as to the joint development project, the court held that Kodak violated § 1 of the Sherman Act by including in the agreement a nondisclosure provision, even though Kodak made an investment of millions of dollars in the project that presumably was essential to its success.

To one not schooled in the niceties of antitrust litigation, the notion that a statute designed to foster competition requires one competitor to disclose to another, in advance of marketing a product to the general public, its plan to introduce the new product, is difficult to fathom. And this Court has held as recently as *United States v. Grinnell Corp.*, 384 U. S. 563 (1966), that it is not a violation of § 2 of the Sherman Act for a business with monopoly power to achieve "growth or development as a consequence of a superior product, business acumen, or historic accident." 384 U. S., at 570-571. I should think this reasoning is equally applicable to the alleged violation of § 1 of the Sherman Act which the Court of Appeals also dealt with in its opinion.

But the Court of Appeals in this case held that "the rule of *Grinnell* must be read together with the teaching of *Griffith* [*United States v. Griffith*, 334 U. S. 100, 107 (1948)], that the mere existence of monopoly power 'whether lawfully or unlawfully acquired,' is in itself violative of § 2, 'provided it is coupled with the purpose or intent to exercise that power,'" 603 F. 2d, at 274, even though this Court in *Grinnell* did not express a similar limitation on its holding.

One can understand the exasperation revealed by the statement in the opinion of the Court of Appeals that "[d]espite the daunting complexity of the case—the exhibits numbered in the thousands—Kodak demanded a jury." *Id.*, at 268. The trial lasted from July 1977 until March 1978, and since Kodak is entitled as a matter of constitutional right under the Seventh Amendment to demand a jury trial in a case such as this, perhaps the "daunting complexity" of the case—and presumably many other similar cases being litigated in other federal courts—suggests that either the forest is being lost sight of because of the trees, or that an Act of Congress has been battered, tortured, and encrusted with layer after layer of refinement not required by any necessary construction of the Act, but by the results wrought by a century of case-by-case adjudication of it in this Court and other federal courts.

If the Sherman Act requires "predisclosure" by one competitor to another before a new product can be marketed, I think that the raised eyebrows resulting from such a holding should come from this Court, and not from extrapolations by other federal courts of the decisions of this Court interpreting the Sherman Act. I likewise think that the conclusion of the Court of Appeals that significant parts of a defendant's conduct which take place before the statute of limitations period may nonetheless be introduced in evidence is open to serious question under our prior cases.

So long as there are institutes for federal judges concerning the management of complex cases, and judicial panels for

February 19, 1980

444 U.S.

handling multidistrict litigation, this Court cannot remain wholly above the battle. In this case, it is conceded that the claimed antitrust violations all arise directly from Kodak's competitive superiority and technological innovation leading to the development of new products that consumers consider to be desirable. Because I believe that all three of these violations are interrelated, I would grant the petitions for certiorari and limit the questions as follows: (1) Was Kodak's introduction of the 110 camera and Kodacolor II film system either an attempt to monopolize or actual monopolization of the camera market in violation of § 2 of the Sherman Act? (2) Did Kodak violate § 2 of the Sherman Act by impermissibly using its film monopoly as "leverage" to enhance its position in the photofinishing and photofinishing equipment markets? And (3) did Kodak's joint development agreements with General Electric and Sylvania violate § 1 of the Sherman Act? I would also grant certiorari on this question raised in the conditional cross-petition: "Did the court of appeals err in not entering judgment for Kodak on the film and color print paper claims, and instead remanding both claims for a determination of whether 'conduct occurring many years before the commencement of suit contributed to an overcharge . . . within the limitations period'?"

No. 79-485. *ELI LILLY & Co. v. COSTLE, ADMINISTRATOR, ENVIRONMENTAL PROTECTION AGENCY*. C. A. 1st Cir. Certiorari denied. Reported below: 598 F. 2d 637.

MR. JUSTICE REHNQUIST, with whom MR. JUSTICE POWELL joins, dissenting.

