

ORDERS FROM JUNE 9 THROUGH
JUNE 23, 1980

JUNE 9, 1980

Appeals Dismissed

No. 79-1597. *KEYHEA v. ENOMOTO*, CORRECTIONS DIRECTOR, ET AL. Appeal from Ct. App. Cal., 1st App. Dist., dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied.

No. 79-6443. *PROFIT v. CITY OF NIAGARA FALLS, NEW YORK*, ET AL. 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: 610 F. 2d 807.

No. 79-6496. *PETREA v. PETREA*. Appeal from Sup. Ct. Del. dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied. Reported below: 414 A. 2d 820.

Vacated and Remanded on Appeal

No. 79-185. *CONSUMERS UNION OF UNITED STATES, INC., ET AL. v. VIRGINIA STATE BAR ET AL.* Appeal from D. C. E. D. Va. Judgment vacated and case remanded for further consideration in light of *Supreme Court of Va. v. Consumers Union of United States, Inc.*, 446 U. S. 719 (1980). MR. JUSTICE POWELL took no part in the consideration or decision of this case. Reported below: 470 F. Supp. 1055.

Certiorari Granted—Vacated and Remanded

No. 79-5518. *McSHAN v. GEORGIA*. Ct. App. Ga. Motion of petitioner for leave to proceed *in forma pauperis* and

June 9, 1980

447 U.S.

certiorari granted. Judgment vacated and case remanded for further consideration in light of *United States v. Mendenhall*, 446 U. S. 544 (1980). Reported below: 150 Ga. App. 232, 257 S. E. 2d 202.

Miscellaneous Orders

No. A-953. *NOE v. UNITED STATES*. Application for bail, addressed to MR. JUSTICE MARSHALL and referred to the Court, denied.

No. A-981. *BUZZANCA v. UNITED STATES*. Application for bail, addressed to MR. JUSTICE BRENNAN and referred to the Court, denied.

No. A-1013. *WALNUT PROPERTIES, INC. v. LONG BEACH CITY COUNCIL*. Application to stay execution of the decision of the Long Beach City Council, dated March 9, 1978, addressed to MR. JUSTICE STEWART and referred to the Court, denied.

No. D-194. *IN RE DISBARMENT OF AMOS*. It is ordered that Howard W. Amos, of Worthington, Ohio, be suspended from the practice of law in this Court and that a rule issue, returnable within 40 days, requiring him to show cause why he should not be disbarred from the practice of law in this Court.

No. 83, Orig. *MARYLAND ET AL. v. LOUISIANA*. Motion of the United States for leave to intervene referred to the Special Master. Report of the Special Master received and ordered filed. Exceptions, if any, with supporting briefs to the Report of the Special Master may be filed by the parties within 30 days. Reply briefs, if any, to such exceptions may be filed within 30 days. [For earlier order herein, see, *e. g.*, 445 U. S. 913.]

447 U. S.

June 9, 1980

No. 79-770. ENVIRONMENTAL PROTECTION AGENCY *v.* NATIONAL CRUSHED STONE ASSN. ET AL.; and COSTLE, ADMINISTRATOR, ENVIRONMENTAL PROTECTION AGENCY *v.* CONSOLIDATION COAL CO. ET AL. C. A. 4th Cir. [Certiorari granted, 444 U. S. 1069.] Motion of respondents for divided argument granted.

No. 79-816. POTOMAC ELECTRIC POWER CO. *v.* DIRECTOR, OFFICE OF WORKERS' COMPENSATION PROGRAMS, U. S. DEPARTMENT OF LABOR, ET AL. C. A. D. C. Cir. [Certiorari granted, 444 U. S. 1069.] Motion of the Solicitor General for divided argument granted.

No. 79-1128. MONTANA ET AL. *v.* UNITED STATES ET AL. C. A. 9th Cir. [Certiorari granted, 445 U. S. 960.] Motion of respondents for additional time for oral argument granted, and 15 additional minutes allotted for that purpose. Motion of petitioners for additional time for oral argument granted, and 15 additional minutes allotted for that purpose.

No. 79-1388. KIRCHBERG *v.* FEENSTRA ET AL. C. A. 5th Cir. [Probable jurisdiction noted, 446 U. S. 917.] Motion of Rudolph R. Schoemann, Esquire, to permit Alan F. Schoenberger, Esquire, of New Orleans, La., to present oral argument *pro hac vice* granted.

No. 79-5269. EDWARDS *v.* ARIZONA. Sup. Ct. Ariz. [Certiorari granted, 446 U. S. 950.] Motion for appointment of counsel granted, and it is ordered that Michael J. Meehan, Esquire, of Tucson, Ariz., be appointed to serve as counsel for petitioner in this case.

No. 79-6558. PAUL *v.* UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA; and

No. 79-6576. RHEUARK *v.* TEXAS ET AL. Motions for leave to file petitions for writs of mandamus denied.

June 9, 1980

447 U.S.

Certiorari Granted

No. 79-404. UNITED STATES *v.* CORTEZ ET AL. C. A. 9th Cir. Motion of respondents for leave to proceed *in forma pauperis* and certiorari granted. Reported below: 595 F. 2d 505.

No. 79-1344. MICHAEL M. *v.* SUPERIOR COURT OF SONOMA COUNTY (CALIFORNIA, REAL PARTY IN INTEREST). Sup. Ct. Cal. Certiorari granted. Reported below: 25 Cal. 3d 608, 601 P. 2d 572.

No. 79-1404. PENNHURST STATE SCHOOL AND HOSPITAL ET AL. *v.* HALDERMAN ET AL.;

No. 79-1408. MAYOR OF PHILADELPHIA ET AL. *v.* HALDERMAN ET AL.;

No. 79-1414. PENNSYLVANIA ASSOCIATION FOR RETARDED CITIZENS ET AL. *v.* PENNHURST STATE SCHOOL AND HOSPITAL ET AL.;

No. 79-1415. COMMISSIONERS AND MENTAL HEALTH/MENTAL RETARDATION ADMINISTRATOR FOR BUCKS COUNTY ET AL. *v.* HALDERMAN ET AL.; and

No. 79-1489. PENNHURST PARENTS-STAFF ASSN. *v.* HALDERMAN ET AL. C. A. 3d Cir. Certiorari granted except as to Question 3, presented in petitions Nos. 79-1404 and 79-1489. Counsel are also requested to brief and argue the following question: Does 42 U. S. C. § 1983 provide a private remedy to enforce the provisions of the Developmentally Disabled Assistance and Bill of Rights Act, 42 U. S. C. § 6000 *et seq.*? Cases consolidated and a total of two hours allotted for oral argument. Reported below: 612 F. 2d 84.

Certiorari Denied. (See also Nos. 79-1597, 79-6443, and 79-6496, *supra.*)

No. 79-1062. MARKHAM *v.* PITCHESS, SHERIFF, ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 605 F. 2d 436.

447 U.S.

June 9, 1980

No. 79-1314. 1776 K STREET ASSOCIATES ET AL. *v.* UNITED STATES. Ct. Cl. Certiorari denied. Reported below: 221 Ct. Cl. 256, 602 F. 2d 354.

No. 79-1342. KLEIN *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. Reported below: 614 F. 2d 1292.

No. 79-1400. TOUGHILL ET AL. *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 612 F. 2d 449.

No. 79-1427. PETERSEN ET AL. *v.* UNITED STATES;

No. 79-1443. MITCHELL ET AL. *v.* UNITED STATES;

No. 79-6071. CARLSON *v.* UNITED STATES;

No. 79-6234. DIXON *v.* UNITED STATES;

No. 79-6245. LEONHARDT *v.* UNITED STATES;

No. 79-6254. IGO *v.* UNITED STATES; and

No. 79-6301. MILLER *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. Reported below: 611 F. 2d 1313.

