

ORDERS FROM JANUARY 15 THROUGH
MARCH 23, 1982

JANUARY 15, 1982

Miscellaneous Order

No. 81-1282. NATIONAL ORGANIZATION FOR WOMEN, INC., ET AL. *v.* IDAHO ET AL. D. C. Idaho; and

No. 81-1283. NATIONAL ORGANIZATION FOR WOMEN, INC., ET AL. *v.* IDAHO ET AL. C. A. 9th Cir. The parties are invited to file on or before Wednesday, January 20, 1982, responses to the suggestion of the Solicitor General that the Court vacate the judgment of the United States District Court for the District of Idaho on grounds of lack of ripeness, without further briefing or oral argument.

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Appeals Dismissed

No. 80-1575. CRAIG ET AL. *v.* BICKEL ET AL.; and

No. 80-1624. LARSEN ET AL. *v.* VAN SLOOTEN. Appeals from Sup. Ct. Mich. dismissed for want of substantial federal question. Reported below: 410 Mich. 21, 299 N. W. 2d 704.

No. 81-600. HERNANDEZ *v.* CITY OF LAFAYETTE, LOUISIANA, ET AL. Appeal from Ct. App. La., 3d Cir., dismissed for want of substantial federal question. Reported below: 399 So. 2d 1179.

No. 81-961. VIGILANT INSURANCE CO. *v.* PITONIAK. Appeal from Ct. App. Mich. dismissed for want of substantial federal question. Reported below: 104 Mich. App. 718, 305 N. W. 2d 305.

No. 81-1078. GELLER *v.* MERIT SYSTEMS PROTECTION BOARD 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: 663 F. 2d 1067.

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Certiorari Granted—Vacated and Remanded

No. 80-1498. NATIONAL LABOR RELATIONS BOARD *v.* H & D, INC. C. A. 9th Cir. Certiorari granted, judgment vacated, and case remanded for further consideration in light of *Charles D. Bonanno Linen Service, Inc. v. NLRB*, 454 U. S. 404 (1982). Reported below: 665 F. 2d 257.

Miscellaneous Orders

No. A-570. WASHBURN *v.* WASHBURN. Super. Ct. D. C. Application for stay, addressed to JUSTICE O'CONNOR and referred to the Court, denied.

No. A-583. MELIA *v.* UNITED STATES ET AL. C. A. 2d Cir. Application for recall and stay of mandate, presented to JUSTICE MARSHALL, and by him referred to the Court, denied.

No. A-617. UNITED STATES *v.* UNDETERMINED QUANTITIES OF ARTICLES OF DRUGS. Application for stay of the orders of the United States District Court for the Southern District of Florida, Case Nos. 80-6400-Civ-JLK and 80-6407-Civ-JLK, entered November 13, 1981, presented to JUSTICE POWELL, and by him referred to the Court, is granted pending final disposition of the appeal to the United States Court of Appeals for the Eleventh Circuit.

No. D-255. IN RE DISBARMENT OF HOLMAN. It is ordered that James R. Holman, of Tempe, Ariz., be suspended from the practice of law in this Court and that a rule issue, returnable within 40 days, requiring him to show cause why he should not be disbarred from the practice of law in this Court.

No. D-256. IN RE DISBARMENT OF DEFRANCIS. It is ordered that Frank D. DeFrancis, of Dayton, Ohio, be suspended from the practice of law in this Court and that a rule issue, returnable within 40 days, requiring him to show cause why he should not be disbarred from the practice of law in this Court.

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No. 80-1190. PULLMAN-STANDARD, A DIVISION OF PULLMAN, INC. *v.* SWINT ET AL.; and

No. 80-1193. UNITED STEELWORKERS OF AMERICA, AFL-CIO, ET AL. *v.* SWINT ET AL. C. A. 5th Cir. [Certiorari granted, 451 U. S. 906.] Motion of Pullman-Standard to reconsider order denying motion for divided argument denied.

No. 80-1832. IMMIGRATION AND NATURALIZATION SERVICE *v.* CHADHA ET AL. C. A. 9th Cir. [Probable jurisdiction postponed, 454 U. S. 812];

No. 80-2170. UNITED STATES HOUSE OF REPRESENTATIVES *v.* IMMIGRATION AND NATURALIZATION SERVICE ET AL. C. A. 9th Cir. [Certiorari granted, 454 U. S. 812]; and

No. 80-2171. UNITED STATES SENATE *v.* IMMIGRATION AND NATURALIZATION SERVICE ET AL. C. A. 9th Cir. [Certiorari granted, 454 U. S. 812.] Motions of Council on Administrative Law of the Federal Bar Association, American Bar Association, and Philip Burton et al. for leave to file briefs as *amici curiae* granted.

No. 80-2043. BOARD OF EDUCATION, ISLAND TREES UNION FREE SCHOOL DISTRICT No. 26, ET AL. *v.* PICO, BY HIS NEXT FRIEND, PICO, ET AL. C. A. 2d Cir. [Certiorari granted, 454 U. S. 891.] Motion of American Federation of Labor and Congress of Industrial Organizations et al. for leave to file a brief as *amici curiae* granted.

No. 80-2147. CONNECTICUT ET AL. *v.* TEAL ET AL. C. A. 2d Cir. [Certiorari granted, 454 U. S. 813.] Motion of American Federation of Labor and Congress of Industrial Organizations for leave to file a brief as *amicus curiae* granted.

No. 80-2150. FINNEGAN ET AL. *v.* LEU ET AL. C. A. 6th Cir. [Certiorari granted, 454 U. S. 813.] Motions of American Federation of Labor and Congress of Industrial Organizations and National Labor Law Center of the National Lawyers Guild for leave to file briefs as *amici curiae* granted.

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No. 81-31. CALIFORNIA ET AL. *v.* GRACE BRETHREN CHURCH ET AL.;

No. 81-228. UNITED STATES ET AL. *v.* GRACE BRETHREN CHURCH ET AL.; and

No. 81-455. GRACE BRETHREN CHURCH ET AL. *v.* UNITED STATES ET AL. D. C. C. D. Cal. [Probable jurisdiction postponed, 454 U. S. 961.] Motion of the Solicitor General for divided argument granted.

No. 81-38. CRAWFORD ET AL. *v.* BOARD OF EDUCATION OF THE CITY OF LOS ANGELES ET AL. Ct. App. Cal., 2d App. Dist. [Certiorari granted, 454 U. S. 892.] Motion of the Solicitor General for leave to participate in oral argument as *amicus curiae*, for divided argument, and additional time for oral argument is granted to be allotted as follows: Counsel for respondent, 20 minutes; and the Solicitor General, 15 minutes. Petitioners also allotted an additional five minutes for oral argument. Motion of the Attorney General of California for leave to participate in oral argument as *amicus curiae* and for additional time for oral argument denied.

No. 81-55. NEW YORK *v.* FERBER. Ct. App. N. Y. [Certiorari granted, 454 U. S. 1052.] Motion of petitioner to dispense with printing the joint appendix granted.

No. 81-202. NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE ET AL. *v.* CLAIBORNE HARDWARE CO. ET AL. Sup. Ct. Miss. [Certiorari granted, 454 U. S. 1030.] Motion of American Federation of Labor and Congress of Industrial Organizations for leave to file a brief as *amicus curiae* granted. Motion of petitioners for divided argument denied. JUSTICE MARSHALL took no part in the consideration or decision of these motions.

No. 81-244. LORETTO *v.* TELEPROMPTER MANHATTAN CATV CORP. ET AL. Ct. App. N. Y. [Probable jurisdiction noted, 454 U. S. 938.] Motion of the Attorney General of New York for leave to participate in oral argument as *amicus curiae* and for additional time for oral argument denied.

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No. 81-280. GENERAL BUILDING CONTRACTORS ASSN., INC. *v.* PENNSYLVANIA ET AL.;

No. 81-330. UNITED ENGINEERS & CONSTRUCTORS, INC. *v.* PENNSYLVANIA ET AL.;

No. 81-331. CONTRACTORS ASSOCIATION OF EASTERN PENNSYLVANIA ET AL. *v.* PENNSYLVANIA ET AL.;

No. 81-332. GLASGOW, INC. *v.* PENNSYLVANIA ET AL.;
and

No. 81-333. BECHTEL POWER CORP. *v.* PENNSYLVANIA ET AL. C. A. 3d Cir. [Certiorari granted, 454 U. S. 939.] Motion of petitioner in No. 81-280 for divided argument and for additional time for oral argument granted, and an additional 15 minutes allotted for oral argument to be divided as follows: Counsel for petitioners in Nos. 81-280 and 81-331, 20 minutes; and counsel for petitioners in Nos. 81-330, 81-332, and 81-333, 25 minutes. Respondents also allotted an additional 15 minutes for oral argument. Motion of petitioners in Nos. 81-330, 81-331, 81-332, and 81-333 for divided argument and for additional time for oral argument denied.

No. 81-349. CHICAGO BRIDGE & IRON CO. *v.* CATERPILLAR TRACTOR CO. ET AL. Sup. Ct. Ill. [Probable jurisdiction noted, 454 U. S. 1029.] Motion of Committee on State Taxation of the Council of State Chambers of Commerce for leave to participate in oral argument as *amicus curiae* and for additional time for oral argument denied. Motion of Multistate Tax Commission for leave to participate in oral argument as *amicus curiae* denied. Motion of appellees to reconsider order denying motion for additional time for oral argument denied. JUSTICE STEVENS and JUSTICE O'CONNOR took no part in the consideration or decision of these motions.

No. 81-447. CITY OF WICHITA FALLS, TEXAS, ET AL. *v.* STONE, 454 U. S. 1082. Motion of respondent for award of costs, damages, and related expenses denied.

No. 81-5761. IN RE WIDEMON. Petition for writ of mandamus denied.

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No. 81-1098 (A-330). *CENTRAL INTELLIGENCE AGENCY ET AL. v. HOLY SPIRIT ASSOCIATION FOR THE UNIFICATION OF WORLD CHRISTIANITY*. C. A. D. C. Cir. Motion of respondent to modify the order entered by THE CHIEF JUSTICE on November 17, 1981, is granted, and the order is vacated insofar as it relates to the "35 congressionally generated documents." In all other respects, the order of THE CHIEF JUSTICE entered November 17, 1981, is continued pending this Court's final disposition of the petition for writ of certiorari.

No. 81-5612. *IN RE BEACH*;

No. 81-5859. *IN RE KING*; and

No. 81-5869. *IN RE CLAYBORNE*. Petitions for writs of habeas corpus denied.

No. 81-5880. *IN RE PAUL*. Petition for writ of mandamus and/or prohibition denied.

Certiorari Granted

No. 81-485. *HILLSBORO NATIONAL BANK v. COMMISSIONER OF INTERNAL REVENUE*. C. A. 7th Cir.; and

No. 81-930. *UNITED STATES v. BLISS DAIRY, INC.* C. A. 9th Cir. Certiorari granted, cases consolidated, and a total of one hour allotted for oral argument. Reported below: No. 81-485, 641 F. 2d 529; No. 81-930, 645 F. 2d 19.

Certiorari Denied. (See also No. 81-1078, *supra*.)

No. 80-1499. *COMMISSIONER OF INTERNAL REVENUE v. DELTA METALFORMING CO., INC.* C. A. 5th Cir. Certiorari denied. Reported below: 632 F. 2d 442.

No. 81-551. *ZAMBUTO v. UNITED STATES*;

No. 81-617. *D'ANGELO v. UNITED STATES*;

No. 81-754. *VALLONE v. UNITED STATES*; and

No. 81-805. *TODISCO v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 667 F. 2d 255.

No. 81-649. *COLLINS v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 652 F. 2d 735.

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No. 81-605. *CITY OF LAFAYETTE v. HERNANDEZ*. C. A. 5th Cir. Certiorari denied. Reported below: 643 F. 2d 1188.

No. 81-630. *CRYAN, DBA DENTURIST-DENTURE LAB v. BOARD OF GOVERNORS OF THE REGISTERED DENTISTS OF OKLAHOMA*. Sup. Ct. Okla. Certiorari denied. Reported below: 638 P. 2d 437.

No. 81-650. *KULIK v. CALIFORNIA*. Ct. App. Cal., 2d App. Dist. Certiorari denied.

No. 81-685. *GRIEG v. UNITED STATES*. Ct. Cl. Certiorari denied. Reported below: 226 Ct. Cl. 258, 640 F. 2d 1261.

No. 81-701. *TAYLOR DIVING & SALVAGE CO., INC., ET AL. v. GASPARD*. C. A. 5th Cir. Certiorari denied. Reported below: 649 F. 2d 372.

No. 81-702. *GOLDFIELD DEEP MINES COMPANY OF NEVADA ET AL. v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 644 F. 2d 1307.

No. 81-721. *SCOTT v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 660 F. 2d 1145.

No. 81-722. *OGLALA SIOUX TRIBE OF THE PINE RIDGE INDIAN RESERVATION v. UNITED STATES ET AL.* C. A. 8th Cir. Certiorari denied. Reported below: 650 F. 2d 140.

No. 81-726. *CHAGRA v. UNITED STATES*. C. A. 1st Cir. Certiorari denied. Reported below: 653 F. 2d 26.

No. 81-751. *MANDELKORN ET AL. v. WARD ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 657 F. 2d 45.

No. 81-755. *BURLINGTON NORTHERN INC. v. UNITED STATES ET AL.* C. A. 8th Cir. Certiorari denied. Reported below: 647 F. 2d 796.

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No. 81-772. *READER'S DIGEST ASSN., INC. v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 662 F. 2d 955.

No. 81-775. *NEW ENGLAND TEAMSTERS & TRUCKING INDUSTRY PENSION FUND v. BUNNELL ET AL.* C. A. 1st Cir. Certiorari denied. Reported below: 655 F. 2d 451.

No. 81-783. *TECLAW v. WATT, SECRETARY OF THE INTERIOR*. C. A. D. C. Cir. Certiorari denied. Reported below: 212 U. S. App. D. C. 207, 659 F. 2d 253.

No. 81-812. *WALKER v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 653 F. 2d 1343.

No. 81-828. *CRUDE CO. ET AL. v. UNITED STATES*;

No. 81-936. *GOSS ET AL. v. UNITED STATES*;

No. 81-952. *CORBITT v. UNITED STATES*; and

No. 81-962. *FISHER v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 646 F. 2d 946.

No. 81-830. *GIESEY v. DEVINE, DIRECTOR, OFFICE OF PERSONNEL MANAGEMENT, ET AL.* C. A. D. C. Cir. Certiorari denied. Reported below: 212 U. S. App. D. C. 205, 659 F. 2d 251.

No. 81-849. *SPRECHER v. SECURITIES AND EXCHANGE COMMISSION*. C. A. 2d Cir. Certiorari denied. Reported below: 658 F. 2d 25.

No. 81-860. *YAPALATER v. BATES, WESTCHESTER COUNTY COMMISSIONER OF SOCIAL SERVICES, ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 644 F. 2d 131.

No. 81-873. *STRZELECKI ET AL. v. SWEATLOCK ET AL.* Super. Ct. Pa. Certiorari denied. Reported below: 292 Pa. Super. 565, 433 A. 2d 537.

No. 81-937. *DEER PARK MEDICAL GROUP, P.A., MONEY PURCHASE PENSION PLAN v. WINCHELL*. C. A. 4th Cir. Certiorari denied. Reported below: 667 F. 2d 1024.

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No. 81-938. GRAY, TREASURER OF HARRIS COUNTY, TEXAS (KRIEGEL, SUCCESSOR IN OFFICE) *v.* VAN OOTEGHEM. C. A. 5th Cir. Certiorari denied. Reported below: 654 F. 2d 304.

No. 81-941. D. W. BROWNING CONTRACTING CO. ET AL. *v.* NATIONAL STABILIZATION AGREEMENT OF THE SHEET METAL INDUSTRY TRUST FUND ET AL. C. A. D. C. Cir. Certiorari denied. Reported below: 210 U. S. App. D. C. 401, 655 F. 2d 1218.

No. 81-943. PRIME MOVERS, INC., ET AL. *v.* KENTUCKY BOARD OF ELECTIONS ET AL. C. A. 6th Cir. Certiorari denied. Reported below: 663 F. 2d 1072.

No. 81-965. GUTTER *v.* MERRILL LYNCH, PIERCE, FENNER & SMITH, INC. C. A. 6th Cir. Certiorari denied. Reported below: 644 F. 2d 1194.

No. 81-967. MARGOLES *v.* JOHNS ET AL. C. A. 7th Cir. Certiorari denied. Reported below: 660 F. 2d 291.

No. 81-968. WITCO CHEMICAL CORP. ET AL. *v.* COTTEN ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 651 F. 2d 274.

No. 81-975. CHENG *v.* GAF CORP. C. A. 2d Cir. Certiorari denied. Reported below: 672 F. 2d 899.

No. 81-977. SCHNEIDER TRANSPORT, INC. *v.* CATTANACH, SECRETARY, WISCONSIN DEPARTMENT OF TRANSPORTATION, ET AL. C. A. 7th Cir. Certiorari denied. Reported below: 657 F. 2d 128.