This case presents an issue of great importance, which cannot help but become greater as time goes on and more and more administrative proceedings are conducted either directly under the Administrative Procedure Act, 5 U. S. C. § 553, or similar provisions in new Acts of Congress for review of agency action. That question is the degree to which an agency, which publishes a rule for notice and comment under

§ 4 of the Administrative Procedure Act and very substantially changes the rule in response to the comments it receives, is obliged to publish the revised rule to allow another opportunity for notice and comment. In deciding this case, the Court of Appeals for the First Circuit was fully aware of the problems that could result from a complete "about face" by the administrative agency, see *BASF Wyandotte Corp. v. Costle*, 598 F. 2d 637 (1979), as can be seen from this portion of the first paragraph of its opinion concluding that the respondent *had* complied with the Administrative Procedure Act:

"Petitioners' first complaint is that EPA failed to comply with the requirements of the Administrative Procedure Act in that the final regulations were so different from the interim final regulations that the interims were not notice of 'either the terms or substance of the proposed rule or a description of the subjects and issues involved.' 5 U. S. C. § 553 (b)(3). This requirement is a *critical* one because it supports the assumption we make with regard to EPA's substantive decisions that those decisions are in fact the product of informed, expert reasoning tested by exposure to diverse public comment." *Id.*, at 641 (emphasis supplied).

Petitioner claims that the differences between the effluent limitations imposed in the original regulations and the ones finally promulgated were so great as to make impossible any such judgment by a reviewing court in the absence of further opportunity for notice and comment on the revised regulations. The Court of Appeals' conclusion to the contrary is a carefully reasoned one, and I am not at this point willing to say that I disagree with it. But when we consider the very significant effects that a "rulemaking" procedure may have upon the parties involved, see *United States v. Florida East Coast R. Co.*, 410 U. S. 224, 244-245 (1973), I think this Court should grant certiorari to examine the question. It is the sort of question upon which there will never be a

February 19, 1980

444 U. S.

“square conflict” among the various Courts of Appeals, since the differences between the originally promulgated regulations and the finally promulgated regulations will necessarily be ones of degree. Thus, one need not accept at full face value the contention of petitioner that the Court of Appeals’ decision squarely conflicts with decisions from the Courts of Appeals for the Second, Fourth, and District of Columbia Circuits in order to realize that the question is a recurring one that will ultimately require interpretation of important statutory language by this Court. Accordingly, I would grant the petition limited to the question whether § 4 of the Administrative Procedure Act, 5 U. S. C. § 553, required EPA to provide an additional opportunity to comment on the final regulations proposed here.

No. 79-539. *MAINE v. DANA ET AL.* Sup. Jud. Ct. Me. Certiorari denied. MR. JUSTICE WHITE and MR. JUSTICE BLACKMUN would grant certiorari. Reported below: 404 A. 2d 551.

No. 79-955. *DEHAVILLAND AIRCRAFT OF CANADA, LTD. v. BETAR, PUBLIC ADMINISTRATOR OF COOK COUNTY, ET AL.* C. A. 7th Cir. Certiorari denied. MR. JUSTICE WHITE and MR. JUSTICE BLACKMUN would grant certiorari. Reported below: 603 F. 2d 30.

No. 79-633. *COUNTY OF VENTURA v. CASTRO.* Ct. App. Cal., 2d App. Dist. Certiorari denied. Reported below: 93 Cal. App. 3d 462, 156 Cal. Rptr. 66.

MR. JUSTICE BLACKMUN, with whom MR. JUSTICE REHNQUIST joins, dissenting.

I believe that this case presents the substantial question whether the ruling of the California Court of Appeal is consistent with this Court’s decision in *D. H. Overmyer Co. v. Frick Co.*, 405 U. S. 174 (1972). See also *Isbell v. County of Sonoma*, 21 Cal. 3d 61, 577 P. 2d 188, cert. denied as out of time, 439 U. S. 996 (1978).

The case concerns an agreement of paternity signed by the alleged father of the unborn child of a welfare recipient. The mother-to-be applied for welfare assistance and informed county employees that respondent was the father of her unborn child. At the request of the District Attorney's office, respondent came to that office and spoke with Juanita Hickman, a family support officer.