No. 79-1498. VEN-FUEL, INC. *v.* DUNCAN, SECRETARY OF ENERGY, ET AL. C. A. 5th Cir. Certiorari denied.

No. 79-1499. WEINTRAUB *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 613 F. 2d 612.

No. 79-1519. LEVEY ET AL. *v.* UNITED STATES ET AL. C. A. 3d Cir. Certiorari denied. Reported below: 616 F. 2d 668.

No. 79-1539. METRO TRUCK BODY, INC. *v.* NATIONAL LABOR RELATIONS BOARD. C. A. 9th Cir. Certiorari denied. Reported below: 613 F. 2d 746.

No. 79-1540. SADLOWSKI ET AL. *v.* MARSHALL, SECRETARY OF LABOR, ET AL. C. A. D. C. Cir. Certiorari denied.

No. 79-1598. M. J. KELLEY Co. *v.* WOODS, COMMISSIONER OF REVENUE OF TENNESSEE. Sup. Ct. Tenn. Certiorari denied. Reported below: 592 S. W. 2d 567.

June 9, 1980

447 U.S.

No. 79-1613. *HUFFNAGLE v. PENNSYLVANIA*. Sup. Ct. Pa. Certiorari denied.

No. 79-1616. *ANGLIN v. INDIANA*. Ct. App. Ind. Certiorari denied.

No. 79-1622. *PREVETTE ET AL. v. NORTH CAROLINA*. Ct. App. N. C. Certiorari denied. Reported below: 43 N. C. App. 450, 259 S. E. 2d 595.

No. 79-1624. *LOCAL 450, UNITED FURNITURE WORKERS OF AMERICA, AFL-CIO v. DONN PRODUCTS, INC., ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 613 F. 2d 162.

No. 79-1626. *LAS VEGAS SUN, INC. v. SUMMA CORP., DBA CASTAWAYS CASINO, FRONTIER HOTEL, AND DESERT INN HOTEL, ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 610 F. 2d 614.

No. 79-1639. *BEVERLY BANK ET AL. v. ILLINOIS SAVINGS & LOAN ASSN.* App. Ct. Ill., 1st Dist. Certiorari denied. Reported below: 75 Ill. App. 3d 1101, 399 N. E. 2d 1388.

No. 79-1644. *CANFIELD ET UX. v. NEW YORK CITY*; and
No. 79-1668. *BADGLEY ET AL. v. NEW YORK CITY*. C. A. 2d Cir. Certiorari denied. Reported below: 606 F. 2d 358.

No. 79-1650. *SUPREME EQUIPMENT & SYSTEMS CORP. v. WALTER M. BALLARD Co.* C. A. D. C. Cir. Certiorari denied. Reported below: 198 U. S. App. D. C. 59, 610 F. 2d 1001.

No. 79-1657. *BOWE v. FIRST OF DENVER MORTGAGE INVESTORS ET AL.* C. A. 10th Cir. Certiorari denied. Reported below: 613 F. 2d 798.

No. 79-1662. *BLACKBURN ET AL., DBA TINY BLACKBURN AGENCY v. CRUM & FORSTER ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 611 F. 2d 102.

447 U.S.

June 9, 1980

No. 79-1669. *FIRST BANK OF OAK PARK v. UNITED CALIFORNIA BANK*. Ct. App. Cal., 1st App. Dist. Certiorari denied. Reported below: 98 Cal. App. 3d 439, 159 Cal. Rptr. 607.

No. 79-1674. *KONDRAT v. MITROVICH ET AL.* Ct. App. Ohio, Lake County. Certiorari denied.

No. 79-1693. *TERRY TUCK, INC. v. CONSOLIDATED FREIGHTWAYS CORPORATION OF DELAWARE*. C. A. 9th Cir. Certiorari denied. Reported below: 612 F. 2d 465.

No. 79-1694. *HAMILTON v. GENERAL MOTORS CORP.* C. A. 5th Cir. Certiorari denied. Reported below: 606 F. 2d 576.

No. 79-1700. *BRUMMITT v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 613 F. 2d 62.

No. 79-1757. *ARTARIAN v. ARTAR ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 610 F. 2d 809.

No. 79-1766. *SHUFFMAN, EXECUTRIX v. HARTFORD TEXTILE CORP. ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 613 F. 2d 384.

No. 79-1784. *BELLA ET AL., DBA DAVE STREIFFER Co. v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 610 F. 2d 1272.

No. 79-1814. *DOWNES v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 615 F. 2d 677.

No. 79-5873. *VASQUEZ v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 612 F. 2d 1338.

No. 79-6077. *COBB v. WAINWRIGHT, SECRETARY, DEPARTMENT OF OFFENDER REHABILITATION OF FLORIDA*. C. A. 5th Cir. Certiorari denied. Reported below: 609 F. 2d 754.

No. 79-6143. *GRISTEAU v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 611 F. 2d 181.

June 9, 1980

447 U.S.

No. 79-6211. *FARIAS-CONTRERAS v. IMMIGRATION AND NATURALIZATION SERVICE*. C. A. 9th Cir. Certiorari denied. Reported below: 605 F. 2d 561.

No. 79-6224. *GRECO v. WORKMAN, PRE-RELEASE CENTER SUPERINTENDENT*. C. A. 1st Cir. Certiorari denied.

No. 79-6300. *GINDI v. DUNHAM, CORRECTIONAL SUPERINTENDENT*. C. A. 2d Cir. Certiorari denied.

No. 79-6306. *ANTONELLI v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 624 F. 2d 1104.

No. 79-6327. *TATASCIORE v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 620 F. 2d 291.

No. 79-6337. *COX v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 616 F. 2d 413.

No. 79-6379. *TROLLEY v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 618 F. 2d 109.

No. 79-6386. *JENKINS v. NEW YORK*. App. Div., Sup. Ct. N. Y., 1st Jud. Dept. Certiorari denied. Reported below: 72 App. Div. 2d 974, 421 N. Y. S. 2d 751.

No. 79-6395. *ALSTON v. NEW JERSEY*. Super. Ct. N. J. Certiorari denied.

No. 79-6400. *PFEIFER v. UNITED STATES BUREAU OF PRISONS*. C. A. 9th Cir. Certiorari denied. Reported below: 615 F. 2d 873.

No. 79-6404. *CROOKER v. U. S. DEPARTMENT OF JUSTICE*. C. A. 2d Cir. Certiorari denied. Reported below: 622 F. 2d 573.

No. 79-6429. *TAYLOR v. CALIFORNIA*. Ct. App. Cal., 2d App. Dist. Certiorari denied.

447 U.S.

June 9, 1980

No. 79-6438. *HARRISON v. GALLIA COUNTY CHILDREN'S SERVICES BOARD*. Ct. App. Ohio, Gallia County. Certiorari denied.

No. 79-6439. *MADDOX v. TEXAS*. Ct. Crim. App. Tex. Certiorari denied. Reported below: 591 S. W. 2d 898.

No. 79-6440. *PITTS v. REDMAN, WARDEN, ET AL.* C. A. 3d Cir. Certiorari denied.

No. 79-6441. *GALLIMORE v. GARRISON*. C. A. 4th Cir. Certiorari denied. Reported below: 618 F. 2d 98.

No. 79-6444. *WILLIAMS ET AL. v. AIR TRANSPORT UNION LOCAL No. 504 ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 622 F. 2d 577.

No. 79-6445. *MASON v. WOLFE*. C. A. 4th Cir. Certiorari denied. Reported below: 610 F. 2d 812.

No. 79-6451. *YOUNG v. SHARP, U. S. DISTRICT JUDGE, ET AL.* C. A. 7th Cir. Certiorari denied.

No. 79-6452. *HERRINGTON v. GRIGGS, SUPERINTENDENT, CALIFORNIA INSTITUTION FOR MEN*. C. A. 9th Cir. Certiorari denied. Reported below: 618 F. 2d 116.