No. 81-1006. VIBRANT SALES, INC. *v.* NEW BODY BOUTIQUE, INC., ET AL. C. A. 2d Cir. Certiorari denied. Reported below: 652 F. 2d 299.

No. 81-1083. SARCINELLI *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied. Reported below: 672 F. 2d 920.

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No. 81-1094. *KRETCHMAR ET AL. v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 663 F. 2d 106.

No. 81-1102. *DIAZ v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 655 F. 2d 580.

No. 81-1141. *RIBOTSKY v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 660 F. 2d 23.

No. 81-5532. *WHALEN v. DELAWARE*. Sup. Ct. Del. Certiorari denied. Reported below: 434 A. 2d 1346.

No. 81-5540. *STEPHENS v. CALIFORNIA*. Ct. App. Cal., 2d App. Dist. Certiorari denied.

No. 81-5567. *LEONARD v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 663 F. 2d 1074.

No. 81-5594. *PIATT v. LOVETT ET AL.* Sup. Ct. Ariz. Certiorari denied.

No. 81-5605. *LEONARD v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 663 F. 2d 1074.

No. 81-5615. *SPARKS v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 656 F. 2d 702.

No. 81-5736. *LEE v. HARRIS, SUPERINTENDENT, ATTICA CORRECTIONAL FACILITY*. C. A. 2d Cir. Certiorari denied. Reported below: 659 F. 2d 1060.

No. 81-5744. *BUSH v. MUNCY, SUPERINTENDENT, POWHATAN CORRECTIONAL CENTER, ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 659 F. 2d 402.

No. 81-5747. *POOLE v. PERINI*. C. A. 6th Cir. Certiorari denied. Reported below: 659 F. 2d 730.

No. 81-5750. *BOAG v. CALIFORNIA ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 661 F. 2d 939.

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No. 81-5751. *WEAVER v. ILLINOIS*. App. Ct. Ill., 4th Dist. Certiorari denied. Reported below: 91 Ill. App. 3d 1197, 419 N. E. 2d 1274.

No. 81-5752. *MCBROOM v. MCCARTHY*. C. A. 9th Cir. Certiorari denied. Reported below: 654 F. 2d 730.

No. 81-5753. *MARTINEZ v. OHIO BUREAU OF EMPLOYMENT SERVICES*. C. A. 5th Cir. Certiorari denied.

No. 81-5754. *DUNBAR v. LOUISIANA*. Sup. Ct. La. Certiorari denied. Reported below: 406 So. 2d 227.

No. 81-5758. *GRANT v. ESTELLE, DIRECTOR, TEXAS DEPARTMENT OF CORRECTIONS*. C. A. 5th Cir. Certiorari denied.

No. 81-5760. *PENNSYLVANIA EX REL. ZAPATA v. CUYLER, SUPERINTENDENT, STATE CORRECTIONAL INSTITUTION, ET AL.* Sup. Ct. Pa. Certiorari denied. Reported below: 494 Pa. 143, 430 A. 2d 1157.

No. 81-5762. *GASTON v. NEW YORK*. App. Div., Sup. Ct. N. Y., 4th Jud. Dept. Certiorari denied. Reported below: 83 App. Div. 2d 761, 443 N. Y. S. 2d 491.

No. 81-5763. *HAMLIN v. WARREN*. C. A. 4th Cir. Certiorari denied. Reported below: 664 F. 2d 29.

No. 81-5764. *BRANNON v. KENTUCKY*. Sup. Ct. Ky. Certiorari denied. Reported below: 620 S. W. 2d 321.

No. 81-5765. *BRYANT v. DEFRANCIS, WARDEN, GEORGIA EARNED RELEASE CENTER, ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 656 F. 2d 702.

No. 81-5768. *WEST v. MABRY, COMMISSIONER, ARKANSAS DEPARTMENT OF CORRECTION*. C. A. 8th Cir. Certiorari denied. Reported below: 664 F. 2d 293.

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No. 81-5769. *DILLARD v. MARTIN, WARDEN, ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 665 F. 2d 1039.

No. 81-5770. *HILLIARD v. SIMPSON ET AL.* C. A. 10th Cir. Certiorari denied.

No. 81-5824. *BETHEA v. HANBERRY, WARDEN, ATLANTA FEDERAL PRISON.* C. A. D. C. Cir. Certiorari denied.

No. 81-5854. *PHILLIPS v. UNITED STATES.* C. A. 6th Cir. Certiorari denied. Reported below: 667 F. 2d 1029.

No. 81-5860. *CRENSHAW v. UNITED STATES ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 673 F. 2d 1328.

No. 81-5862. *VANDETTI v. UNITED STATES.* C. A. 6th Cir. Certiorari denied. Reported below: 672 F. 2d 918.

No. 81-5866. *MORRISON v. UNITED STATES.* C. A. 9th Cir. Certiorari denied. Reported below: 659 F. 2d 1090.

No. 81-5875. *WINTER, AKA GOODHEAD v. UNITED STATES.* C. A. 9th Cir. Certiorari denied. Reported below: 660 F. 2d 749.

No. 81-5878. *QUARRY v. GENERAL ACCOUNTING OFFICE.* C. A. D. C. Cir. Certiorari denied. Reported below: 213 U. S. App. D. C. 32, 661 F. 2d 253.

No. 81-5879. *WARE v. SCHWEIKER, SECRETARY OF HEALTH AND HUMAN SERVICES.* C. A. 5th Cir. Certiorari denied. Reported below: 651 F. 2d 408.

No. 81-5889. *RYNDAK v. UNITED STATES.* C. A. 9th Cir. Certiorari denied. Reported below: 661 F. 2d 943.

No. 81-604. *CAMPAGNO v. FLORIDA.* Dist. Ct. App. Fla., 4th Dist. Certiorari denied. JUSTICE BRENNAN and JUSTICE MARSHALL would grant certiorari. Reported below: 402 So. 2d 1380.

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No. 81-5890. *SIMKO v. UNITED STATES*. C. A. 10th Cir. Certiorari denied. Reported below: 662 F. 2d 656.

No. 81-940. *BURTON ET AL. v. CITY OF JACKSON, MISSISSIPPI*. C. A. 5th Cir. Certiorari denied. JUSTICE BRENNAN and JUSTICE MARSHALL would grant certiorari. Reported below: 650 F. 2d 91.

No. 81-974. *THEATRES WEST, INC., DBA WESTWORLD CINEMA, THEATRE DEAUVILLE, AND CINEMA WEST, ET AL. v. HOLMES, HARRIS COUNTY DISTRICT ATTORNEY, ET AL.* C. A. 5th Cir. Certiorari denied. JUSTICE BRENNAN and JUSTICE MARSHALL would grant certiorari. Reported below: 648 F. 2d 1020.

No. 81-934. *ARRINGTON, MAYOR OF BIRMINGHAM, ET AL. v. ASSOCIATED GENERAL CONTRACTORS OF AMERICA, ALABAMA BRANCH, INC., ET AL.* Sup. Ct. Ala. Certiorari denied. JUSTICE BRENNAN would grant certiorari. Reported below: 403 So. 2d 893.

Rehearing Denied

No. 81-5585. *LUNZ v. JIMENEZ ET AL.*, 454 U. S. 1101; and

No. 81-5627. *WILLIAMS v. UNITED STATES*, 454 U. S. 1090. Petitions for rehearing denied.

No. 80-2074. *WORRELL, DBA CHEROKEE HOMES APARTMENTS v. UNITED STATES*, 454 U. S. 881. Petition for rehearing denied. JUSTICE O'CONNOR took no part in the consideration or decision of this petition.

No. 81-500. *WORRELL v. B. F. GOODRICH Co.*, 454 U. S. 969. Motion for leave to file petition for rehearing denied.

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Affirmed on Appeal

No. 81-1031. *TREEN ET AL. v. KAREN B. ET AL.* Affirmed on appeal from C. A. 5th Cir. Reported below: 653 F. 2d 897.

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Appeals Dismissed

No. 81-476. COHEN, CONSUMER ADVOCATE OF PENNSYLVANIA, ET AL. *v.* DISCIPLINARY BOARD OF THE SUPREME COURT OF PENNSYLVANIA ET AL. Appeal from Sup. Ct. Pa. dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied. JUSTICE WHITE and JUSTICE STEVENS would postpone further consideration of question of jurisdiction to a hearing of the case on the merits. Reported below: 494 Pa. 129, 430 A. 2d 1151.

No. 81-639. REGIRA ET AL. *v.* FALSETTA ET AL. Appeal from Sup. Ct. La. dismissed for want of substantial federal question. Reported below: 405 So. 2d 825.

No. 81-840. PETERS *v.* SJOHOLM ET AL. Appeal from Sup. Ct. Wash. dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied. Reported below: 95 Wash. 2d 871, 631 P. 2d 937.

No. 81-1002. CLEVELAND ELECTRIC ILLUMINATING CO. *v.* OFFICE OF CONSUMERS' COUNSEL ET AL. Sup. Ct. Ohio. Motion of Edison Electric Institute for leave to file a brief as *amicus curiae* granted. Appeal dismissed for want of a properly presented federal question. Reported below: 67 Ohio St. 2d 153, 423 N. E. 2d 820.

Certiorari Granted—Vacated and Remanded

No. 80-6725. LEGARE *v.* ZANT, SUPERINTENDENT, GEORGIA DIAGNOSTIC & CLASSIFICATION CENTER. Sup. Ct. Ga. Motion of petitioner for leave to proceed *in forma pauperis* and certiorari granted. Judgment vacated and case remanded for further consideration in light of *Eddings v. Oklahoma, ante*, p. 104.

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No. — — —. LOCAL 806, ALLIED INDUSTRIAL WORKERS OF AMERICA, AFL-CIO *v.* CATERPILLAR TRACTOR CO. ET AL. Motion of petitioner to direct the Clerk to file the petition for writ of certiorari denied.

No. A-574. AMIS *v.* UNITED STATES ET AL. D. C. M. D. Fla. Application for stay, addressed to JUSTICE O'CONNOR and referred to the Court, denied.

No. 80-1924. WEINBERGER, SECRETARY OF DEFENSE, ET AL. *v.* ROSSI ET AL. C. A. D. C. Cir. [Certiorari granted, 454 U. S. 813.] Motion of William V. Chappell, Jr., et al. for leave to file a brief as *amici curiae* granted.

No. A-610. LOCAL 1814, INTERNATIONAL LONGSHOREMEN'S ASSN., ET AL. *v.* WATERFRONT COMMISSION OF NEW YORK HARBOR. D. C. S. D. N. Y. Application for stay, addressed to JUSTICE BLACKMUN and referred to the Court, denied.

No. 78-1545. ZIPES ET AL. *v.* TRANS WORLD AIRLINES, INC.; and

No. 80-951. INDEPENDENT FEDERATION OF FLIGHT ATTENDANTS *v.* TRANS WORLD AIRLINES, INC., ET AL. C. A. 7th Cir. [Certiorari granted, 450 U. S. 979.] Motion of petitioner in No. 80-951 for leave to file a supplemental brief after argument granted. JUSTICE STEVENS took no part in the consideration or decision of this motion.

No. 80-1429. YOUNGBERG, SUPERINTENDENT, PENNHURST STATE SCHOOL AND HOSPITAL, ET AL. *v.* ROMEO, AN INCOMPETENT, BY HIS MOTHER AND NEXT FRIEND, ROMEO. C. A. 3d Cir. [Certiorari granted, 451 U. S. 982.] Motion of Lowell P. Weicker, Jr., et al. to reconsider denial of leave to file a brief as *amici curiae* out of time denied.

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No. A-593. CHING YEE *v.* SHINTAKU, JUDGE, ET AL. C. A. 9th Cir. Application for stay, addressed to JUSTICE O'CONNOR and referred to the Court, denied.

No. 81-55. NEW YORK *v.* FERBER. Ct. App. N. Y. [Certiorari granted, 454 U. S. 1052.] Motions of Covenant House and Charles H. Keating, Jr., et al. for leave to file briefs as *amici curiae* granted.

No. 81-150. NORTHERN PIPELINE CONSTRUCTION CO. *v.* MARATHON PIPE LINE CO. ET AL.; and

No. 81-546. UNITED STATES *v.* MARATHON PIPE LINE CO. ET AL. D. C. Minn. [Probable jurisdiction noted, 454 U. S. 1029.] Motion of Commercial Law League of America for leave to participate in oral argument as *amicus curiae* and for additional time for oral argument denied.

No. 81-225. BLUE SHIELD OF VIRGINIA ET AL. *v.* MCCREADY. C. A. 4th Cir. [Certiorari granted, 454 U. S. 962.] Motion of American Psychological Association for leave to file a brief as *amicus curiae* granted.

No. 81-341. GREENE ET AL. *v.* LINDSEY ET AL. C. A. 6th Cir. [Probable jurisdiction noted, 454 U. S. 938.] Motion of National Housing Law Project for leave to file a brief as *amicus curiae* granted.

No. 81-451. HATHORN ET AL. *v.* LOVORN ET AL. Sup. Ct. Miss. [Certiorari granted, 454 U. S. 1122.] Motion of the parties to dispense with printing the joint appendix denied.

No. 81-1112. MAYOR AND CITY COUNCIL OF BALTIMORE ET AL. *v.* JOHNSON ET AL. C. A. 4th Cir. Motion of petitioners to expedite consideration of the petition for certiorari denied.

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No. 81-349. CHICAGO BRIDGE & IRON CO. *v.* CATERPIL-LAR TRACTOR CO. ET AL. Sup. Ct. Ill. [Probable jurisdiction noted, 454 U. S. 1029.] Motion of the Solicitor General for leave to participate in oral argument as *amicus curiae* and for divided argument granted. JUSTICE STEVENS took no part in the consideration or decision of this motion.

No. 81-411. JACKSON TRANSIT AUTHORITY ET AL. *v.* LOCAL DIVISION 1285, AMALGAMATED TRANSIT UNION, AFL-CIO-CLC. C. A. 6th Cir. [Certiorari granted, 454 U. S. 1079.] Motions of Public Service Research Council, National Institute of Municipal Law Officers, and American Public Transit Association for leave to file briefs as *amici curiae* granted.

No. 81-420. MARSHALL, SUPERINTENDENT, SOUTHERN OHIO CORRECTIONAL FACILITY *v.* LONBERGER. C. A. 6th Cir. [Certiorari granted, 454 U. S. 1141.] Motion for appointment of counsel granted, and it is ordered that John Czarnecki, Esquire, of Toledo, Ohio, be appointed to serve as counsel for respondent in this case.

Probable Jurisdiction Noted or Postponed

No. 81-708. CITY OF PORT ARTHUR, TEXAS *v.* UNITED STATES ET AL. Appeal from D. C. D. C. Motion of appellees Jenkins and Douglas for leave to proceed *in forma pauperis* granted. Probable jurisdiction noted.

No. 81-750. FIDELITY FEDERAL SAVINGS & LOAN ASSN. ET AL. *v.* DE LA CUESTA ET AL. Appeal from Ct. App. Cal., 4th App. Dist. Probable jurisdiction noted. JUSTICE POWELL took no part in the consideration or decision of this case. Reported below: 121 Cal. App. 3d 328, 175 Cal. Rptr. 467.

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No. 81-1282. NATIONAL ORGANIZATION FOR WOMEN, INC., ET AL. *v.* IDAHO ET AL.; and

No. 81-1312. CARMEN, ADMINISTRATOR OF GENERAL SERVICES *v.* IDAHO ET AL. Appeals from D. C. Idaho. Motion of appellants in No. 81-1282 to expedite consideration of the jurisdictional statement granted. The motion, in all other respects including the request to expedite plenary consideration, is denied. Motion of Democratic National Committee for leave to file a brief as *amicus curiae* in No. 81-1282 granted. Motions for leave to file briefs as *amici curiae* in Nos. 81-1282 and 81-1283 by the following are granted: American Federation of Labor and Congress of Industrial Organizations et al.; Thomas P. O'Neill, Jr., et al.; Jake Garn et al.; Joseph E. Brennan, Governor of Maine, et al.; American Bar Association; and ERAmerica et al. Motion of Charles Robb, Governor of Virginia, et al. for leave to join the motion of Joseph E. Brennan, Governor of Maine, et al. in Nos. 81-1282 and 81-1283 is granted. Further consideration of question of jurisdiction postponed to hearing of cases on the merits. The cases are consolidated with Nos. 81-1283 and 81-1313, *infra*. The judgment of the United States District Court for the District of Idaho is stayed pending the sending down of the judgment of this Court. Reported below: 529 F. Supp. 1107.

Certiorari Granted

No. 81-1283. NATIONAL ORGANIZATION FOR WOMEN, INC., ET AL. *v.* IDAHO ET AL.; and

No. 81-1313. CARMEN, ADMINISTRATOR OF GENERAL SERVICES *v.* IDAHO ET AL. C. A. 9th Cir. Motion of petitioners in No. 81-1283 to expedite consideration of the petition for writ of certiorari before judgment granted. The motion, in all other respects including the request to expedite plenary consideration, is denied. Certiorari before judgment granted, and cases consolidated with Nos. 81-1282 and 81-1312, *supra*. The judgment of the United States District Court for the District of Idaho is stayed pending the sending down of the judgment of this Court.