Although respondent expressed some doubts, he told Hickman that "more than likely I am the father." Hickman explained to respondent that he could sign an agreement of paternity which would be filed in court and which would result in a judgment of paternity and an order to pay child support. He was advised, alternatively, that if he was not certain he was the father, the office would institute a paternity action and serve him with a summons and complaint; he then would have 30 days to answer and a trial would follow. Respondent signed a paternity agreement, prepared by Hickman. It was filed with the Ventura County Superior Court. The pertinent part of the agreement read:

"It is hereby agreed by plaintiff, through C. STANLEY TROM, District Attorney for the County of Ventura, and Rudy Castro, Jr., defendant, that the following facts are true and that a judgment be entered against the defendant in accordance with this agreement.

"1. Defendant acknowledges that the District Attorney of Ventura County, does not represent him and that he understands that he has had an opportunity to have an attorney advise and represent him in this matter.

"2. Defendant understands that a judgment for child support will be entered against him based upon this agreement.

"3. The defendant is the father of: unborn child of Viola Gonzales, due to be born December 1977.

"4. The defendant agrees to pay \$125.00 per child per month commencing on Sept. 1, 1977, and on the same date

each month thereafter until termination by operation of law or further order of court.”

Six months after entry of judgment, respondent moved to set aside the agreement and judgment on the grounds that he had signed the agreement out of fear that he would be criminally prosecuted, that he did not realize all the rights he was giving up, such as the right to discovery and blood tests of the mother and child, and that he did not know he would be liable for child support until the child reached the age of 18 years. The Superior Court denied the motion. The California Court of Appeal reversed. 93 Cal. App. 3d 462, 156 Cal. Rptr. 66 (1979).

The signed agreement was authorized by § 11476.1 of Cal. Welf. & Inst. Code Ann. (West Supp. 1973-1978). That section reads as set forth in the margin.*

*“In any case where the district attorney has undertaken enforcement of support, the district attorney may enter into an agreement with the noncustodial parent, on behalf of the custodial parent, a minor child, or children, for the entry of a judgment determining paternity, if applicable, and for periodic child support payments based on the noncustodial parent's reasonable ability to pay. Prior to entering into this agreement, the noncustodial parent shall be informed that a judgment will be entered based on the agreement. The clerk shall file the agreement without the payment of any fees or charges. The court shall enter judgment thereon without action. The provisions of Civil Code Section 4702 shall apply to such judgment. The district attorney shall be directed to effect service upon the obligor of a copy of the judgment and notify the obligor in writing of the right to seek modification of the amount of child support order upon a showing of changes of circumstances and upon such showing the court shall immediately modify the order and set the amount of child support payment pursuant to § 11350, and to promptly file proof of service thereof.

“For the purposes of this section, in making a determination of the noncustodial parent's reasonable ability to pay, the following factors shall be considered:

- “(a) The standard of living and situation of the parties;
- “(b) The relative wealth and income of the parties;
- “(c) The ability of the noncustodial parent to earn;

Although the Court of Appeal commented on the facts of the particular case, and the likelihood that there had been no knowing and voluntary waiver of due process rights, the court found § 11476.1 unconstitutional on its face. The statute was declared defective because it does not make adequate provision for the protection of due process rights of the non-custodial parent and it does not address the manner in which the defendant may waive those rights. "Glaringly absent," 93 Cal. App. 3d., at 469, 156 Cal. Rptr., at 70, was a requirement that the defendant be informed of his right to trial. The court also based its decision on the absence of any provision for prejudgment judicial determination of the voluntariness of a waiver of due process rights and on the disparity of bargaining power between petitioner and respondent.

In *Overmyer* this Court stated that "a cognovit clause is not, *per se*, violative of Fourteenth Amendment due process." 405 U. S., at 187. We emphasized the need to consider the facts of each situation. *Id.*, at 178, 187-188. While one may sympathize with respondent's position, the Court of Appeal's declaration that the California statute is unconstitutional on its face, as violative of the Fourteenth Amendment, appears to contravene the case-by-case approach of *Overmyer*. We indicated in *Overmyer, id.*, at 188, that a different result might follow where there is great disparity in bargaining power between the parties, but that question never has been decided specifically by the Court. See *Swarb v. Lennox*, 405 U. S. 191 (1972). Because the issue is bound to recur, I would grant the petition for certiorari and set the case for argument.

