

ORDERS FROM FEBRUARY 25 THROUGH  
APRIL 17, 1980

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FEBRUARY 25, 1980

*Affirmed on Appeal*

No. 79-953. *FEENEY v. PERSONNEL ADMINISTRATOR OF MASSACHUSETTS ET AL.* Affirmed on appeal from D. C. Mass. Reported below: 475 F. Supp. 109.

*Miscellaneous Orders*

No. D-173. *IN RE DISBARMENT OF SALLS.* Disbarment entered. [For earlier order herein, see 444 U. S. 894.]

No. D-178. *IN RE DISBARMENT OF SMITH.* Disbarment entered. [For earlier order herein, see 444 U. S. 912.]

No. 9, Orig. *UNITED STATES v. LOUISIANA ET AL.* Motion of Louisiana for divided argument granted. MR. JUSTICE MARSHALL took no part in the consideration or decision of this motion. [For earlier order herein, see, *e. g.*, 444 U. S. 1064.]

No. 78-6885. *HICKS v. OKLAHOMA.* Ct. Crim. App. Okla. [Certiorari granted, 444 U. S. 963.] Motion of Jan Eric Cartwright, Attorney General of Oklahoma, to permit Janet L. Cox to present oral argument *pro hac vice* granted.

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, 444 U. S. 962.] Petition for rehearing of denial of motion for appointment of Alan Ernest as counsel for children unborn and born alive denied.

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No. 79-66. *AARON v. SECURITIES AND EXCHANGE COMMISSION*. C. A. 2d Cir. [Certiorari granted, 444 U. S. 914.] Motion of Securities Industry Association for leave to participate in oral argument as *amicus curiae* denied.

No. 79-509. *EXXON CORP. v. DEPARTMENT OF REVENUE OF WISCONSIN*. Sup. Ct. Wis. [Probable jurisdiction noted, 444 U. S. 961.] Motions of Frank M. Keesling and Multistate Tax Commission for leave to file briefs as *amici curiae* granted.

No. 79-521. *CONSUMER PRODUCT SAFETY COMMISSION ET AL. v. GTE SYLVANIA, INC., ET AL.* C. A. 3d Cir. [Certiorari granted, 444 U. S. 979.] Motion of Consumer Federation of America for leave to participate in oral argument as *amicus curiae* denied.

No. 79-672. *NATIONAL LABOR RELATIONS BOARD v. RETAIL STORE EMPLOYEES UNION, LOCAL 1001, RETAIL CLERKS INTERNATIONAL ASSN., AFL-CIO*. C. A. D. C. Cir. [Certiorari granted, 444 U. S. 1011.] Motion of respondent Safeco Title Insurance Co. for additional time for oral argument denied.

No. 79-1056. *NORTHWEST AIRLINES, INC. v. TRANSPORT WORKERS UNION OF AMERICA, AFL-CIO, ET AL.* C. A. D. C. Cir. The Solicitor General is invited to file a brief in this case expressing the views of the United States. MR. JUSTICE BLACKMUN took no part in the consideration or decision of this order.

No. 79-6019. *BRAUDRICK v. ESTELLE, CORRECTIONS DIRECTOR*; and

No. 79-6044. *SMITH v. HEEDE, CLERK, U. S. DISTRICT COURT, ET AL.* Motions for leave to file petitions for writs of habeas corpus denied.

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*Probable Jurisdiction Noted*

No. 79-5903. *H. L. v. MATHESON, GOVERNOR OF UTAH, ET AL.* Appeal from Sup. Ct. Utah. Motion of appellant for leave to proceed *in forma pauperis* granted. Probable jurisdiction noted. Reported below: 604 P. 2d 907.

*Certiorari Granted*

No. 79-900. *FEDERAL TRADE COMMISSION ET AL. v. STANDARD OIL COMPANY OF CALIFORNIA.* C. A. 9th Cir. Certiorari granted. Reported below: 596 F. 2d 1381.

No. 79-1003. *IMPERIAL COUNTY, CALIFORNIA, ET AL. v. MUNOZ ET AL.* C. A. 9th Cir. Certiorari granted. Reported below: 604 F. 2d 1174.

*Certiorari Denied*

No. 79-552. *MITSUI & Co., LTD., ET AL. v. INDUSTRIAL INVESTMENT DEVELOPMENT CORP. ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 594 F. 2d 48.

No. 79-693. *CONSUMER CREDIT INSURANCE AGENCY, INC., ET AL. v. UNITED STATES.* C. A. 6th Cir. Certiorari denied. Reported below: 599 F. 2d 770.

No. 79-743. *MOORE v. UNITED STATES;*

No. 79-5612. *PALMER v. UNITED STATES;* and

No. 79-5624. *RICHARDSON v. UNITED STATES.* C. A. 2d Cir. Certiorari denied. Reported below: 610 F. 2d 808.

No. 79-764. *FALK v. UNITED STATES.* C. A. 7th Cir. Certiorari denied. Reported below: 605 F. 2d 1005.

No. 79-775. *WHITMAN, SHERIFF v. FORD.* C. A. 5th Cir. Certiorari denied. Reported below: 601 F. 2d 1192.

No. 79-783. *PAYNE v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. Reported below: 602 F. 2d 1215.



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No. 79-884. *TUCKER v. HARTFORD NATIONAL BANK & TRUST Co.* Sup. Ct. Conn. Certiorari denied. Reported below: 178 Conn. 472, 423 A. 2d 141.

No. 79-908. *TANKERSLEY ET AL. v. TRINITY PRESBYTERIAN CHURCH OF MONTGOMERY, ALA., ET AL.* Sup. Ct. Ala. Certiorari denied. Reported below: 374 So. 2d 861.

No. 79-913. *GONZALEZ v. DEPARTMENT OF HUMAN RESOURCES OF TEXAS.* Ct. Civ. App. Tex., 13th Sup. Jud. Dist. Certiorari denied. Reported below: 581 S. W. 2d 522.

No. 79-924. *THOMPSON v. UNITED STATES.* C. A. 6th Cir. Certiorari denied. Reported below: 606 F. 2d 149.

No. 79-937. *VARGO v. UNITED STATES.* C. A. 3d Cir. Certiorari denied. Reported below: 609 F. 2d 504.

No. 79-944. *DAYTON v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. Reported below: 604 F. 2d 931.

No. 79-951. *WOODSIDE, ADMINISTRATRIX v. UNITED STATES.* C. A. 6th Cir. Certiorari denied. Reported below: 606 F. 2d 134.

No. 79-974. *MINNESOTA v. CLARK ET AL.* Sup. Ct. Minn. Certiorari denied. Reported below: 282 N. W. 2d 902.

No. 79-991. *HOWARD v. DES MOINES REGISTER & TRIBUNE Co. ET AL.* Sup. Ct. Iowa. Certiorari denied. Reported below: 283 N. W. 2d 289.

No. 79-1024. *AMERICAN CONTINENTAL HOMES, INC., ET AL. v. KFK CORP.* App. Ct. Ill., 2d Dist. Certiorari denied. Reported below: 71 Ill. App. 3d 304, 389 N. E. 2d 232.

No. 79-1025. *ATKINS v. WEST VIRGINIA.* Sup. Ct. App. W. Va. Certiorari denied. Reported below: — W. Va. —, 261 S. E. 2d 55.

No. 79-1038. *PALMER v. INDUSTRIAL COMMISSION OF THE STATE OF COLORADO ET AL.* Ct. App. Colo. Certiorari denied.

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No. 79-1043. *CITY OF BLACK JACK ET AL. v. BATES ET AL.* C. A. 8th Cir. Certiorari denied. Reported below: 605 F. 2d 1033.

No. 79-1045. *MURPHY v. OWENS-CORNING FIBERGLAS CORP.* C. A. 10th Cir. Certiorari denied.

No. 79-1049. *SMITH v. ARKANSAS.* Ct. App. Ark. Certiorari denied. Reported below: 266 Ark. 861, 587 S. W. 2d 50.

No. 79-1065. *O'HAIR v. TEXAS.* C. A. 5th Cir. Certiorari denied. Reported below: 607 F. 2d 1005.

No. 79-1067. *McMILLAN v. MARINE SULPHUR SHIPPING CORP.* C. A. 2d Cir. Certiorari denied. Reported below: 607 F. 2d 1034.

No. 79-1115. *JAMES v. UNITED STATES.* C. A. 2d Cir. Certiorari denied. Reported below: 609 F. 2d 36.

No. 79-1151. *ELLIS v. UNITED STATES.* C. A. 9th Cir. Certiorari denied. Reported below: 610 F. 2d 823.

No. 79-1155. *GARDNER v. UNITED STATES.* C. A. 2d Cir. Certiorari denied. Reported below: 614 F. 2d 1292.

No. 79-5685. *HOOKE v. UNITED STATES.* C. A. 9th Cir. Certiorari denied. Reported below: 607 F. 2d 286.

No. 79-5712. *STRONG v. UNITED STATES.* C. A. 3d Cir. Certiorari denied. Reported below: 612 F. 2d 575.

No. 79-5724. *McNEAR v. KENTUCKY.* Sup. Ct. Ky. Certiorari denied. Reported below: 586 S. W. 2d 720.

No. 79-5763. *STARKS v. UNITED STATES.* C. A. 6th Cir. Certiorari denied. Reported below: 611 F. 2d 374.

No. 79-5788. *MARINOFF v. ENVIRONMENTAL PROTECTION AGENCY.* C. A. 2d Cir. Certiorari denied. Reported below: 610 F. 2d 806.

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No. 79-5784. *EVANS v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 605 F. 2d 553.

No. 79-5794. *RICHMAN v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 602 F. 2d 547.

No. 79-5806. *HUNT v. NUCLEAR REGULATORY COMMISSION ET AL.* C. A. 10th Cir. Certiorari denied. Reported below: 611 F. 2d 332.

No. 79-5879. *STEBBINS v. GOVERNMENT EMPLOYEES INSURANCE Co.* C. A. D. C. Cir. Certiorari denied.

No. 79-5883. *MONTALBANO v. NEW JERSEY*. Super Ct. N. J. Certiorari denied.

No. 79-5893. *YOUNG v. INDIANA*. Sup. Ct. Ind. Certiorari denied. Reported below: — Ind. —, 394 N. E. 2d 123.

No. 79-5895. *BROWN v. HILTON, PRISON SUPERINTENDENT, ET AL.* C. A. 3d Cir. Certiorari denied.

No. 79-5897. *DRAPER v. CALIFORNIA*. Ct. App. Cal., 3d App. Dist. Certiorari denied.

No. 79-5898. *VON ARX v. HARRISBURG STATE HOSPITAL ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 605 F. 2d 1199.

No. 79-5905. *SKOLNICK v. INDIANA ET AL.* Ct. App. Ind. Certiorari denied. Reported below: — Ind. App. —, 388 N. E. 2d 1156.

No. 79-5908. *GREEN v. WALTERS ET AL.* C. A. 8th Cir. Certiorari denied.

No. 79-5909. *KIRKLAND v. LEEKE, ATTORNEY GENERAL OF SOUTH CAROLINA, ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 609 F. 2d 508.

No. 79-5910. *COLE v. FORD, JUDGE*. Ct. App. Tenn. Certiorari denied.



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No. 79-5906. *GILLIAM v. LOS ANGELES MUNICIPAL COURT (CALIFORNIA, REAL PARTY IN INTEREST)*. Ct. App. Cal., 2d App. Dist. Certiorari denied. Reported below: 97 Cal. App. 3d 704, 159 Cal. Rptr. 74.

No. 79-5915. *KORN v. OHIO*. Ct. App. Ohio, Butler County. Certiorari denied.

No. 79-5929. *TAYLOR v. CITY OF ATLANTA ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 602 F. 2d 990.

No. 79-5944. *RODRIGUEZ v. SECRETARY OF HEALTH, EDUCATION, AND WELFARE*. C. A. 1st Cir. Certiorari denied. Reported below: 612 F. 2d 569.

No. 79-5965. *AMISTADI v. SPANGENBERG ET AL.* Sup. Ct. Ohio. Certiorari denied.

No. 79-5976. *JOHNSON v. UNITED STATES*. C. A. D. C. Cir. Certiorari denied.

No. 79-5997. *BARRY v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 614 F. 2d 1291.

No. 79-6001. *DELAY v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 615 F. 2d 1365.

No. 79-6005. *BROWN v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 612 F. 2d 1310.

No. 79-6010. *WILLIAMS v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 611 F. 2d 375.

No. 79-376. *LAKE SIDE BRIDGE & STEEL CO. v. MOUNTAIN STATE CONSTRUCTION Co., INC.* C. A. 7th Cir. Certiorari denied. Reported below: 597 F. 2d 596.

MR. JUSTICE WHITE, with whom MR. JUSTICE POWELL joins, dissenting.

I dissent from the denial of the petition for certiorari.

Petitioner, a Wisconsin corporation with its place of business in Milwaukee, Wis., contracted with respondent, a West

Virginia corporation with its principal place of business in Charleston, W. Va., to sell structural assemblies for incorporation by respondent into the outlet works of a dam and reservoir in Virginia. Aside from the contacts arising from the negotiation, execution, and performance of this contract, respondent has never had any connection with the State of Wisconsin. Petitioner's agent initiated the negotiations by visiting respondent's offices in West Virginia and delivering a quotation. The quotation provided that "[a]ny order arising out of this proposal . . . is subject to home office acceptance at Milwaukee, Wisconsin." Respondent then mailed petitioner its purchase order referring to petitioner's quotation. Petitioner signed the purchase order in Milwaukee and returned it to respondent together with a proposed modification, which became part of the contract when respondent treated the modified order as effective. During the course of their negotiations both parties initiated other communications between their respective offices either by telephone or by mail.

The contract provided that the goods were to be shipped "F. O. B. SELLERS [*sic*] PLANT MILWAUKEE, WISCONSIN with freight allowed to rail siding nearest project site," and stated that Wisconsin law would govern the transaction. According to petitioner, Pet. for Cert. 4, the total contract price was \$1,281,750.00. Petitioner proceeded to manufacture the goods at its plant in Wisconsin and ship them to the project site in Virginia. Respondent asserted that some of the goods were defective and withheld part of the purchase price.

Petitioner thereupon filed the present action in a Wisconsin state court to recover the unpaid balance on the contract. It alleged personal jurisdiction under Wisconsin's long-arm statute, Wis. Stat. §§ 801.05, 801.11 (1975), which has been interpreted to reach as far as due process will allow, *Flambeau Plastics Corp. v. King Bee Mfg. Co.*, 24 Wis. 2d 459, 464, 129 N. W. 2d 237, 240 (1964). Respondent removed the case



to the United States District Court for the Eastern District of Wisconsin. It there filed a motion to dismiss for lack of personal jurisdiction or, in the alternative, to transfer the case to a federal district court in Virginia or West Virginia. The court denied the motion and entered summary judgment for petitioner on the merits.

The Court of Appeals for the Seventh Circuit reversed, 597 F. 2d 596 (1979), holding that respondent's contacts with the Wisconsin forum were not sufficient to satisfy the "minimum contacts" test of *International Shoe Co. v. Washington*, 326 U. S. 310, 316 (1945). The court found that the contacts with the forum consisted solely of "unilateral activity of [one] who claim[s] some relationship with a nonresident defendant" of the type found insufficient to sustain personal jurisdiction in *Hanson v. Denckla*, 357 U. S. 235, 253 (1958). Although respondent ordered the goods from a Wisconsin corporation with knowledge that they were likely to be manufactured in Wisconsin, respondent did not thereby "purposefully avail[1] itself of the privilege of conducting activities within the forum State," *ibid.*, since the contract left petitioner with absolute discretion as to where the goods would be manufactured. Nor did the Court of Appeals find the requisite minimum contacts in (a) the contract provision requiring shipment f. o. b. petitioner's plant in Milwaukee, (b) respondent's use of interstate telephone and mail services to communicate with petitioner in Wisconsin, or (c) respondent's sending the purchase order to Wisconsin. The Court of Appeals therefore remanded the case to the District Court with directions to vacate the judgment and either dismiss the case or transfer it to another district.