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No. 81-1003. WHITE, MAYOR OF BOSTON, ET AL. *v.* MASSACHUSETTS COUNCIL OF CONSTRUCTION EMPLOYERS, INC., ET AL. Sup. Jud. Ct. Mass. Certiorari granted. Reported below: 384 Mass. 466, 425 N. E. 2d 346.

Certiorari Denied. (See also Nos. 81-476 and 81-840, *supra.*)

No. 81-423. ALANDER *v.* FLORIDA. Dist. Ct. App. Fla., 2d Dist. Certiorari denied. Reported below: 402 So. 2d 620.

No. 81-644. DAVIS *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 642 F. 2d 328.

No. 81-718. SUMNER ET UX. *v.* SHEPPARD. Sup. Ct. Kan. Certiorari denied. Reported below: 230 Kan. 146, 630 P. 2d 1121.

No. 81-762. ESTES *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 646 F. 2d 181.

No. 81-779. HOLLAND *v.* SEA-LAND SERVICE, INC. C. A. 4th Cir. Certiorari denied. Reported below: 655 F. 2d 556.

No. 81-781. SEA-LAND SERVICE, INC., ET AL. *v.* ALASKA RAILROAD ET AL. C. A. D. C. Cir. Certiorari denied. Reported below: 212 U. S. App. D. C. 197, 659 F. 2d 243.

No. 81-796. ANDREWS *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied.

No. 81-814. CADY ET AL. *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 651 F. 2d 290.

No. 81-856. SCHRIEVER *v.* UNITED STATES; and
No. 81-870. WILLIAMS *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 652 F. 2d 1000.

No. 81-877. ZWEGO *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. Reported below: 657 F. 2d 248.

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No. 81-886. *SAILORS' UNION OF THE PACIFIC, AFL-CIO v. SCHWEIKER, SECRETARY OF HEALTH AND HUMAN SERVICES, ET AL.* C. A. 9th Cir. Certiorari denied.

No. 81-910. *MURPHY, SHERIFF OF OSCEOLA COUNTY, ET AL. v. ADAMS.* C. A. 11th Cir. Certiorari denied. Reported below: 653 F. 2d 224.

No. 81-921. *KESSINGER ET AL. v. KENTUCKY.* Ct. App. Ky. Certiorari denied.

No. 81-923. *TANT, T/A SUPER DUPER FOOD STORE v. UNITED STATES.* C. A. 4th Cir. Certiorari denied. Reported below: 656 F. 2d 961.

No. 81-945. *SCOLES, DBA COLLEGE EXXON SERVICE STATION v. DONOVAN, SECRETARY OF LABOR, UNITED STATES DEPARTMENT OF LABOR.* C. A. 9th Cir. Certiorari denied. Reported below: 652 F. 2d 16.

No. 81-954. *FIRST PENTECOSTAL CHURCH v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. Reported below: 656 F. 2d 1070.

No. 81-971. *WYNN OIL Co. v. SOUTHERN UNION EXPLORATION Co.* Ct. App. N. M. Certiorari denied. Reported below: 95 N. M. 594, 624 P. 2d 536.

No. 81-976. *LOWE v. OHIO STATE BAR ASSN.* Sup. Ct. Ohio. Certiorari denied. Reported below: 67 Ohio St. 2d 335, 423 N. E. 2d 867.

No. 81-978. *GLITSCH, INC. v. JONES.* C. A. 5th Cir. Certiorari denied. Reported below: 656 F. 2d 698.

No. 81-988. *COMMODORE BUSINESS MACHINES, INC., ET AL. v. McDONNELL DOUGLAS CORP.* C. A. 9th Cir. Certiorari denied. Reported below: 656 F. 2d 1309.

No. 81-997. *CHARLTON v. CORTEZ DEVELOPMENT CORP. ET AL.* C. A. 9th Cir. Certiorari denied.

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No. 81-1007. LEKTRO-VEND CORP. ET AL. *v.* VENDO CO. C. A. 7th Cir. Certiorari denied. Reported below: 660 F. 2d 255.

No. 81-1009. AUBURN NEWS CO., INC., ET AL. *v.* PROVIDENCE JOURNAL CO. ET AL. C. A. 1st Cir. Certiorari denied. Reported below: 659 F. 2d 273.

No. 81-1013. JOHNSON *v.* SUPERIOR COURT OF CALIFORNIA, CITY AND COUNTY OF SAN FRANCISCO (BANK OF AMERICA ET AL., REAL PARTIES IN INTEREST). Ct. App. Cal., 1st App. Dist. Certiorari denied.

No. 81-1018. VORBECK ET AL. *v.* SCHICKER ET AL. C. A. 8th Cir. Certiorari denied. Reported below: 660 F. 2d 1260.

No. 81-1025. WATTS ET AL. *v.* COOK ET AL. Sup. Ct. Miss. Certiorari denied. Reported below: 402 So. 2d 324.

No. 81-1053. COUF ET AL. *v.* DEBLAKER ET AL. C. A. 11th Cir. Certiorari denied. Reported below: 652 F. 2d 585.

No. 81-1057. BARNES, SHERIFF OF WASHINGTON COUNTY, OREGON *v.* CARDEN. Sup. Ct. Ore. Certiorari denied. Reported below: 291 Ore. 515, 635 P. 2d 341.

No. 81-1072. HARPER *v.* BARNES GROUP, INC. C. A. 11th Cir. Certiorari denied. Reported below: 653 F. 2d 175.

No. 81-1117. RUFENACHT ET AL. *v.* IOWA BEEF PROCESSORS, INC. C. A. 5th Cir. Certiorari denied. Reported below: 656 F. 2d 198.

No. 81-1125. SEDIGH *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 658 F. 2d 1010.

No. 81-1147. LERMA *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 657 F. 2d 786.

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No. 81-1165. *LEADER ET AL. v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 673 F. 2d 1332.

No. 81-1169. *DEARMAS v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 657 F. 2d 1249.

No. 81-1199. *HUGHES v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 658 F. 2d 317.

No. 81-5519. *AYERS v. COLLINS, WARDEN, MARYLAND PENITENTIARY*. C. A. 4th Cir. Certiorari denied. Reported below: 667 F. 2d 1022.

No. 81-5576. *PALMER v. ALABAMA*. Ct. Crim. App. Ala. Certiorari denied. Reported below: 401 So. 2d 266.

No. 81-5604. *HOPKINSON v. WYOMING*. Sup. Ct. Wyo. Certiorari denied. Reported below: 632 P. 2d 79.

No. 81-5624. *ARNOLD v. MARSHALL ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 657 F. 2d 83.

No. 81-5629. *MURTISHAW v. CALIFORNIA*. Sup. Ct. Cal. Certiorari denied. Reported below: 29 Cal. 3d 733, 631 P. 2d 446.

No. 81-5648. *WARD v. UNITED STATES*. C. A. 5th Cir. Certiorari denied.

No. 81-5670. *GOMEZ v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 672 F. 2d 901.

No. 81-5694. *CRICK v. SMITH, WARDEN, KENTUCKY STATE REFORMATORY*. C. A. 6th Cir. Certiorari denied. Reported below: 650 F. 2d 860.

No. 81-5708. *MAZYAK ET AL. v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 650 F. 2d 788.

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No. 81-5713. CORTEZ, AKA CORTEZ-ESPINOZA *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 653 F. 2d 1253.

No. 81-5721. MCCLENDON *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied. Reported below: 672 F. 2d 905.

No. 81-5746. YAZZIE *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. Reported below: 660 F. 2d 422.

No. 81-5771. WINTERS *v.* ILLINOIS. App. Ct. Ill., 1st Dist. Certiorari denied. Reported below: 97 Ill. App. 3d 288, 422 N. E. 2d 972.

No. 81-5774. VASQUEZ-GONZALES *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 654 F. 2d 628.

No. 81-5775. JILES *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied. Reported below: 658 F. 2d 194.

No. 81-5776. ANTONELLI *v.* OLD REPUBLIC INSURANCE Co. C. A. 7th Cir. Certiorari denied. Reported below: 663 F. 2d 1077.

No. 81-5778. KELLY *v.* OKLAHOMA PARDON AND PAROLE BOARD ET AL. Ct. Crim. App. Okla. Certiorari denied. Reported below: 637 P. 2d 858.

No. 81-5781. BENNETT *v.* FORD MOTOR Co. C. A. 6th Cir. Certiorari denied.

No. 81-5782. CHICCO *v.* PECK ET AL. C. A. 1st Cir. Certiorari denied.

No. 81-5785. MCINTYRE *v.* MORRIS, WARDEN. C. A. 9th Cir. Certiorari denied.

No. 81-5791. AMIR *v.* SACRED HEART HOSPITAL. C. A. 3d Cir. Certiorari denied.

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No. 81-5796. *BROMWELL v. DELAWARE*. Sup. Ct. Del. Certiorari denied. Reported below: 445 A. 2d 334.

No. 81-5797. *EVANS v. REED ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 671 F. 2d 498.

No. 81-5798. *JOHNSON v. ESTELLE, DIRECTOR, TEXAS DEPARTMENT OF CORRECTIONS*. C. A. 5th Cir. Certiorari denied.

No. 81-5800. *MOORE v. WAINWRIGHT, SECRETARY, FLORIDA DEPARTMENT OF OFFENDER REHABILITATION*. C. A. 11th Cir. Certiorari denied. Reported below: 664 F. 2d 295.

No. 81-5803. *PHILLIPS ET AL. v. PENNSYLVANIA HIGHER EDUCATION ASSISTANCE AGENCY ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 657 F. 2d 554.

No. 81-5804. *RENEER v. SMITH, SUPERINTENDENT, KENTUCKY STATE REFORMATORY*. C. A. 6th Cir. Certiorari denied. Reported below: 663 F. 2d 1073.

No. 81-5805. *CHICCO v. CITY OF NEW BEDFORD ET AL.* C. A. 1st Cir. Certiorari denied.

No. 81-5806. *PLEASANT v. NEW YORK*. Ct. App. N. Y. Certiorari denied. Reported below: 54 N. Y. 2d 972, 430 N. E. 2d 905.

No. 81-5808. *TINKLE v. UNITED STATES*; and

No. 81-5913. *GARRETT v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 655 F. 2d 617.

No. 81-5809. *SCOTT v. LOUISIANA*. Sup. Ct. La. Certiorari denied. Reported below: 404 So. 2d 1255.

No. 81-5811. *CUNNINGHAM v. PERINI*. C. A. 6th Cir. Certiorari denied. Reported below: 655 F. 2d 98.

No. 81-5814. *GOETZ v. NORTH DAKOTA*. Sup. Ct. N. D. Certiorari denied. Reported below: 312 N. W. 2d 1.

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No. 81-5816. *MOYE v. BARNES ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 671 F. 2d 500.

No. 81-5818. *SHABAZZ v. MAYNARD, WARDEN, ET AL.* Ct. Crim. App. Okla. Certiorari denied.

No. 81-5819. *PENOYER v. WAINWRIGHT, SECRETARY, FLORIDA DEPARTMENT OF OFFENDER REHABILITATION.* C. A. 11th Cir. Certiorari denied.

No. 81-5821. *ALFORD v. GARRISON ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 671 F. 2d 497.

No. 81-5825. *HAWKINS v. WEST VIRGINIA.* Sup. Ct. App. W. Va. Certiorari denied. Reported below: — W. Va. —, 280 S. E. 2d 222.

No. 81-5829. *SPRADLIN v. GEORGIA.* Ct. App. Ga. Certiorari denied. Reported below: 160 Ga. App. 132, 286 S. E. 2d 310.

No. 81-5835. *KRUPP v. NEW JERSEY.* Sup. Ct. N. J. Certiorari denied. Reported below: 88 N. J. 476, 443 A. 2d 695.

No. 81-5842. *MOSS v. POLLAND ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 656 F. 2d 698.

No. 81-5843. *MYERS v. JOHNSTON ET AL.* C. A. 2d Cir. Certiorari denied.

No. 81-5850. *WATSON v. BUSBEE ET AL.* C. A. 11th Cir. Certiorari denied. Reported below: 657 F. 2d 1249.

No. 81-5851. *WATSON v. EVANS ET AL.* C. A. 11th Cir. Certiorari denied. Reported below: 659 F. 2d 1077.

No. 81-5856. *REDDISH v. WAINWRIGHT.* C. A. 11th Cir. Certiorari denied. Reported below: 654 F. 2d 722.

No. 81-5881. *FODDRELL v. UNITED STATES.* C. A. 2d Cir. Certiorari denied. Reported below: 671 F. 2d 493.

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No. 81-5891. *BEST v. NEW YORK*. App. Div., Sup. Ct. N. Y., 2d Jud. Dept. Certiorari denied. Reported below: 83 App. Div. 2d 881, 442 N. Y. S. 2d 109.

No. 81-5909. *CARTER v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 672 F. 2d 914.

No. 81-5911. *TODD v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 657 F. 2d 212.

No. 81-5915. *POOL v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 665 F. 2d 1056.

No. 81-5916. *TORRES ET AL. v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 659 F. 2d 1012.

No. 81-5918. *HOLLINGSHEAD v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 665 F. 2d 1055.

No. 81-5923. *GREATHOUSE v. UNITED STATES*. C. A. 10th Cir. Certiorari denied. Reported below: 655 F. 2d 1032.

No. 81-5932. *MYRICK ET AL. v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 654 F. 2d 1328.

No. 81-5933. *YOUNG v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 667 F. 2d 1029.

No. 81-5945. *ROSS v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 654 F. 2d 612.

No. 81-5948. *RAY v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 665 F. 2d 1056.

No. 81-5950. *GAYLOR v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 671 F. 2d 498.

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- No. 80-6843. HIGH *v.* GEORGIA. Sup. Ct. Ga.;
- No. 81-5628. ROACH *v.* SOUTH CAROLINA ET AL. Sup. Ct. S. C.;
- No. 81-5687. COPPOLA *v.* WARDEN, VIRGINIA STATE PENITENTIARY. Sup. Ct. Va.;
- No. 81-5749. MORGAN *v.* MONTGOMERY, WARDEN, GEORGIA STATE PRISON. Sup. Ct. Ga.; and
- No. 81-5801. WALLACE *v.* GEORGIA. Sup. Ct. Ga. Certiorari denied. Reported below: No. 80-6843, 247 Ga. 289, 276 S. E. 2d 5; No. 81-5687, 222 Va. 369, 282 S. E. 2d 10; No. 81-5801, 248 Ga. 255, 282 S. E. 2d 325.

JUSTICE BRENNAN and JUSTICE MARSHALL, dissenting.

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

No. 81-347. MICHIGAN *v.* DUGAN. Ct. App. Mich. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 102 Mich. App. 497, 302 N. W. 2d 209.

No. 81-1067. SMITH'S MOVING & TRUCKING CO. ET AL. *v.* SVENDSEN. Ct. App. N. Y. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 54 N. Y. 2d 865, 429 N. E. 2d 411.

No. 81-1131. ESTELLE, DIRECTOR, TEXAS DEPARTMENT OF CORRECTIONS *v.* SELLERS. C. A. 5th Cir. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 651 F. 2d 1074.

No. 81-811. AMERICAN BRIDGE DIVISION, UNITED STATES STEEL CORP. *v.* ALFORD ET AL. C. A. 5th Cir. Motion of Kaiser Aluminum & Chemical Sales, Inc., for leave to file a brief as *amicus curiae* granted. Certiorari denied. Reported below: 642 F. 2d 807 and 655 F. 2d 86.

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No. 81-711. MESA PETROLEUM CO. *v.* KANSAS POWER & LIGHT CO., INC., ET AL. Sup. Ct. Kan. Motions of Kansas Independent Oil & Gas Association et al. and Legal Foundation of America for leave to file briefs as *amici curiae* granted. Certiorari denied. JUSTICE BRENNAN, JUSTICE MARSHALL, and JUSTICE BLACKMUN would grant certiorari. Reported below: 229 Kan. 631, 629 P. 2d 190, and 230 Kan. 166, 630 P. 2d 1129.

No. 81-973. UNITED STATES *v.* DAHLSTRUM. C. A. 9th Cir. Certiorari denied. THE CHIEF JUSTICE, JUSTICE POWELL, and JUSTICE O'CONNOR would grant certiorari and summarily reverse the judgment. Reported below: 655 F. 2d 971.

No. 81-1043. FEDERAL PRESCRIPTION SERVICE, INC., ET AL. *v.* AMERICAN PHARMACEUTICAL ASSN. C. A. D. C. Cir. Motion of National Association of Mail Service Pharmacies for leave to file a brief as *amicus curiae* granted. Certiorari denied. Reported below: 214 U. S. App. D. C. 76, 663 F. 2d 253.

No. 81-5899. GATES *v.* ARIZONA. Sup. Ct. Ariz. Certiorari denied. JUSTICE O'CONNOR took no part in the consideration or decision of this petition.