"(d) The ability of the custodial parent to earn;

"(e) The needs of the custodial parent and any other persons dependent on such person for their support;

"(f) The age of the parties;

"(g) Any previous court order imposing an obligation of support."

February 19, 1980

444 U. S.

No. 79-782. *MISSISSIPPI POWER & LIGHT CO. ET AL. v. UNITED STATES NUCLEAR REGULATORY COMMISSION ET AL.* C. A. 5th Cir. Certiorari denied. MR. JUSTICE STEWART took no part in the consideration or decision of this petition. Reported below: 601 F. 2d 223.

No. 79-796. *AMAREX, INC. v. FEDERAL ENERGY REGULATORY COMMISSION ET AL.* C. A. 10th Cir. Certiorari denied. MR. JUSTICE STEWART took no part in the consideration or decision of this petition. Reported below: 603 F. 2d 127.

No. 79-788. *DIANA ET AL. v. UNITED STATES.* C. A. 4th Cir. Certiorari denied. MR. JUSTICE MARSHALL would grant certiorari. Reported below: 605 F. 2d 1307.

No. 79-837. *MILLER BREWING Co. v. JOS. SCHLITZ BREWING Co.* C. A. 7th Cir. Certiorari denied. MR. JUSTICE POWELL took no part in the consideration or decision of this petition. Reported below: 605 F. 2d 990.

No. 79-848. *DONOFRIO ET AL. v. MARSHALL, SECRETARY OF LABOR.* C. A. 3d Cir. Certiorari denied. MR. JUSTICE POWELL would grant certiorari. Reported below: 605 F. 2d 1196.

No. 79-897. *STOSKUS, ADMINISTRATRIX v. CITY OF BALDWIN PARK ET AL.* C. A. 9th Cir. Motion to substitute Frances Stoskus, Administratrix of the Estate of Bertha Stoskus, in place of Bertha Stoskus, deceased, granted. Certiorari denied. Reported below: 605 F. 2d 563.

No. 79-5765. *JARZAB v. ARIZONA.* Sup. Ct. Ariz. Certiorari denied. MR. JUSTICE BRENNAN and MR. JUSTICE WHITE would grant certiorari. Reported below: 123 Ariz. 308, 599 P. 2d 761.

No. 79-5849. *HAUGHTON v. HAUGHTON, SPECIAL ADMINISTRATOR.* Sup. Ct. Ill. Motion of respondent for damages and certiorari denied. Reported below: 76 Ill. 2d 439, 394 N. E. 2d 385.

444 U.S.

February 19, 1980

No. 79-5705. STANLEY *v.* ZANT, SUPERINTENDENT, GEORGIA DIAGNOSTIC AND CLASSIFICATION CENTER. Sup. Ct. Ga.;

No. 79-5714. THOMAS *v.* ZANT, WARDEN. Sup. Ct. Ga.;

No. 79-5744. ALDERMAN *v.* BALKCOM, WARDEN. Sup. Ct. Ga.;

No. 79-5830. BOWDEN *v.* ZANT, WARDEN. Sup. Ct. Ga.;
and

No. 79-5861. COPPOLA *v.* VIRGINIA. Sup. Ct. Va. Certiorari denied. Reported below: No. 79-5830, 244 Ga. 260, 260 S. E. 2d 465; No. 79-5861, 220 Va. 243, 257 S. E. 2d 797.

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 grant certiorari and vacate the death sentences in these cases.

Rehearing Granted. (See No. 78-1780, *ante*, p. 505.)

Rehearing Denied

No. 78-6687. RUFFIN *v.* GEORGIA, *ante*, p. 995;

No. 79-444. FERNOS-LOPEZ *v.* UNITED STATES DISTRICT COURT FOR THE DISTRICT OF PUERTO RICO ET AL., *ante*, p. 931;

No. 79-479. GENINS *v.* GEIGER ET UX., *ante*, p. 991;

No. 79-525. MOENCKMEIER *v.* UNITED STATES ET AL., *ante*, p. 991;

No. 79-535. LAMPKIN-ASAM *v.* SUPREME COURT OF FLORIDA, *ante*, p. 1013;

No. 79-560. VISLISEL *v.* UNITED STATES DEPARTMENT OF LABOR ET AL., *ante*, p. 1014;

No. 79-630. HUNT ET AL. *v.* COASTAL STATES GAS PRODUCING CO. ET AL., *ante*, p. 992;

No. 79-699. HEYNE *v.* HEYNE ET AL., *ante*, p. 1008; and

No. 79-712. ASH ET UX. *v.* TRUSTEES FOR WESTGATE-CALIFORNIA CORP., *ante*, p. 1015. Petitions for rehearing denied.