As the Court of Appeals noted, 597 F. 2d, at 601, the question of personal jurisdiction over a nonresident corporate defendant based on contractual dealings with a resident plaintiff has deeply divided the federal and state courts. Cases arguably in conflict with the decision below include: *Pedi Bares, Inc. v. P & C Food Markets, Inc.*, 567 F. 2d 933 (CA10

1977); *United States Railway Equipment Co. v. Port Huron & Detroit R. Co.*, 495 F. 2d 1127 (CA7 1974); *Product Promotions, Inc. v. Cousteau*, 495 F. 2d 483, 494-499 (CA5 1974); *Ajax Realty Corp. v. J. F. Zook, Inc.*, 493 F. 2d 818 (CA4 1972), cert. denied *sub nom. Durell Products, Inc. v. Ajax Realty Corp.*, 411 U. S. 966 (1973); *In-Flight Devices Corp. v. Van Dusen Air, Inc.*, 466 F. 2d 220 (CA6 1972); *O'Hare Int'l Bank v. Hampton*, 437 F. 2d 1173 (CA7 1971); *Electro-Craft Corp. v. Maxwell Electronics Corp.*, 417 F. 2d 365 (CA8 1969); *Manufacturers' Lease Plans, Inc. v. Alverson Draughon College*, 115 Ariz. 358, 565 P. 2d 864 (1977) (en banc); *Colony Press, Inc. v. Fleeman*, 17 Ill. App. 3d 14, 308 N. E. 2d 78 (1974); *Miller v. Glendale Equipment & Supply, Inc.*, 344 So. 2d 736 (Miss. 1977); *McIntosh v. Navaro Seed Co.*, 81 N. M. 302, 466 P. 2d 868 (1970); *State ex rel. White Lumber Sales, Inc. v. Sulmonetti*, 252 Ore. 121, 448 P. 2d 571 (1968) (en banc); *Proctor & Schwartz, Inc. v. Cleveland Lumber Co.*, 228 Pa. Super. 12, 323 A. 2d 11 (1974); *Zerbel v. H. L. Federman & Co.*, 48 Wis. 2d 54, 179 N. W. 2d 872 (1970), appeal dism'd, 402 U. S. 902 (1971). Cases arguably supporting the decision below include: *Republic Int'l Corp. v. Amco Engineers, Inc.*, 516 F. 2d 161, 167 (CA9 1975) (dictum); *Whittaker Corp. v. United Aircraft Corp.*, 482 F. 2d 1079, 1084-1085 (CA1 1973) (construing state law); *E. R. Callender Printing Co. v. District Court*, 182 Colo. 25, 510 P. 2d 889 (1973) (en banc) (construing state law); *Rath Packing Co. v. Intercontinental Meat Traders, Inc.*, 181 N. W. 2d 184 (Iowa 1970); *O. N. Jonas Co. v. B & P Sales Corp.*, 232 Ga. 256, 206 S. E. 2d 437 (1974) (construing state law); *Marshall Egg Transport Co. v. Bender-Goodman Co.*, 275 Minn. 534, 148 N. W. 2d 161 (1967) (construing state law); *Conn v. Whitmore*, 9 Utah 2d 250, 342 P. 2d 871 (1959) (construing state law); *Sun-X Int'l Co. v. Witt*, 413 S. W. 2d 761 (Tex. Civ. App. 1967). The question at issue is one of considerable importance to contractual dealings between purchasers and sellers located in

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different States. The disarray among federal and state courts noted above may well have a disruptive effect on commercial relations in which certainty of result is a prime objective. That disarray also strongly suggests that prior decisions of this Court offer no clear guidance on the question. I would grant the petition in order to address this important problem.

No. 79-802. *JANELLE v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. MR. JUSTICE MARSHALL would grant certiorari. Reported below: 601 F. 2d 604.

No. 79-901. *OHIO v. KORN*. Ct. App. Ohio, Butler County. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied.

No. 79-959. *IOWA ELECTRIC LIGHT & POWER Co. v. ATLAS CORP.* C. A. 8th Cir. Certiorari denied. MR. JUSTICE WHITE and MR. JUSTICE POWELL would grant certiorari in order to address the conflict among state and federal courts noted in MR. JUSTICE WHITE's dissent from denial of certiorari in *Lakeside Bridge & Steel Co. v. Mountain State Construction Co.*, No. 79-376, *ante*, p. 907. MR. JUSTICE BLACKMUN would grant certiorari and set case for oral argument. Reported below: 603 F. 2d 1301.

No. 79-1005. *ALTON BOX BOARD Co. ET AL. v. THREE J. FARMS, INC., ET AL.* C. A. 4th Cir. Certiorari denied. MR. JUSTICE POWELL took no part in the consideration or decision of this petition. Reported below: 609 F. 2d 112.

No. 79-1057. *GILBERT v. UNION CARBIDE CORP.* C. A. 7th Cir. Motion of Louis Robertson for leave to file a brief as *amicus curiae* granted. Certiorari denied. Reported below: 601 F. 2d 600.

No. 79-1064. *HANKINSON v. RUHLMAN*. C. A. 3d Cir. Certiorari denied. MR. JUSTICE WHITE and MR. JUSTICE POWELL would grant certiorari. Reported below: 605 F. 2d 1197.



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*Rehearing Denied*

No. 79-681. SHUFFMAN, EXECUTRIX *v.* HARTFORD TEXTILE CORP. ET AL., 444 U. S. 1011;

No. 79-810. KNAPP *v.* KENTUCKY, 444 U. S. 1018;

No. 79-5305. NEUMANN *v.* UNITED STATES, 444 U. S. 1019;

No. 79-5558. EATON *v.* NEW JERSEY DIVISION OF YOUTH AND FAMILY SERVICES, 444 U. S. 1046;

No. 79-5604. LOCKETT *v.* BLACKBURN, WARDEN, 444 U. S. 1010; and

No. 79-5627. SANDERS ET AL. *v.* TARBUTTON ET AL., 444 U. S. 1023. Petitions for rehearing denied.

No. 79-5114. WARREN *v.* MISSISSIPPI, 444 U. S. 956. Petition for rehearing denied. MR. JUSTICE MARSHALL took no part in the consideration or decision of this petition.

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*Appeals Dismissed*

No. 79-928. BRIDGEPORT HYDRAULIC CO. ET AL. *v.* DIVISION OF PUBLIC UTILITY CONTROL OF CONNECTICUT; and

No. 79-936. NEW HAVEN WATER CO. ET AL. *v.* DIVISION OF PUBLIC UTILITY CONTROL OF CONNECTICUT. Appeals from Super. Ct. Conn., Hartford-New Britain Jud. Dist., dismissed for want of substantial federal question.

No. 79-1073. MUTUAL OF OMAHA INSURANCE CO. *v.* EGAN. 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 809, 600 P. 2d 141.

*Certiorari Granted—Vacated and Remanded*

No. 78-67. TRUSTEES OF BOSTON UNIVERSITY *v.* NATIONAL LABOR RELATIONS BOARD ET AL. C. A. 1st Cir. Certiorari granted, judgment vacated, and case remanded for further

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consideration in light of *NLRB v. Yeshiva University*, 444 U. S. 672 (1980). Reported below: 575 F. 2d 301.

### *Miscellaneous Orders*

No. 83, Orig. MARYLAND ET AL. v. LOUISIANA. Motion for appointment of Special Master granted. Motion of Columbia Gas Transmission Corp. et al. for leave to file an answer to motion for appointment of Special Master granted.

It is ordered that John F. Davis, Esquire, of Washington, D. C., 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 Special Master is directed to submit such reports as he may deem appropriate.

The compensation of the Special Master, 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 herein.

Motions of Columbia Gas Transmission Corp. et al. and New Jersey for leave to intervene referred to the Special Master. Motion of plaintiffs for judgment on the pleadings and motion of Columbia Gas Transmission Corp. et al. for leave to file motion for judgment on the pleadings referred to the Special Master. Motion of Associated Gas Distributors for leave to file a brief as *amicus curiae* referred to the Special Master. [For earlier order herein, see 442 U. S. 937.]

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No. 84, Orig. UNITED STATES *v.* ALASKA. Motion for leave to file a counterclaim referred to the Special Master. [For earlier order herein, see, *e. g.*, 444 U. S. 1065.]

No. 79-289. PRUNEYARD SHOPPING CENTER ET AL. *v.* ROBINS ET AL. Sup. Ct. Cal. [Probable jurisdiction postponed, 444 U. S. 949.] Motion of Solicitor General for divided argument granted. MR. JUSTICE MARSHALL took no part in the consideration or decision of this motion.

No. 79-703. CAREY, STATE'S ATTORNEY OF COOK COUNTY *v.* BROWN ET AL. C. A. 7th Cir. [Probable jurisdiction noted, 444 U. S. 1011.] Motions of New England Legal Foundation and Pacific Legal Foundation et al. for leave to file briefs as *amici curiae* granted.

No. 79-1082. NATIONAL LABOR RELATIONS BOARD *v.* INTERNATIONAL LONGSHOREMEN'S ASSN., AFL-CIO, ET AL. C. A. D. C. Cir. [Certiorari granted, 444 U. S. 1042.] Motion of the Solicitor General for additional time for oral argument granted, and 15 additional minutes allotted for that purpose. Respondents also allotted 15 additional minutes for oral argument.

### *Certiorari Granted*

No. 79-824. FEDERAL COMMUNICATIONS COMMISSION ET AL. *v.* WNCN LISTENERS GUILD ET AL.;

No. 79-825. INSILCO BROADCASTING CORP. ET AL. *v.* WNCN LISTENERS GUILD ET AL.;

No. 79-826. AMERICAN BROADCASTING COS., INC., ET AL. *v.* WNCN LISTENERS GUILD ET AL.; and

No. 79-827. NATIONAL ASSOCIATION OF BROADCASTERS ET AL. *v.* WNCN LISTENERS GUILD ET AL. C. A. D. C. Cir. Certiorari granted, cases consolidated, and a total of two hours allotted for oral argument. Reported below: 197 U. S. App. D. C. 319, 610 F. 2d 838.



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*Certiorari Denied.* (See also No. 79-1073, *supra*.)

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. *Certiorari* denied. Reported below: 371 So. 2d 883.

No. 79-729. MILLICAN *v.* UNITED STATES. C. A. 5th Cir. *Certiorari* denied. Reported below: 600 F. 2d 273.

No. 79-784. GROVER, TRUSTEE IN BANKRUPTCY *v.* COUNTY OF NAPA. C. A. 9th Cir. *Certiorari* denied. Reported below: 597 F. 2d 181.

No. 79-790. COMMITTEE FOR AUTO RESPONSIBILITY ET AL. *v.* FREEMAN, ADMINISTRATOR, GENERAL SERVICES ADMINISTRATION, ET AL. C. A. D. C. Cir. *Certiorari* denied. Reported below: 195 U. S. App. D. C. 410, 603 F. 2d 992.

No. 79-815. DiPALERMO *v.* UNITED STATES; and

No. 79-819. LOMBARDI *v.* UNITED STATES. C. A. 2d Cir. *Certiorari* denied. Reported below: 606 F. 2d 17.

No. 79-876. McILVANE *v.* UNITED STATES. C. A. 6th Cir. *Certiorari* denied. Reported below: 611 F. 2d 375.

No. 79-956. FORT VANCOUVER PLYWOOD Co. *v.* NATIONAL LABOR RELATIONS BOARD. C. A. 9th Cir. *Certiorari* denied. Reported below: 604 F. 2d 596.

No. 79-963. TRANSCONTINENTAL GAS PIPE LINE CORP. *v.* FEDERAL ENERGY REGULATORY COMMISSION. C. A. 5th Cir. *Certiorari* denied. Reported below: 589 F. 2d 186.

No. 79-973. BURGETT ET UX. *v.* FEDERAL LAND BANK OF WICHITA. Sup. Ct. N. M. *Certiorari* denied.

No. 79-984. INTERNATIONAL ASSOCIATION OF BRIDGE, STRUCTURAL & ORNAMENTAL IRON WORKERS, LOCAL 433 *v.* NATIONAL LABOR RELATIONS BOARD. C. A. 9th Cir. *Certiorari* denied. Reported below: 600 F. 2d 770.

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No. 79-1006. *FIRST MULTIFUND FOR DAILY INCOME, INC. v. UNITED STATES*. Ct. Cl. Certiorari denied. Reported below: 221 Ct. Cl. 123, 602 F. 2d 332.

No. 79-1055. *FEDERAL ENERGY REGULATORY COMMISSION v. UNITED GAS PIPE LINE CO.* C. A. 5th Cir. Certiorari denied. Reported below: 597 F. 2d 581.

No. 79-1058. *CHAMPION SPARK PLUG CO. v. GYROMAT CORP.* C. A. 2d Cir. Certiorari denied. Reported below: 603 F. 2d 361.

No. 79-1071. *ARKANSAS LOUISIANA GAS CO. v. LUSTER ET AL.* C. A. 8th Cir. Certiorari denied. Reported below: 604 F. 2d 31.

No. 79-1072. *FLORES v. CABOT CORP. ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 604 F. 2d 385.

No. 79-1075. *GUYTON, A MINOR BY SHEPHERD, ADMINIS-TRATRIX v. JENSEN ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 606 F. 2d 248.

No. 79-1076. *TRUSTEES OF THE OPERATING ENGINEERS PENSION TRUST ET AL. v. PILATTI*. Ct. App. Cal., 4th App. Dist. Certiorari denied. Reported below: 96 Cal. App. 3d 63, 157 Cal. Rptr. 594.

No. 79-1077. *GALICH v. CATHOLIC BISHOP OF CHICAGO*. App. Ct. Ill., 1st Dist. Certiorari denied. Reported below: 75 Ill. App. 3d 538, 394 N. E. 2d 572.

No. 79-1079. *ROHRER v. MISSOURI*. Ct. App. Mo., Southern Dist. Certiorari denied. Reported below: 589 S. W. 2d 121.

No. 79-1085. *LUMPKIN v. CITY OF LITTLE ROCK*. C. A. 8th Cir. Certiorari denied. Reported below: 608 F. 2d 291.

No. 79-1087. *LEEWARD PETROLEUM, LTD. v. MENE GRANDE OIL CO. ET AL.* C. A. 3d Cir. Certiorari denied.

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No. 79-1088. *BORA v. MITCHELL BROTHERS FILM GROUP ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 604 F. 2d 852.

No. 79-1091. *NODVIN v. NODVIN.* Sup. Ct. Ga. Certiorari denied. Reported below: 244 Ga. 447, 259 S. E. 2d 636.

No. 79-1129. *MANSION HOUSE CENTER NORTH REDEVELOPMENT CO. ET AL. v. UNITED STATES ET AL.* C. A. 8th Cir. Certiorari denied. Reported below: 605 F. 2d 1090.

No. 79-1137. *FOTOMAT CORP. v. PHOTOVEST CORP.* C. A. 7th Cir. Certiorari denied. Reported below: 606 F. 2d 704.

No. 79-1167. *GOLDSMITH v. PENNSYLVANIA.* Super. Ct. Pa. Certiorari denied.

No. 79-5360. *MORRIS v. CATE-McLAURIN CO. ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 599 F. 2d 1048.

No. 79-5551. *JACKSON v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. Reported below: 601 F. 2d 1193.

No. 79-5639. *KING v. MISSISSIPPI.* Sup. Ct. Miss. Certiorari denied. Reported below: 374 So. 2d 808.

No. 79-5662. *FEASTER v. MARYLAND.* Ct. Sp. App. Md. Certiorari denied.

No. 79-5663. *WILLIAMS v. VIRGINIA.* Sup. Ct. Va. Certiorari denied.

No. 79-5672. *SHIELDS v. ILLINOIS.* Sup. Ct. Ill. Certiorari denied. Reported below: 76 Ill. 2d 543, 394 N. E. 2d 1161.

No. 79-5693. *BRYANT v. MARYLAND.* C. A. 4th Cir. Certiorari denied. Reported below: 610 F. 2d 809.

No. 79-5697. *LOUDHAWK ET AL. v. UNITED STATES.* C. A. 9th Cir. Certiorari denied. Reported below: 628 F. 2d 1139.



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No. 79-5725. *WILLERS v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 608 F. 2d 1375.

No. 79-5726. *DAVIS v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 608 F. 2d 698.

No. 79-5762. *MALONEY v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 607 F. 2d 222.

No. 79-5769. *DALL v. UNITED STATES*. C. A. 1st Cir. Certiorari denied. Reported below: 608 F. 2d 910.

No. 79-5842. *BROWN v. UNITED STATES*. C. A. 10th Cir. Certiorari denied.

No. 79-5851. *ALSTON v. UNITED STATES*. C. A. D. C. Cir. Certiorari denied. Reported below: 197 U. S. App. D. C. 276, 609 F. 2d 531.