Rehearing Denied

No. 80-848. PIPER AIRCRAFT CO. *v.* REYNO, PERSONAL REPRESENTATIVE OF THE ESTATES OF FEHILLY ET AL., 454 U. S. 235; and

No. 80-883. HARTZELL PROPELLER, INC. *v.* REYNO, PERSONAL REPRESENTATIVE OF THE ESTATES OF FEHILLY ET AL., 454 U. S. 235. Petition for rehearing denied. JUSTICE POWELL and JUSTICE O'CONNOR took no part in the consideration or decision of this petition.

No. 81-5186. SALAMA *v.* VIRGINIA ET AL., 454 U. S. 874. Petition for rehearing denied. JUSTICE O'CONNOR took no part in the consideration or decision of this petition.

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No. 80-2049. RALSTON, WARDEN *v.* ROBINSON, 454 U. S. 201;

No. 80-6692. BUSBEE *v.* TEXAS, 454 U. S. 1074;

No. 81-16. CALDWELL ET AL. *v.* MISSOURI ET AL., 454 U. S. 1081;

No. 81-204. ROBERTS *v.* UNITED STATES, 454 U. S. 1031;

No. 81-217. MORGAN *v.* UNITED STATES, 454 U. S. 1031;

No. 81-274. ZAVALA-PIZANO *v.* UNITED STATES, 454 U. S. 1031;

No. 81-427. DAVIS *v.* DISTRICT DIRECTOR, IMMIGRATION AND NATURALIZATION SERVICE, 454 U. S. 942;

No. 81-589. MCCLUNEY *v.* JOS. SCHLITZ BREWING CO., 454 U. S. 1071;

No. 81-780. ACKERMAN ET AL. *v.* NATIONAL BUREAU OF STANDARDS ET AL., 454 U. S. 1086;

No. 81-5441. BROWN *v.* NEW YORK, 454 U. S. 1126;

No. 81-5478. HARDY *v.* GEORGIA, 454 U. S. 1114;

No. 81-5504. GALIS *v.* WAINWRIGHT, SECRETARY OF THE DEPARTMENT OF OFFENDER REHABILITATION, ET AL., 454 U. S. 1088; and

No. 81-5545. WEBB *v.* ALBERTO-CULVER CO., INC., 454 U. S. 1089. Petitions for rehearing denied.

No. 80-812. MESCALERO APACHE TRIBE *v.* O'CHESKEY, COMMISSIONER OF REVENUE OF NEW MEXICO, ET AL., 450 U. S. 959. Motion for leave to file petition for rehearing denied.

JANUARY 29, 1982

Dismissal Under Rule 53

No. 81-864. L/P/G BENGHAZI ET AL. *v.* VELIBOR ET AL. C. A. 3d Cir. Certiorari dismissed under this Court's Rule 53. Reported below: 653 F. 2d 812.

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Dismissal Under Rule 53

No. 81-625. MISSOURI *v.* MCGEE [and other cases under this Court's Rule 19.4]. Sup. Ct. Mo. Certiorari dismissed as to Bobby Joe McGee under this Court's Rule 53. Reported below: 619 S. W. 2d 70.

FEBRUARY 18, 1982

Dismissal Under Rule 53

No. 81-924. J. P. STEVENS EMPLOYEES EDUCATION COMMITTEE ET AL. *v.* DONOVAN, SECRETARY OF LABOR, UNITED STATES DEPARTMENT OF LABOR. C. A. 4th Cir. Certiorari dismissed under this Court's Rule 53. Reported below: 669 F. 2d 171.

FEBRUARY 19, 1982

Appeal Dismissed

No. — — —. HALDEMAN, TRUSTEE OF LEHIGH VALLEY RAILROAD CO. *v.* UNITED STATES RAILWAY ASSN. ET AL. Appeal from Sp. Ct. R. R. R. A. dismissed without prejudice, it appearing that the appeal would not be in the interest of an expeditious conclusion to the proceedings.

FEBRUARY 22, 1982

Appeals Dismissed

No. 81-1028. WILLIAMS *v.* WILLIAMS. Appeal from Sup. Ct. N. H. dismissed for want of substantial federal question. Reported below: 121 N. H. 728, 433 A. 2d 1316.

No. 81-1048. RAZATOS *v.* COLORADO. Appeal from Sup. Ct. Colo. dismissed for want of substantial federal question. Reported below: 636 P. 2d 666.

No. 81-1104. S. H. GOSS, INC., ET AL. *v.* PENNSYLVANIA DEPARTMENT OF AGRICULTURE. Appeal from Pa. Commw. Ct. dismissed for want of substantial federal question. Reported below: 58 Pa. Commw. 516, 428 A. 2d 731.

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No. 81-1164. HEIN *v.* CALIFORNIA. Appeal from App. Dept., Super. Ct. Cal., San Diego County, dismissed for want of substantial federal question.

No. 81-5943. BIXBY *v.* ROSS. Appeal from App. Div., Sup. Ct. N. Y., 3d Jud. Dept., dismissed for want of substantial federal question.

No. 81-6012. CEPULONIS *v.* MASSACHUSETTS. Appeal from Sup. Jud. Ct. Mass. dismissed for want of substantial federal question. Reported below: 384 Mass. 495, 427 N. E. 2d 17.

No. 81-1041. STAN MUSIAL & BIGGIES, INC. *v.* FLORIDA DEPARTMENT OF REVENUE. Appeal from Dist. Ct. App. Fla., 1st Dist., dismissed for want of jurisdiction. Reported below: 402 So. 2d 1330.

No. 81-1183. SOUTHERN STATE COLLEGE ET AL. *v.* ARKANSAS GAZETTE CO. Appeal from Sup. Ct. Ark. dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied. Reported below: 273 Ark. 248, 620 S. W. 2d 258.

No. 81-5967. ROBINSON, BY HIS MOTHER AND NEXT FRIEND, ROBINSON *v.* ARMAND ET AL. Appeal from D. C. N. D. Ill. dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied.

Certiorari Granted—Vacated and Remanded

No. 81-723. HYBUD EQUIPMENT CORP. ET AL. *v.* CITY OF AKRON, OHIO, ET AL. C. A. 6th Cir. Certiorari granted, judgment vacated, and case remanded for further consideration in light of *Community Communications Co. v. Boulder*, ante, p. 40. Reported below: 654 F. 2d 1187.

No. 81-843. NORTHWEST EXCAVATING, INC. *v.* WAGONER ET AL., TRUSTEES. C. A. 9th Cir. Certiorari granted, judgment vacated, and case remanded for further consideration in light of *Kaiser Steel Corp. v. Mullins*, ante, p. 72. Reported below: 642 F. 2d 333.

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Miscellaneous Orders

No. 80, Orig. COLORADO *v.* NEW MEXICO ET AL. Report of the Special Master on the Equitable Apportionment of the Vermejo River is received and ordered filed. Exceptions, if any, with supporting briefs to the Report may be filed by the parties within 45 days. Reply briefs, if any, to such Exceptions may be filed within 30 days. [For earlier order herein, see, *e. g.*, 449 U. S. 1007.]

No. 85, Orig. TEXAS *v.* OKLAHOMA. Report of the Special Master on motion for entry of judgment is received and ordered filed. Exceptions, if any, with supporting briefs to the Report may be filed by the parties within 30 days. Reply briefs, if any, to such Exceptions may be filed within 15 days. [For earlier order herein, see, *e. g.*, 452 U. S. 957.]

No. 78-1545. ZIPES ET AL. *v.* TRANS WORLD AIRLINES, INC.; and

No. 80-951. INDEPENDENT FEDERATION OF FLIGHT ATTENDANTS *v.* TRANS WORLD AIRLINES, INC., ET AL. C. A. 7th Cir. [Certiorari granted, 450 U. S. 979.] Motion of respondent Trans World Airlines, Inc., for leave to file a supplemental brief after argument granted. JUSTICE STEVENS took no part in the consideration or decision of this motion.

No. 80-644. G. D. SEARLE & Co. *v.* COHN ET AL. C. A. 3d Cir. [Certiorari granted, 451 U. S. 905.] Motion of respondents for leave to file a supplemental brief after argument granted.

No. 80-1002. BOARD OF EDUCATION OF THE HENDRICK HUDSON CENTRAL SCHOOL DISTRICT, WESTCHESTER COUNTY, ET AL. *v.* ROWLEY, BY HER PARENTS, ROWLEY ET UX. C. A. 2d Cir. [Certiorari granted, 454 U. S. 961.] Motion of respondents to permit interpretation of oral argument granted. Motion of the Solicitor General for leave to participate in oral argument as *amicus curiae* and for divided argument granted.

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No. 80-1012. RICE, DIRECTOR, DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL OF CALIFORNIA *v.* NORMAN WILLIAMS CO. ET AL.;

No. 80-1030. BOHEMIAN DISTRIBUTING CO. *v.* NORMAN WILLIAMS CO. ET AL.; and

No. 80-1052. WINE & SPIRITS WHOLESALERS OF CALIFORNIA *v.* NORMAN WILLIAMS CO. ET AL. Ct. App. Cal., 3d App. Dist. [Certiorari granted, 454 U. S. 1080.] Motion of petitioners Bohemian Distributing Co. and Wine & Spirits Wholesalers of California for divided argument granted. Motion of petitioner Baxter Rice for divided argument granted.

No. 80-1305. ALFRED L. SNAPP & SON, INC., ET AL. *v.* PUERTO RICO EX REL. QUIROS, SECRETARY OF LABOR AND HUMAN RESOURCES. C. A. 4th Cir. [Certiorari granted, 454 U. S. 1079.] Motion of the Attorney General of New York for leave to participate in oral argument as *amicus curiae* and for additional time for oral argument denied.

No. 80-1952. BLUM, COMMISSIONER OF THE NEW YORK STATE DEPARTMENT OF SOCIAL SERVICES, ET AL. *v.* YARETSKY ET AL. C. A. 2d Cir. [Certiorari granted, 454 U. S. 815.] Motion of National Citizens' Coalition for Nursing Home Reform for leave to file a brief as *amicus curiae* granted.

No. 80-2070. SUMITOMO SHOJI AMERICA, INC. *v.* AVAGLIANO ET AL.; and

No. 81-24. AVAGLIANO ET AL. *v.* SUMITOMO SHOJI AMERICA, INC. C. A. 2d Cir. [Certiorari granted, 454 U. S. 962.] Motion of Ministry of International Trade and Industry of the Government of Japan for leave to file a brief as *amicus curiae* granted.

No. 80-2116. WILLIAMS *v.* UNITED STATES. C. A. 5th Cir. [Certiorari granted, 454 U. S. 1030 and 1096.] Motion of the Solicitor General to permit Richard G. Wilkins, Esquire, to present oral argument *pro hac vice* granted.

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No. 80-2162. RAMAH NAVAJO SCHOOL BOARD, INC., ET AL. *v.* BUREAU OF REVENUE OF NEW MEXICO. Ct. App. N. M. [Probable jurisdiction noted, 454 U. S. 1079.] Motions of Navajo Tribe of Indians, Association on American Indian Affairs, Inc., and Pueblo of Santa Ana for leave to file briefs as *amici curiae* granted. Motion of the Solicitor General for leave to participate in oral argument as *amicus curiae* and for divided argument granted.

No. 81-9. WASHINGTON ET AL. *v.* SEATTLE SCHOOL DISTRICT NO. 1 ET AL. C. A. 9th Cir. [Probable jurisdiction noted, 454 U. S. 890.] Motion of NAACP Legal Defense and Educational Fund, Inc., for leave to file a brief as *amicus curiae* granted.

No. 81-55. NEW YORK *v.* FERBER. Ct. App. N. Y. [Certiorari granted, 454 U. S. 1052.] Motion of Covenant House for leave to participate in oral argument as *amicus curiae* and for additional time for oral argument denied.

No. 81-150. NORTHERN PIPELINE CONSTRUCTION CO. *v.* MARATHON PIPE LINE CO. ET AL.; and

No. 81-546. UNITED STATES *v.* MARATHON PIPE LINE CO. ET AL. D. C. Minn. [Probable jurisdiction noted, 454 U. S. 1029.] Motion of the Solicitor General for divided argument granted. Request for additional time for oral argument denied.

No. 81-202. NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE ET AL. *v.* CLAIBORNE HARDWARE CO. ET AL. Sup. Ct. Miss. [Certiorari granted, 454 U. S. 1030.] Motion of petitioners to reconsider order denying motion for divided argument denied. JUSTICE MARSHALL took no part in the consideration or decision of this motion.

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No. 81-298. COMMUNITY TELEVISION OF SOUTHERN CALIFORNIA *v.* GOTTFRIED ET AL.; and

No. 81-799. FEDERAL COMMUNICATIONS COMMISSION *v.* GOTTFRIED ET AL. C. A. D. C. Cir. [Certiorari granted, 454 U. S. 1141.] Motion of the Solicitor General to consolidate these cases for briefing and oral argument granted.

No. 81-389. UNION LABOR LIFE INSURANCE Co. *v.* PIRENO; and

No. 81-390. NEW YORK STATE CHIROPRACTIC ASSN. *v.* PIRENO. C. A. 2d Cir. [Certiorari granted, 454 U. S. 1052.] Motion of petitioners for divided argument denied.

No. 81-406. MISSISSIPPI UNIVERSITY FOR WOMEN ET AL. *v.* HOGAN. C. A. 5th Cir. [Certiorari granted, 454 U. S. 962.] Motion of National Women's Law Center et al. for leave to file a brief as *amici curiae* granted.

No. 81-431. GUARDIANS ASSN. ET AL. *v.* CIVIL SERVICE COMMISSION OF THE CITY OF NEW YORK ET AL. C. A. 2d Cir. [Certiorari granted, 454 U. S. 1140.] Motion of the parties to dispense with printing the joint appendix granted.

No. 81-554. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION *v.* WYOMING ET AL. D. C. Wyo. [Probable jurisdiction noted, 454 U. S. 1140.] Motion of the parties to dispense with printing the joint appendix granted.

No. 81-451. HATHORN ET AL. *v.* LOVORN ET AL. Sup. Ct. Miss. [Certiorari granted, 454 U. S. 1122.] Motion of the Solicitor General for leave to participate in oral argument as *amicus curiae* and for divided argument granted.

No. 81-613. SPORHASE ET AL. *v.* NEBRASKA EX REL. DOUGLAS, ATTORNEY GENERAL. Sup. Ct. Neb. [Probable jurisdiction noted, 454 U. S. 1079.] Motion of appellants and City of El Paso for divided argument to permit City of El Paso to present oral argument as *amicus curiae* denied.

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No. 81-460. MIDDLESEX COUNTY ETHICS COMMITTEE *v.* GARDEN STATE BAR ASSN. ET AL. C. A. 3d Cir. [Certiorari granted, 454 U. S. 962.] Motions of American Civil Liberties Union, NAACP Legal Defense and Educational Fund, Inc., et al., and National Alliance Against Racist and Political Repression for leave to file briefs as *amici curiae* granted. Motion of respondents to dismiss the writ of certiorari as improvidently granted denied.

No. 81-535. UNITED STATES DEPARTMENT OF STATE ET AL. *v.* WASHINGTON POST CO. C. A. D. C. Cir. [Certiorari granted, 454 U. S. 1030.] Motion of respondent to dismiss the writ of certiorari as improvidently granted denied.

No. 81-837. CITY OF INDIANOLA, MISSISSIPPI, ET AL. *v.* DOTSON ET AL. D. C. N. D. Miss.;

No. 81-839. SKLAR ET AL. *v.* SHORES, EXECUTOR. C. A. 5th Cir.;

No. 81-982. FIRST NATIONAL BANK OF BOSTON (INTERNATIONAL) *v.* BANCO NACIONAL DE CUBA. C. A. 2d Cir.;

No. 81-984. FIRST NATIONAL CITY BANK *v.* BANCO PARA EL COMERCIO EXTERIOR DE CUBA. C. A. 2d Cir.; and

No. 81-1097. JOHNSON ET AL. *v.* BOARD OF EDUCATION OF THE CITY OF CHICAGO ET AL. C. A. 7th Cir. The Solicitor General is invited to file briefs in these cases expressing the views of the United States.

No. 81-920. VERLINDEN B. V. *v.* CENTRAL BANK OF NIGERIA. C. A. 2d Cir. [Certiorari granted, 454 U. S. 1140.] Motion of petitioner to dispense with printing the joint appendix granted.

No. 81-969. WASHINGTON ET AL. *v.* UNITED STATES. C. A. 9th Cir. Motion of Multistate Tax Commission for leave to file a brief as *amicus curiae* granted.

No. 81-5976. IN RE BALLA. Petition for writ of habeas corpus denied.

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No. 81-5321. ENMUND *v.* FLORIDA. Sup. Ct. Fla. [Certiorari granted, 454 U. S. 939.] Motion of George R. Georgieff to permit Lawrence A. Kaden, Esquire, to present oral argument *pro hac vice* granted. Motion of William C. McLain to permit James S. Liebman, Esquire, to present oral argument *pro hac vice* granted.

No. 81-5900. IN RE TALLEY. Petition for writ of mandamus denied.

No. 81-1105. IN RE HOEHN. Petition for writ of mandamus and/or other relief denied.