No. 79-6455. *WILLIAMS v. LOUISIANA*. C. A. 5th Cir. Certiorari denied. Reported below: 611 F. 2d 881.

No. 79-6457. *JOHNSON v. CARTER, PRESIDENT OF THE UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 612 F. 2d 581.

No. 79-6459. *HOWELL v. WYRICK, WARDEN*. C. A. 8th Cir. Certiorari denied.

No. 79-6462. *SIMPSON v. MINICK, SHERIFF*. C. A. 6th Cir. Certiorari denied.

June 9, 1980

447 U.S.

No. 79-6466. *EVANS v. CANNON ET AL.* Sup. Ct. Ohio. Certiorari denied.

No. 79-6473. *HOWZE v. OHIO.* Sup. Ct. Ohio. Certiorari denied.

No. 79-6494. *GINSBURG v. TIGHE.* Sup. Ct. N. J. Certiorari denied.

No. 79-6513. *BUTLER v. ALEXANDER, SECRETARY OF THE ARMY, ET AL.* C. A. D. C. Certiorari denied.

No. 79-6540. *PROFFITT v. UNITED STATES.* C. A. 4th Cir. Certiorari denied. Reported below: 620 F. 2d 295.

No. 79-6551. *SMILEY v. CORCORAN, LOS ANGELES COUNTY CLERK, ET AL.* Ct. App. Cal., 2d App. Dist. Certiorari denied.

No. 79-6581. *ELORDUY v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. Reported below: 612 F. 2d 986.

No. 79-6594. *RUCKER v. CITY OF SAINT LOUIS ET AL.* C. A. 8th Cir. Certiorari denied. Reported below: 612 F. 2d 1102.

No. 79-6598. *MIZELL v. UNITED STATES.* C. A. 9th Cir. Certiorari denied. Reported below: 615 F. 2d 1367.

No. 79-6599. *CAMPBELL v. UNITED STATES.* C. A. 9th Cir. Certiorari denied. Reported below: 616 F. 2d 1151.

No. 79-6602. *COUCH v. UNITED STATES.* C. A. 6th Cir. Certiorari denied. Reported below: 616 F. 2d 954.

No. 78-6884. *ELMORE v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. MR. JUSTICE BRENNAN and MR. JUSTICE MARSHALL would grant certiorari. Reported below: 595 F. 2d 1036.

447 U.S.

June 9, 1980

No. 79-333. *BOERCKEL v. ILLINOIS*. App. Ct. Ill., 5th Dist. Certiorari denied. MR. JUSTICE MARSHALL would grant certiorari. Reported below: 68 Ill. App. 3d 103, 385 N. E. 2d 815.

No. 79-5197. *VASQUEZ-SANTIAGO ET AL. v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. MR. JUSTICE MARSHALL would grant certiorari. Reported below: 602 F. 2d 1069.

No. 79-5926. *THORSON v. CALIFORNIA*. Ct. App. Cal., 2d App. Dist. Certiorari denied. MR. JUSTICE MARSHALL would grant certiorari.

No. 79-6170. *FLORES v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. MR. JUSTICE MARSHALL would grant certiorari. Reported below: 620 F. 2d 286.

No. 79-725. *MAINE PUBLIC UTILITIES COMMISSION v. CENTRAL MAINE POWER Co.* Sup. Jud. Ct. Me. Certiorari denied. MR. JUSTICE BLACKMUN would grant certiorari. Reported below: 405 A. 2d 153.

No. 79-1454. *HARRIS, SECRETARY OF HEALTH AND HUMAN SERVICES v. WRIGHT ET AL.* C. A. 7th Cir. Motion of respondents for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 603 F. 2d 666.

No. 79-1629. *BOARD OF EDUCATION OF THE MEMPHIS CITY SCHOOLS ET AL. v. NORTHCROSS ET AL.*; and

No. 79-1630. *CITY OF MEMPHIS ET AL. v. NORTHCROSS ET AL.* C. A. 6th Cir. Certiorari denied. MR. JUSTICE WHITE would grant certiorari. Reported below: 611 F. 2d 624.

No. 79-6017. *NASTU v. TEXAS*. Ct. Crim. App. Tex. Motion of petitioner to strike the supplement to the petition and certiorari denied. Reported below: 589 S. W. 2d 434.

June 9, 1980

447 U.S.

No. 79-6362. *DOBBERT v. FLORIDA*. Sup. Ct. Fla. Certiorari denied. Reported below: 375 So. 2d 1069.

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

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

No. 79-6383. *BRIGGS v. CONNECTICUT*. Sup. Ct. Conn. Certiorari denied. Reported below: 179 Conn. 328, 426 A. 2d 298.

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

The Due Process Clause of the Fourteenth Amendment forbids the use for impeachment purposes of evidence that a defendant remained silent after receiving the *Miranda* warnings at the time of his arrest. *Doyle v. Ohio*, 426 U. S. 610 (1976). At petitioner's criminal trial, the prosecutor repeatedly brought before the jury the fact that petitioner had not furnished police officers with his alibi at the time of his arrest. Respondent concedes, and the Supreme Court of Connecticut agreed, that such use of petitioner's postarrest silence violated petitioner's constitutional rights. Nevertheless, the court sustained the conviction, over Justice Bogdanski's dissent, on the ground that the error was harmless beyond a reasonable doubt. I share Justice Bogdanski's "unreasonable" belief that the violation of petitioner's rights was not constitutionally harmless. A finding of harmless error on this record, in my view, can be nothing other than a means of avoiding the requirements of the Constitution in order to sustain the conviction of a defendant the court believed was factually guilty.

Petitioner's defense was that he was in the company of his wife and was nowhere near the scene of the alleged crimes at the time they were committed. Petitioner's wife testified to that effect, and petitioner's testimony corroborated hers. On cross-examination, the prosecutor repeatedly forced petitioner to admit that he had not given his story to the police after receiving *Miranda* warnings. The cross-examination which the Connecticut Supreme Court held to be harmless beyond a reasonable doubt was as follows:

"Q. Did you ever recall telling the police officer that you had gone to court in Stamford on June 8th [the date of the alleged offense]?"

"A. Yes.

"Q. Did you ever tell the police officer on June 15th [the date petitioner was arrested] that you were home from 6:45 to 8:55 in the morning?"

"[Defense counsel's objection was overruled.]

"A. No, I never told them nothing. Not anything.

"Q. Did you tell them that you were wearing red pants, red T-shirt and blue jacket, white, red and blue sneakers, at 6:15 on June—

"A. I did not tell the police officer nothing.

"Q. Did you ever tell them that you went to court with your wife and Kareen?"

"A. Pardon me?"

"Q. Did you ever tell them that you went to court with your wife and Kareen—the boy?"

"A. Well, I started—I almost started a conversation but I cut it.

"Q. Did you ever tell the police officer what time you arrived at the court in Stamford?"

"A. I did not tell the police officer nothing." 179 Conn. 328, 334, n. 1, 426 A. 2d 298, 302, n. 1 (1979).

As if this colloquy did not sufficiently prejudice petitioner before the jury, the prosecutor called a police officer in rebuttal, who testified as follows:

"Q. And after you advised him of his rights, did he give any information with respect to his whereabouts on June 8th of 1977?

"A. The only information he would tell us was that he was in court on June 8th.

"Q. Did he tell you what time he was in court?

"A. No, he didn't.

"Q. Did he tell you what judge—

"[Defense counsel's objection was overruled.]

"Q. [by the Court] What time did he said [*sic*] he arrived in court?

"A. He didn't tell me.

"Q. [by the prosecutor] Did you ask him?

"A. Yes.

"Q. Is there anything in your report with respect to the conversation you had with her or with Mr. Briggs?

"A. Yes, there is.

"Q. And may I see that, please?

"A. This is the accused, and what he said. Refused to give a statement." *Id.*, at 334–335, n. 2, 426 A. 2d, at 302, n. 2.