No. 79-5864. *EVANS v. STEPHENSON ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 609 F. 2d 507.

No. 79-5894. *CHAPMAN v. JAGO, CORRECTIONAL SUPERINTENDANT*. C. A. 6th Cir. Certiorari denied. Reported below: 612 F. 2d 580.

No. 79-5917. *HUNT v. GREENBERG, DISTRICT ATTORNEY OF ALBANY COUNTY, ET AL.* C. A. 2d Cir. Certiorari denied.

No. 79-5918. *TINDER v. SISTER ROSE PAULA ET AL.* C. A. 1st Cir. Certiorari denied.

No. 79-5934. *MILLER v. WYRICK, WARDEN*. C. A. 8th Cir. Certiorari denied.

No. 79-5936. *HENTGES v. TORAL*. Ct. App. Cal., 4th App. Dist. Certiorari denied.

No. 79-5939. *SHAFFNER v. WADE ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 612 F. 2d 582.

No. 79-5950. *CAMPBELL ET AL. v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 609 F. 2d 922.

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No. 79-5973. *SELLARS v. COMMUNITY RELEASE BOARD OF CALIFORNIA*. C. A. 9th Cir. Certiorari denied. Reported below: 605 F. 2d 563.

No. 79-5978. *BROWN v. THOMPSON, WARDEN*. C. A. 6th Cir. Certiorari denied. Reported below: 611 F. 2d 371.

No. 79-6023. *JOHNSON v. HANBERRY, WARDEN*. C. A. 5th Cir. Certiorari denied. Reported below: 608 F. 2d 1371.

No. 79-6024. *MITCHELL v. UNITED STATES*. C. A. 10th Cir. Certiorari denied. Reported below: 613 F. 2d 779.

No. 79-6030. *McMILLIAN ET AL. v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 611 F. 2d 257.

No. 79-6032. *THOMAS v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 612 F. 2d 575.

No. 79-6034. *SHUCKAHOSEE v. UNITED STATES*. C. A. 10th Cir. Certiorari denied. Reported below: 609 F. 2d 1351.

No. 79-6048. *IVES v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 609 F. 2d 930.

No. 79-6060. *DUPREE v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 606 F. 2d 829.

No. 79-608. *TEXAS v. MIXON*; and *TEXAS v. DIXON*. Ct. Crim. App. Tex. Motion of respondent Mixon for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 583 S. W. 2d 378 (first case); 583 S. W. 2d 793 (second case).

No. 79-1084. *ESTELLE, CORRECTIONS DIRECTOR v. CORPUS ET AL.* C. A. 5th Cir. Motion of respondents for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 605 F. 2d 175.

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No. 79-949. *TEXAS v. REYNOLDS*; and *TEXAS v. COLUNGA*. Ct. Crim. App. Tex. Motion of respondent Reynolds for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 588 S. W. 2d 900 (first case); 587 S. W. 2d 426 (second case).

No. 79-962. *TENNESSEE GAS PIPELINE CO., A DIVISION OF TENNECO, INC. v. FEDERAL ENERGY REGULATORY COMMISSION*. C. A. D. C. Cir. Motion of petitioner to defer consideration of petition for writ of certiorari and certiorari denied. Reported below: 196 U. S. App. D. C. 187, 606 F. 2d 1094.

No. 79-5942. *GIBSON v. RICKETTS, WARDEN*. Sup. Ct. Ga. Certiorari denied. Reported below: 244 Ga. 482, 260 S. E. 2d 877.

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.

### *Rehearing Denied*

No. 78-1143. *VANCE, SECRETARY OF STATE v. TERRAZAS*, 444 U. S. 252;

No. 78-1268. *MARTINEZ ET AL. v. CALIFORNIA ET AL.*, 444 U. S. 277;

No. 79-766. *McGHEE v. IOWA*, 444 U. S. 1039;

No. 79-5481. *McELROY v. WILSON ET AL.*, 444 U. S. 971; and

No. 79-5698. *FRANCISSE v. HOLLYWOOD CHEROKEE APARTMENTS ET AL.*, 444 U. S. 1047. Petitions for rehearing denied.



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*Affirmed on Appeal*

No. 79-923. STEIN, SECRETARY OF THE BUSINESS AND TRANSPORTATION AGENCY OF CALIFORNIA *v.* CONFERENCE OF FEDERAL SAVINGS AND LOAN ASSOCIATIONS ET AL. Appeal from C. A. 9th Cir. Motions of NAACP Legal Defense & Educational Fund, Inc., and American Savings & Loan League for leave to file briefs as *amici curiae* granted. Judgment affirmed. Reported below: 604 F. 2d 1256.

*Appeals Dismissed*

No. 79-996. CARGILL, ADMINISTRATOR, ET AL. *v.* CITY OF ROCHESTER, NEW HAMPSHIRE. Appeal from Sup. Ct. N. H. dismissed for want of jurisdiction. Reported below: 119 N. H. 661, 406 A. 2d 704.

No. 79-6075. CONRAD *v.* GREENE, U. S. DISTRICT JUDGE, ET AL. Appeal from D. C. D. C. dismissed for want of jurisdiction.

No. 79-1102. PICKERING *v.* COUNTY OF ERIE, NEW YORK. 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. Reported below: 614 F. 2d 1289.

No. 79-1132. MOUNTAIN STATES TELEPHONE & TELEGRAPH Co. *v.* COMMISSIONER OF LABOR AND INDUSTRY OF MONTANA. Appeal from Sup. Ct. Mont. dismissed for want of substantial federal question. Reported below: — Mont. —, 608 P. 2d 1047.

No. 79-1158. RICCO *v.* OHIO. Appeal from Ct. App. Ohio, Cuyahoga County, dismissed for want of substantial federal question.

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*Certiorari Granted—Reversed and Remanded.* (See No. 79-797, *ante*, p. 193.)

*Certiorari Granted—Vacated and Remanded*

No. 78-1849. ATTORNEY GENERAL OF NEW YORK *v.* SHARGEL. C. A. 2d Cir. Certiorari granted, judgment vacated, and case remanded for further consideration in light of *United States v. Apfelbaum*, *ante*, p. 115. Reported below: 596 F. 2d 42.

No. 79-5731. BROWN *v.* UNITED STATES. C. A. 10th 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 the position presently asserted by the Solicitor General in his memorandum filed February 15, 1980.

*Miscellaneous Orders*

No. A-682. MCGOFF ET AL. *v.* SECURITIES AND EXCHANGE COMMISSION. Application for stay of order of the United States District Court for the District of Columbia entered December 12, 1979, presented to THE CHIEF JUSTICE, and by him referred to the Court, denied.

No. A-697. HUDSPETH *v.* THURMAN. 147th Jud. Dist. Ct. Tex., Travis County. Application for stay, addressed to MR. JUSTICE MARSHALL and referred to the Court, denied.

No. A-720. ANDRUS, SECRETARY OF THE INTERIOR *v.* VIRGINIA SURFACE MINING & RECLAMATION ASSN., INC., ET AL.; and

No. A-725. VIRGINIA CITIZENS FOR BETTER RECLAMATION, INC., ET AL. *v.* VIRGINIA SURFACE MINING & RECLAMATION ASSN., INC., ET AL. Applications for stay of judgment of the United States District Court for the Western District of Virginia, presented to THE CHIEF JUSTICE, and by him referred to the Court, granted pending timely filing and disposition of the appeals in this Court.

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No. A-747. FEDERATION FOR AMERICAN IMMIGRATION REFORM ET AL. *v.* KLUTZNICK, SECRETARY OF COMMERCE, ET AL. D. C. D. C. Application for injunction, presented to THE CHIEF JUSTICE, and by him referred to the Court, denied. Motion to treat the application as a statement as to jurisdiction denied.

No. A-758. HALSTON BUILDERS ASSOCIATES ET AL. *v.* KRAMER, TAX COLLECTOR FOR HAMILTON TOWNSHIP, ET AL. Application for stay of judgment of the Supreme Court of New Jersey, presented to MR. JUSTICE BRENNAN, and by him referred to the Court, denied. MR. JUSTICE BLACKMUN would grant the application.

No. 9, Orig. UNITED STATES *v.* LOUISIANA ET AL. Motion of Alabama for entry of a supplemental decree and cross-motion of the United States for entry of a supplemental decree referred to the Special Master. MR. JUSTICE MARSHALL took no part in the consideration or decision of this order. [For earlier order herein, see, *e. g., ante*, p. 901.]

No. 79-1. AMERICAN EXPORT LINES, INC. *v.* ALVEZ ET AL. Ct. App. N. Y. [Certiorari granted, 444 U. S. 924.] Motion of petitioner for leave to file a supplemental brief after argument granted.

No. 79-48. ANDRUS, SECRETARY OF THE INTERIOR, ET AL. *v.* GLOVER CONSTRUCTION Co. C. A. 10th Cir. [Certiorari granted, 444 U. S. 962.] Motion of the Solicitor General to permit Andrew J. Levander, Esquire, to present oral argument *pro hac vice* granted.

No. 79-66. AARON *v.* SECURITIES AND EXCHANGE COMMISSION. C. A. 2d Cir. [Certiorari granted, 444 U. S. 914.] Motion of Securities Industry Association for leave to file a supplemental brief as *amicus curiae* after argument denied.



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No. 79-116. THOMAS *v.* WASHINGTON GAS LIGHT CO. ET AL. C. A. 4th Cir. [Certiorari granted, 444 U. S. 962.] Motion of the Solicitor General to permit Alan I. Horowitz, Esquire, to present oral argument *pro hac vice* granted.

No. 79-602. AGINS ET UX. *v.* CITY OF TIBURON. Sup. Ct. Cal. [Probable jurisdiction noted, 444 U. S. 1011.] Motion of appellants for additional time for oral argument, or in the alternative for divided argument, denied.

No. 79-616. MOHASCO CORP. *v.* SILVER. C. A. 2d Cir. [Certiorari granted, 444 U. S. 990.] Motion of the Solicitor General for divided argument granted.

No. 79-639. UNITED STATES *v.* SIOUX NATION OF INDIANS ET AL. Ct. Cl. [Certiorari granted, 444 U. S. 989.] Motion of Indian Law Resource Center for leave to file a brief as *amicus curiae* granted.

No. 79-703. CAREY, STATE'S ATTORNEY OF COOK COUNTY *v.* BROWN ET AL. C. A. 7th Cir. [Probable jurisdiction noted, 444 U. S. 1011.] Motion of Paul P. Biebel, Jr., Esquire, to permit Ellen G. Robinson to present oral argument *pro hac vice* granted.

No. 79-880. KISSINGER ET AL. *v.* HALPERIN ET AL. C. A. D. C. Cir. Motion of respondents to defer filing of a brief in opposition denied, and respondents are allowed 30 days in which to file the brief. MR. JUSTICE REHNQUIST took no part in the consideration or decision of this order.

No. 79-1268. HARRIS, SECRETARY OF HEALTH, EDUCATION, AND WELFARE *v.* McRAE ET AL. D. C. E. D. N. Y. [Probable jurisdiction noted, 444 U. S. 1069.] Motion of the Solicitor General to dispense with printing the District Court's opinion and accompanying annex, granted.

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No. A-731 (79-1190). *LA SALLE NATIONAL BANK, TRUSTEE, ET AL. v. PEOPLES GAS LIGHT & COKE Co.* App. Ct. Ill., 1st Dist. Application for stay, addressed to Mr. Justice Brennan and referred to the Court, denied.

No. A-760 (79-1384). *EXXON CORP. v. UNITED STATES;*

No. A-756 (79-1394). *SHELL OIL Co. v. UNITED STATES;*  
and

No. A-761 (79-1395). *MARATHON OIL Co. v. UNITED STATES.* Applications for stay of order of the United States District Court for the District of Columbia, entered December 17, 1979, as affirmed and modified by the United States Court of Appeals for the District of Columbia Circuit on February 25, 1980, denied.

No. 79-5364. *BROWN v. LOUISIANA.* Sup. Ct. La. [Certiorari granted, 444 U.S. 990.] Motion of Louise Kornis to permit Thomas Chester, Esquire, to present oral argument *pro hac vice* granted.

*Probable Jurisdiction Noted*

No. 79-1033. *WEBB'S FABULOUS PHARMACIES, INC., ET AL. v. BECKWITH, CLERK OF THE CIRCUIT COURT OF SEMINOLE COUNTY, ET AL.* Appeal from Sup. Ct. Fla. Probable jurisdiction noted. Reported below: 374 So. 2d 951.

*Certiorari Granted*

No. 78-1945. *UNIVERSITIES RESEARCH ASSN., INC. v. COUTU.* C. A. 7th Cir. Certiorari granted. Reported below: 595 F. 2d 396.

No. 79-886. *UPJOHN CO. ET AL. v. UNITED STATES ET AL.* C. A. 6th Cir. Certiorari granted. Reported below: 600 F. 2d 1223.

No. 79-1157. *ROSEWELL, TREASURER OF COOK COUNTY, ILLINOIS, ET AL. v. LA SALLE NATIONAL BANK, TRUSTEE.* C. A. 7th Cir. Certiorari granted. Reported below: 604 F. 2d 530.

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No. 79-408. CITY OF MILWAUKEE ET AL. *v.* ILLINOIS ET AL. C. A. 7th Cir. Motions of Mid-America Legal Foundation and Association of Metropolitan Sewerage Agencies et al. for leave to file briefs as *amici curiae* and certiorari granted. Reported below: 599 F. 2d 151.

No. 79-855. DIAMOND, COMMISSIONER OF PATENTS AND TRADEMARKS *v.* BRADLEY ET AL. C. C. P. A. Certiorari granted and case set for oral argument in tandem with No. 79-1112, *Diamond v. Diehr, infra*. Reported below: 600 F. 2d 807.

No. 79-1068. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION *v.* ASSOCIATED DRY GOODS CORP. C. A. 4th Cir. Certiorari granted. MR. JUSTICE POWELL took no part in the consideration or decision of this petition. Reported below: 607 F. 2d 1075.

No. 79-1112. DIAMOND, COMMISSIONER OF PATENTS AND TRADEMARKS *v.* DIEHR ET AL. C. C. P. A. Certiorari granted and case set for oral argument in tandem with No. 79-855, *Diamond v. Bradley, supra*. Reported below: 602 F. 2d 982.

No. 79-1127. ESTELLE, CORRECTIONS DIRECTOR *v.* SMITH. C. A. 5th Cir. Motion of respondent for leave to proceed *in forma pauperis* and certiorari granted. Reported below: 602 F. 2d 694.

No. 79-5949. WATKINS *v.* BORDENKIRCHER, WARDEN; and

No. 79-5951. SUMMITT *v.* BORDENKIRCHER, WARDEN. C. A. 6th Cir. Motions of petitioners for leave to proceed *in forma pauperis* granted. Certiorari in No. 79-5949 granted limited to Question 1 presented by the petition. Certiorari in No. 79-5951 granted. Cases consolidated and a total of one hour allotted for oral argument. Reported below: 608 F. 2d 247.



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No. 79-5780. *WEAVER v. GRAHAM*, GOVERNOR OF FLORIDA. Sup. Ct. Fla. Motion of petitioner for leave to proceed *in forma pauperis* granted. Certiorari granted limited to Question 1 presented by the petition. Reported below: 376 So. 2d 855.

*Certiorari Denied.* (See also No. 79-1102, *supra*.)

No. 78-1924. *GOLAND ET AL. v. CENTRAL INTELLIGENCE AGENCY ET AL.* C. A. D. C. Cir. Certiorari denied. Reported below: 197 U. S. App. D. C. 25, 607 F. 2d 339.

No. 79-854. *BERGER v. GEORGIA*. Ct. App. Ga. Certiorari denied. Reported below: 150 Ga. App. 166, 257 S. E. 2d 8.

No. 79-896. *HUBER v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 603 F. 2d 387.

No. 79-899. *GEORGE BANTA CO., INC. v. NATIONAL LABOR RELATIONS BOARD ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 604 F. 2d 830.

No. 79-903. *POSNER v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 607 F. 2d 1007.

No. 79-917. *LeCOMPTE v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 599 F. 2d 81.

No. 79-929. *RSR CORP. v. FEDERAL TRADE COMMISSION*. C. A. 9th Cir. Certiorari denied. Reported below: 602 F. 2d 1317.

No. 79-932. *WARINNER v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 607 F. 2d 210.

No. 79-965. *MICHIGAN v. YOUNG*. Ct. App. Mich. Certiorari denied. Reported below: 89 Mich. App. 753, 282 N. W. 2d 211.