No. 81-1119. IN RE ELLIS ET AL. Petition for writ of prohibition and/or other relief denied.

Certiorari Granted

No. 81-897. DIRECTOR, OFFICE OF WORKERS' COMPENSATION PROGRAMS, UNITED STATES DEPARTMENT OF LABOR *v.* PERINI NORTH RIVER ASSOCIATES ET AL. C. A. 2d Cir. Certiorari granted. Reported below: 652 F. 2d 255.

No. 81-1055. POYTHRESS, SECRETARY OF STATE OF GEORGIA, ET AL. *v.* DUNCAN ET AL. C. A. 11th Cir. Certiorari granted. Reported below: 657 F. 2d 691.

No. 81-1064. CITY OF LOS ANGELES *v.* LYONS. C. A. 9th Cir. Certiorari granted. Reported below: 656 F. 2d 417.

No. 81-1203. MOSES H. CONE MEMORIAL HOSPITAL *v.* MERCURY CONSTRUCTION CORP. C. A. 4th Cir. Certiorari granted. Reported below: 656 F. 2d 933 and 664 F. 2d 936.

No. 81-927. CONNECTICUT *v.* JOHNSON. Sup. Ct. Conn. Motion of respondent for leave to proceed *in forma pauperis* and certiorari granted. Reported below: 185 Conn. 163, 440 A. 2d 858.

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Certiorari Denied. (See also Nos. 81-1183 and 81-5967, *supra.*)

No. 80-2079. *RENO, STATE ATTORNEY OF DADE COUNTY, FLORIDA, ET AL. v. CONCERNED DEMOCRATS OF FLORIDA ET AL.* C. A. 5th Cir. *Certiorari denied.* Reported below: 634 F. 2d 629.

No. 81-286. *COEN ET AL. v. HARRISON COUNTY SCHOOL BOARD ET AL.* C. A. 5th Cir. *Certiorari denied.* Reported below: 638 F. 2d 24.

No. 81-291. *ILLINOIS v. BOCHNIAK.* App. Ct. Ill., 1st Dist. *Certiorari denied.* Reported below: 93 Ill. App. 3d 575, 417 N. E. 2d 722.

No. 81-433. *COOPERS & LYBRAND v. SHARP ET AL.* C. A. 3d Cir. *Certiorari denied.* Reported below: 649 F. 2d 175.

No. 81-586. *DIAMOND M CO. v. RAINES ET AL.* Ct. App. La., 3d Cir. *Certiorari denied.* Reported below: 396 So. 2d 306.

No. 81-664. *STODDARD v. UNITED STATES.* C. A. 10th Cir. *Certiorari denied.*

No. 81-729. *LADMER v. UNITED STATES;* and

No. 81-730. *DiLAPI v. UNITED STATES.* C. A. 2d Cir. *Certiorari denied.* Reported below: 651 F. 2d 140.

No. 81-742. *SUGGS v. ALABAMA;* and

No. 81-761. *SUGGS v. ALABAMA.* Ct. Crim. App. Ala. *Certiorari denied.* Reported below: No. 81-742, 403 So. 2d 309; No. 81-761, 403 So. 2d 303.

No. 81-748. *THOREEN v. UNITED STATES.* C. A. 9th Cir. *Certiorari denied.* Reported below: 653 F. 2d 1332.

No. 81-763. *KATZ v. FLORIDA.* Sup. Ct. Fla. *Certiorari denied.* Reported below: 402 So. 2d 1184.

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No. 81-756. *BANK OF MIAMI ET AL. v. MEASON ET AL.*; and *BANK OF MIAMI, FORMERLY KNOWN AS NORTHSIDE BANK, ET AL. v. MEASON*. C. A. 5th Cir. Certiorari denied. Reported below: 652 F. 2d 542 (first case); 654 F. 2d 722 (second case).

No. 81-788. *GERARD ET AL. v. LOUISIANA*. 24th Jud. Dist. Ct. La., Jefferson Parish. Certiorari denied.

No. 81-815. *SHAMY v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 656 F. 2d 951.

No. 81-841. *E. L. WIEGAND DIVISION, EMERSON ELECTRIC CO. v. NATIONAL LABOR RELATIONS BOARD ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 650 F. 2d 463.

No. 81-846. *TAVELMAN v. UNITED STATES*; and

No. 81-944. *JOB v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 650 F. 2d 1133.

No. 81-859. *RUCINSKI ET AL. v. UNITED STATES*. C. A. 10th Cir. Certiorari denied. Reported below: 658 F. 2d 741.

No. 81-863. *J. R. SIMPLOT Co. v. OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION, U. S. DEPARTMENT OF LABOR*. C. A. 9th Cir. Certiorari denied. Reported below: 640 F. 2d 1134.

No. 81-867. *YOUNG, MAYOR OF DETROIT, ET AL. v. BALDRIGE, SECRETARY OF COMMERCE, ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 652 F. 2d 617.

No. 81-881. *CHICAGO, MILWAUKEE, ST. PAUL & PACIFIC RAILWAY Co. v. LEER*. Sup. Ct. Minn. Certiorari denied. Reported below: 308 N. W. 2d 305.

No. 81-890. *RAPIDES PARISH SCHOOL BOARD ET AL. v. VALLEY ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 646 F. 2d 925 and 653 F. 2d 941.

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No. 81-892. *GOINS ET AL. v. BETHLEHEM STEEL CORP. ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 657 F. 2d 62.

No. 81-895. *SEREGOS v. UNITED STATES.* C. A. 2d Cir. Certiorari denied. Reported below: 655 F. 2d 33.

No. 81-901. *WEIGAND v. UNITED STATES.* C. A. 8th Cir. Certiorari denied. Reported below: 657 F. 2d 948.

No. 81-902. *400 E. BALTIMORE STREET, INC., ET AL. v. MARYLAND.* Ct. Sp. App. Md. Certiorari denied. Reported below: 49 Md. App. 147, 431 A. 2d 682.

No. 81-911. *WHITE v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. Reported below: 651 F. 2d 777.

No. 81-915. *PERMANENT LABEL CORP. v. NATIONAL LABOR RELATIONS BOARD.* C. A. 3d Cir. Certiorari denied. Reported below: 657 F. 2d 512.

No. 81-925. *MAINE CATERERS, INC., ET AL. v. NATIONAL LABOR RELATIONS BOARD ET AL.* C. A. 1st Cir. Certiorari denied. Reported below: 654 F. 2d 131.

No. 81-932. *OSTRER ET AL. v. UNITED STATES.* C. A. 2d Cir. Certiorari denied. Reported below: 661 F. 2d 910.

No. 81-939. *RAMSEY ET AL. v. DONOVAN, SECRETARY OF LABOR.* C. A. 4th Cir. Certiorari denied. Reported below: 669 F. 2d 171.

No. 81-949. *BLACKIE'S HOUSE OF BEEF, INC. v. CASTILLO, COMMISSIONER, IMMIGRATION AND NATURALIZATION SERVICE, ET AL.* C. A. D. C. Cir. Certiorari denied. Reported below: 212 U. S. App. D. C. 327, 659 F. 2d 1211.

No. 81-963. *FRIENDLY RETIREMENT CENTER, INC. v. COLLING, SUCCESSOR TRUSTEE.* C. A. 5th Cir. Certiorari denied. Reported below: 657 F. 2d 1249.

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No. 81-979. *TABCOR SALES CLEARING, INC., ET AL. v. DEPARTMENT OF THE TREASURY ET AL.* C. A. 7th Cir. Certiorari denied. Reported below: 661 F. 2d 937.

No. 81-981. *DEMA ET AL. v. INTERNAL REVENUE SERVICE.* C. A. 7th Cir. Certiorari denied. Reported below: 661 F. 2d 937.

No. 81-985. *MORRONE v. UNITED STATES; and TURCHI v. UNITED STATES; and*

No. 81-5874. *KESTER v. UNITED STATES.* C. A. 3d Cir. Certiorari denied. Reported below: 672 F. 2d 905.

No. 81-999. *HAWG-N-ACTION, INC. v. TRUSTEES OF THE TEAMSTERS CONSTRUCTION WORKERS LOCAL NO. 13 HEALTH & WELFARE TRUST FUND FOR COLORADO ET AL.* C. A. 10th Cir. Certiorari denied. Reported below: 651 F. 2d 1384.

No. 81-1016. *AKERS v. UNITED STATES; and*

No. 81-1017. *KENDALL v. UNITED STATES.* C. A. 9th Cir. Certiorari denied. Reported below: 655 F. 2d 199.

No. 81-1021. *ZINSER ET AL. v. PALMBY ET AL.; and*

No. 81-1036. *CLEVELAND v. PALMBY ET AL.* C. A. 10th Cir. Certiorari denied. Reported below: 660 F. 2d 754.

No. 81-1023. *LOCAL 359, UNITED SEAFOOD WORKERS, SMOKED FISH & CANNERY UNION v. UNITED STATES.* C. A. 2d Cir. Certiorari denied. Reported below: 672 F. 2d 901.

No. 81-1026. *RUPPERT v. OHIO.* Ct. App. Ohio, Butler County. Certiorari denied.

No. 81-1037. *ISRAEL & RALEY v. FUTURONICS CORP. ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 655 F. 2d 463.

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No. 81-1040. *JACOB v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 657 F. 2d 49.

No. 81-1042. *CLEMENTS ET AL. v. LOGAN*. C. A. 4th Cir. Certiorari denied. Reported below: 660 F. 2d 1007.

No. 81-1045. *FENNER ET UX. v. GENERAL MOTORS CORP.* C. A. 5th Cir. Certiorari denied. Reported below: 657 F. 2d 647.

No. 81-1051. *WEAVER v. BOWERS ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 657 F. 2d 1356.

No. 81-1054. *BP OIL, INC., ET AL. v. BANKERS TRUST CO. ET AL.*;

No. 81-1065. *VILLANEUVA COMPANIA NAVIERA, S.A. v. BANKERS TRUST CO. ET AL.*; and

No. 81-1082. *BANKERS TRUST CO. ET AL. v. VILLANEUVA COMPANIA NAVIERA, S.A., ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 651 F. 2d 160.

No. 81-1058. *MORTER v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 665 F. 2d 1055.

No. 81-1059. *WEINSTEIN v. UNITED STATES ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 646 F. 2d 1369.

No. 81-1061. *GANLEY v. MARYLAND*. Ct. Sp. App. Md. Certiorari denied. Reported below: 49 Md. App. 733.

No. 81-1070. *WOOD, DBA NATIONAL PHOTO SERVICES v. McEWEN ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 644 F. 2d 797.

No. 81-1073. *MOYER v. ELDER-BEERMAN STORES CORP.* C. A. 6th Cir. Certiorari denied. Reported below: 663 F. 2d 1072.

No. 81-1074. *MIDWEST GROWERS COOPERATIVE ET AL. v. UNITED STATES ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 650 F. 2d 1141.

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No. 81-1075. *SHERROD v. MEYERS ET AL.* Ct. App. Cal., 3d App. Dist. Certiorari denied.

No. 81-1079. *NORTHEASTERN TELEPHONE CO. v. AMERICAN TELEPHONE & TELEGRAPH CO. ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 651 F. 2d 76.

No. 81-1080. *BLOCH v. VETERAN CORPS OF ARTILLERY, STATE OF NEW YORK, CONSTITUTING THE MILITARY SOCIETY OF THE WAR OF 1812.* Ct. App. N. Y. Certiorari denied. Reported below: 54 N. Y. 2d 829, 427 N. E. 2d 1193.

No. 81-1085. *SANGIACOMO ET AL. v. ZIGAS ET AL.* Ct. App. Cal., 1st App. Dist. Certiorari denied. Reported below: 120 Cal. App. 3d 827, 174 Cal. Rptr. 806.

No. 81-1088. *EMI LTD. v. BENNETT ET AL.*; and

No. 81-1177. *CAPITOL INDUSTRIES-EMI, INC. v. BENNETT ET AL.* C. A. 9th Cir. Certiorari before judgment denied.

No. 81-1092. *WILLIAMS ET AL. v. GENERAL MOTORS CORP.* C. A. 11th Cir. Certiorari denied. Reported below: 656 F. 2d 120.

No. 81-1093. *GOMEZ v. COLORADO.* Sup. Ct. Colo. Certiorari denied. Reported below: 632 P. 2d 586.

No. 81-1096. *EUBANK v. VIRGINIA.* Sup. Ct. Va. Certiorari denied.

No. 81-1100. *MERSKI v. NEW HAMPSHIRE.* Sup. Ct. N. H. Certiorari denied. Reported below: 121 N. H. 901, 437 A. 2d 710.

No. 81-1107. *HERZOG ET UX. v. ENDECO, INC., ET AL.* C. A. 8th Cir. Certiorari denied. Reported below: 661 F. 2d 1184.

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No. 81-1111. *JOHNS v. OHIO*. Sup. Ct. Ohio. Certiorari denied. Reported below: 67 Ohio St. 2d 325, 423 N. E. 2d 863.

No. 81-1112. *MAYOR AND CITY COUNCIL OF BALTIMORE ET AL. v. JOHNSON ET AL.* C. A. 4th Cir. Certiorari before judgment denied.

No. 81-1121. *ST. MARTIN v. HEGEWALD ET UX.* Ct. App. Wash. Certiorari denied. Reported below: 28 Wash. App. 783, 626 P. 2d 535.

No. 81-1122. *FARMER v. STRICKLAND, SHERIFF OF PIERCE COUNTY, GEORGIA.* C. A. 11th Cir. Certiorari denied. Reported below: 652 F. 2d 427.

No. 81-1124. *GREAT AMERICAN SCREEN, AKA BE-DOWN HOME DESIGNS, ET AL. v. MUSIDOR, B.V., ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 658 F. 2d 60.

No. 81-1128. *J. RAY McDERMOTT & Co., INC. v. SIGNAL OIL & GAS Co. ET AL.*; and

No. 81-1150. *SUN OIL Co. ET AL. v. SIGNAL OIL & GAS Co.* C. A. 5th Cir. Certiorari denied. Reported below: 654 F. 2d 1164.

No. 81-1129. *MITCHELL v. ILLINOIS.* App. Ct. Ill., 1st Dist. Certiorari denied. Reported below: 95 Ill. App. 3d 779, 420 N. E. 2d 415.

No. 81-1130. *COMAY v. ILLINOIS.* App. Ct. Ill., 1st Dist. Certiorari denied. Reported below: 93 Ill. App. 3d 1204, 420 N. E. 2d 1210.

No. 81-1136. *MESSENGER ET UX. v. BUCYRUS-ERIE Co.* C. A. 3d Cir. Certiorari denied. Reported below: 672 F. 2d 903.

No. 81-1137. *ALIOTO'S FISH Co., LTD., ET AL. v. HUMAN RIGHTS COMMISSION OF SAN FRANCISCO ET AL.* Ct. App. Cal., 1st App. Dist. Certiorari denied. Reported below: 120 Cal. App. 3d 594, 174 Cal. Rptr. 763.

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No. 81-1138. *CONNECTICUT v. SMITH*. Super. Ct. Conn., New Haven County. Certiorari denied.

No. 81-1140. *EAST COAST TENDER SERVICE, INC. v. DUTY ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 660 F. 2d 933.

No. 81-1145. *COOPER v. ILLINOIS*. App. Ct. Ill., 1st Dist. Certiorari denied. Reported below: 97 Ill. App. 3d 222, 422 N. E. 2d 885.

No. 81-1146. *RICHARDSON, ADMINISTRATOR v. CITY OF INDIANAPOLIS ET AL.* C. A. 7th Cir. Certiorari denied. Reported below: 658 F. 2d 494.

No. 81-1148. *BUTLER ET AL. v. UNITED STATES*; and
No. 81-1237. *ANGELILLI v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 660 F. 2d 23.

No. 81-1149. *SLIGER ET AL. v. GEORGIA*. Sup. Ct. Ga. Certiorari denied. Reported below: 248 Ga. 316, 282 S. E. 2d 291.

No. 81-1151. *STEWART v. KUTNER ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 656 F. 2d 1107.

No. 81-1153. *TOOKES v. GEORGIA*. Ct. App. Ga. Certiorari denied. Reported below: 159 Ga. App. 423, 283 S. E. 2d 642.

No. 81-1155. *BADGETT v. ERSPAN*. C. A. 5th Cir. Certiorari denied. Reported below: 647 F. 2d 550 and 659 F. 2d 26.

No. 81-1156. *AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES, AFL-CIO v. FEDERAL LABOR RELATIONS AUTHORITY ET AL.* C. A. D. C. Cir. Certiorari denied. Reported below: 212 U. S. App. D. C. 256, 659 F. 2d 1140.

No. 81-1159. *BASZNER v. UNITED STATES*; and
No. 81-1353. *CAGGIANO v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 660 F. 2d 184.

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No. 81-1158. *MCDANIEL ET AL. v. HELMS*. C. A. 11th Cir. Certiorari denied. Reported below: 657 F. 2d 800.

No. 81-1160. *STROUP v. TUCKER ET AL.* C. A. 7th Cir. Certiorari denied. Reported below: 663 F. 2d 1077.