The repeated, cumulative impermissible references to petitioner's constitutionally protected silence were obviously designed to imply that his defense was fabricated. The prosecutor knew very well that the defendant had remained silent after receiving *Miranda* warnings, and his questions were designed to hammer that fact home to the jury.

In holding that these repeated constitutional violations were harmless error, the Connecticut Supreme Court purported to apply a standard that has been adopted by several federal courts, namely, "[w]hen there is but a single reference at

trial to the fact of defendant's silence, the reference is neither repeated nor linked with defendant's exculpatory story, and the exculpatory story is transparently frivolous and evidence of guilt is otherwise overwhelming, the reference to defendant's silence constitutes harmless error.' " *Id.*, at 336, 426 A. 2d, at 303, quoting *State v. Zeko*, 177 Conn. 545, 555, 418 A. 2d 917, 922 (1979). Accord, *Chapman v. United States*, 547 F. 2d 1240, 1250 (CA5), cert. denied, 431 U. S. 908 (1977); *Leake v. Cox*, 432 F. 2d 982, 984 (CA4 1970). Even on the assumption that this was the appropriate standard, it is plain that the violations in this case were not harmless error. There were multiple references to petitioner's silence; the references were linked—in detail—with petitioner's exculpatory story; and petitioner's alibi defense was not transparently frivolous.* Nevertheless, the court concluded that "the defendant's silence was not so 'highlighted' by the prosecutor as to constitute prejudicial error" and that the comments had not "'struck at the jugular' of the defendant's defense." 179 Conn., at 337, 426 A. 2d, at 303.

This case exemplifies a disturbing and increasingly widespread trend among some courts to sanction egregious violations of the constitutional rights of criminal defendants by blandly reciting the formula "harmless error" whenever it appears that the accused was factually guilty. Our limited ability to exercise our certiorari jurisdiction prevents us from effectively policing the nullification of constitutional requirements through the abuse of the harmless-error doctrine; nor is it our role to correct such factual errors. Our judicial system relies on conscientious trial and appellate courts to assure that all persons accused of criminal offenses receive the full protections guaranteed them by the Constitution. Because this case exemplifies a serious failure to accept that weighty responsibility, I would grant the petition.

*Petitioner's wife and another witness testified to his whereabouts; the fact that the State presented three witnesses who controverted petitioner's alibi defense does not necessarily mean the defense was frivolous.

June 9, 10, 12, 16, 1980

447 U.S.

Rehearing Denied

No. 78-1840. CITY OF ROME ET AL. v. UNITED STATES ET AL., 446 U. S. 156;

No. 78-5928. WALLER v. UNITED STATES, 446 U. S. 901;

No. 79-1096. PEARSON v. TEXAS, 446 U. S. 912;

No. 79-1148. SPARKS v. UNITED STATES, 446 U. S. 908;

No. 79-6161. HOHENSEE v. SOUTHARD ET AL., 446 U. S. 911;

No. 79-6183. COOPER v. CITY OF COMMERCE CITY, COLORADO, 446 U. S. 912; and

No. 79-6206. KICKASOLA v. JIM WALLACE OIL CO., INC., ET AL., 446 U. S. 921. Petitions for rehearing denied.

No. 78-671. DELAWARE STATE BOARD OF EDUCATION v. EVANS ET AL., 446 U. S. 923; and

No. 78-672. ALEXIS I. DU PONT SCHOOL DISTRICT ET AL. v. EVANS ET AL., 446 U. S. 923. Petitions for rehearing denied. MR. JUSTICE STEVENS took no part in the consideration or decision of these petitions.

JUNE 10, 1980

Affirmed on Appeal. (See No. 78-60, *ante*, at 164-165, n. 32.)

JUNE 12, 1980

Miscellaneous Order

No. A-1080. DEVINGO ET AL. v. NEW JERSEY. Application for stay of trial court proceedings, presented to MR. JUSTICE BRENNAN, and by him referred to the Court, denied.

JUNE 16, 1980

Appeals Dismissed

No. 79-1588. FEDERATION FOR AMERICAN IMMIGRATION REFORM ET AL. v. KLUTZNICK, SECRETARY OF COMMERCE, ET AL. Appeal from D. C. D. C. dismissed for want of jurisdiction. Reported below: 486 F. Supp. 564.

447 U.S.

June 16, 1980

No. 79-843. *EXXON CORP. v. SOUTH CAROLINA TAX COMMISSION*. Appeal from Sup. Ct. S. C. dismissed for want of substantial federal question. MR. JUSTICE STEVENS would note probable jurisdiction and set case for oral argument. MR. JUSTICE STEWART took no part in the consideration or decision of this case. Reported below: 273 S. C. 594, 258 S. E. 2d 93.

No. 79-1615. *HALL v. CALIFORNIA ET AL.* Appeal from C. A. 9th Cir. dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied. Reported below: 614 F. 2d 776.

No. 79-1678. *BRIGGS v. CALIFORNIA EX REL. DEPARTMENT OF PARKS AND RECREATION*. Appeal from Ct. App. Cal., 1st App. Dist., dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied. Reported below: 98 Cal. App. 3d 190, 159 Cal. Rptr. 390.

No. 79-6489. *LINDEN v. 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: 622 F. 2d 574.

No. 79-1670. *AVIS RENT-A-CAR SYSTEMS, INC. v. VINING ET UX*. Appeal from Sup. Ct. Fla. dismissed for want of substantial federal question. Reported below: 378 So. 2d 280.

Certiorari Granted—Reversed. (See No. 79-1377, *ante*, p. 404.)

Certiorari Granted—Vacated and Remanded

No. 78-1531. *FRANZEN, CORRECTIONAL SUPERINTENDENT, ET AL. v. ALLEN*. C. A. 7th Cir. Motion of respondent for leave to proceed *in forma pauperis* and certiorari granted.

June 16, 1980

447 U.S.

Judgment vacated and case remanded for further consideration in light of *Jenkins v. Anderson*, ante, p. 231. Reported below: 591 F. 2d 391.

No. 79-1435. MAHONING WOMEN'S CENTER v. HUNTER, MAYOR OF YOUNGSTOWN, ET AL. C. A. 6th Cir. Certiorari granted, judgment vacated, and case remanded for further consideration in light of *New York Gaslight Club, Inc. v. Carey*, ante, p. 54, and *Supreme Court of Virginia v. Consumers Union*, 446 U. S. 719 (1980). MR. JUSTICE STEWART, MR. JUSTICE WHITE, MR. JUSTICE REHNQUIST, and MR. JUSTICE STEVENS dissent. Reported below: 610 F. 2d 456.

Miscellaneous Orders

No. A-994. MACHINISTS NON-PARTISAN POLITICAL LEAGUE v. FEDERAL ELECTION COMMISSION. Application for stay of execution and enforcement of the order of the United States District Court for the District of Columbia, entered January 30, 1980, presented to THE CHIEF JUSTICE, and by him referred to the Court, denied. The order entered by THE CHIEF JUSTICE on May 23, 1980, is vacated.

No. A-1053. BURLINGTON NORTHERN, INC., ET AL. v. MISSOURI-KANSAS-TEXAS RAILROAD CO. ET AL. Application for an order to vacate the stay entered by the United States Court of Appeals for the Fifth Circuit on May 30, 1980, presented to MR. JUSTICE POWELL, and by him referred to the Court, denied.

No. 79-1690. STANTON, ADMINISTRATOR, INDIANA DEPARTMENT OF PUBLIC WELFARE v. BROWN ET AL. C. A. 7th Cir. The Solicitor General is invited to file a brief in this case expressing the views of the United States.

No. A-1019 (79-1909). CALIFORNIA v. MUSANTE. Ct. App. Cal., 4th App. Dist. Application for stay, addressed to MR. JUSTICE WHITE and referred to the Court, denied.