No. 79-980. *MORTON-NORWICH PRODUCTS, INC. v. UNITED STATES*. Ct. Cl. Certiorari denied. Reported below: 221 Ct. Cl. 83, 602 F. 2d 270.

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No. 79-986. *CURRIE v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 609 F. 2d 1193.

No. 79-1000. *DICHNE v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 612 F. 2d 632.

No. 79-1017. *SORKIN v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 614 F. 2d 1291.

No. 79-1019. *RANEY v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 610 F. 2d 820.

No. 79-1031. *SOUTHWEST TEXAS METHODIST HOSPITAL v. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION*. C. A. 5th Cir. Certiorari denied. Reported below: 606 F. 2d 63.

No. 79-1039. *WILLIAM C. HAAS & Co., INC. v. CITY AND COUNTY OF SAN FRANCISCO*. C. A. 9th Cir. Certiorari denied. Reported below: 605 F. 2d 1117.

No. 79-1047. *MIROFF ET AL. v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 606 F. 2d 777.

No. 79-1053. *BLEVINAL v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 607 F. 2d 1124.

No. 79-1069. *RONCI MANUFACTURING Co., INC. v. RHODE ISLAND ET AL.* Sup. Ct. R. I. Certiorari denied. Reported below: — R. I. —, 403 A. 2d 1094.

No. 79-1093. *BLY ET AL. v. McLEOD, ATTORNEY GENERAL OF SOUTH CAROLINA, ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 605 F. 2d 134.

No. 79-1106. *ZAMBITO v. BLAIR, SHERIFF*. C. A. 4th Cir. Certiorari denied. Reported below: 610 F. 2d 1192.

No. 79-1107. *YOTT v. NORTH AMERICAN ROCKWELL CORP. ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 602 F. 2d 904.

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No. 79-1111. TALMAN FEDERAL SAVINGS & LOAN ASSOCIATION OF CHICAGO *v.* CARROLL. C. A. 7th Cir. Certiorari denied. Reported below: 604 F. 2d 1028.

No. 79-1117. HARVEY *v.* HARRIS TRUST & SAVINGS BANK. App. Ct. Ill., 1st Dist. Certiorari denied. Reported below: 73 Ill. App. 3d 280, 391 N. E. 2d 461.

No. 79-1119. AMERICAN INTERINSURANCE EXCHANGE *v.* COMMERCIAL UNION ASSURANCE CO. ET AL. C. A. 4th Cir. Certiorari denied. Reported below: 605 F. 2d 731.

No. 79-1126. THOMAS *v.* ILLINOIS. Sup. Ct. Ill. Certiorari denied. Reported below: 77 Ill. 2d 396, 396 N. E. 2d 812.

No. 79-1133. CLAWSON, ADMINISTRATRIX *v.* INTERNATIONAL HARVESTER CO. ET AL. C. A. 3d Cir. Certiorari denied. Reported below: 609 F. 2d 501.

No. 79-1134. GOLDMAN *v.* SEARS, ROEBUCK & CO. C. A. 1st Cir. Certiorari denied. Reported below: 607 F. 2d 1014.

No. 79-1135. CANADIAN UNIVERSAL INSURANCE CO. *v.* CONTINENTAL CASUALTY CO. ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 605 F. 2d 1340.

No. 79-1140. BURDETTE *v.* INDIANA & MICHIGAN ELECTRIC CO. C. A. 4th Cir. Certiorari denied. Reported below: 607 F. 2d 1001.

No. 79-1142. CHRISTIAN BEACON PRESS, INC. *v.* CITY OF CAPE MAY. Super. Ct. N. J. Certiorari denied.

No. 79-1153. KEM MANUFACTURING CO., INC. *v.* DRACKETT PRODUCTS CO. ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 598 F. 2d 402 and 604 F. 2d 320.

No. 79-1154. COLAO ET AL. *v.* MERIT INSURANCE CO., INC. C. A. 7th Cir. Certiorari denied. Reported below: 603 F. 2d 654.



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No. 79-1159. POOL, ADMINISTRATOR *v.* DOWNTOWN NURSING HOME, INC. Sup. Ct. Ala. Certiorari denied. Reported below: 375 So. 2d 465.

No. 79-1160. VALERON CORP. *v.* GENERAL ELECTRIC Co. C. A. 6th Cir. Certiorari denied. Reported below: 608 F. 2d 265.

No. 79-1174. MARC RICH & Co., A. G. *v.* TRANSMARINE SEAWAYS CORP. OF MONROVIA. C. A. 2d Cir. Certiorari denied. Reported below: 614 F. 2d 1291.

No. 79-1185. AMBROSIANI *v.* UNITED STATES. C. A. 1st Cir. Certiorari denied. Reported below: 610 F. 2d 65.

No. 79-1191. BORCHERDING ET AL. *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 611 F. 2d 374.

No. 79-1208. LONG *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 608 F. 2d 1372.

No. 79-1211. FRINK *v.* UNITED STATES NAVY PERA (CRUDES) ET AL. C. A. 3d Cir. Certiorari denied. Reported below: 609 F. 2d 501.

No. 79-1218. McCARTY *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied. Reported below: 611 F. 2d 220.

No. 79-1219. SIMS, TRUSTEE, ET AL. *v.* MACK TRUCKS, INC. C. A. 3d Cir. Certiorari denied. Reported below: 608 F. 2d 87.

No. 79-1223. KIRVEN *v.* COMMITTEE ON CHARACTER AND FITNESS OF THE SOUTH CAROLINA SUPREME COURT. Sup. Ct. S. C. Certiorari denied.

No. 79-1275. ORTIZ *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 610 F. 2d 280.

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No. 79-1279. *CARTER v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 616 F. 2d 2.

No. 79-5549. *HOUSE v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 604 F. 2d 1135.

No. 79-5670. *HOLLAND v. WISCONSIN*. Sup. Ct. Wis. Certiorari denied. Reported below: 91 Wis. 2d 134, 280 N. W. 2d 288.

No. 79-5721. *PRIVETT v. MISSISSIPPI*. Sup. Ct. Miss. Certiorari denied.

No. 79-5727. *IN RE A. G. M.* Ct. App. D. C. Certiorari denied.

No. 79-5742. *TIAO-MING WU v. NEW YORK CITY ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 614 F. 2d 1293.

No. 79-5760. *BISHOP v. LANE, WARDEN, ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 605 F. 2d 556.

No. 79-5779. *RACKSTRAW v. CALIFORNIA*. Sup. Ct. Cal. Certiorari denied.

No. 79-5817. *VON ESSEN v. McKEAN, FORMERLY VON ESSEN*. Sup. Ct. Wash. Certiorari denied.

No. 79-5823. *JOHNSON v. HARRIS, CORRECTIONAL SUPERINTENDENT*. C. A. 2d Cir. Certiorari denied. Reported below: 615 F. 2d 1351.

No. 79-5825. *EVERAGE v. GIBSON ET AL.* Sup. Ct. Ala. Certiorari denied. Reported below: 372 So. 2d 829.

No. 79-5838. *PRESSLEY ET AL. v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 610 F. 2d 814.

No. 79-5840. *LOPEZ-BELTRAN v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 619 F. 2d 19.

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No. 79-5846. *GRUBBS v. VIRGINIA*. Sup. Ct. Va. Certiorari denied.

No. 79-5863. *GODWIN v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 610 F. 2d 808.

No. 79-5872. *HARRISON v. NAIFEH, JUDGE, ET AL.* Ct. Crim. App. Okla. Certiorari denied.

No. 79-5892. *ALTRO v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 612 F. 2d 575.

No. 79-5919. *TRIMBLE v. CONLEY, JUDGE, ET AL.* Sup. Ct. Mo. Certiorari denied.

No. 79-5947. *WEXLER v. PHILADELPHIA CONSUMER DISCOUNT CO. ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 612 F. 2d 576.

No. 79-5952. *GINTER v. WALLIN ET AL.* C. A. 8th Cir. Certiorari denied.

No. 79-5956. *GRISIO v. WYRICK, WARDEN*. C. A. 8th Cir. Certiorari denied.

No. 79-5961. *CUPPS v. SECRETARY OF HEALTH, EDUCATION, AND WELFARE*. C. A. 10th Cir. Certiorari denied.

No. 79-5968. *MABERY v. NEW YORK STATE PAROLE COMMISSION*. C. A. 2d Cir. Certiorari denied.

No. 79-5970. *MICKENS v. TOWNLEY*. C. A. 4th Cir. Certiorari denied. Reported below: 607 F. 2d 1002.

No. 79-5971. *GRIFFIN v. PERINI, CORRECTIONAL SUPERINTENDENT*. C. A. 6th Cir. Certiorari denied. Reported below: 611 F. 2d 372.

No. 79-5979. *RIVERA ET AL. v. AQUEDUCT AND SEWER AUTHORITY OF PUERTO RICO*. Sup. Ct. P. R. Certiorari denied.



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No. 79-5982. *STEBBINS v. PEOPLES LIFE INSURANCE Co.* C. A. D. C. Cir. Certiorari denied. Reported below: 197 U. S. App. D. C. 180, 607 F. 2d 494.

No. 79-5984. *WIMBUSH v. MITCHELL, WARDEN.* C. A. 4th Cir. Certiorari denied. Reported below: 605 F. 2d 1208.

No. 79-5989. *BECKNELL v. ESTELLE, CORRECTIONS DIRECTOR, ET AL.* C. A. 5th Cir. Certiorari denied.

No. 79-6003. *McDOUGLE ET AL. v. MITCHELL, WARDEN.* C. A. 4th Cir. Certiorari denied. Reported below: 605 F. 2d 1203.

No. 79-6006. *LITTLE v. CITY OF JACKSON.* Sup. Ct. Miss. Certiorari denied. Reported below: 375 So. 2d 1031.

No. 79-6007. *SMITH v. CITY OF BELLINGHAM.* Ct. App. Wash. Certiorari denied.

No. 79-6008. *KENT v. ALABAMA.* C. A. 5th Cir. Certiorari denied. Reported below: 606 F. 2d 319.

No. 79-6009. *INDIVIGLIO v. UNITED STATES.* C. A. 2d Cir. Certiorari denied. Reported below: 612 F. 2d 624.

No. 79-6011. *HOLSEY v. INMATE GRIEVANCE COMMISSION.* Ct. Sp. App. Md. Certiorari denied.

No. 79-6013. *MONK ET AL. v. BLACKBURN, WARDEN.* C. A. 5th Cir. Certiorari denied. Reported below: 605 F. 2d 837.

No. 79-6014. *HERNANDEZ v. ELIO M. ROSSY, INC., ET AL.* Sup. Ct. P. R. Certiorari denied.

No. 79-6018. *STEELE v. BARRETT ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 605 F. 2d 563.

No. 79-6036. *FROEMGEN v. UNITED STATES.* C. A. 9th Cir. Certiorari denied. Reported below: 610 F. 2d 823.

No. 79-6042. *KINARD v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. Reported below: 611 F. 2d 881.

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No. 79-6056. *DE FAZIO v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 614 F. 2d 771.

No. 79-6061. *WIDEMON v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 618 F. 2d 106.

No. 79-6066. *FRIEDMAN v. FAIRHILL HOSPITAL ET AL.* Sup. Ct. Ohio. Certiorari denied.

No. 79-6078. *WHITNEY v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 607 F. 2d 237.

No. 79-6086. *GAMEZ v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 610 F. 2d 823.

No. 79-6088. *PROSAK v. BOEING CO. ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 605 F. 2d 1196.

No. 79-6096. *BUSH v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 614 F. 2d 1291.

No. 79-6104. *FRYE ET AL. v. UNITED STATES*. C. A. D. C. Cir. Certiorari denied. Reported below: 198 U. S. App. D. C. 58, 610 F. 2d 1000.

No. 79-6107. *JOSEPH v. GOVERNMENT OF THE VIRGIN ISLANDS*. C. A. 3d Cir. Certiorari denied. Reported below: 612 F. 2d 572.

No. 79-6109. *WILLIAMS v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 612 F. 2d 735.

No. 79-6112. *WILLIAMS v. DUCKWORTH, WARDEN*. Sup. Ct. Ind. Certiorari denied.

No. 79-697. *ENCYCLOPAEDIA BRITANNICA, INC., ET AL. v. FEDERAL TRADE COMMISSION*. C. A. 7th Cir. Certiorari denied. MR. JUSTICE BLACKMUN would grant certiorari. Reported below: 605 F. 2d 964.

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No. 79-804. CLEVELAND BOARD OF EDUCATION ET AL. v. REED ET AL. C. A. 6th Cir. Certiorari denied. Reported below: 607 F. 2d 714.

MR. JUSTICE REHNQUIST, with whom THE CHIEF JUSTICE and MR. JUSTICE POWELL join, dissenting.

Petitioners seek to present two questions for decision: (a) whether the District Court properly found systemwide segregative intent on the part of petitioner school Board, and, (b) "[w]hether the systemwide student reassignment plan ordered by the District Court, whereby every grade in every school must have a ratio of black and white students in approximate proportion to the systemwide ratio, exceeded the violation found, particularly where the evidence showed that Cleveland's residential areas are highly segregated by race." Pet. for Cert. 3. With respect to the first issue of systemwide desegregation, the District Court found as follows in its exhaustive opinion:

"[T]he local defendants offered evidence to show that various actions complained of by the plaintiffs were supported by valid, racially neutral, educationally sound reasons. For instance, the defendants argued that they created optional attendance zones to permit students to avoid heavy traffic or other such safety hazards, or to address the problems of overcrowding. Various school construction decisions were defended as being responsive to sincere desires of local residents for neighborhood facilities. The assignment of black teachers and administrators to schools with majority black student enrollments was defended on the ground that such faculty or staff would be better able to relate to students of the same race. Where there was factual support for the claim that such decisions had compelling educational bases, or where legitimate safety concerns were being met in a plausible and nonracial manner, the allegations of the plaintiffs were set aside. However, there remain



more than 200 enumerated actions cited in the liability opinion for which the explanations of the defendants either were not credible or were not legally permissible. In these instances, the Court finds that the defendants acted (1) *not only* with awareness of the natural, probable, and foreseeable consequences of their acts, (2) *but also* with the purpose and intent to maintain racial segregation." *Reed v. Rhodes*, 545 F. Supp. 546, 555 (ND Ohio 1978).

The Court of Appeals affirmed this conclusion of the District Court in this language:

"Our review of this record supports the District Judge's findings of fact in this regard and we find no fault in his conclusions of law, as stated above. The findings of fact certainly cannot be termed clearly erroneous, and the conclusions of law which pertain to his 1973 findings and his 1964 findings are both entirely consistent with the opinions of the Supreme Court in *Columbus Board of Education v. Penick*, [443] U. S. [449] (1979), and *Dayton Board of Education v. Brinkman*, [443] U. S. [526] (1979)." *Reed v. Rhodes*, 607 F. 2d 714, 717 (CA6 1979).

The Court of Appeals, I think, was undoubtedly correct in upholding this District Court's finding of systemwide segregative intent on the basis of this Court's decisions last Term in the *Columbus* and *Dayton* cases. I would therefore not vote to grant the petition on this first issue.

The Court of Appeals, however, devoted virtually no attention to the second issue—the propriety of the *remedy* imposed by the District Court. In the Court of Appeals' opinion, which comprises 46 pages of the appendix to the petition, less than 4 are devoted to the propriety of the remedy decreed, and none of these 4 pages deal with whether the remedy was appropriate, *conceding* that a systemwide remedy could be imposed. The court focused solely on the legitimacy

of imposing a systemwide remedy, neglecting to address the propriety of the *terms* imposed by that remedy. The Court of Appeals extensively quoted language in this Court's opinion in *Columbus, supra*, to support its approval of this remedy, but that language simply has no application to the issue of whether as drastic a remedy as this may be imposed once a systemwide violation has been found.

In *Milliken v. Bradley*, 418 U. S. 717, 744 (1974), we held:

"The controlling principle consistently expounded in our holdings is that the scope of the remedy is determined by the nature and extent of the constitutional violation. *Swann [v. Charlotte-Mecklenburg Board of Education, 402 U. S. 1 (1971)]*, at 16."

This was not a novel principle then any more than it is now. It simply reflects the traditional rule that the remedy imposed by a United States district court exercising its equitable powers must restore, as nearly as possible, the situation which would have existed had the wrong not occurred. We have certainly never held that racial balance is constitutionally required once a violation is established. To the contrary, in *Swann v. Charlotte-Mecklenburg Board of Education*, 402 U. S. 1, 24 (1971), this Court stated explicitly that, "[t]he constitutional command to desegregate schools does not mean that every school in every community must always reflect the racial composition of the school system as a whole."