No. 81-1162. *CROWN PAINT CO. v. BANKSTON*. Sup. Ct. Okla. Certiorari denied. Reported below: 640 P. 2d 948.

No. 81-1163. *MCCUTCHEON v. CHICAGO BOARD OF EDUCATION ET AL.* C. A. 7th Cir. Certiorari denied.

No. 81-1166. *JACQUES SYL KNITWEAR, INC., ET AL. v. NATIONAL LABOR RELATIONS BOARD ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 672 F. 2d 904.

No. 81-1167. *ENSERCH EXPLORATION, INC., ET AL. v. BULLOCK, COMPTROLLER OF PUBLIC ACCOUNTS OF TEXAS, ET AL.* Ct. Civ. App. Tex., 3d Sup. Jud. Dist. Certiorari denied. Reported below: 614 S. W. 2d 215.

No. 81-1171. *NELLIE-JEANNE CORP. v. CITY OF COLUMBUS, DIVISION OF RECREATION AND PARKS, ET AL.* Ct. App. Ohio, Franklin County. Certiorari denied.

No. 81-1173. *CERTAIN-TEED PIPING MATERIALS, INC. v. HYDROAIRE, INC.* C. A. 7th Cir. Certiorari denied. Reported below: 659 F. 2d 1085.

No. 81-1174. *ORTIZ FUNERAL HOME CORP. v. NATIONAL LABOR RELATIONS BOARD ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 651 F. 2d 136.

No. 81-1176. *HOAGLAND ET AL. v. LUMBERMENS MUTUAL CASUALTY Co.* C. A. 10th Cir. Certiorari denied.

No. 81-1178. *YUNKER v. KENTUCKY*. Cir. Ct. Daviess, Ky. Certiorari denied.

No. 81-1179. *DENMAN v. BULGER, PRESIDENT OF THE MASSACHUSETTS SENATE, ET AL.* C. A. 1st Cir. Certiorari denied.

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No. 81-1182. *PETERSON ET AL. v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 656 F. 2d 703.

No. 81-1187. *MIDDLEBURY ASSOCIATES v. PIKE INDUSTRIES, INC., ET AL.* Sup. Ct. Vt. Certiorari denied. Reported below: 140 Vt. 67, 436 A. 2d 725.

No. 81-1188. *MONROE v. NEW YORK*. Ct. App. N. Y. Certiorari denied. Reported below: 54 N. Y. 2d 35, 429 N. E. 2d 97.

No. 81-1189. *BLACKWELL v. ANDERSON, WARDEN*. C. A. 6th Cir. Certiorari denied. Reported below: 664 F. 2d 1049.

No. 81-1190. *ZAN-CAR ENTERPRISES, INC., ET AL. v. HOME STATE SAVINGS ASSN. ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 661 F. 2d 935.

No. 81-1193. *SPEIGHT v. GEORGIA*. Ct. App. Ga. Certiorari denied. Reported below: 159 Ga. App. 5, 282 S. E. 2d 651.

No. 81-1194. *KAGARISE ET AL. v. CUMBERLAND, MARYLAND, AREA TEAMSTERS PENSION FUND*. C. A. 3d Cir. Certiorari denied. Reported below: 661 F. 2d 19.

No. 81-1201. *DAVIDSON v. ROADWAY EXPRESS, INC.* C. A. 7th Cir. Certiorari denied. Reported below: 650 F. 2d 902.

No. 81-1202. *WATERS v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 671 F. 2d 494.

No. 81-1204. *MATTHEWS BROS., INC. v. PIERCE, GUARDIAN AD LITEM, ET AL.* C. A. 9th Cir. Certiorari denied.

No. 81-1206. *CHILDERS v. ILLINOIS*. App. Ct. Ill., 3d Dist. Certiorari denied. Reported below: 94 Ill. App. 3d 104, 418 N. E. 2d 959.

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No. 81-1211. *PURRAZZO v. ILLINOIS*. App. Ct. Ill., 1st Dist. Certiorari denied. Reported below: 95 Ill. App. 3d 886, 420 N. E. 2d 461.

No. 81-1212. *SESSUMS ET AL. v. LOUISIANA POWER & LIGHT CO.* C. A. 5th Cir. Certiorari denied. Reported below: 652 F. 2d 579.

No. 81-1215. *SCHNAPPER ET AL. v. FOLEY, DIRECTOR, ADMINISTRATIVE OFFICE OF THE U. S. COURTS, ET AL.* C. A. D. C. Cir. Certiorari denied. Reported below: 215 U. S. App. D. C. 59, 667 F. 2d 102.

No. 81-1217. *NORTH RIVER INSURANCE CO. ET AL. v. FED SEA/FED PAC LINE ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 647 F. 2d 985.

No. 81-1218. *CUCCHIARA v. SECRETARY OF THE TREASURY ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 652 F. 2d 28.

No. 81-1221. *GENERAL ATOMIC CO. v. UNITED NUCLEAR CORP.* C. A. 9th Cir. Certiorari denied. Reported below: 655 F. 2d 968.

No. 81-1224. *BOLLOW v. FEDERAL RESERVE BANK OF SAN FRANCISCO ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 650 F. 2d 1093.

No. 81-1226. *HEPKE v. SCHWEIKER, SECRETARY OF HEALTH AND HUMAN SERVICES.* C. A. 6th Cir. Certiorari denied. Reported below: 657 F. 2d 100.

No. 81-1230. *JOHNSON v. MARYLAND.* Ct. Sp. App. Md. Certiorari denied. Reported below: 49 Md. App. 736.

No. 81-1234. *LANGFORD v. KENTUCKY.* Ct. App. Ky. Certiorari denied. Reported below: 622 S. W. 2d 916.

No. 81-1235. *MCINTOSH v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. Reported below: 655 F. 2d 80.

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No. 81-1243. *FIRST NATIONAL BANK OF ALABAMA-HUNTSVILLE, FORMERLY HENDERSON NATIONAL BANK v. HAILE ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 657 F. 2d 816.

No. 81-1245. *MARCHESE v. UNITED STATES.* C. A. 3d Cir. Certiorari denied. Reported below: 672 F. 2d 905.

No. 81-1246. *BENSLIMANE v. UNITED STATES.* Ct. App. D. C. Certiorari denied.

No. 81-1261. *SMITH v. UNITED STATES.* C. A. 9th Cir. Certiorari denied. Reported below: 661 F. 2d 943.

No. 81-1265. *EDEN v. UNITED STATES.* C. A. 9th Cir. Certiorari denied. Reported below: 659 F. 2d 1376.

No. 81-1269. *AVEDISIAN v. HUBBARD ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 672 F. 2d 906.

No. 81-1285. *FARACE v. NEW YORK;* and

No. 81-1292. *GRANATO v. NEW YORK.* App. Div., Sup. Ct. N. Y., 2d Jud. Dept. Certiorari denied. Reported below: 81 App. Div. 2d 643, 440 N. Y. S. 2d 557.

No. 81-1289. *SUTHERLAND v. UNITED STATES;* and

No. 81-1337. *WALKER v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. Reported below: 656 F. 2d 1181.

No. 81-1293. *GOLDSTEIN, SECRETARY, NEW MEXICO HEALTH AND ENVIRONMENT DEPARTMENT v. NUNEZ ET AL.* C. A. 10th Cir. Certiorari denied.

No. 81-1305. *MAGUIRE v. UNITED STATES;* and

No. 81-6092. *HALEY v. UNITED STATES.* C. A. 9th Cir. Certiorari denied. Reported below: 661 F. 2d 943.

No. 81-1322. *PALAMONE v. UNITED STATES;* and *GERRY ET AL. v. UNITED STATES.* C. A. 3d Cir. Certiorari denied. Reported below: 673 F. 2d 1301 (first case); 673 F. 2d 1299 (second case).

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No. 81-1334. *HENRIQUE v. UNITED STATES MARSHAL ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 653 F. 2d 1317.

No. 81-1366. *DOWNING v. UNITED STATES.* C. A. 3d Cir. Certiorari denied. Reported below: 672 F. 2d 905.

No. 81-1368. *MCNEELY v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. Reported below: 660 F. 2d 496.

No. 81-1378. *MINTON ET AL. v. UNITED STATES.* C. A. 4th Cir. Certiorari denied. Reported below: 662 F. 2d 277.

No. 81-1395. *OUTLER v. UNITED STATES.* C. A. 11th Cir. Certiorari denied. Reported below: 659 F. 2d 1306.

No. 81-1396. *SCULL v. UNITED STATES.* C. A. 3d Cir. Certiorari denied. Reported below: 661 F. 2d 27.

No. 81-5079. *MCMICHAEL v. HENDERSON, CORRECTIONAL SUPERINTENDENT.* C. A. 2d Cir. Certiorari denied. Reported below: 659 F. 2d 1060.

No. 81-5573. *GAYLOR v. UNITED STATES.* C. A. 4th Cir. Certiorari denied. Reported below: 665 F. 2d 1042.

No. 81-5633. *BARRETT v. BUREAU OF CUSTOMS ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 651 F. 2d 1087.

No. 81-5638. *SMITH v. UNITED STATES.* Ct. App. D. C. Certiorari denied. Reported below: 435 A. 2d 1066.

No. 81-5655. *WARREN v. UNITED STATES PAROLE COMMISSION.* C. A. D. C. Cir. Certiorari denied. Reported below: 212 U. S. App. D. C. 137, 659 F. 2d 183.

No. 81-5679. *JIMENEZ v. MONTEZ ET AL.* C. A. 5th Cir. Certiorari denied.

No. 81-5703. *FLEMING v. UNITED STATES.* C. A. 3d Cir. Certiorari denied. Reported below: 672 F. 2d 905.

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No. 81-5704. *HALL v. OKLAHOMA*. Ct. Crim. App. Okla. Certiorari denied. Reported below: 635 P. 2d 618.

No. 81-5718. *STINSON v. SMITH, SUPERINTENDENT, AT-TICA CORRECTIONAL FACILITY*. C. A. 2d Cir. Certiorari denied. Reported below: 661 F. 2d 911.

No. 81-5733. *WASHINGTON v. HARRIS, SUPERINTEND-ENT, GREEN HAVEN CORRECTIONAL FACILITY*. C. A. 2d Cir. Certiorari denied. Reported below: 650 F. 2d 447.

No. 81-5738. *ARCHIE v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 656 F. 2d 1253.

No. 81-5740. *KRALL v. PENNSYLVANIA*. Sup. Ct. Pa. Certiorari denied.

No. 81-5757. *DONALDSON v. DALSHHEIM, SUPERINTEND-ENT, OSSINING CORRECTIONAL FACILITY*. C. A. 2d Cir. Certiorari denied. Reported below: 672 F. 2d 899.

No. 81-5767. *BONNETTE v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 663 F. 2d 495.

No. 81-5810. *WILSON ET AL. v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 657 F. 2d 755.

No. 81-5812. *ANDERSON v. BAIRD*. C. A. 6th Cir. Cer-tiorari denied.

No. 81-5830. *CORDLE v. VIRGINIA*. Sup. Ct. Va. Cer-tiorari denied.

No. 81-5831. *LEUSCHNER v. MARYLAND*. Ct. App. Md. Certiorari denied. Reported below: 291 Md. 778.

No. 81-5838. *CLARK v. MUNICIPAL EMPLOYEES CREDIT UNION OF BALTIMORE, INC.* Ct. App. Md. Certiorari denied.

No. 81-5845. *JOHNSON v. ILLINOIS*. App. Ct. Ill., 1st Dist. Certiorari denied. Reported below: 97 Ill. App. 3d 1055, 423 N. E. 2d 1206.

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No. 81-5847. *JONES ET AL. v. CONSOLIDATED EDISON COMPANY OF NEW YORK ET AL.* Ct. App. N. Y. Certiorari denied. Reported below: 54 N. Y. 2d 603, 426 N. E. 2d 755.

No. 81-5861. *JONES v. NEW JERSEY.* Super. Ct. N. J., App. Div. Certiorari denied. Reported below: 177 N. J. Super. 560, 427 A. 2d 123.

No. 81-5863. *ROSA v. ILLINOIS.* App. Ct. Ill., 1st Dist. Certiorari denied. Reported below: 93 Ill. App. 3d 1010, 418 N. E. 2d 124.

No. 81-5864. *STANLEY v. CITY OF PORTLAND.* Ct. App. Ore. Certiorari denied. Reported below: 53 Ore. App. 254, 631 P. 2d 826.

No. 81-5868. *KINNER v. UNITED STATES.* C. A. 6th Cir. Certiorari denied. Reported below: 667 F. 2d 1028.

No. 81-5870. *SERE v. WELSH.* C. A. 4th Cir. Certiorari denied. Reported below: 671 F. 2d 501.

No. 81-5877. *JOHNSON v. JOHNSON.* C. A. 4th Cir. Certiorari denied. Reported below: 665 F. 2d 1040.

No. 81-5883. *HERNANDEZ v. ESTELLE, DIRECTOR, TEXAS DEPARTMENT OF CORRECTIONS.* C. A. 5th Cir. Certiorari denied.

No. 81-5884. *CARTER v. GARRISON, WARDEN, ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 656 F. 2d 68.

No. 81-5885. *GONZALEZ v. HILTON, SUPERINTENDENT, NEW JERSEY STATE PRISON, ET AL.* C. A. 3d Cir. Certiorari denied.

No. 81-5886. *FRAZIER v. S/S DELTA MAR ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 659 F. 2d 1073.

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No. 81-5888. MADISON *v.* ESTELLE, DIRECTOR, TEXAS DEPARTMENT OF CORRECTIONS, ET AL. Ct. Crim. App. Tex. Certiorari denied.

No. 81-5892. HALE *v.* ILLINOIS. App. Ct. Ill., 5th Dist. Certiorari denied. Reported below: 96 Ill. App. 3d 187, 420 N. E. 2d 1100.

No. 81-5893. EHL *v.* ESTELLE, DIRECTOR, TEXAS DEPARTMENT OF CORRECTIONS. C. A. 5th Cir. Certiorari denied. Reported below: 656 F. 2d 166.

No. 81-5895. GARCIA *v.* ILLINOIS. Sup. Ct. Ill. Certiorari denied.

No. 81-5896. COOPER *v.* ESTELLE, DIRECTOR, TEXAS DEPARTMENT OF CORRECTIONS. C. A. 5th Cir. Certiorari denied. Reported below: 650 F. 2d 281.

No. 81-5898. VARGAS *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied. Reported below: 665 F. 2d 1050.

No. 81-5901. OWENS *v.* ZIMMERMAN. C. A. 3d Cir. Certiorari denied.

No. 81-5902. VASQUEZ *v.* NEW YORK. Sup. Ct. N. Y., Bronx County. Certiorari denied.

No. 81-5903. REESE *v.* BYRNE ET AL. C. A. 5th Cir. Certiorari denied.

No. 81-5904. MITCHELL *v.* BOLTON ET AL. C. A. 11th Cir. Certiorari denied. Reported below: 655 F. 2d 234.

No. 81-5905. LOWE *v.* NEW YORK CITY DEPARTMENT OF SOCIAL SERVICES. C. A. 2d Cir. Certiorari denied.

No. 81-5906. TOUGHILL ET AL. *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 654 F. 2d 733.

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No. 81-5910. *EICHER v. FLORIDA DEPARTMENT OF CORRECTIONS ET AL.* Dist. Ct. App. Fla., 1st Dist. Certiorari denied.

No. 81-5914. *GETCH v. HAMMOCK, CHAIRMAN, NEW YORK STATE BOARD OF PAROLE.* C. A. 2d Cir. Certiorari denied. Reported below: 672 F. 2d 900.

No. 81-5917. *TALAMANTEZ v. CALIFORNIA ET AL.* Ct. App. Cal., 4th App. Dist. Certiorari denied. Reported below: 122 Cal. App. 3d 629, 176 Cal. Rptr. 800.

No. 81-5920. *SIMMONS v. WINSBERG ET AL.* Sup. Ct. La. Certiorari denied. Reported below: 407 So. 2d 726.

No. 81-5921. *RUSSELL v. CALIFORNIA.* Ct. App. Cal., 2d App. Dist. Certiorari denied.

No. 81-5922. *SPANN v. ILLINOIS.* App. Ct. Ill., 1st Dist. Certiorari denied. Reported below: 97 Ill. App. 3d 670, 422 N. E. 2d 1051.

No. 81-5924. *ALEXANDER v. TEXAS.* Ct. Civ. App. Tex., 5th Sup. Jud. Dist. Certiorari denied.

No. 81-5925. *MACK v. ENGLE.* C. A. 6th Cir. Certiorari denied. Reported below: 667 F. 2d 1027.

No. 81-5926. *BORNES v. BLACKBURN, WARDEN.* Sup. Ct. La. Certiorari denied. Reported below: 409 So. 2d 649.

No. 81-5927. *CLAY v. TEXAS ET AL.* Ct. Crim. App. Tex. Certiorari denied.

No. 81-5928. *BLECHMAN v. FEDERAL COMMUNICATIONS COMMISSION ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 672 F. 2d 899.