447 U.S.

June 16, 1980

No. 79-5903. *H. L. v. MATHESON, GOVERNOR OF UTAH, ET AL.* Sup. Ct. Utah. [Probable jurisdiction noted, 445 U. S. 903.] Motion for reconsideration of motion for appointment of Alan Ernest as counsel for children unborn and born alive denied.

No. 79-6639. *HARRIS v. HAMBRICK, WARDEN*; and

No. 79-6669. *BATTLE v. CHRISTENSEN, WARDEN.* Motions for leave to file petitions for writs of habeas corpus denied.

No. 79-6546. *THERIAULT v. SILBER ET AL.* Motion for leave to file petition for writ of mandamus denied.

Probable Jurisdiction Postponed

No. 79-678. *SAN DIEGO GAS & ELECTRIC Co. v. CITY OF SAN DIEGO ET AL.* Appeal from Ct. App. Cal., 4th App. Dist. Further consideration of question of jurisdiction postponed to hearing of case on the merits.

No. 79-1689. *UNITED STATES v. WILL ET AL.* Appeal from D. C. N. D. Ill. Further consideration of question of jurisdiction postponed to hearing of case on the merits. Motion of the Solicitor General to consolidate this case with No. 79-983, *United States v. Will et al.* [probable jurisdiction postponed, 444 U. S. 1068], for briefing and oral argument granted. A total of one and one-half hours allotted for oral argument.

Certiorari Granted

No. 79-972. *WESTVACO CORP. ET AL. v. ADAMS EXTRACT Co. ET AL.* C. A. 5th Cir. Certiorari granted and case set for oral argument in tandem with No. 79-1056, *Northwest Airlines, Inc. v. Transport Workers Union of America, AFL-CIO, et al.*, immediately *infra*. MR. JUSTICE POWELL took no part in the consideration or decision of this petition. Reported below: 606 F. 2d 319.

June 16, 1980

447 U.S.

No. 79-1056. NORTHWEST AIRLINES, INC. *v.* TRANSPORT WORKERS UNION OF AMERICA, AFL-CIO, ET AL. C. A. D. C. Cir. Motion of Chamber of Commerce of the United States for leave to file a brief as *amicus curiae* granted. Certiorari granted and case set for oral argument in tandem with No. 79-972, *Westvaco Corp. et al. v. Adams Extract Co. et al.*, immediately *supra*. MR. JUSTICE BLACKMUN took no part in the consideration or decision of the motion and petition. Reported below: 196 U. S. App. D. C. 443, 606 F. 2d 1350.

No. 79-1203. LUCKY MC URANIUM CORP. *v.* GEOMET EXPLORATION, LTD. Sup. Ct. Ariz. Motion of Arizona Mining Association for leave to file a brief as *amicus curiae* granted. Certiorari granted. Reported below: 124 Ariz. 55, 601 P. 2d 1339.

No. 79-1236. CARSON ET AL. *v.* AMERICAN BRANDS, INC., T/A AMERICAN TOBACCO Co., ET AL. C. A. 4th Cir. Certiorari granted limited to Question 1 presented by the petition. Reported below: 606 F. 2d 420.

No. 79-1764. TEXAS DEPARTMENT OF COMMUNITY AFFAIRS *v.* BURDINE. C. A. 5th Cir. Certiorari granted. Reported below: 608 F. 2d 563.

Certiorari Denied. (See also Nos. 79-1615, 79-1678, and 79-6489, *supra*.)

No. 79-1333. RADO *v.* CONNECTICUT ET AL. C. A. 2d Cir. Certiorari denied. Reported below: 607 F. 2d 572.

No. 79-1392. GOTTSCHALK *v.* ALASKA. Sup. Ct. Alaska. Certiorari denied. Reported below: 602 P. 2d 448.

No. 79-1422. AZZARELLI CONSTRUCTION Co. ET AL. *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied. Reported below: 612 F. 2d 292.

447 U.S.

June 16, 1980

No. 79-1424. CHAMBER OF COMMERCE OF THE UNITED STATES OF AMERICA *v.* LEGAL AID SOCIETY OF ALAMEDA COUNTY ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 608 F. 2d 1319.

No. 79-1433. MASKENY ET AL. *v.* UNITED STATES; and
No. 79-1532. DARWIN *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 609 F. 2d 183.

No. 79-1448. NAGATA BROTHERS FARMS *v.* AGRICULTURAL LABOR RELATIONS BOARD OF CALIFORNIA (UNITED FARM WORKERS OF AMERICA, AFL-CIO, REAL PARTY IN INTEREST). Sup. Ct. Cal. Certiorari denied.

No. 79-1463. KLINE ET AL. *v.* BLAKE. C. A. 3d Cir. Certiorari denied. Reported below: 612 F. 2d 718.

No. 79-1464. WILLIS *v.* VIRGINIA. Sup. Ct. Va. Certiorari denied.

No. 79-1467. STEVENS *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. Reported below: 612 F. 2d 1226.

No. 79-1487. ASHWORTH *v.* ALABAMA. Ct. Crim. App. Ala. Certiorari denied.

No. 79-1496. ASSOCIATION OF NATIONAL ADVERTISERS, INC., ET AL. *v.* FEDERAL TRADE COMMISSION ET AL.; and

No. 79-1501. KELLOGG CO. *v.* FEDERAL TRADE COMMISSION ET AL. C. A. D. C. Cir. Certiorari denied. Reported below: 201 U. S. App. D. C. 165, 627 F. 2d 1151.

No. 79-1509. COMMITTEE TO PROTECT THE FIRST AMENDMENT RIGHTS OF EMPLOYEES OF THE DEPARTMENT OF AGRICULTURE *v.* BERGLAND, SECRETARY OF AGRICULTURE. C. A. D. C. Cir. Certiorari denied. Reported below: 200 U. S. App. D. C. 11, 626 F. 2d 875.

June 16, 1980

447 U.S.

No. 79-1514. *BALTIMORE REBUILDERS, INC. v. NATIONAL LABOR RELATIONS BOARD ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 611 F. 2d 1372.

No. 79-1523. *TRANSCONTINENTAL GAS PIPE LINE CORP. v. FEDERAL ENERGY REGULATORY COMMISSION.* C. A. D. C. Cir. Certiorari denied. Reported below: 196 U. S. App. D. C. 187, 606 F. 2d 1094.

No. 79-1542. *ANDRULIS ET AL. v. UNITED STATES ET AL;* and

No. 79-1543. *NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE ET AL. v. CIVILETTI, ATTORNEY GENERAL, ET AL.* C. A. D. C. Cir. Certiorari denied. Reported below: 197 U. S. App. D. C. 259, 609 F. 2d 514.

No. 79-1547. *SHAUFLEER v. UNITED STATES.* C. A. 7th Cir. Certiorari denied. Reported below: 618 F. 2d 111.

No. 79-1548. *HAYES ET AL. v. ROGERS.* Sup. Ct. Fla. Certiorari denied. Reported below: 378 So. 2d 1212.

No. 79-1550. *LANE PROCESSING, INC. v. MARSHALL, SECRETARY OF LABOR.* C. A. 8th Cir. Certiorari denied. Reported below: 606 F. 2d 518.

No. 79-1551. *SIX NATIONS CONFEDERACY v. ANDRUS, SECRETARY OF THE INTERIOR, ET AL.* C. A. D. C. Cir. Certiorari denied. Reported below: 198 U. S. App. D. C. 54, 610 F. 2d 996.

No. 79-1561. *CARPENTER v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. Reported below: 611 F. 2d 113.

No. 79-1575. *DEMILIA ET AL. v. NEW YORK ET AL.* App. Div., Sup. Ct. N. Y., 1st Jud. Dept. Certiorari denied. Reported below: 72 App. Div. 2d 536, 421 N. Y. S. 2d 70.