The District Court then either ignored the statement in *Swann* or formulated this remedy on the hypothesis that had there been no segregative conduct on the part of the Cleveland School Board, there would have been no racially segregated housing patterns in the city of Cleveland. For the reasons persuasively stated by MR. JUSTICE POWELL in his opinion dissenting from the dismissal of the writ of certiorari in *Estes v. Metropolitan Branch, Dallas NAACP*, 444 U. S. 437, 438 (1980), this is simply not a realistic hypothesis. Conceding that there was a systemwide violation, and allowing for

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the discretion and flexibility necessary for the District Court to fashion an equitable decree which would require the constitutional wrong, that discretion did not extend to restructuring the entire demography of the city of Cleveland as reflected in its schools, unless that demography was attributable to the conduct of the petitioner school Board. While the District Court found that some of the racial housing patterns were attributable to the conduct of the Board, it also made clear that other factors, including the location of public housing by entities other than the Board, also had a causative effect. Even if the Constitution required it, and it were possible for federal courts to do it, no equitable decree can fashion an "Emerald City" where all races, ethnic groups, and persons of various income levels live side by side in a large metropolitan area. Because the decree of the District Court here seems flatly contrary to the language of *Swann, supra*, and *Milliken, supra*, I would grant the petition for certiorari limited to the second question.

No. 79-994. *EL PASO NATURAL GAS CO. v. ARIZONA ET AL.* Sup. Ct. Ariz. Certiorari denied. MR. JUSTICE STEWART and MR. JUSTICE MARSHALL would grant certiorari. Reported below: 123 Ariz. 219, 599 P. 2d 175.

No. 79-1172. *HARVEY v. HARRIS.* C. A. 7th Cir. Motion of Voluntary Association of Trial Judges of Wisconsin for leave to file a brief as *amicus curiae* granted. Certiorari denied. Reported below: 605 F. 2d 330.

No. 79-5626. *SIMON v. TEXAS ET AL.* C. A. 5th Cir. Certiorari denied. MR. JUSTICE BRENNAN and MR. JUSTICE BLACKMUN would grant certiorari. Reported below: 606 F. 2d 320.

No. 79-5933. *DOUTHIT v. GEORGIA*; and

No. 79-5959. *GATES v. GEORGIA.* Sup. Ct. Ga. Certiorari denied. Reported below: No. 79-5933, 239 Ga. 81, 235



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S. E. 2d 493, and 244 Ga. 471, 260 S. E. 2d 875; No. 79-5959, 244 Ga. 587, 261 S. E. 2d 349.

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. 27, Orig. OHIO *v.* KENTUCKY, 444 U. S. 335;

No. 79-486. UNITED STATES STEEL CORP. ET AL. *v.* UNITED STATES ENVIRONMENTAL PROTECTION AGENCY, 444 U. S. 1035;

No. 79-531. NEWELL ET AL. *v.* ORLEANS PARISH SCHOOL BOARD, 444 U. S. 1043; and

No. 79-5669. PFISTER *v.* ANDERSON CLINIC, INC., ET AL., 444 U. S. 1047. Petitions for rehearing denied.

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*Vacated and Remanded on Appeal*

No. 78-1839. ASARCO INC. (FORMERLY AMERICAN SMELTING & REFINING Co.) *v.* IDAHO STATE TAX COMMISSION. Appeal from Sup. Ct. Idaho. Judgment vacated and case remanded for further consideration in light of *Mobil Oil Corp. v. Commissioner of Taxes of Vermont*, ante, p. 425. Reported below: 99 Idaho 924, 592 P. 2d 39.

*Appeals Dismissed*

No. 79-1143. RINGLING BROS.-BARNUM & BAILEY COMBINED SHOWS, INC. *v.* MIKOS, PROPERTY APPRAISER OF SARASOTA COUNTY, FLORIDA, ET AL. Appeal from Dist. Ct. App. Fla., 2d Dist., dismissed for want of substantial federal question. MR. JUSTICE WHITE, MR. JUSTICE BLACKMUN, and MR. JUSTICE STEVENS would note probable jurisdiction and set case for oral argument. Reported below: 368 So. 2d 884.

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No. 79-1182. *RUSSO, TRUSTEE, ET AL. v. TOWN OF EAST HARTFORD*. 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: 179 Conn. 250, 425 A. 2d 1282.

No. 79-1284. *KNEELAND v. NEW ENGLAND MERCHANTS NATIONAL BANK 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.

*Certiorari Granted—Vacated and Remanded*

No. 78-1008. *SATTERWHITE v. CITY OF GREENVILLE, TEXAS*. C. A. 5th Cir. Certiorari granted, judgment vacated, and case remanded for further consideration in light of *United States Parole Comm'n v. Geraghty*, ante, p. 388, and *Deposit Guaranty Nat. Bank v. Roper*, ante, p. 326. Reported below: 578 F. 2d 987.

No. 79-5649. *ARMOUR v. CITY OF ANNISTON, DBA ANNI-STON MEMORIAL HOSPITAL, ET AL.* C. A. 5th Cir. Motion of petitioner for leave to proceed *in forma pauperis* and certiorari granted. Judgment vacated and case remanded for further consideration in light of *United States Parole Comm'n v. Geraghty*, ante, p. 388, and *Deposit Guaranty Nat. Bank v. Roper*, ante, p. 326. Reported below: 597 F. 2d 46.

*Miscellaneous Orders*

No. A-735. *HEIR ET AL. v. DEGNAN, ATTORNEY GENERAL OF NEW JERSEY, ET AL.* Application for stay of judgment of the Supreme Court of New Jersey, addressed to MR. JUSTICE POWELL and referred to the Court, denied. MR. JUSTICE BRENNAN took no part in the consideration or decision of this application.

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No. A-776. FREEDOM INSTITUTE OF AMERICA ET AL. v. NEW JERSEY. Application for stay of orders of the Supreme Court of New Jersey, addressed to MR. JUSTICE STEVENS and referred to the Court, denied.

No. A-784. SHARPE v. FLORIDA. Dist. Ct. App. Fla., 1st Dist. Application for stay and/or continued release on bond, addressed to MR. JUSTICE MARSHALL and referred to the Court, denied.

No. 81, Orig. KENTUCKY v. INDIANA ET AL. Report of the Special Master received and ordered filed. Motion of Public Service Company of Indiana, Inc., for leave to intervene denied. Motion of Public Service Company of Indiana, Inc., for leave to file a brief as *amicus curiae* granted. Motion for summary adoption of the Report of the Special Master granted and case remanded to the Special Master so that with the cooperation of the parties he may prepare and submit to the Court an appropriate form of decree. [For earlier order herein, see, *e. g.*, 444 U. S. 816.]

No. 79-1203. LUCKY MC URANIUM CORP. v. GEOMET EXPLORATION, LTD. Sup. Ct. Ariz. The Solicitor General is invited to file a brief in this case expressing the views of the United States.

No. 79-1268. HARRIS, SECRETARY OF HEALTH, EDUCATION, AND WELFARE v. McRAE ET AL. D. C. E. D. N. Y. [Probable jurisdiction noted, 444 U. S. 1069.] Motion of Alan Ernest to be appointed as 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. 79-1298. UNKNOWN NAMED CHILDREN UNBORN AND BORN ALIVE v. GREENE, U. S. DISTRICT JUDGE. Motion for leave to file petition for writ of habeas corpus denied.

No. 79-1300. DACEY v. NARUK ET AL. Motion for leave to file petition for writ of mandamus denied.



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*Probable Jurisdiction Noted*

No. 79-5932. *DOE ET AL. v. DELAWARE*. Appeal from Sup. Ct. Del. Motion of appellants for leave to proceed *in forma pauperis* granted. Probable jurisdiction noted. Reported below: 407 A. 2d 198.

*Certiorari Granted*

No. 79-1186. *DENNIS v. SPARKS ET AL., DBA SIDNEY A. SPARKS, TRUSTEE*. C. A. 5th Cir. Certiorari granted. Reported below: 604 F. 2d 976.

*Certiorari Denied.* (See also Nos. 79-1182 and 79-1284, *supra*.)

No. 78-1169. *LINCOLN AMERICAN CORP. ET AL. v. SUSMAN*; and

No. 78-1286. *EBERSTADT ET AL. v. FLAMM ET AL.* C. A. 7th Cir. Certiorari denied. Reported below: 587 F. 2d 866.

No. 79-822. *SCOTT v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 611 F. 2d 375.

No. 79-910. *HOROWITZ v. CALIFORNIA*. Ct. App. Cal., 2d App. Dist. Certiorari denied.

No. 79-969. *KRASNY v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 607 F. 2d 840.

No. 79-978. *YOUNG ET UX. v. TENNESSEE VALLEY AUTHORITY ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 606 F. 2d 143.

No. 79-979. *WILLAMETTE IRON & STEEL CO. v. SECRETARY OF LABOR ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 604 F. 2d 1177.

No. 79-1020. *NEWMAN v. ELROD, SHERIFF*. App. Ct. Ill., 1st Dist. Certiorari denied. Reported below: 72 Ill. App. 3d 616, 391 N. E. 2d 37.

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No. 79-1022. *PATRICK ET UX. v. COMMISSIONER OF INTERNAL REVENUE*. C. A. 4th Cir. Certiorari denied. Reported below: 601 F. 2d 730.

No. 79-1059. *SAWYER v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 607 F. 2d 1190.

No. 79-1070. *REFRACTARIOS MONTERREY, S. A. v. FERRO CORP. ET AL.* C. C. P. A. Certiorari denied. Reported below: 606 F. 2d 966.

No. 79-1162. *CUEVAS ET AL. v. GEORGIA*. Ct. App. Ga. Certiorari denied. Reported below: 151 Ga. App. 605, 260 S. E. 2d 737.

No. 79-1173. *STEMPER v. INDIANA*. Ct. App. Ind. Certiorari denied.

No. 79-1189. *MAHOMET v. GEORGIA*. Ct. App. Ga. Certiorari denied. Reported below: 151 Ga. App. 462, 260 S. E. 2d 363.

No. 79-1190. *LA SALLE NATIONAL BANK, TRUSTEE, ET AL. v. PEOPLES GAS LIGHT & COKE CO.* App. Ct. Ill., 1st Dist. Certiorari denied.

No. 79-1226. *DITTO v. ROSENDALE*. Ct. App. Cal., 3d App. Dist. Certiorari denied.

No. 79-1239. *SPARKS ET AL., DBA SIDNEY A. SPARKS, TRUSTEE v. DUVAL COUNTY RANCH CO., INC., ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 604 F. 2d 976.

No. 79-1254. *SANZA v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 603 F. 2d 219.

No. 79-1267. *GARCIA v. KUEHN, AKA KELLER*. C. A. 8th Cir. Certiorari denied. Reported below: 608 F. 2d 1143.

No. 79-1301. *GOREL v. UNITED STATES*. C. A. 5th Cir. Certiorari denied.

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No. 79-5775. *GRAY v. ROWLEY*. C. A. 5th Cir. Certiorari denied. Reported below: 604 F. 2d 382.

No. 79-5782. *EDDINGTON v. ILLINOIS*. Sup. Ct. Ill. Certiorari denied. Reported below: 77 Ill. 2d 41, 394 N. E. 2d 1185.

No. 79-5791. *GRAY v. ILLINOIS*. Sup. Ct. Ill. Certiorari denied. Reported below: 77 Ill. 2d 75, 394 N. E. 2d 1194.

No. 79-5809. *BOIGNER v. PERINI, CORRECTIONAL SUPERINTENDENT*. C. A. 6th Cir. Certiorari denied. Reported below: 611 F. 2d 371.

No. 79-5826. *BLANCHARD v. GOVERNMENT OF THE CANAL ZONE*. C. A. 5th Cir. Certiorari denied. Reported below: 564 F. 2d 95.

No. 79-5844. *GALE v. ILLINOIS*. App. Ct. Ill., 3d Dist. Certiorari denied. Reported below: 72 Ill. App. 3d 23, 390 N. E. 2d 921.

No. 79-5871. *ALTON ET AL. v. PENNSYLVANIA*. Sup. Ct. Pa. Certiorari denied.

No. 79-5911. *KNIGHT v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 612 F. 2d 1311.

No. 79-5931. *TAYLOR v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 611 F. 2d 375.

No. 79-5945. *FORCELLATI v. UNITED STATES*. C. A. 1st Cir. Certiorari denied. Reported below: 610 F. 2d 25.

No. 79-6004. *LESSARD v. WASHINGTON*. Ct. App. Wash. Certiorari denied.

No. 79-6022. *MURRAY v. STACK, SHERIFF, ET AL.* C. A. 5th Cir. Certiorari denied.

No. 79-6028. *LOCKETT v. SOUTH CENTRAL BELL TELEPHONE Co.* C. A. 5th Cir. Certiorari denied. Reported below: 605 F. 2d 553.



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No. 79-6046. *LITTLEFIELD v. FORT DODGE MESSENGER ET AL.* C. A. 8th Cir. Certiorari denied. Reported below: 614 F. 2d 581.

No. 79-6047. *DYER v. CRISP, WARDEN, ET AL.* C. A. 10th Cir. Certiorari denied. Reported below: 613 F. 2d 275.

No. 79-6062. *COUSIN v. BLACKBURN, WARDEN.* C. A. 5th Cir. Certiorari denied. Reported below: 597 F. 2d 511.

No. 79-6089. *O'CONNOR v. SECRETARY OF HEALTH, EDUCATION, AND WELFARE.* C. A. 2d Cir. Certiorari denied.

No. 79-6095. *LIGON v. CUYLER, PRISON SUPERINTENDENT, ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 612 F. 2d 573.

No. 79-6103. *CAMPBELL v. UNITED STATES.* Ct. Cl. Certiorari denied. Reported below: 222 Ct. Cl. 563.

No. 79-6122. *COOPER v. UNITED STATES.* C. A. 10th Cir. Certiorari denied.

No. 79-6133. *CAPPELLETTI v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. Reported below: 613 F. 2d 313.

No. 79-6137. *PERRY v. UNITED STATES.* C. A. 9th Cir. Certiorari denied. Reported below: 614 F. 2d 778.

No. 79-6156. *GREENE v. UNITED STATES.* C. A. 4th Cir. Certiorari denied. Reported below: 615 F. 2d 1358.

No. 79-584. *RESEARCH EQUITY FUND, INC. v. INSURANCE COMPANY OF NORTH AMERICA.* C. A. 9th Cir. Certiorari denied. MR. JUSTICE BLACKMUN would grant certiorari. MR. JUSTICE REHNQUIST took no part in the consideration or decision of this petition. Reported below: 602 F. 2d 200.

No. 79-656. *MANCHESTER v. UNITED STATES.* C. A. 3d Cir. Certiorari denied. MR. JUSTICE STEWART would grant certiorari. Reported below: 605 F. 2d 1198.

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No. 79-1009. *ALEMAN ET AL. v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. MR. JUSTICE STEWART would grant certiorari. Reported below: 609 F. 2d 298.

No. 79-5013. *LITTLE v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. MR. JUSTICE STEWART would grant certiorari. Reported below: 598 F. 2d 564.

No. 79-5571. *ANTONE v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. MR. JUSTICE STEWART would grant certiorari. Reported below: 603 F. 2d 535.

No. 79-5902. *GISPERT v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. MR. JUSTICE STEWART would grant certiorari. Reported below: 603 F. 2d 535.

No. 79-930. *CALIFORNIA v. DALTON*. Sup. Ct. Cal. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 24 Cal. 3d 850, 598 P. 2d 467.

No. 79-1015. *LOMBARD, SHERIFF v. TAYLOR*. C. A. 2d Cir. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 606 F. 2d 371.

No. 79-5920. *DIX v. GEORGIA*; and

No. 79-5994. *COLLIER v. GEORGIA*. Sup. Ct. Ga. Certiorari denied. Reported below: No. 79-5920, 238 Ga. 209, 232 S. E. 2d 47, and 244 Ga. 464, 260 S. E. 2d 863; No. 79-5994, 244 Ga. 553, 261 S. E. 2d 364.

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.

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*Rehearing Denied*

No. 79-955. *DEHAVILLAND AIRCRAFT OF CANADA, LTD. v. BETAR, PUBLIC ADMINISTRATOR OF COOK COUNTY, ET AL.*, 444 U. S. 1098; and

No. 79-5728. *ROSS v. CAREY, GOVERNOR OF NEW YORK, ET AL.*, 444 U. S. 1085. Petitions for rehearing denied.