No. 81-5929. *FLENNER v. PONTIFEX ET AL.* Sup. Ct. Va. Certiorari denied.

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No. 81-5930. *WHITELAW v. MWP LIMITED PARTNERSHIP*. Ct. App. D. C. Certiorari denied.

No. 81-5931. *BOSCH v. SPALDING*. C. A. 9th Cir. Certiorari denied.

No. 81-5934. *UNITED STATES EX REL. TOLBERT v. FRANZEN*. C. A. 7th Cir. Certiorari denied.

No. 81-5936. *LEE v. ILLINOIS*. App. Ct. Ill., 3d Dist. Certiorari denied. Reported below: 93 Ill. App. 3d 894, 417 N. E. 2d 1090.

No. 81-5938. *VITE v. WISCONSIN*. Sup. Ct. Wis. Certiorari denied. Reported below: 103 Wis. 2d 699, 316 N. W. 2d 832.

No. 81-5939. *ALDERSON v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 667 F. 2d 1028.

No. 81-5941. *CARTER v. UNITED STATES*. C. A. 10th Cir. Certiorari denied.

No. 81-5942. *LEWIS v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 662 F. 2d 1087.

No. 81-5946. *BRUCE v. DUCKWORTH, WARDEN*. C. A. 7th Cir. Certiorari denied. Reported below: 659 F. 2d 776.

No. 81-5951. *JOHNSON v. OHIO*. Ct. App. Ohio, Cuyahoga County. Certiorari denied.

No. 81-5953. *ANTONELLI v. DRUG ENFORCEMENT ADMINISTRATION ET AL.* C. A. 7th Cir. Certiorari denied. Reported below: 672 F. 2d 920.

No. 81-5954. *ANTWINE v. ESTELLE, DIRECTOR, TEXAS DEPARTMENT OF CORRECTIONS*. C. A. 5th Cir. Certiorari denied. Reported below: 663 F. 2d 104.

No. 81-5955. *DIXON v. MACDOUGALL*. Sup. Ct. Ariz. Certiorari denied.

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No. 81-5956. *WILLOUGHBY v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 665 F. 2d 1056.

No. 81-5958. *ENGLEMAN v. ENGLEMAN ET AL.* C. A. 8th Cir. Certiorari denied. Reported below: 663 F. 2d 799.

No. 81-5959. *JACKSON v. ALABAMA DEPARTMENT OF PUBLIC SAFETY ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 657 F. 2d 689.

No. 81-5963. *RUMPH v. ESTELLE, DIRECTOR, TEXAS DEPARTMENT OF CORRECTIONS*. C. A. 5th Cir. Certiorari denied. Reported below: 655 F. 2d 1130.

No. 81-5964. *RUCKER v. BAKEWELL ET AL.* C. A. 8th Cir. Certiorari denied.

No. 81-5965. *REED v. PARRATT, WARDEN, NEBRASKA PENAL AND CORRECTIONAL COMPLEX*. C. A. 8th Cir. Certiorari denied. Reported below: 664 F. 2d 292.

No. 81-5966. *McMILLION v. MARYLAND*. Ct. Sp. App. Md. Certiorari denied. Reported below: 50 Md. App. 755.

No. 81-5969. *JONES v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 667 F. 2d 1026.

No. 81-5972. *HOPKINS v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 679 F. 2d 874.

No. 81-5973. *COLLINS v. OHIO*. Ct. App. Ohio, Cuyahoga County. Certiorari denied.

No. 81-5974. *HOUSE v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 660 F. 2d 724.

No. 81-5975. *KLEINSCHMIDT v. SUN BANK OF MIAMI, PERSONAL REPRESENTATIVE OF THE ESTATE OF KLEINSCHMIDT*. Dist. Ct. App. Fla., 3d Dist. Certiorari denied. Reported below: 403 So. 2d 493.

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No. 81-5977. *MACARTHUR v. PHILIPPINE AIR LINES, INC., ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 663 F. 2d 1079.

No. 81-5978. *CREASY v. VIRGINIA.* Sup. Ct. Va. Certiorari denied.

No. 81-5981. *WOLFF v. UNITED STATES.* C. A. 10th Cir. Certiorari denied.

No. 81-5982. *FONTANA v. UNITED STATES.* C. A. 3d Cir. Certiorari denied. Reported below: 673 F. 2d 1303.

No. 81-5983. *MCDONALD v. METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY.* Sup. Ct. Tenn. Certiorari denied.

No. 81-5985. *PARDUE v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. Reported below: 659 F. 2d 1073.

No. 81-5987. *SUTTERER v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. Reported below: 654 F. 2d 722.

No. 81-5991. *JONES v. UNITED STATES.* C. A. 9th Cir. Certiorari denied. Reported below: 665 F. 2d 1055.

No. 81-5992. *DIAZ v. NEW YORK.* Ct. App. N. Y. Certiorari denied. Reported below: 54 N. Y. 2d 967, 430 N. E. 2d 914.

No. 81-5993. *GREEN v. DIRECTOR OF INSTITUTIONS, NORTH DAKOTA STATE PRISONS, ET AL.* C. A. 8th Cir. Certiorari denied. Reported below: 663 F. 2d 55.

No. 81-5994. *COOPER v. SOWDERS, WARDEN, KENTUCKY STATE PENITENTIARY.* C. A. 6th Cir. Certiorari denied. Reported below: 672 F. 2d 916.

No. 81-5995. *BALLET v. PENCE ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 663 F. 2d 104.

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No. 81-5997. *KOPS v. WISCONSIN*. Sup. Ct. Wis. Certiorari denied. Reported below: 104 Wis. 2d 749, 318 N. W. 2d 401.

No. 81-5998. *SMITH v. ESTELLE, DIRECTOR, TEXAS DEPARTMENT OF CORRECTIONS*. C. A. 5th Cir. Certiorari denied.

No. 81-5999. *CARLSEN v. UTAH*. Sup. Ct. Utah. Certiorari denied. Reported below: 638 P. 2d 512.

No. 81-6000. *RHODES v. UNITED STATES NAVY ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 663 F. 2d 1073.

No. 81-6001. *OWENS v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 672 F. 2d 918.

No. 81-6003. *SIMMONS v. HILTON, SUPERINTENDENT, NEW JERSEY STATE PRISON, ET AL.* C. A. 3d Cir. Certiorari denied.

No. 81-6004. *MCQUADE ET AL. v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 647 F. 2d 938.

No. 81-6005. *RELIFORD v. CITY OF KANSAS CITY, MISSOURI, PARKS AND RECREATION DEPARTMENT*. C. A. 8th Cir. Certiorari denied.

No. 81-6007. *PISCANIO v. BEANS, WARDEN, ET AL.* C. A. 3d Cir. Certiorari denied.

No. 81-6008. *THAYER v. PUERTO RICO*. C. A. 1st Cir. Certiorari denied.

No. 81-6009. *WALKER v. WAINWRIGHT*. C. A. 11th Cir. Certiorari denied.

No. 81-6010. *SIMONS v. MARYLAND*. Ct. Sp. App. Md. Certiorari denied. Reported below: 49 Md. App. 741.

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No. 81-6011. SANDERS *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied. Reported below: 664 F. 2d 292.

No. 81-6022. TURNER *v.* GILLESPIE ET AL. C. A. 10th Cir. Certiorari denied.

No. 81-6023. MATTHEWS *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied. Reported below: 673 F. 2d 1300.

No. 81-6024. HERRERA *v.* WHITE, WOODBURY COUNTY SHERIFF. Sup. Ct. Iowa. Certiorari denied.

No. 81-6026. THOMPSON *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 663 F. 2d 1080.

No. 81-6029. UPSHER *v.* PENNSYLVANIA. Sup. Ct. Pa. Certiorari denied. Reported below: 495 Pa. 620, 435 A. 2d 178.

No. 81-6033. OCHOA *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 659 F. 2d 547.

No. 81-6034. WINLEY *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. Reported below: 638 F. 2d 560.

No. 81-6035. PISANI *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. Reported below: 672 F. 2d 901.

No. 81-6049. ZIA *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied. Reported below: 673 F. 2d 1304.

No. 81-6050. FLEMING *v.* UNITED STATES; and

No. 81-6109. RAGINS ET AL. *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 667 F. 2d 440.

No. 81-6051. HARRIS *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied. Reported below: 673 F. 2d 1303.

No. 81-6059. POSEY *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied. Reported below: 663 F. 2d 37.

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No. 81-6064. *CASTRO v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 673 F. 2d 1333.

No. 81-6076. *GRIFFIN v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 665 F. 2d 1054.

No. 81-6084. *ODOM v. UNITED STATES*; and
No. 81-6116. *WOLF v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: No. 81-6084, 667 F. 2d 1032; No. 81-6116, 667 F. 2d 1033.

No. 81-6085. *PERRY v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 664 F. 2d 286.

No. 81-6086. *ELLIS v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 679 F. 2d 874.

No. 81-6098. *MURPHY v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 698 F. 2d 1224.

No. 81-6104. *HAMLEN v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 665 F. 2d 1055.

No. 81-6113. *GIBBS v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 673 F. 2d 1303.

No. 81-6115. *HORTON, AKA BYNUM v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 673 F. 2d 1303.

No. 81-6121. *BOWLING v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 666 F. 2d 1052.

No. 81-6128. *SHORT v. UNITED STATES*. C. A. D. C. Cir. Certiorari denied. Reported below: 217 U. S. App. D. C. 363, 672 F. 2d 897.

No. 81-6129. *HANER v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 661 F. 2d 943.

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No. 80-2112. LONG ET AL. *v.* BONNES ET AL.; and
No. 80-2153. KENLEY, COMMISSIONER, DEPARTMENT OF
HEALTH OF VIRGINIA, ET AL. *v.* YOUNG. C. A. 4th Cir.
Certiorari denied. Reported below: No. 80-2112, 651 F. 2d
214; No. 80-2153, 641 F. 2d 192.

JUSTICE REHNQUIST, with whom JUSTICE O'CONNOR
joins, dissenting.

By enacting the Civil Rights Attorney's Fees Awards Act of 1976 (Act), Congress created a statutory basis for courts, in the exercise of their sound discretion, to award attorney's fees to private litigants who prevail in litigation under various civil rights laws. The Courts of Appeals responsible for interpreting the Act have differed as to the correct construction of more than one of its provisions. Because the two cases from the Court of Appeals for the Fourth Circuit which the Court today declines to review present examples of this difference on the important issue of how to determine when a party "prevails" within the meaning of the Act, I dissent from the denial of certiorari.

The Act, codified as the last sentence of 42 U. S. C. § 1988, provides for the discretionary award of attorney's fees to the "prevailing party" in a lawsuit brought under one or more of eight specified statutes.¹ The Senate Report accompanying the Act, S. Rep. No. 94-1011 (1976), provides that "[i]t is intended that the standards for awarding fees be generally the same as under the fee provisions of the 1964 Civil Rights

¹The relevant portion of 42 U. S. C. § 1988 provides:

"In any action or proceeding to enforce a provision of sections 1981, 1982, 1983, 1985, and 1986 of this title, title IX of Public Law 92-318 [20 U. S. C. § 1681 *et seq.*], or in any civil action or proceedings, by or on behalf of the United States of America, to enforce, or charging a violation of, a provision of the United States Internal Revenue Code, or title VI of the Civil Rights Act of 1964 [42 U. S. C. § 2000d *et seq.*], the court, in its discretion, may allow the prevailing party, other than the United States, a reasonable attorney's fee as part of the costs."

Act.”² *Id.*, at 4. Two principal cases from this Court deal with the question of when a party shall recover attorney’s fees under the Civil Rights Act of 1964. *Newman v. Piggy Park Enterprises, Inc.*, 390 U. S. 400 (1968), held that “one who succeeds in obtaining an injunction under . . . Title [II] should ordinarily recover an attorney’s fee unless special circumstances would render such an award unjust.” *Id.*, at 402. *Christiansburg Garment Co. v. EEOC*, 434 U. S. 412 (1978), held that a defendant who successfully defended a charge of employment discrimination under Title VII could recover attorney’s fees where the District Court found that the plaintiff’s action “was frivolous, unreasonable, or without foundation, even though not brought in subjective bad faith.” *Id.*, at 421.

In each of these cases, this Court found it unnecessary to decide any question respecting the definition of “prevailing party,” because in each case the suit had gone to judgment in favor of the party seeking attorney’s fees. Nor has this Court had occasion to define “prevailing party” as used in the Act. As more and more litigation has ensued in which claims for attorney’s fees are made under the Act, however, more troublesome questions as to when a party has “prevailed” have confronted the Courts of Appeals.

The Court of Appeals for the Fourth Circuit, in one of the judgments which the Court today declines to review, has established a test for determining when a party “prevails” within the meaning of § 1988. That test requires the trial court to determine

“the precise legal/factual condition that the fee claimant has sought to change or affect so as to gain a benefit or

² Section 706(k) of Title II of the Civil Rights Act of 1964 provides in full: “In any action or proceeding under this title the court, in its discretion, may allow the prevailing party, other than the Commission or the United States, a reasonable attorney’s fee as part of the costs, and the Commission and the United States shall be liable for costs the same as a private person.” 42 U. S. C. § 2000e-5(k).

be relieved of a burden. With this condition taken as a benchmark, inquiry may turn to whether as a quite practical matter the outcome . . . is one to which the plaintiff fee claimant's efforts contributed in a significant way, and which does involve an actual conferral of benefit or relief from burden when measured against the benchmark condition.'" 651 F. 2d 214, 217 (1981), quoting *Bonnes v. Long*, 599 F. 2d 1316, 1319 (CA4 1979).

This test, which focuses only on the factual question of whether the lawsuit *caused* a change favorable to the plaintiff, apparently is well established in the Fourth Circuit, for it was followed by the Court of Appeals in another case denied review today, *Young v. Kenley*, 641 F. 2d 192 (1981). The effect of the *Bonnes* test is best demonstrated by the facts of *Young*.

Willie E. Young, a black woman, was hired in 1973 as a public health nurse by the Virginia State Department of Health. Because Young had graduated from a school that was not accredited by the National League of Nursing, she was assigned a category "A" position, the lowest salary level for public health nurses in Virginia. Although she was promoted to level "B" after complaining to the State's Equal Opportunity Coordinator, she was denied further promotion for lack of an accredited degree.

In February 1977, the Health Department eliminated the regulation which barred Young from further promotion, and on June 23, 1978, the Deputy State Health Commissioner invited Young to apply for advancement. Two days later, the change in policy notwithstanding, Young filed a complaint in federal court alleging that the State's promotion policy violated 42 U. S. C. § 1981 and § 1983. Although the complaint was dismissed for failure to obtain a right-to-sue letter from the Equal Employment Opportunity Commission (to which she had complained about the State's policy in 1976), and although she qualified for promotion in September 1978 by taking and passing the State's merit examination, Young filed an

amended complaint in October 1978. A hearing was held on November 2, 1978, and the parties reached a settlement two weeks later. The settlement granted Young a promotion to public health nurse level "C" retroactive to March 1977 with \$992 in backpay, and upgraded her current position from level "B" to level "C" so that she would not have to relocate within the State.

The United States District Court for the Eastern District of Virginia twice denied Young's request for § 1988 attorney's fees, once after the settlement and once after a remand from the Court of Appeals. The District Court found that her "suit was wholly ineffective to remove [the regulatory] bar to promotion since the bar had been removed by a voluntary, unrelated act of the defendant well before [Young's] suit was instituted." *Young v. Kenley*, 485 F. Supp. 365, 368 (1980). The District Court also found that the objectives of the Act would not be furthered by the award of attorney's fees in this case: "While actions by 'private attorneys general' are to be rewarded under the attorney's fees provision, it could not be intended that a party be encouraged to file a suit where litigation would be superfluous. A benefit which can be obtained by an informal request need not be the subject of a formal demand." *Id.*, at 370.

Applying the standard set forth in *Bonnes*, the Court of Appeals for the Fourth Circuit reversed the denial of attorney's fees. In a brief *per curiam* opinion the court stated:

"The district court properly noted that a plaintiff whose case ends in settlement may be considered a 'prevailing party' under the civil rights attorney's fees provisions. In making its determination whether the plaintiff was in fact the 'prevailing party,' the court applied the test set forth in *Nadeau v. Helgemoe*, 581 F. 2d 275 (1st Cir., 1978). After the district court rendered its opinion, this court issued its decision in *Bonnes* [*v. Long*, 599 F. 2d 1316 (1979)]. *Bonnes* establishes the test to be applied in this circuit for the consideration whether a

party to a case which ends in settlement is a 'prevailing party' within the meaning of 42 U. S. C. §§ 1988 and 2000e-5(k).

"Accordingly, the order of the district court is vacated and the case remanded for further proceedings consistent with this opinion." *Young v. Kenley*, 614 F. 2d 373, 374 (1979).

It would thus seem that the Court of Appeals for the Fourth Circuit implicitly recognized that its so-called *Bonnes* test conflicted with that followed by the Court of Appeals for the First Circuit in *Nadeau v. Helgemoe*, 581 F. 2d 275 (1978). The District Court on remand certainly treated the Court of Appeals' brief *per curiam* opinion as having this effect: "[I]t is apparent from the language of the . . . per curiam memorandum vacating and remanding this case, that a *Nadeau* analysis is inappropriate in this Circuit. A *Bonnes* analysis is required." 485 F. Supp., at 366.