No. 79-1577. *HEILMAN v. UNITED STATES.* C. A. 7th Cir. Certiorari denied. Reported below: 614 F. 2d 1133.

447 U.S.

June 16, 1980

No. 79-1614. RILEY, ADMINISTRATRIX, ET AL. *v.* GOLDSCHMIDT, SECRETARY OF TRANSPORTATION, ET AL. C. A. 7th Cir. Certiorari denied. Reported below: 618 F. 2d 110.

No. 79-1623. INDIANA & MICHIGAN ELECTRIC Co. *v.* NATIONAL LABOR RELATIONS BOARD. C. A. 4th Cir. Certiorari denied. Reported below: 610 F. 2d 811.

No. 79-1642. PATTERSON *v.* ARKANSAS. Sup. Ct. Ark. Certiorari denied. Reported below: 267 Ark. 436, 591 S. W. 2d 356.

No. 79-1649. MURRAY ET AL. *v.* ALEXANDER TITLE AGENCY, INC., ET AL. Ct. App. D. C. Certiorari denied.

No. 79-1658. IN RE WALKER. Sup. Jud. Ct. Me. Certiorari denied. Reported below: 411 A. 2d 1024.

No. 79-1659. DESERT OUTDOOR ADVERTISING, INC. *v.* DEPARTMENT OF TRANSPORTATION OF CALIFORNIA. Ct. App. Cal., 4th App. Dist. Certiorari denied.

No. 79-1660. KLEVE *v.* KLEVE. Ct. App. Ohio, Hamilton County. Certiorari denied.

No. 79-1664. RENNERT *v.* DUCKWORTH, WARDEN. C. A. 7th Cir. Certiorari denied. Reported below: 618 F. 2d 111.

No. 79-1666. FLETCHER *v.* CALIFORNIA PORTLAND CEMENT Co., INC. Ct. App. Cal., 2d App. Dist. Certiorari denied. Reported below: 99 Cal. App. 3d 97, 159 Cal. Rptr. 915.

No. 79-1671. WARNER ET AL. *v.* SOVEREIGN NEWS Co. ET AL. C. A. 6th Cir. Certiorari denied. Reported below: 610 F. 2d 428.

No. 79-1676. WHITE *v.* ARLEN REALTY & DEVELOPMENT CORP. C. A. 4th Cir. Certiorari denied. Reported below: 614 F. 2d 387.

June 16, 1980

447 U. S.

No. 79-1680. *GARDNER BENDER, INC. v. IDEAL INDUSTRIES, INC.* C. A. 7th Cir. Certiorari denied. Reported below: 612 F. 2d 1018.

No. 79-1681. *KAPLAN, TRUSTEE IN BANKRUPTCY v. BURGHOUS CORP.* C. A. 9th Cir. Certiorari denied. Reported below: 611 F. 2d 286.

No. 79-1682. *ZECCOLA v. EZZO ET AL.* Dist. Ct. App. Fla., 3d Dist. Certiorari denied. Reported below: 370 So. 2d 38.

No. 79-1683. *FIRST BEVERAGES, INC. OF LAS VEGAS, ET AL. v. ROYAL CROWN COLA CO. ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 612 F. 2d 1164.

No. 79-1695. *ELECTRI-FLEX Co. v. NATIONAL LABOR RELATIONS BOARD.* C. A. 7th Cir. Certiorari denied. Reported below: 624 F. 2d 1103.

No. 79-1698. *MATSI v. MATSI.* App. Div., Sup. Ct. N. Y., 2d Jud. Dept. Certiorari denied. Reported below: 73 App. Div. 2d 849, 422 N. Y. S. 2d 550.

No. 79-1701. *HAMILTON v. MONTANA.* Sup. Ct. Mont. Certiorari denied. Reported below: — Mont. —, 605 P. 2d 1121.

No. 79-1702. *CARTER v. CROWN HOSIERY MILLS, INC.* C. A. 4th Cir. Certiorari denied. Reported below: 618 F. 2d 96.

No. 79-1714. *ALEXANDER v. LOS ANGELES COUNTY CIVIL SERVICE COMMISSION ET AL.* Ct. App. Cal., 2d App. Dist. Certiorari denied.

No. 79-1749. *UNITED ASSOCIATION OF JOURNEYMEN & APPRENTICES OF THE PLUMBING & PIPEFITTING INDUSTRY OF THE UNITED STATES AND CANADA, LOCAL No. 68 v. BEXAR PLUMBING Co., INC.* C. A. 5th Cir. Certiorari denied. Reported below: 610 F. 2d 816.

447 U.S.

June 16, 1980

No. 79-1780. *FELS v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 620 F. 2d 290.

No. 79-1800. *LAUGHMAN ET AL. v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 618 F. 2d 1067.

No. 79-1812. *LIGGETT v. HARRIS, SECRETARY OF HEALTH AND HUMAN SERVICES*. C. A. 9th Cir. Certiorari denied. Reported below: 614 F. 2d 777.

No. 72-1822. *NEFF v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 615 F. 2d 1235.

No. 79-1826. *CARCAISE v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 613 F. 2d 1321.

No. 79-1827. *FARESE v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 612 F. 2d 1376.

No. 79-1832. *GROSS v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 614 F. 2d 365.

No. 79-6192. *ADDERLEY v. WAINWRIGHT, SECRETARY, DEPARTMENT OF OFFENDER REHABILITATION OF FLORIDA*. C. A. 5th Cir. Certiorari denied. Reported below: 612 F. 2d 577.

No. 79-6199. *PANZA v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 612 F. 2d 432.

No. 79-6208. *KIRK v. ILLINOIS*. App. Ct. Ill., 1st Dist. Certiorari denied. Reported below: 76 Ill. App. 3d 459, 394 N. E. 2d 1212.

No. 79-6209. *STANLEY ET AL. v. WAINWRIGHT, SECRETARY, DEPARTMENT OF OFFENDER REHABILITATION OF FLORIDA*. C. A. 5th Cir. Certiorari denied. Reported below: 604 F. 2d 379.

No. 79-6216. *LANE v. CONNECTICUT*. Sup. Ct. Conn. Certiorari denied. Reported below: 179 Conn. 327, 426 A. 2d 297.

No. 79-6218. *CARROLL v. DUCKWORTH, WARDEN*. C. A. 7th Cir. Certiorari denied. Reported below: 614 F. 2d 774.

June 16, 1980

447 U.S.

No. 79-6220. *TATES v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 612 F. 2d 432.

No. 79-6231. *MILLER v. UNITED STATES*; and
No. 79-6238. *MILLER v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 608 F. 2d 1089.

No. 79-6263. *RODRIGUEZ v. ESTELLE, CORRECTIONS DIRECTOR*. C. A. 5th Cir. Certiorari denied.

No. 79-6272. *MAMBRETTI v. CALIFORNIA*. Ct. App. Cal., 1st App. Dist. Certiorari denied.

No. 79-6279. *STANLEY v. MARYLAND*. Ct. Sp. App. Md. Certiorari denied. Reported below: 43 Md. App. 651, 406 A. 2d 693.

No. 78-6286. *LAWSON, AKA CARR v. PENNSYLVANIA*. Sup. Ct. Pa. Certiorari denied.

No. 79-6295. *RIGGS v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 609 F. 2d 1007.

No. 79-6313. *GARRIS v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 616 F. 2d 626.

No. 79-6317. *ARMSTRONG v. ILLINOIS*. App. Ct. Ill., 3d Dist. Certiorari denied. Reported below: 77 Ill. App. 3d 916, 396 N. E. 2d 845.

No. 79-6329. *BAUMANN v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 614 F. 2d 634.

No. 79-6340. *DUNBAR v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 611 F. 2d 985 and 614 F. 2d 39.

No. 79-6374. *ANTONELLI v. TRIBUNE NEWSPAPER ET AL.* C. A. 7th Cir. Certiorari denied.