No. 79-5447. *IN RE APPLICATION FOR ADMISSION TO THE BAR OF MASSACHUSETTS*, 444 U. S. 1046. Motion for leave to file petition for rehearing denied.

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*Affirmed on Appeal*

No. 79-664. *VENTURA COUNTY v. GULF OIL CORP.* Affirmed on appeal from C. A. 9th Cir. Reported below: 601 F. 2d 1080.

*Appeal Dismissed*

No. 79-5877. *POE v. NORTH CAROLINA*. Appeal from Sup. Ct. N. C. dismissed for want of substantial federal question. MR. JUSTICE BRENNAN and MR. JUSTICE STEVENS would note probable jurisdiction and set case for oral argument. Reported below: 298 N. C. 303, 259 S. E. 2d 304.

*Certiorari Granted—Vacated and Remanded*

No. 78-1391. *CHATEAU X, INC., ET AL. v. ANDREWS, DISTRICT ATTORNEY FOR THE FOURTH DISTRICT OF NORTH CAROLINA*. Sup. Ct. N. C. Certiorari granted, judgment vacated, and case remanded for further consideration in light of *Vance v. Universal Amusement Co.*, ante, p. 308. MR. JUSTICE WHITE dissents. Reported below: 296 N. C. 251, 250 S. E. 2d 603.

No. 79-482. *HUTTO, CORRECTIONS DIRECTOR, ET AL. v. DAVIS*. C. A. 4th Cir. Certiorari granted, judgment vacated, and case remanded for further consideration in light of *Rummel v. Estelle*, ante, p. 263. Reported below: 601 F. 2d 153.



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*Miscellaneous Orders*

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, 444 U. S. 962]; and

No. 79-1268. HARRIS, SECRETARY OF HEALTH, EDUCATION, AND WELFARE *v.* MCRAE ET AL. D. C. E. D. N. Y. [Probable jurisdiction noted, 444 U. S. 1069.] Motion of the Solicitor General to consolidate the cases for oral argument denied. Motion of intervening appellees and appellees in No. 79-1268 for divided argument denied. Motion of Congressman Jim Wright et al. for leave to participate in oral argument as *amici curiae* in No. 79-1268 denied. Motions of Coalition for Human Justice and Bergen-Passaic Health Systems Agency for leave to file briefs as *amici curiae* in No. 79-1268 granted.

No. 79-669. DAWSON CHEMICAL CO. ET AL. *v.* ROHM & HAAS Co. C. A. 5th Cir. [Certiorari granted, 444 U. S. 1012.] Motions for leave to file briefs as *amici curiae* filed by the following were granted: Chemical Manufacturers Assn., Pharmaceutical Manufacturers Assn., New York Patent Law Assn., Licensing Executives Society (U.S.A.), Inc., American Chemical Society, National Agricultural Chemicals Assn., Society of University Patent Administrators et al., National Small Business Assn., and National Association of Manufacturers. Motion of American Patent Law Assn. for leave to join in the brief, *amicus curiae*, of the National Agricultural Chemicals Assn. denied. Motion of National Agricultural Chemicals Assn. for additional time for oral argument denied, but the alternative request for divided argument granted.

No. A-750 (79-1258). CONFEDERATION OF IRANIAN STUDENTS *v.* CIVILETTI, ATTORNEY GENERAL. C. A. D. C. Cir. Application for stay, addressed to MR. JUSTICE BRENNAN and referred to the Court, denied. MR. JUSTICE BRENNAN would grant the application.

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No. 79-5932. *DOE ET AL. v. DELAWARE*. Sup. Ct. Del. [Probable jurisdiction noted, *ante*, p. 942.] Motion to seal the record granted, and the parties are directed to proceed on the original record.

No. A-652 (79-6120). *BRAZAS ET AL. v. UNITED STATES*. C. A. 1st Cir. Application for stay, addressed to MR. JUSTICE STEWART and referred to the Court, denied.

No. 79-6064. *TARKOWSKI v. GRADY*, U. S. DISTRICT JUDGE, ET AL. Motion for leave to file petition for writ of mandamus denied.

*Certiorari Granted*

No. 79-1171. *MINNESOTA v. CLOVER LEAF CREAMERY CO. ET AL.* Sup. Ct. Minn. Certiorari granted. Reported below: 289 N. W. 2d 79.

*Certiorari Denied*

No. 78-1347. *WALL ET AL. v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 588 F. 2d 840.

No. 79-241. *MISSOURI v. ALL STAR NEWS AGENCY, INC.* Sup. Ct. Mo. Certiorari denied. Reported below: 580 S. W. 2d 245.

No. 79-357. *THORNLOW v. THORNLOW*. Ct. Civ. App. Tex., 13th Sup. Jud. Dist. Certiorari denied. Reported below: 576 S. W. 2d 697.

No. 79-683. *MISSOURI v. ALL STAR NEWS AGENCY, INC.* Sup. Ct. Mo. Certiorari denied. Reported below: 588 S. W. 2d 494.

No. 79-698. *BOTHMAN v. WARREN B. ET UX.* Ct. App. Cal., 1st App. Dist. Certiorari denied. Reported below: 92 Cal. App. 3d 796, 156 Cal. Rptr. 48.

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No. 79-731. *PORTER & DIETSCH, INC., ET AL. v. FEDERAL TRADE COMMISSION*; and

No. 79-1090. *PAY'N SAVE CORP. v. FEDERAL TRADE COMMISSION*. C. A. 7th Cir. Certiorari denied. Reported below: 605 F. 2d 294.

No. 79-751. *SOTTO ET AL. v. WAINWRIGHT, SECRETARY, DEPARTMENT OF OFFENDER REHABILITATION OF FLORIDA*. C. A. 5th Cir. Certiorari denied. Reported below: 601 F. 2d 184.

No. 79-812. *OSMOSE WOOD PRESERVING CO. OF AMERICA, INC., ET AL. v. CITY OF LOS ANGELES*. C. A. 9th Cir. Certiorari denied. Reported below: 605 F. 2d 562.

No. 79-902. *FRIEDMAN v. HARBOLD*. Ct. App. Ga. Certiorari denied. Reported below: 150 Ga. App. 482, 258 S. E. 2d 154.

No. 79-904. *SELLINGER v. ILLINOIS*. App. Ct. Ill., 2d Dist. Certiorari denied.

No. 79-975. *BELL v. NEW YORK*. C. A. 2d Cir. Certiorari denied. Reported below: 614 F. 2d 1285.

No. 79-1078. *PITTSBURGH METRO AREA POSTAL WORKERS UNION, AFL-CIO v. UNITED STATES POSTAL SERVICE*. C. A. 3d Cir. Certiorari denied. Reported below: 609 F. 2d 503.

No. 79-1094. *AUTHORIZED AIR CONDITIONING Co., INC. v. NATIONAL LABOR RELATIONS BOARD*. C. A. 9th Cir. Certiorari denied. Reported below: 606 F. 2d 899.

No. 79-1097. *FOWLER v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 605 F. 2d 181.

No. 79-1098. *DiVIVO v. UNITED STATES ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 611 F. 2d 492.

No. 79-1103. *MENOMINEE TRIBE OF INDIANS ET AL. v. UNITED STATES*. Ct. Cl. Certiorari denied. Reported below: 221 Ct. Cl. 506, 607 F. 2d 1335.



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No. 79-1124. *ILLINOIS ET AL. v. UNITED STATES ET AL.*; and *ILLINOIS ET AL. v. INTERSTATE COMMERCE COMMISSION ET AL.* C. A. 7th Cir. Certiorari denied. Reported below: 604 F. 2d 519 (first case); 624 F. 2d 1104 (second case).

No. 79-1163. *JOHNSON v. ILLINOIS.* App. Ct. Ill., 4th Dist. Certiorari denied. Reported below: 70 Ill. App. 3d 1104, 392 N. E. 2d 803.

No. 79-1170. *McGRAW-EDISON CO. ET AL. v. FREMONT ET AL.* C. A. 7th Cir. Certiorari denied. Reported below: 606 F. 2d 752.

No. 79-1177. *McBRIDE ET AL. v. ROCKEFELLER FAMILY FUND ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 612 F. 2d 34.

No. 79-1201. *WRIGHT v. WRIGHT.* Sup. Ct. Wis. Certiorari denied. Reported below: 92 Wis. 2d 246, 284 N. W. 2d 894.

No. 79-1206. *RUFFIN ET AL. v. COUNTY OF LOS ANGELES ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 607 F. 2d 1276.

No. 79-1207. *LYLES v. TEXAS.* Ct. Crim. App. Tex. Certiorari denied. Reported below: 587 S. W. 2d 717.

No. 79-1209. *COASTAL CORP. ET AL. v. WEISBERG.* C. A. 2d Cir. Certiorari denied. Reported below: 609 F. 2d 650.

No. 79-1215. *LEIFER v. NEW YORK.* App. Div., Sup. Ct. N. Y., 2d Jud. Dept. Certiorari denied. Reported below: 71 App. Div. 2d 1007, 420 N. Y. S. 2d 244.

No. 79-1224. *GENERAL FOOTWEAR Co., LTD., ET AL. v. AMERICAN FOOTWEAR CORP.* C. A. 2d Cir. Certiorari denied. Reported below: 609 F. 2d 655.

No. 79-1227. *PELTZMAN v. AMERICAN RADIO ASSN.* C. A. 2d Cir. Certiorari denied. Reported below: 614 F. 2d 1289.

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No. 79-1232. JACKSON ET AL. *v.* HAYAKAWA ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 605 F. 2d 1121.

No. 79-1257. SEXTON *v.* CLEVELAND ATHLETIC CLUB ET AL. Ct. App. Ohio, Cuyahoga County. Certiorari denied.

No. 79-1293. PLUMMER *v.* KLEPAK, CHAIRMAN, DRUG ABUSE CONTROL COMMISSION OF NEW YORK, ET AL. Ct. App. N. Y. Certiorari denied. Reported below: 48 N. Y. 2d 486, 399 N. E. 2d 897.

No. 79-5747. EDWARDS *v.* CALIFORNIA. Ct. App. Cal., 1st App. Dist. Certiorari denied.

No. 79-5778. LYKINS *v.* ILLINOIS. Sup. Ct. Ill. Certiorari denied. Reported below: 77 Ill. 2d 35, 394 N. E. 2d 1182.

No. 79-5820. KLOBUCHIR *v.* PENNSYLVANIA. Sup. Ct. Pa. Certiorari denied. Reported below: 486 Pa. 241, 405 A. 2d 881.

No. 79-5821. ROGERS *v.* ILLINOIS. Sup. Ct. Ill. Certiorari denied.

No. 79-5831. MEYER *v.* GEORGIA. Ct. App. Ga. Certiorari denied. Reported below: 150 Ga. App. 613, 258 S. E. 2d 217.

No. 79-5860. GOOLSBY *v.* ILLINOIS. App. Ct. Ill., 1st Dist. Certiorari denied. Reported below: 70 Ill. App. 3d 832, 388 N. E. 2d 894.

No. 79-5867. JACKSON *v.* KANSAS. Sup. Ct. Kan. Certiorari denied. Reported below: 226 Kan. 302, 597 P. 2d 255.

No. 79-5878. STREETER *v.* ILLINOIS. App. Ct. Ill., 1st Dist. Certiorari denied. Reported below: 69 Ill. App. 3d 1100, 391 N. E. 2d 797.

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No. 79-5899. *BROWN v. ILLINOIS*. Sup. Ct. Ill. Certiorari denied. Reported below: 77 Ill. 2d 531, 397 N. E. 2d 809.

No. 79-5900. *KRALIK v. UNITED STATES*. C. A. 10th Cir. Certiorari denied. Reported below: 611 F. 2d 343.

No. 79-5937. *JACKSON v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 612 F. 2d 582.

No. 79-5938. *CLAYTON v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 605 F. 2d 1207.

No. 79-6025. *MAGEE v. MITCHELL, WARDEN*. C. A. 4th Cir. Certiorari denied. Reported below: 610 F. 2d 812.

No. 79-6038. *BOWDEN v. MITCHELL, WARDEN*. C. A. 4th Cir. Certiorari denied. Reported below: 603 F. 2d 217.

No. 79-6051. *BALLARD v. SMITH, WARDEN*; and

No. 79-6052. *CAMPBELL v. SOWDERS, WARDEN*. C. A. 6th Cir. Certiorari denied. Reported below: 611 F. 2d 371.

No. 79-6054. *BREWER v. BREWER*. Sup. Ct. Ala. Certiorari denied.

No. 79-6059. *MARTIN v. OHIO*. Ct. App. Ohio, Lawrence County. Certiorari denied.

No. 79-6065. *GROOMS v. WAINWRIGHT, SECRETARY, DEPARTMENT OF OFFENDER REHABILITATION OF FLORIDA*. C. A. 5th Cir. Certiorari denied. Reported below: 610 F. 2d 344.

No. 79-6068. *CARTER v. OHIO*. Sup. Ct. Ohio. Certiorari denied. Reported below: 60 Ohio St. 2d 34, 396 N. E. 2d 757.

No. 79-6069. *SANDERS, AKA TAYLOR v. CALIFORNIA*. Ct. App. Cal., 4th App. Dist. Certiorari denied.



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No. 79-6072. *FARRELL v. DEPARTMENT OF SOCIAL AND HEALTH SERVICES OF WASHINGTON*. Ct. App. Wash. Certiorari denied.

No. 79-6076. *MASELLI v. HENDERSON, CORRECTIONAL SUPERINTENDENT*. C. A. 2d Cir. Certiorari denied. Reported below: 614 F. 2d 1289.

No. 79-6091. *PEREZ-HUERTA v. ST. FRANCIS COMMUNITY HOSPITAL*. C. A. 4th Cir. Certiorari denied. Reported below: 610 F. 2d 813.

No. 79-6102. *BULLOCK ET AL. v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 614 F. 2d 775.

No. 79-6127. *BLAKE v. THOMPSON, WARDEN*. C. A. 6th Cir. Certiorari denied. Reported below: 611 F. 2d 371.

No. 79-6130. *McCLANAHAN v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 612 F. 2d 642.

No. 79-6151. *HINSON v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 618 F. 2d 106.

No. 79-6153. *MERROW v. UNITED STATES*. C. A. 10th Cir. Certiorari denied.

No. 79-6154. *WATSON v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 615 F. 2d 1363.

No. 79-6169. *JOHNSON v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 612 F. 2d 1193.

No. 79-6171. *ATTWELL ET AL. v. LASALLE NATIONAL BANK ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 607 F. 2d 1157.

No. 79-6173. *LEWIS v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 618 F. 2d 111.

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No. 79-6185. *ALANIS v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 611 F. 2d 123.

No. 79-6195. *TILL v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 609 F. 2d 228.

No. 79-6197. *MCQUIN v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 612 F. 2d 1193.

No. 79-6074. *POLLARD v. UNITED STATES TOBACCO CO.* C. A. 4th Cir. Certiorari denied. MR. JUSTICE POWELL took no part in the consideration or decision of this petition. Reported below: 610 F. 2d 813.

*Rehearing Denied*

No. 79-5754. *GINSBURG v. OVERLOOK HOSPITAL ET AL.*, 444 U. S. 1086;

No. 79-5755. *SOLOMON v. FRAME ET AL.*, 444 U. S. 1086;

No. 79-5819. *REED v. SCHWAB ET AL.*, 444 U. S. 1088; and

No. 79-5928. *GAMBLE v. UNITED STATES*, 444 U. S. 1092. Petitions for rehearing denied.

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*Affirmed on Appeal*

No. 79-1373. *REPUBLICAN NATIONAL COMMITTEE ET AL. v. FEDERAL ELECTION COMMISSION ET AL.* Affirmed on appeal from D. C. S. D. N. Y. Reported below: 487 F. Supp. 280.

No. 79-1375. *REPUBLICAN NATIONAL COMMITTEE ET AL. v. FEDERAL ELECTION COMMISSION ET AL.* Affirmed on appeal from C. A. 2d Cir. Reported below: 616 F. 2d 1.

*Appeals Dismissed*

No. 79-1152. *HEFNER v. NEW ORLEANS PUBLIC SERVICE, INC., ET AL.* Appeal from C. A. 5th Cir. dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied. Reported below: 605 F. 2d 893.