February 19, 22, 1980

444 U. S.

- No. 79-5004. *PARKER v. ROTH*, *ante*, p. 920;
- No. 79-5546. *PLATEL v. CLARK, JUDGE, ET AL.*, *ante*, p. 994;
- No. 79-5554. *WILLIAMS v. UNITED STATES*, *ante*, p. 1010;
- No. 79-5562. *CHODOS v. FEDERAL BUREAU OF INVESTIGATION*, *ante*, p. 1021;
- No. 79-5572. *LILLIBRIDGE ET UX. v. MORTON, COMMISSIONER OF INTERNAL REVENUE, ET AL.*, *ante*, p. 1046;
- No. 79-5616. *JOHNS v. WOODBRIDGE TOWNSHIP ET AL.*, *ante*, p. 1022;
- No. 79-5621. *BRETZ v. MONTANA*, *ante*, p. 994;
- No. 79-5632. *ROACH v. SOUTH CAROLINA*, *ante*, p. 1026;
- No. 79-5636. *GAINES v. MERCHANTS NATIONAL BANK & TRUST COMPANY OF INDIANAPOLIS*, *ante*, p. 1023;
- No. 79-5667. *PAUL v. STAFFORD, U. S. DISTRICT JUDGE, ET AL.*, *ante*, p. 1011; and
- No. 79-5696. *KENNEDY v. INDIANA*, *ante*, p. 1047. Petitions for rehearing denied.
- No. 78-6694. *THIESS v. FRANKLIN SQUARE HOSPITAL, INC., ET AL.*, *ante*, pp. 851 and 975; and
- No. 79-5030. *SANDERS ET AL. v. HANKINS ET AL.*, *ante*, pp. 872 and 975. Motions for leave to file second petitions for rehearing denied.
- No. 79-177. *JACKA v. UNITED STATES*, *ante*, p. 949. Motion for leave to file petition for rehearing denied. MR. JUSTICE MARSHALL took no part in the consideration or decision of this motion.
- No. 79-545. *HOLLOWAY v. TIMES MIRROR PRESS CO.*, *ante*, p. 966. Motion for leave to file petition for rehearing denied.

FEBRUARY 22, 1980

Dismissal Under Rule 60

No. 79-960. *CHANDLER v. UNITED STATES*. C. A. 5th Cir. Certiorari dismissed under this Court's Rule 60. Reported below: 604 F. 2d 972.

OPINIONS OF INDIVIDUAL JUSTICES
IN CHAMBERS

LENHARD et al., CLARK COUNTY DEPUTY PUBLIC
DEFENDERS, INDIVIDUALLY AND AS NEXT FRIENDS
of Bishop v. WOLF, WARDEN, NEVADA
STATE PRISON SYSTEM, et al.

ON APPLICANTS FOR STAY OF EXECUTION AND PETITION FOR

REPORTER'S NOTE

The next page is purposely numbered 1301. The numbers between 1104 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 available upon publication of the preliminary prints of the United States Reports.

Mr. Justice Brennan, Circuit Justice

On October 1, 1978, this Court denied the application of Kirk Lenhard and George Franzen, acting as next friends of Jesse Bishop, for a stay of execution pending the filing and determination of a petition for certiorari, *Lenhard v. Wolf*, ante, p. 807. Respondents have subsequently rescheduled Bishop's execution for Monday, October 22, 1978. Lenhard and Franzen have now submitted to me, as Circuit Justice, a petition requesting rehearing of this Court's order of October 1, and an application for stay of execution pending determination of the petition for rehearing.

Resulting in applicants' favor all previous protesting to procedures and rules of the Court, I am satisfied that the moving papers would not persuade the requisite number of Justices to grant applicants' proposed petition for certiorari, to