447 U. S.

June 16, 1980

No. 79-6394. *JONES v. NEW YORK*. App. Div., Sup. Ct. N. Y., 2d Jud. Dept. Certiorari denied. Reported below: 74 App. Div. 2d 613, 424 N. Y. S. 2d 497.

No. 79-6413. *KORTE v. UNITED STATES*. C. A. 10th Cir. Certiorari denied.

No. 79-6419. *BROWN v. UNITED STATES ET AL.* C. A. D. C. Cir. Certiorari denied. Reported below: 199 U. S. App. D. C. 9, 615 F. 2d 1368.

No. 79-6425. *EL FUNDI ET UX. v. DEROCHE ET AL.* C. A. 8th Cir. Certiorari denied.

No. 79-6432. *DUFFIN v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 620 F. 2d 290.

No. 79-6442. *PULLIAM v. BALKCOM, WARDEN*. Sup. Ct. Ga. Certiorari denied. Reported below: 245 Ga. 99, 263 S. E. 2d 123.

No. 79-6471. *McMILLAN v. MAHONEY, CORRECTIONAL SUPERINTENDENT, ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 615 F. 2d 1357.

No. 79-6476. *ROBERTS v. ILLINOIS*. App. Ct. Ill., 4th Dist. Certiorari denied. Reported below: 75 Ill. App. 3d 1104, 399 N. E. 2d 1390.

No. 79-6478. *HARDY v. ILLINOIS*. App. Ct. Ill., 3d Dist. Certiorari denied. Reported below: 77 Ill. App. 3d 37, 395 N. E. 2d 743.

No. 79-6479. *BUTLER v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 618 F. 2d 411.

No. 79-6485. *ROSENTHAL v. CARR*. C. A. 9th Cir. Certiorari denied. Reported below: 614 F. 2d 1219.

No. 79-6487. *CRISAFI v. WIETHE*. C. A. 3d Cir. Certiorari denied.

June 16, 1980

447 U.S.

No. 79-6488. *WOODARD v. WACHOVIA BANK & TRUST Co. ET AL.* C. A. 4th Cir. Certiorari denied.

No. 79-6490. *ROBINSON v. PARRATT, WARDEN.* C. A. 8th Cir. Certiorari denied. Reported below: 620 F. 2d 307.

No. 79-6491. *COLLINS v. LOUISIANA.* Sup. Ct. La. Certiorari denied. Reported below: 378 So. 2d 928.

No. 79-6493. *GRIFFITH ET AL. v. BELL-WHITLEY COMMUNITY ACTION AGENCY ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 614 F. 2d 1102.

No. 79-6502. *KINES v. BUTTERWORTH.* C. A. 1st Cir. Certiorari denied. Reported below: 618 F. 2d 93.

No. 79-6504. *IN RE R. R. v. ILLINOIS.* App. Ct. Ill., 2d Dist. Certiorari denied. Reported below: 75 Ill. App. 3d 494, 394 N. E. 2d 75.

No. 79-6509. *SNELL v. NATIONAL RAILROAD PASSENGER CORP. ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 612 F. 2d 574.

No. 79-6510. *TAYLOR v. MARYLAND.* C. A. 4th Cir. Certiorari denied. Reported below: 618 F. 2d 105.

No. 79-6511. *SCHMOLL v. ILLINOIS.* App. Ct. Ill., 2d Dist. Certiorari denied. Reported below: 77 Ill. App. 3d 762, 396 N. E. 2d 634.

No. 79-6532. *BOHONUS v. UNITED STATES.* C. A. 9th Cir. Certiorari denied. Reported below: 628 F. 2d 1167.

No. 79-6537. *WILSON v. KENTUCKY.* Sup. Ct. Ky. Certiorari denied. Reported below: 592 S. W. 2d 465.

No. 79-6587. *WILLIAMS v. AMERICAN AIRLINES.* C. A. 5th Cir. Certiorari denied. Reported below: 609 F. 2d 1007.

No. 79-6596. *LEONARDI v. UNITED STATES.* C. A. 2d Cir. Certiorari denied. Reported below: 623 F. 2d 746.

447 U.S.

June 16, 1980

No. 79-6604. CAMPOS *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 620 F. 2d 311.

No. 79-6605. WESTOVER *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 605 F. 2d 565.

No. 79-6611. PEREZ *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 620 F. 2d 306.

No. 79-6612. GRAY *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied. Reported below: 620 F. 2d 290.

No. 79-6618. HUGULEY *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 617 F. 2d 187.

No. 79-6625. COMEAUX *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 618 F. 2d 117.

No. 79-6629. CARNES *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 618 F. 2d 68.

No. 79-6637. LENZ *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 616 F. 2d 960.

No. 79-1352. HART BOOK STORES, INC., ET AL. *v.* EDMISTEN, ATTORNEY GENERAL OF NORTH CAROLINA, ET AL. C. A. 4th Cir. Certiorari denied. MR. JUSTICE BRENNAN and MR. JUSTICE MARSHALL would grant the petition for certiorari, reverse the judgment of the Court of Appeals, and reinstate the judgments of July 21, 1978, entered in the United States District Court for the Western District of North Carolina and of April 21, 1978, entered in the United States District Court for the Eastern District of North Carolina declaring unconstitutional N. C. Gen. Stat. §§ 14-202.10 to 14-202.12. Reported below: 612 F. 2d 821.

No. 79-1605. MOODY, ASSISTANT CORRECTIONAL SUPERINTENDENT *v.* McNAMARA. C. A. 5th Cir. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 606 F. 2d 621.

June 16, 1980

447 U.S.

No. 79-1723. *SUTKER, DBA ALL-STATE DENTAL LABORATORY v. ILLINOIS STATE DENTAL SOCIETY ET AL.* App. Ct. Ill., 1st Dist. Certiorari denied. MR. JUSTICE STEVENS took no part in the consideration or decision of this petition. Reported below: 76 Ill. App. 3d 240, 395 N. E. 2d 14.

No. 79-6276. *FISHER v. REISER, CHAIRMAN OF NEVADA INDUSTRIAL COMMISSION, ET AL.* C. A. 9th Cir. Certiorari denied. MR. JUSTICE POWELL would grant certiorari. Reported below: 610 F. 2d 629.

No. 79-6470. *FRANKLIN v. GEORGIA.* Sup. Ct. Ga.; and No. 79-6614. *DOBBS v. HOPPER, WARDEN.* Super. Ct. Ga., Tattnall County. Certiorari denied. Reported below: No. 79-6470, 245 Ga. 141, 263 S. E. 2d 666.

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. 9, Orig. *UNITED STATES v. LOUISIANA ET AL.* Petition for rehearing of the order of the Court entered April 28, 1980 [446 U. S. 253], denied. MR. JUSTICE MARSHALL took no part in the consideration or decision of this petition.

No. 77-6219. *BALDASAR v. ILLINOIS*, 446 U. S. 222;

No. 79-1141. *MORA v. FLORIDA*, 446 U. S. 917;

No. 79-1309. *SEIBERT v. BAPTIST, DISTRICT DIRECTOR OF INTERNAL REVENUE, ET AL.*, 446 U. S. 918;

No. 79-1468. *SEYFARTH v. LOVRET*, 446 U. S. 919; and

No. 79-1495. *SAPPINGTON v. BECKERT, JUDGE, ET AL.*, 446 U. S. 931. Petitions for rehearing denied.

447 U. S.

June 16, 20, 23, 1980

No. 79-6264. CHRISTENSEN *v.* COMMISSIONER OF INTERNAL REVENUE, 446 U. S. 943; and

No. 79-6417. TURNER *v.* GRAHAM, GOVERNOR OF FLORIDA, ET AL., 446 U. S. 934. Petitions for rehearing denied.