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No. 79-5837. *SWINK v. TEXAS*. 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 575 S. W. 2d 113.

No. 79-6090. *WAYLAND v. TIFFANY 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: 618 F. 2d 92.

No. 79-6084. *SAVARIN v. NATIONAL BANK OF COMMERCE—MASTER CHARGE*. Appeal from Ct. App. Tenn. dismissed for want of substantial federal question.

*Certiorari Granted—Vacated and Remanded*

No. 78-1803. *UNITED STATES v. HUMPHRIES*. C. A. 9th Cir. Certiorari granted, judgment vacated, and case remanded for further consideration in light of *United States v. Crews*, ante, p. 463. Reported below: 600 F. 2d 1238.

No. 79-1041. *CALIFORNIA v. AUSTIN*. App. Dept., Super. Ct. Cal., County of Los Angeles. Certiorari granted, judgment vacated, and case remanded to consider whether judgment is based on federal or state constitutional grounds, or both.

*Miscellaneous Orders\**

No. A-700. *SCHULTZ v. FLORIDA ET AL.* C. A. 5th Cir. Application for injunction and other relief, addressed to Mr. JUSTICE BRENNAN and referred to the Court, denied.

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\*For the Court's orders prescribing Rules of Procedure for the Trial of Misdemeanors before United States Magistrates, see *post*, p. 976, and adopting amendments to the Rules of this Court, see *post*, p. 984.



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No. A-831. OIL, CHEMICAL & ATOMIC WORKERS INTERNATIONAL UNION, AFL-CIO, LOCAL 1-547 *v.* GOUBEAUX, REGIONAL DIRECTOR, NATIONAL LABOR RELATIONS BOARD. D. C. C. D. Cal. Application for stay pending appeal to the United States Court of Appeals for the Ninth Circuit, presented to MR. JUSTICE BRENNAN and MR. JUSTICE MARSHALL, and by them referred to the Court, denied.

No. A-849. UNITED STATES TAXPAYER'S UNION ET AL. *v.* UNITED STATES ET AL. Application for stay of order of the United States District Court for the District of Colorado pending appeal to 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 BRENNAN would grant the application.

No. A-855. RECORD DATA, INC., ET AL. *v.* NICHOLS ET AL. Application for stay of mandate of the Supreme Court of Alabama, addressed to MR. JUSTICE WHITE and referred to the Court, denied.

No. A-866. GREEN *v.* UNITED STATES ET AL. Application for a writ of habeas corpus and/or release on personal recognizance, presented to MR. JUSTICE BLACKMUN, and by him referred to the Court, denied.

No. 86, Orig. LOUISIANA *v.* MISSISSIPPI ET AL. Motion for leave to file a bill of complaint granted. The defendants are allowed 60 days in which to answer. Application for stay of proceedings in the United States District Court for the Southern District of Mississippi denied.

No. 79-343. SUN SHIP, INC. *v.* PENNSYLVANIA ET AL. Pa. Commw. Ct. [Probable jurisdiction noted, 444 U. S. 1011.] Motion of Local No. 6, Industrial Union of Marine & Shipbuilding Workers of America, AFL-CIO, for leave to file a brief as *amicus curiae* granted.

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No. 79-509. *EXXON CORP. v. DEPARTMENT OF REVENUE OF WISCONSIN*. Sup. Ct. Wis. [Probable jurisdiction noted, 444 U. S. 961.] Motion of appellant for leave to file a brief after argument granted. MR. JUSTICE STEWART took no part in the consideration or decision of this motion.

No. 79-521. *CONSUMER PRODUCT SAFETY COMMISSION ET AL. v. GTE SYLVANIA, INC., ET AL.* C. A. 3d Cir. [Certiorari granted, 444 U. S. 979.] Motion of the Solicitor General to permit Peter Buscemi, Esquire, to present oral argument *pro hac vice* granted.

No. 79-701. *ROADWAY EXPRESS, INC. v. MONK ET AL.* C. A. 5th Cir. [Certiorari granted, 444 U. S. 1012.] Motion of the Solicitor General for divided argument granted. Motion of NAACP Legal Defense and Educational Fund, Inc., for leave to file a brief as *amicus curiae* granted.

No. 79-824. *FEDERAL COMMUNICATIONS COMMISSION ET AL. v. WNCN LISTENERS GUILD ET AL.*;

No. 79-825. *INSILCO BROADCASTING CORP. ET AL. v. WNCN LISTENERS GUILD ET AL.*;

No. 79-826. *AMERICAN BROADCASTING COS., INC., ET AL. v. WNCN LISTENERS GUILD ET AL.*; and

No. 79-827. *NATIONAL ASSOCIATION OF BROADCASTERS ET AL. v. WNCN LISTENERS GUILD ET AL.* C. A. D. C. Cir. [Certiorari granted, *ante*, p. 914.] Motion to dispense with printing appendix granted except as to those portions designated by the Solicitor General who will bear the costs.

No. 79-935. *ALLEN ET AL. v. McCURRY*. C. A. 8th Cir. [Certiorari granted, 444 U. S. 1070.] Motion of petitioners to dispense with printing appendix granted.

No. 79-938. *ALLSTATE INSURANCE CO. v. HAGUE*. Sup. Ct. Minn. [Certiorari granted, 444 U. S. 1070.] Joint motion to dispense with printing appendix granted.

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No. 79-952. THOMAS *v.* REVIEW BOARD OF THE INDIANA EMPLOYMENT SECURITY DIVISION ET AL. Sup. Ct. Ind. [Certiorari granted, 444 U. S. 1070.] Motion of petitioner to dispense with printing appendix granted.

No. 79-1236. CARSON ET AL. *v.* AMERICAN BRANDS, INC., T/A AMERICAN TOBACCO Co., ET AL. C. A. 4th Cir. The Solicitor General is invited to file a brief in this case expressing the views of the United States.

No. A-723 (79-1323). QUINONES *v.* UNITED STATES. Application for stay of mandate of the United States Court of Appeals for the Third Circuit, presented to MR. JUSTICE BRENNAN, and by him referred to the Court, denied.

No. A-793 (79-1434). MANDEL ET AL. *v.* NEW YORK. Ct. App. N. Y. Application for stay, addressed to MR. JUSTICE BRENNAN and referred to the Court, denied.

No. 79-5903. H. L. *v.* MATHESON, GOVERNOR OF UTAH, ET AL. Sup. Ct. Utah. [Probable jurisdiction noted, *ante*, p. 903.] Motion to appoint Alan Ernest as 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. 79-1028. MANDEL ET AL. *v.* EN BANC COURT OF APPEALS FOR THE FOURTH CIRCUIT ET AL;

No. 79-1246. CONNOLLY ET AL. *v.* UNITED STATES DISTRICT COURT FOR THE CENTRAL DISTRICT OF CALIFORNIA (PENSION BENEFIT GUARANTY CORP., REAL PARTY IN INTEREST);

No. 79-6079. McCLAIN *v.* BLUMENFELD; and

No. 79-6110. GREEN *v.* UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF MISSOURI. Motions for leave to file petitions for writs of mandamus denied.



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*Probable Jurisdiction Postponed*

No. 79-5962. *VINCENT v. TEXAS*. Appeal from Ct. Crim. App. Tex. Motion of appellant for leave to proceed *in forma pauperis* granted. Further consideration of question of jurisdiction postponed to hearing of case on the merits. Reported below: 586 S. W. 2d 880.

*Certiorari Granted*

No. 79-621. *ARIZONA v. MANYPENNY*. C. A. 9th Cir. Certiorari granted. Reported below: 608 F. 2d 1197.

No. 79-1128. *MONTANA ET AL. v. UNITED STATES ET AL.* C. A. 9th Cir. Certiorari granted. Reported below: 604 F. 2d 1162.

No. 79-1013. *RUBIN v. UNITED STATES*. C. A. 2d Cir. Certiorari granted limited to Question 1 presented by the petition. Reported below: 609 F. 2d 51.

No. 79-5688. *HUDSON v. LOUISIANA*. Sup. Ct. La. Motion of petitioner for leave to proceed *in forma pauperis* and certiorari granted. Reported below: 373 So. 2d 1294.

*Certiorari Denied.* (See also Nos. 79-1152, 79-5837, and 79-6090, *supra*.)

No. 78-6320. *PEARSON v. ILLINOIS*. App. Ct. Ill., 1st Dist. Certiorari denied. Reported below: 67 Ill. App. 3d 300, 384 N. E. 2d 1331.

No. 78-6374. *FLETCHER v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 594 F. 2d 868.

No. 79-862. *FOSTER v. PEARCY*. Sup. Ct. Ind. Certiorari denied. Reported below: — Ind. —, 387 N. E. 2d 446.

No. 79-885. *SHERMAN v. MARYLAND*. Ct. Sp. App. Md. Certiorari denied. Reported below: 42 Md. App. 766.

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No. 79-926. *PADILLA v. ILLINOIS*. App. Ct. Ill., 1st Dist. Certiorari denied. Reported below: 70 Ill. App. 3d 406, 387 N. E. 2d 985.

No. 79-958. *O'BRIEN v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 609 F. 2d 895.

No. 79-1014. *BUCKNER v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 610 F. 2d 570.

No. 79-1016. *GIACALONE v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 610 F. 2d 807.

No. 79-1029. *MANDEL ET AL. v. UNITED STATES*; and

No. 79-1030. *RODGERS ET AL. v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 602 F. 2d 653.

No. 79-1040. *GILBERT v. CLELAND ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 601 F. 2d 761.

No. 79-1042. *DOLESE ET AL. v. UNITED STATES*. C. A. 10th Cir. Certiorari denied. Reported below: 605 F. 2d 1146.

No. 79-1050. *HUDLER v. UNITED STATES*. C. A. 10th Cir. Certiorari denied. Reported below: 605 F. 2d 488.

No. 79-1051. *CITY OF ROHNERT PARK v. LANDRIEU, SECRETARY OF HOUSING AND URBAN DEVELOPMENT, ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 601 F. 2d 1040.

No. 79-1060. *ZALMANOWSKI ET AL. v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 606 F. 2d 673.

No. 79-1063. *KEEFE ET AL. v. UNITED STATES*. C. A. 1st Cir. Certiorari denied. Reported below: 612 F. 2d 570.

No. 79-1100. *RIALS v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 608 F. 2d 1372.

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No. 79-1104. *E. I. DU PONT DE NEMOURS & Co. v. UNITED STATES*. Ct. Cl. Certiorari denied. Reported below: 221 Ct. Cl. 333, 608 F. 2d 445.

No. 79-1108. *JONES ET AL. v. MORRISON*. C. A. 9th Cir. Certiorari denied. Reported below: 607 F. 2d 1269.

No. 79-1116. *McINNIS v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 601 F. 2d 1319.

No. 79-1121. *SCOTT v. UNITED STATES*; and

No. 79-1122. *BROWN v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 604 F. 2d 347.

No. 79-1138. *SCHULZ v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 624 F. 2d 1103.

No. 79-1146. *PETTY ET AL. v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 601 F. 2d 883.

No. 79-1149. *ALLSTATE SAVINGS & LOAN ASSN. v. COMMISSIONER OF INTERNAL REVENUE*. C. A. 9th Cir. Certiorari denied. Reported below: 600 F. 2d 760.

No. 79-1150. *CALIFORNIA, BY AND THROUGH THE DEPARTMENT OF TRANSPORTATION OF CALIFORNIA, ET AL. v. DORIA MINING & ENGINEERING CORP. ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 608 F. 2d 1255.

No. 79-1161. *ST. JOSEPH'S HOSPITAL HEALTH CENTER v. BLUE CROSS OF CENTRAL NEW YORK, INC., ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 614 F. 2d 1290.

No. 79-1165. *SCOTT v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 618 F. 2d 109.

No. 79-1166. *SMITH v. WILSON FREIGHT CO. ET AL.* C. A. 1st Cir. Certiorari denied. Reported below: 604 F. 2d 712.

No. 79-1168. *MCDONALD v. GERBERDING ET AL.* Sup. Ct. Wash. Certiorari denied. Reported below: 92 Wash. 2d 431, 598 P. 2d 707.



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No. 79-1196. *TIMMONS v. COMMISSIONER OF INTERNAL REVENUE*. C. A. 4th Cir. Certiorari denied. Reported below: 605 F. 2d 1206.

No. 79-1198. *SPANNAUS, ATTORNEY GENERAL OF MINNESOTA v. GOLDSCHMIDT, SECRETARY OF TRANSPORTATION, ET AL.* C. A. 10th Cir. Certiorari denied. Reported below: 608 F. 2d 861.

No. 79-1212. *WEINKLE v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 612 F. 2d 581.

No. 79-1231. *ELY v. UNITED PARCEL SERVICE, INC., ET AL.* C. A. 6th Cir. Certiorari denied.

No. 79-1249. *BACKUS v. CALIFORNIA ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 608 F. 2d 1374.

No. 79-1255. *EARP v. WASHINGTON*. Ct. App. Wash. Certiorari denied. Reported below: 23 Wash. App. 1071.

No. 79-1261. *J. C. ATHANS ENGINEERING & CONSTRUCTION Co., INC. v. POWELL ET AL.* Ct. App. Cal., 2d App. Dist. Certiorari denied.

No. 79-1264. *HAAS, EXECUTRIX v. MANUFACTURERS HANOVER TRUST Co., TRUSTEE*. C. A. 2d Cir. Certiorari denied. Reported below: 614 F. 2d 1287.

No. 79-1265. *CATERINA v. PENNSYLVANIA*. Pa. Commw. Ct. Certiorari denied. Reported below: 43 Pa. Commw. 19, 401 A. 2d 852.

No. 79-1271. *POLLEY v. KIRKLAND ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 608 F. 2d 1371.

No. 79-1272. *PERRIN, WARDEN, ET AL. v. HENRY ET AL.* C. A. 1st Cir. Certiorari denied. Reported below: 609 F. 2d 1010.

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No. 79-1274. DESERT CHRYSLER-PLYMOUTH, INC., ET AL. *v.* CHRYSLER CORP. Sup. Ct. Nev. Certiorari denied. Reported below: 95 Nev. 640, 600 P. 2d 1189.

No. 79-1278. ELLIS ET UX. *v.* ARKANSAS LOUISIANA GAS Co. C. A. 10th Cir. Certiorari denied. Reported below: 609 F. 2d 436.

No. 79-1283. CHICAGO TITLE & TRUST Co., TRUSTEE, ET AL. *v.* TULLY, ASSESSOR OF COOK COUNTY, ET AL. App. Ct. Ill., 1st Dist. Certiorari denied. Reported below: 76 Ill. App. 3d 336, 395 N. E. 2d 42.

No. 79-1285. MASCHHOFF *v.* INTERNATIONAL UNION, UNITED AUTOMOBILE, AEROSPACE & AGRICULTURAL IMPLEMENT WORKERS OF AMERICA, UAW, ET AL. C. A. 6th Cir. Certiorari denied. Reported below: 611 F. 2d 373.

No. 79-1286. MORIGEAU *v.* LARRIVEE. Sup. Ct. Mont. Certiorari denied. Reported below: — Mont. —, 602 P. 2d 563.

No. 79-1287. STEWART *v.* SUPERIOR COURT OF PIMA COUNTY, ARIZONA, ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 610 F. 2d 822.

No. 79-1288. WILT ET AL. *v.* OHIO STATE BOARD OF EDUCATION ET AL. C. A. 6th Cir. Certiorari denied. Reported below: 608 F. 2d 1126.

No. 79-1291. TUCKER *v.* NEAL ET AL. C. A. 2d Cir. Certiorari denied. Reported below: 614 F. 2d 1291.

No. 79-1292. NUNNALLY ET AL. *v.* TRUST COMPANY BANK, Co-TRUSTEE, ET AL. Sup. Ct. Ga. Certiorari denied. Reported below: 244 Ga. 697, 261 S. E. 2d 621.

No. 79-1302. KENNEDY, TRUSTEE IN BANKRUPTCY *v.* HANCOCK INVESTMENT Co., INC., ET AL. C. A. 6th Cir. Certiorari denied. Reported below: 612 F. 2d 580.

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No. 79-1307. DAVIS OIL CO. ET AL. *v.* PARVIN. C. A. 9th Cir. Certiorari denied. Reported below: 655 F. 2d 901.

No. 79-1319. POMERANTZ *v.* NEW YORK. C. A. 2d Cir. Certiorari denied.