No. 79-1347. SPENCER *v.* GREYHOUND LINES, INC., ET AL., 446 U. S. 909. Motion of petitioner for leave to proceed further herein *in forma pauperis* granted. Petition for rehearing denied.

JUNE 20, 1980

Dismissal Under Rule 60

No. 79-1747. PENTHOUSE INTERNATIONAL, LTD. *v.* McAULIFFE, SOLICITOR GENERAL OF FULTON COUNTY, GEORGIA. C. A. 5th Cir. Certiorari dismissed under this Court's Rule 60. Reported below: 610 F. 2d 1353.

JUNE 23, 1980

Certiorari Granted—Vacated and Remanded

No. 79-5080. WILLEFORD *v.* ESTELLE, CORRECTIONS DIRECTOR. 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 *Hicks v. Oklahoma*, ante, p. 343.

No. 79-5145. SAM *v.* OKLAHOMA. Ct. Crim. App. Okla. Motion of petitioner for leave to proceed *in forma pauperis* and certiorari granted. Judgment vacated and case remanded for further consideration in light of *Hicks v. Oklahoma*, ante, p. 343.

No. 79-5338. BYNUM *v.* UNITED STATES. C. A. 4th 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 *Bifulco v. United States*, ante, p. 381. Reported below: 605 F. 2d 1206.

June 23, 1980

447 U.S.

No. 79-5184. LAUREL *v.* UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT. C. A. 5th Cir. Motion of petitioner for leave to proceed *in forma pauperis* granted. Treating the motion for leave to file and the petition for writ of mandamus as a petition for writ of certiorari, certiorari granted. Order vacated and case remanded for further consideration in light of *Bifulco v. United States*, ante, p. 381.

No. 79-5530. MEYER *v.* UNITED STATES. C. A. 4th 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 *Bifulco v. United States*, ante, p. 381. Reported below: 609 F. 2d 511.

No. 79-5485. SELLERS ET AL. *v.* UNITED STATES. C. A. 8th Cir. Motion of petitioners for leave to proceed *in forma pauperis* and certiorari granted. Judgment vacated and case remanded for further consideration in light of *Bifulco v. United States*, ante, p. 381. Reported below: 603 F. 2d 53.

No. 79-5555. CATES *v.* UNITED STATES. 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 *Bifulco v. United States*, ante, p. 381. Reported below: 599 F. 2d 447.

No. 79-5584. SEPULVEDA *v.* UNITED STATES. C. A. 2d 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 *Bifulco v. United States*, ante, p. 381. Reported below: 607 F. 2d 998.

Vacated and Remanded After Certiorari Granted

No. 79-5267. PEREZ *v.* WAINWRIGHT, SECRETARY, DEPARTMENT OF OFFENDER REHABILITATION OF FLORIDA. C. A. 5th Cir. [Certiorari granted, 444 U. S. 1070.] Judgment vacated and case remanded for further consideration in light of the decision in *Cuyler v. Sullivan*, 446 U. S. 335, 342-345

447 U.S.

June 23, 1980

(1980), on the application of the Sixth and Fourteenth Amendments to claims arising from the conduct of retained counsel. Reported below: 594 F.2d 159.

Miscellaneous Orders

No. A-980. *HAMPEL v. MOTEL PROPERTIES, INC.* Application to stay the judgment of the Supreme Court of Georgia, addressed to MR. JUSTICE MARSHALL and referred to the Court, denied.

No. A-1056. *DELONG v. UNITED STATES.* Application for stay of the mandate of the United States Court of Appeals for the Fourth Circuit, addressed to MR. JUSTICE STEVENS and referred to the Court, denied.

No. A-1079. *RUDOLF WOLFF & Co., LTD. v. NEIMAN, DBA THE LONDON GROUP (1974).* Application to recall and stay the mandate of the United States Court of Appeals for the Seventh Circuit, addressed to MR. JUSTICE WHITE and referred to the Court, denied.

No. D-185. *IN RE DISBARMENT OF MITCHELL.* Disbarment entered. [For earlier order herein, see 446 U. S. 906.]

No. 79-408. *CITY OF MILWAUKEE ET AL. v. ILLINOIS ET AL.* C. A. 7th Cir. [Certiorari granted, 445 U. S. 926.] Motions of Mid-America Legal Foundation and National League of Cities et al. for leave to file briefs as *amici 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, 445 U. S. 914.] Motion of Washington Legal Foundation for leave to file a brief as *amicus curiae* granted.

June 23, 1980

447 U.S.

No. 78-1945. UNIVERSITIES RESEARCH ASSN., INC. *v.* COUTU. C. A. 7th Cir. [Certiorari granted, 445 U. S. 925.] Motion of the Solicitor General for leave to participate in oral argument as *amicus curiae* granted, and five additional minutes allotted for that purpose. Respondent also allotted five additional minutes for oral argument.

No. 79-838. MAINE ET AL. *v.* THIBOUTOT ET VIR. Sup. Jud. Ct. Me. [Certiorari granted, 444 U. S. 1042.] Motion of respondents for leave to file a supplemental brief after argument granted.

No. 79-1127. ESTELLE, CORRECTIONS DIRECTOR *v.* SMITH. C. A. 5th Cir. [Certiorari granted, 445 U. S. 926.] Motion of American Psychiatric Association for leave to file a brief as *amicus curiae* granted.

No. 79-1186. DENNIS *v.* SPARKS ET AL., DBA SIDNEY A. SPARKS, TRUSTEE. C. A. 5th Cir. [Certiorari granted, 445 U. S. 942.] Motion of American Civil Liberties Union for leave to file a brief as *amicus curiae* granted.

No. 79-1420. FIRESTONE TIRE & RUBBER CO. *v.* RISJORD. C. A. 8th Cir. [Certiorari granted, 446 U. S. 934.] Motion of respondent to supplement the record granted.

No. A-1072 (79-1893). FREEDOM INSTITUTE OF AMERICA ET AL. *v.* NEW JERSEY. Application for release of Rev. Jerome Heinemann, addressed to Mr. JUSTICE STEVENS and referred to the Court, denied.

No. 79-1941. DIAMOND, COMMISSIONER OF PATENTS AND TRADEMARKS *v.* SHERWOOD. C. C. P. A. Motion of respondents to expedite consideration of the petition for writ of certiorari denied.

Certiorari Denied

No. 79-415. UNITED STATES *v.* MEARNES ET AL. C. A. 3d Cir. Certiorari denied. Reported below: 599 F. 2d 1296.

447 U.S.

June 23, 1980

No. 79-1399. STRAWBERRY WATER USERS ASSN. ET AL. v. UNITED STATES. Ct. Cl. Certiorari denied. Reported below: 222 Ct. Cl. 130, 611 F. 2d 838.

No. 79-1840. SCARBOROUGH v. UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 613 F. 2d 62.

No. 79-6167. WYMORE v. LOUISIANA. Sup. Ct. La. Certiorari denied. Reported below: 377 So. 2d 283.

No. 79-6227. ROSARIO v. UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 615 F. 2d 1363.

No. 79-6592. WILKERSON v. WILKERSON ET AL. Ct. App. D. C. Certiorari denied.

No. 79-735. SEARS, ROEBUCK & Co. v. SAN DIEGO COUNTY DISTRICT COUNCIL OF CARPENTERS. Sup. Ct. Cal. Certiorari denied. MR. JUSTICE STEWART took no part in the consideration or decision of this petition. Reported below: 25 Cal. 3d 317, 599 P. 2d 676.

No. 79-1308. BUTTERWORTH, CORRECTIONAL SUPERINTENDENT v. LOVETT. C. A. 1st Cir. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 610 F. 2d 1002.

No. 79-1576. MILLER, ACTING DIRECTOR, DEPARTMENT OF PUBLIC AID OF ILLINOIS v. DILDA ET AL. C. A. 7th Cir. Motion of respondents for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 612 F. 2d 1055.