No. 79-1322. ISON *v.* FIRST STATE BANK OF CENTRALIA, ILLINOIS. App. Ct. Ill., 5th Dist. Certiorari denied. Reported below: 73 Ill. App. 3d 1112, 395 N. E. 2d 1249.

No. 79-1324. COSDEN OIL & CHEMICAL CO. *v.* INTERNATIONAL UNION OF OPERATING ENGINEERS, LOCAL No. 826. Ct. Civ. App. Tex., 11th Sup. Jud. Dist. Certiorari denied. Reported below: 585 S. W. 2d 911.

No. 79-1360. SERRANO *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 607 F. 2d 1145.

No. 79-1363. ASH *v.* UNITED STATES ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 608 F. 2d 178.

No. 79-1364. GODE ET AL. *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 614 F. 2d 777.

No. 79-1374. REPUBLICAN NATIONAL COMMITTEE ET AL. *v.* FEDERAL ELECTION COMMISSION ET AL. C. A. 2d Cir. Certiorari before judgment denied.

No. 79-1379. STATEN *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 612 F. 2d 578.

No. 79-1381. ESPARZA-CORRAL ET AL. *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied. Reported below: 618 F. 2d 110.

No. 79-1390. WRIGHT, ADMINISTRATRIX *v.* SOUTHERN BELL TELEPHONE Co. C. A. 5th Cir. Certiorari denied. Reported below: 605 F. 2d 156.



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No. 79-1405. KAUFMAN ET AL. *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 605 F. 2d 1381 and 609 F. 2d 826.

No. 79-1413. JACKSTADT *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. Reported below: 617 F. 2d 12.

No. 79-1419. JONES *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 612 F. 2d 453.

No. 79-1430. STRAUBE *v.* EMANUEL LUTHERAN CHARITY BOARD, DBA EMANUEL HOSPITAL. Sup. Ct. Ore. Certiorari denied. Reported below: 287 Ore. 375, 600 P. 2d 381.

No. 79-1431. FREEMAN *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 612 F. 2d 443.

No. 79-5431. TSINNIJINNIE *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 601 F. 2d 1035.

No. 79-5805. BERRYMAN ET AL. *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 610 F. 2d 814.

No. 79-5916. ALEXANDER *v.* PERINI, CORRECTIONAL SUPER-INTENDENT. C. A. 6th Cir. Certiorari denied. Reported below: 611 F. 2d 371.

No. 79-5930. BRAY *v.* OKLAHOMA. Ct. Crim. App. Okla. Certiorari denied.

No. 79-5935. HERRING *v.* SANDERS ET AL. C. A. 4th Cir. Certiorari denied. Reported below: 610 F. 2d 811.

No. 79-5940. TURNER *v.* MITCHELL, WARDEN. C. A. 4th Cir. Certiorari denied. Reported below: 609 F. 2d 510.

No. 79-5941. MEIER *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied. Reported below: 607 F. 2d 215.

No. 79-5943. NICKERSON ET AL. *v.* OHIO. Sup. Ct. Ohio. Certiorari denied.

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No. 79-5964. *METHENY v. TENNESSEE*. Ct. Crim. App. Tenn. Certiorari denied. Reported below: 589 S. W. 2d 943.

No. 79-5977. *COLEMAN v. TEXAS*. Ct. Crim. App. Tex. Certiorari denied. Reported below: 586 S. W. 2d 877.

No. 79-6012. *GELESTINO v. UNITED STATES*. C. A. D. C. Cir. Certiorari denied. Reported below: 199 U. S. App. D. C. 95, 617 F. 2d 677.

No. 79-6040. *BEEDE v. NEW HAMPSHIRE*. Sup. Ct. N. H. Certiorari denied. Reported below: 119 N. H. 620, 406 A. 2d 125.

No. 79-6053. *WALKER v. UNITED STATES*; and

No. 79-6063. *MACK v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: No. 79-6053, 614 F. 2d 772; No. 79-6063, 614 F. 2d 771.

No. 79-6070. *LYNN ET AL. v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 618 F. 2d 109.

No. 79-6085. *CAREY v. MARYLAND*. Ct. Sp. App. Md. Certiorari denied. Reported below: 43 Md. App. 246, 405 A. 2d 293.

No. 79-6087. *TORRES v. ROMERO, WARDEN*. C. A. 10th Cir. Certiorari denied.

No. 79-6092. *LILLIBRIDGE ET UX. v. COMMISSIONER OF INTERNAL REVENUE*. C. A. 6th Cir. Certiorari denied. Reported below: 615 F. 2d 1360.

No. 79-6097. *DUKE v. HARRIS, SECRETARY OF HEALTH, EDUCATION, AND WELFARE*. C. A. 4th Cir. Certiorari denied. Reported below: 607 F. 2d 1001.

No. 79-6098. *MCGRUDER v. ARIZONA*. Sup. Ct. Ariz. Certiorari denied. Reported below: 124 Ariz. 377, 604 P. 2d 641.

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No. 79-6105. *CANTY v. MAHONEY ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 612 F. 2d 1306.

No. 79-6113. *OWENS v. MARSHALL, CORRECTIONAL SUPERINTENDENT.* C. A. 6th Cir. Certiorari denied. Reported below: 612 F. 2d 581.

No. 79-6114. *PRESTIGIACOMO v. SMITH, REFORMATORY SUPERINTENDENT.* C. A. 6th Cir. Certiorari denied. Reported below: 611 F. 2d 374.

No. 79-6115. *TERRELL v. ALABAMA.* Sup. Ct. Ala. Certiorari denied. Reported below: 379 So. 2d 1238.

No. 79-6118. *SHERROD v. MARYLAND HOUSE OF CORRECTION.* C. A. 4th Cir. Certiorari denied. Reported below: 612 F. 2d 1310.

No. 79-6119. *HALL v. IOWA.* Sup. Ct. Iowa. Certiorari denied. Reported below: 288 N. W. 2d 908.

No. 79-6124. *LEBRUN v. OREGON.* Ct. App. Ore. Certiorari denied. Reported below: 43 Ore. App. 3, 603 P. 2d 371.

No. 79-6125. *COULSTON v. HUTTO, CORRECTIONS DIRECTOR.* C. A. 4th Cir. Certiorari denied. Reported below: 610 F. 2d 810.

No. 79-6126. *HAWKINS v. CRIST, WARDEN, ET AL.* Sup. Ct. Mont. Certiorari denied.

No. 79-6131. *JONES v. ILLINOIS.* App. Ct. Ill., 5th Dist. Certiorari denied. Reported below: 75 Ill. App. 3d 214, 393 N. E. 2d 1132.

No. 79-6132. *MASON v. HARRIS, SECRETARY OF HEALTH, EDUCATION, AND WELFARE.* C. A. 4th Cir. Certiorari denied. Reported below: 610 F. 2d 812.



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No. 79-6135. CUNNINGHAM *v.* UNITED STATES. Ct. Cl. Certiorari denied. Reported below: 220 Ct. Cl. 702, 618 F. 2d 122.

No. 79-6136. WILLIAMS *v.* ARIZONA. Ct. App. Ariz. Certiorari denied.

No. 79-6140. TRICKER *v.* CUPP, PENITENTIARY SUPERINTENDENT. Sup. Ct. Ore. Certiorari denied.

No. 79-6144. ALLEN *v.* ILLINOIS. App. Ct. Ill., 5th Dist. Certiorari denied. Reported below: 73 Ill. App. 3d 1112, 395 N. E. 2d 1250.

No. 79-6162. NORMENT ET AL. *v.* UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF OHIO. C. A. 6th Cir. Certiorari denied.

No. 79-6186. NOE *v.* CIVILETTI, ATTORNEY GENERAL, ET AL. C. A. 5th Cir. Certiorari denied.

No. 79-6215. MEARS *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 618 F. 2d 106.

No. 79-6233. DAVIS *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied. Reported below: 618 F. 2d 111.

No. 79-6252. WRIGHT *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 615 F. 2d 1363.

No. 79-6256. CALLAHAN *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 612 F. 2d 443.

No. 79-6259. BURGESS *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 615 F. 2d 1358.

No. 79-6268. SUHAIL, AKA KIER *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 614 F. 2d 777.

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No. 79-807. PEER, DIRECTOR, DEPARTMENT OF PUBLIC WELFARE OF COUNTY OF SAN DIEGO, ET AL. v. GRIFFETH ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 603 F. 2d 118.

MR. JUSTICE REHNQUIST, dissenting.

The Court of Appeals has taken a significant step in this case to expand the ruling of this Court in *Goldberg v. Kelly*, 397 U. S. 254 (1970), a step that I believe merits plenary consideration by the full Court. The question pertains to whether an *applicant* for state-mandated welfare benefits is entitled to a hearing under the procedural guarantees of the Fourteenth Amendment to the United States Constitution before being denied welfare benefits for failure to meet the initial requirements imposed by state law. The California courts themselves, in *Zobriscky v. Los Angeles County*, 28 Cal. App. 3d 930, 105 Cal. Rptr. 121 (1972), have concluded that an applicant is not entitled to any hearing because, in the words of the Court of Appeals for the Ninth Circuit, they "refused to find general relief to be a protected property interest." *Griffeth v. Detrich*, 603 F. 2d 118, 121 (1979).

There has been much decisional law from this and other courts, and much scholarly commentary, as to what is a protected "property" interest under the Fourteenth Amendment's Due Process Clause, and what procedural guarantees are necessary under that Clause before one may be denied such a property interest. See, e. g., *Goldberg v. Kelly*, *supra*; *Board of Regents v. Roth*, 408 U. S. 564 (1972); *Mathews v. Eldridge*, 424 U. S. 319 (1976); *Greenholtz v. Nebraska Penal Inmates*, 442 U. S. 1 (1979); Van Alstyne, *Cracks in "The New Property": Adjudicative Due Process in the Administrative State*, 62 Cornell L. Rev. 445 (1977). Obviously this Court cannot parse every state-law provision to determine whether it creates a protected "property interest" under the Due Process Clause of the Fourteenth Amendment. But

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here I believe the District Court put its finger on the significance of the case when it ruled against respondents, saying:

“Plaintiffs [respondents] argue that the *pretermination* evidentiary hearing required by the Supreme Court in *Goldberg v. Kelly*, 397 U. S. 254 . . . (1970) should be applied to protect *denied* applicants for General Relief in San Diego County. . . . Defendants oppose an *extension* of *Goldberg’s* protection of terminated *recipients* of welfare to denied *applicants* for General Relief. The Supreme Court has not ruled on the issue. *Wheeler v. Montgomery*, 397 U. S. 280, 284-285 . . . (1970) (BURGER, C. J., dissenting).” (Emphasis supplied in part.) *Griffeth v. Detrich*, 448 F. Supp. 1137, 1139 (SD Cal. 1978).

Particularly when the only state appellate court to consider the question has concluded that there is no protected property interest under state law, this extension of *Goldberg v. Kelly*, *supra*, should receive plenary consideration by this Court.

No. 79-1074. UNITED PARCEL SERVICE, INC., ET AL. *v.* UNITED STATES ET AL. C. A. 7th Cir. Motion of petitioner to strike brief of intervening respondents and certiorari denied. Reported below: 612 F. 2d 277.

No. 79-1197. NATIONAL LABOR RELATIONS BOARD *v.* MERCY HOSPITAL ASSN. C. A. 2d Cir. Certiorari denied. MR. JUSTICE BRENNAN and MR. JUSTICE WHITE would grant certiorari. Reported below: 606 F. 2d 22.

No. 79-5707. FLANAGAN *v.* UNITED STATES. C. A. 5th Cir. Motion for leave to file a supplement to petition granted. Certiorari denied. Reported below: 592 F. 2d 253.

No. 79-5901. WADE *v.* LOUISIANA. Sup. Ct. La. Certiorari denied. MR. JUSTICE STEWART and MR. JUSTICE BLACKMUN would grant certiorari. Reported below: 375 So. 2d 97.



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No. 79-1248. *MISSOURI v. WANDIX*. Sup. Ct. Mo. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 590 S. W. 2d 82.

No. 79-1306. *CASTRO v. TERRITORY OF GUAM*. C. A. 9th Cir. Certiorari denied. MR. JUSTICE BRENNAN and MR. JUSTICE STEWART would grant certiorari. Reported below: 612 F. 2d 584.

No. 79-6111. *FORD v. FLORIDA*. Sup. Ct. Fla.;

No. 79-6116. *THOMAS v. FLORIDA*. Sup. Ct. Fla.;

No. 79-6168. *STAMPER v. VIRGINIA*. Sup. Ct. Va.; and

No. 79-6187. *TUCKER v. GEORGIA*. Sup. Ct. Ga. Certiorari denied. Reported below: No. 79-6111, 374 So. 2d 496; No. 79-6116, 374 So. 2d 508; No. 79-6168, 220 Va. 260, 257 S. E. 2d 808; No. 79-6187, 244 Ga. 721, 261 S. E. 2d 635.

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. 78-1323. *NORFOLK & WESTERN RAILWAY Co. v. LIEPELT, ADMINISTRATRIX*, 444 U. S. 490;

No. 78-1335. *VILLAGE OF SCHAUMBURG v. CITIZENS FOR A BETTER ENVIRONMENT ET AL.*, 444 U. S. 620;

No. 78-1871. *SNEPP v. UNITED STATES*, 444 U. S. 507;

No. 79-265. *UNITED STATES v. SNEPP*, 444 U. S. 507;

No. 79-579. *ERWIN ET AL. v. UNITED STATES*, 444 U. S. 1071; and

No. 79-830. *VINSON v. UNITED STATES*, 444 U. S. 1074. Petitions for rehearing denied.

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No. 79-833. *KONDRAT v. CITY OF WILLOUGHBY HILLS ET AL.*, 444 U. S. 1075;

No. 79-890. *LAMERS DAIRY, INC., ET AL. v. SECRETARY OF AGRICULTURE*, 444 U. S. 1077;

No. 79-894. *PARKER v. TEXAS*, 444 U. S. 1060;

No. 79-918. *SHUFFMAN, EXECUTRIX v. HARTFORD TEXTILE CORP. ET AL.*, 444 U. S. 1078;

No. 79-942. *SHUFFMAN, EXECUTRIX v. HARTFORD TEXTILE CORP. ET AL.*, 444 U. S. 1078;

No. 79-971. *CEFALU v. GLOBE NEWSPAPER Co.*, 444 U. S. 1060;

No. 79-1001. *SHUFFMAN, EXECUTRIX v. HARTFORD TEXTILE CORP. ET AL.*, 444 U. S. 1080;

No. 79-5360. *MORRIS v. CATE-McLAURIN Co. ET AL.*, *ante*, p. 917;

No. 79-5733. *JONES ET UX. v. GEORGIA-PACIFIC CORP.*, 444 U. S. 1085;

No. 79-5744. *ALDERMAN v. BALKCOM, WARDEN*, 444 U. S. 1103;

No. 79-5777. *HAYES v. BOARD OF TRUSTEES OF CLARK COUNTY SCHOOL DISTRICT*, 444 U. S. 1061;

No. 79-5802. *CLARK v. PAYNE ET AL.*, 444 U. S. 1088;

No. 79-5830. *BOWDEN v. ZANT, WARDEN*, 444 U. S. 1103;

No. 79-5872. *HARRISON v. NAIFEH, JUDGE, ET AL.*, *ante*, p. 932;

No. 79-5893. *YOUNG v. INDIANA*, *ante*, p. 906;

No. 79-5917. *HUNT v. GREENBERG, DISTRICT ATTORNEY OF ALBANY COUNTY, ET AL.*, *ante*, p. 918.

No. 79-5929. *TAYLOR v. CITY OF ATLANTA ET AL.*, *ante*, p. 907; and

No. 79-5973. *SELLARS v. COMMUNITY RELEASE BOARD OF CALIFORNIA*, *ante*, p. 919. Petitions for rehearing denied.

No. 78-1548. *CALIFORNIA BREWERS ASSN. ET AL. v. BRYANT ET AL.*, 444 U. S. 598. Petition for rehearing denied. MR. JUSTICE POWELL and MR. JUSTICE STEVENS took no part in the consideration or decision of this petition.

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No. 79-5986. MAHLER v. NELSON, WARDEN, 444 U. S. 1092.  
Motion for leave to file petition for rehearing denied.

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*Dismissal Under Rule 60*

No. 79-5974. BROCKINGTON ET AL. v. GEORGIA. Ct. App. Ga. Certiorari dismissed as to petitioner Brockington under this Court's Rule 60. Reported below: 152 Ga. App. 11, 262 S. E. 2d 170.