The District Court, attempting to follow the "*Bonnes* analysis," again declined to award attorney's fees. Upon a second appeal, the Fourth Circuit reversed outright the denial of attorney's fees. It found that Young had obtained discernible benefits which she did not have before the suit was initiated: backpay and reclassification of her position to level "C." 641 F. 2d, at 195. That the receipt of these benefits was "caused" by the suit was evident to the Court of Appeals from the fact of settlement: "[S]ettlement in the midst of trial demonstrates [that] the lawsuit and the benefits obtained are causally related." *Ibid.* Thus, by filing a lawsuit to change a regulation which had already been changed, to obtain a promotion for which she had already qualified at the invitation of the State, and to receive other benefits which the District Court found were available upon informal request, Young became entitled to attorney's fees as a prevailing party under the standard adopted by the Court of Appeals for the Fourth Circuit.

A different approach to §1988, and one which demonstrates the divergence of views among the Courts of Appeals, is that set forth by the Court of Appeals for the First Circuit in *Nadeau v. Helgemoe, supra*. Like the *Bonnes* test, the *Nadeau* test requires that the lawsuit result in some discernible benefit to the plaintiff. Unlike the *Bonnes* test, the *Nadeau* test also requires that the benefit have some basis in law:

“Even if plaintiffs can establish that their suit was causally related to the defendants’ actions which improved their condition, this is only half of their battle. The test they must pass is legal as well as factual. If it has been judicially determined that defendants’ conduct, however beneficial it may be to plaintiffs’ interests, is not required by law, then defendants must be held to have acted gratuitously and plaintiffs have not prevailed in a legal sense.” 581 F. 2d, at 281.

Under this second requirement of the *Nadeau* test, it is doubtful that Young would have prevailed in her request for attorney’s fees. Because the law already entitled her to every benefit she was seeking by litigation, it cannot be said that the benefits received in settlement were legally caused by her lawsuit.³

In my view, the standard adopted by the Court of Appeals for the First Circuit in *Nadeau* more closely approaches the

³The *Nadeau* test does not require a finding that the plaintiff would have prevailed on the merits, nor does it require the trial court to hold the very trial which the settlement was intended to avoid. As the Court of Appeals explained, at the time of settlement the trial court in most cases will have had “sufficient exposure to the facts and law . . . to determine, whether if the plaintiffs had continued to press their claims . . . , their action could be considered ‘frivolous, unreasonable, or groundless, or that the plaintiff continued to litigate after it clearly became so.’ If the court reaches that conclusion, we think it should deny plaintiffs’ attorney’s fees on those issues regardless of the impact of their suit on defendants’ willingness to improve the conditions of . . . the plaintiff class.” 581 F. 2d, at 281 (citation omitted), quoting *Christiansburg Garment Co. v. EEOC*, 434 U. S. 412, 422 (1978).

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intent of Congress in amending § 1988 than does the *Bonnes* standard of the Court of Appeals for the Fourth Circuit. When it passed the Act, Congress was aware that “[t]he effective enforcement of Federal civil rights statutes depends largely on the efforts of private citizens,” H. R. Rep. No. 94-1558, p. 1 (1976), and that “a vast majority of the victims of civil rights violations cannot afford legal counsel [and] are unable to present their cases to the courts.” *Ibid.* Accordingly, the Act was passed to encourage the “vigorous enforcement of modern civil rights legislation,” S. Rep. No. 94-1011, p. 4 (1976), by “‘private attorney[s] general’ advancing the rights of the public at large, and not merely some narrow parochial interest.” 122 Cong. Rec. 35122 (1976) (remarks of Rep. Drinan, sponsor).

It is clear beyond peradventure that unless an action brought by a private litigant contains some basis in law for the benefits ultimately received by that litigant, the litigant cannot be said to have “enforced” the civil rights laws or to have promoted their policies for the benefit of the public at large. The *Bonnes* standard, at least as applied in No. 80-2153, seems largely to disregard this central purpose of § 1988, awarding attorney’s fees even if the discernible benefit was conferred gratuitously by the defendant or was undertaken simply to avoid further litigation expenses. I would grant certiorari in one or both of these cases to resolve the conflict among the Circuits and to establish a standard consistent with the purposes of the Act.

No. 81-189. ISRAEL ET AL. *v.* McMORRIS. C. A. 7th Cir. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 643 F. 2d 458.

JUSTICE REHNQUIST, with whom JUSTICE O’CONNOR joins, dissenting.

Before September 1, 1981, polygraph evidence was admissible in a criminal trial in Wisconsin if the prosecutor and the defendant stipulated in writing both to the administration of

the test itself and to the subsequent admission into evidence of the test results. Notwithstanding the stipulation, the trial court, in its discretion, could refuse to admit the test results into evidence if it determined that the examiner was not qualified or if the test was not conducted under proper conditions. The opposing party was provided with the opportunity to cross-examine the examiner. Finally, the trial judge was required to instruct the jury that the test tends only to indicate whether at the time of the test the defendant was telling the truth and that the test results may not be used to prove or disprove any element of the crime. See *State v. Stanislawski*, 62 Wis. 2d 730, 742-743, 216 N.W. 2d 8, 14 (1976).¹

Because the Wisconsin procedure permitted the prosecutor to refuse, "without articulating his reasons," a defendant's offer to stipulate to the admission of polygraph evidence, the Court of Appeals for the Seventh Circuit held that respondent's due process rights may have been violated. It directed that a writ of habeas corpus issue unless the "prosecutor had valid reasons for refusing to enter into the stipulation offered by the defendant." 643 F. 2d 458, 466 (1981). According to the Court of Appeals, "the prosecutor's refusal to enter into a stipulation must be for justifiable reasons. Justifiable reasons in this context are reasons which go to the reliability of the test or to the integrity of the trial process, not reasons which consider merely the relative tactical advantages from the use of the evidence to the prosecution and the defense." *Id.*, at 464. In order for a court to review the prosecutor's refusal to stipulate to the admission of otherwise inadmissible evidence, the Court of Appeals reasoned that the prosecutor must articulate his reasons.²

¹The Wisconsin Supreme Court has recently overruled *Stanislawski*, holding it error to admit polygraph evidence in a criminal proceeding unless the stipulation was executed prior to September 1, 1981. *State v. Dean*, 103 Wis. 2d 228, 279, 307 N.W. 2d 628, 653 (1981).

²The Court of Appeals apparently based its conclusion on *Washington v. Texas*, 388 U. S. 14 (1967), and *Chambers v. Mississippi*, 410 U. S. 284 (1973).

In my view, this Court should grant the petition for certiorari in this case. Although the case involves a state rule of evidence, the Court of Appeals' decision did not rest on the trial court's exclusion of evidence necessary for the defendant to mount a defense, but on the *prosecutor's* refusal to stipulate to the admission of otherwise inadmissible evidence. In this case, the Court of Appeals has found federal constitutional issues lurking, not in a state court's refusal to admit exculpatory evidence proffered by the defendant, but in the prosecutor's reasons for refusing to stipulate to the admission of otherwise inadmissible evidence. In a given case, this Court's decisions may require that exculpatory evidence be admitted into evidence despite state evidentiary rules to the contrary, but these cases do not suggest any limitation upon the reasons that may permissibly motivate the prosecutor's objection to the admission of inadmissible evidence.

Because the Wisconsin polygraph rule was based on principles of consent and waiver,³ I do not see how the Court of Appeals' reasoning would not apply to *any* objection by a prosecutor to the introduction of otherwise inadmissible evidence. Though the Court of Appeals attempted to limit its decision to cases involving the polygraph, it seems to me that its reasoning necessarily sweeps a good deal beyond just that type of evidence. In our adversarial system of criminal procedure, testimony from witnesses and documentary exhibits are generally admitted into evidence unless the opposing party objects. In a sense, any such objection by the prosecution is a "refusal" to consent or to stipulate to the admissibility of the evidence. Such an objection, in the words of the Court of Appeals, enables the prosecutor "to veto" the admission of inadmissible evidence. But, according to the Court of Appeals, the defendant's right to a fair trial may be denied because the prosecutor has merely objected on the grounds

³ The Wisconsin Supreme Court has expressly stated that its stipulation rule was based on principles of consent and waiver. *State v. Dean, supra*, at 257, 307 N.W. 2d, at 642.

that the State's evidentiary rules require that the evidence be excluded. The Court of Appeals expressed concern at the inability of courts to review this exercise of prosecutorial authority; but I have thought the common premise of the constitutional limitations on a State's administration of criminal justice was that either party to a criminal trial could "veto" the admission of otherwise inadmissible evidence through the simple expedient of objecting to its admission.

True, we have held that a defendant's rights under the Sixth and Fourteenth Amendments may be implicated when a trial court mechanically applies state evidentiary rules to preclude a defendant from introducing exculpatory evidence necessary to his defense. See, e. g., *Green v. Georgia*, 442 U. S. 95 (1979) (capital case); *Chambers v. Mississippi*, 410 U. S. 284 (1973); *Washington v. Texas*, 388 U. S. 14 (1967). But here the Court of Appeals did not find that the exclusion of the polygraph testimony by the trial court was in itself error of constitutional magnitude; it was at pains to point out that Wisconsin was free to wholly exclude polygraph evidence if it chose to follow that policy. The fault the Court of Appeals found with respondent's state-court trial was not the ultimate exclusion of the polygraph evidence, but the fact that the prosecutor failed to articulate any reason for refusing to consent to its admission. I think that this is a dubious constitutional holding with considerable implications beyond the facts of the case—indeed, beyond polygraph tests—which warrants plenary consideration by this Court.

Although Wisconsin has recently abandoned its stipulation rule in favor of a rule that forbids the admission of polygraph evidence under any circumstances, this is hardly a reason to deny review in this case. In light of the Court of Appeals' decision, habeas corpus relief is apparently available to all Wisconsin prisoners who were precluded by the stipulation rule from introducing polygraph test results into evidence. Because as many as 23 States will admit polygraph evidence

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upon stipulation,⁴ the Court of Appeals' decision calls into question the constitutionality of almost half the States' evidentiary rules regarding the admissibility of polygraph test results. The Court of Appeals for the Eighth Circuit has held that polygraph evidence may be admitted upon stipulation into evidence in a criminal trial. *United States v. Oliver*, 525 F. 2d 731, 736-737 (1975), cert. denied, 424 U. S. 973 (1976). Finally, two Courts of Appeals have held that a defendant's constitutional right to a fair trial is not infringed when the prosecutor refuses to stipulate to the admissibility of polygraph test results. *Milano v. Garrison*, 677 F. 2d 374, 375 (CA4 1981); *Jackson v. Garrison*, 677 F. 2d 371, 373 (CA4 1981); *Conner v. Auger*, 595 F. 2d 407, 411 (CA8), cert. denied, 444 U. S. 851 (1979); *United States v. Bohr*, 581 F. 2d 1294, 1303 (CA8), cert. denied, 439 U. S. 958 (1978).

Because of this apparent conflict among the Courts of Appeals on this issue, and because of doubt as to the correctness of the Court of Appeals' decision in this case, I would grant the writ of certiorari.

No. 81-353. *SPRADLING v. TEXAS*; and *DUNN v. TEXAS*. Ct. Crim. App. Tex. Certiorari denied.

JUSTICE BRENNAN, with whom JUSTICE MARSHALL joins, dissenting.

On September 4, 1980, two women, Vicki Rash Norvell and Bobby Folks Rash, while walking together, were killed by the driver of a hit-and-run automobile. Petitioner Spradling later identified himself as the driver and two indictments were presented against him on October 1, 1980. The first charged Spradling with failing to stop and render aid to Vicki Rash Norvell, a felony under Texas law. The second indictment, in identical language, charged Spradling with failing to stop and render aid to Bobby Folks Rash. Spradling was

⁴Pet. for Cert. 25.

convicted by a jury under the first indictment. The jury assessed as punishment a 5-year prison sentence and a fine of \$5,000, and recommended that, in light of the fact that petitioner had never before been convicted of a felony, his prison sentence be suspended. Now the State seeks to prosecute Spradling under the second indictment.

Petitioner moved to dismiss this second indictment claiming former jeopardy. The trial court denied the motion and the Texas Court of Criminal Appeals denied leave to file an application for a writ of prohibition.

Petitioner presents two questions for review. First, he argues that the failure of the State of Texas to afford him review of the trial court's denial of his motion to dismiss for reason of former jeopardy violates the due process and equal protection guarantees of the Fourteenth Amendment. Second, petitioner argues the "merits" of his double jeopardy claim were improperly rejected by the trial court. In my view both questions are substantial and merit review by this Court.

I

Texas procedure provides no mechanism for interlocutory review in criminal cases;¹ petitioner was therefore unable to appeal the denial of his motion to dismiss on the ground of double jeopardy. It is clear that in most applications the Texas procedural rule barring interlocutory review raises no federal constitutional issue. But as applied to claims of former jeopardy, this procedural rule, in combination with a denial by the Texas Court of Criminal Appeals of leave to file an application for a writ of prohibition, denies criminal defendants the opportunity to protect, through the state appellate system, their constitutional rights. I believe this raises an issue worthy of our consideration.

We held in *Abney v. United States*, 431 U. S. 651 (1977), that a double jeopardy claim is by its very nature collateral

¹ See, e. g., *Williams v. State*, 464 S. W. 2d 842, 844 (Tex. Crim. App. 1971).

to, and separable from, the guilt of the accused, and that when a trial court rejects a motion to dismiss on the grounds of former jeopardy this order is final and appealable under 28 U. S. C. § 1291. The rationale for our decision in *Abney* was, in part, that "the rights conferred on a criminal accused by the Double Jeopardy Clause would be significantly undermined if appellate review of double jeopardy claims were postponed until after conviction and sentence." *Id.*, at 660. This is because the Clause stands, in part, as "a guarantee against being twice put to *trial* for the same offense." *Id.*, at 661 (footnote omitted).

Respondent argues that in *Abney* the Court merely exercised its supervisory powers over federal criminal prosecutions, and that there is no constitutional right to pretrial review of a claim that a second trial will violate the Double Jeopardy Clause. It is true that the Court had no need to reach the constitutional question presented in the instant case when it decided *Abney*, but the Court's recognition in *Abney* that double jeopardy claims not considered prior to trial are rendered, in significant part, moot surely has significant constitutional overtones. We have never held that the Federal Constitution requires that a State provide appellate review. But once such review is provided, it may not be denied arbitrarily without violating the Equal Protection Clause. See, e. g., *Douglas v. California*, 372 U. S. 353 (1963). See also *Monger v. Florida*, 405 U. S. 958, 959-960 (1972) (Douglas, J., dissenting). Fundamental precepts of due process require a right to be heard "at a meaningful time" before suffering a grievous loss. *Armstrong v. Manzo*, 380 U. S. 545, 552 (1965). Accord, *Mathews v. Eldridge*, 424 U. S. 319, 333 (1976). Thus, there is surely a good deal of force to petitioner's argument that, if the State provides for appeals to protect other constitutional rights, it runs afoul of the Federal Constitution when it fails to give the same meaningful consideration to a defendant asserting his right not to be subjected to a second trial for the same offense. See Alexander, Interlocutory Appellate Review of

Double Jeopardy Claims: A Method for Testing Evidentiary Sufficiency After a Non-Final Criminal Proceeding, 44 Tex. Bar J. 11, 15 (1981).²

II

Even if the Court declined to review the constitutionality of the Texas Court of Criminal Appeals' failure to provide review, it is clear to me that the trial court's order denying petitioner's motion to dismiss on the ground of former jeopardy is reviewable by this Court under 28 U. S. C. § 1257(3).³ Under this Court's precedents, the refusal to dismiss a criminal indictment prior to trial when the indictment is challenged on the grounds of former jeopardy is a final judgment under 28 U. S. C. § 1257. "Since the state courts have finally rejected a claim that the Constitution forbids a second *trial* of the petitioner, a claim separate and apart from the question whether the petitioner may constitutionally be *convicted* of the crimes with which he is charged, our jurisdiction is properly invoked under 28 U. S. § 1257." *Harris v. Washington*, 404 U. S. 55, 56 (1971). Cf. *Abney, supra*. Where, as here, the trial court's judgment is not reviewable by any state appellate court the judgment has been rendered by "the highest state court in which a decision may be had" within the meaning of § 1257. *Grovey v. Townsend*, 295 U. S. 45, 47

² Of course, the Texas Court of Criminal Appeals' rejection of petitioner's double jeopardy claim does not rest on an adequate state ground if, as petitioner contends, the Texas procedure is incompatible with the Federal Constitution.

³ The fact that petitioner seeks a writ of certiorari to the Texas Court of Criminal Appeals is, of course, no bar to our treating the papers as a petition for a writ of certiorari to the Texas trial court. See, e. g., *Callender v. Florida*, 383 U. S. 270 (1966) (*per curiam*). The petition was not filed within 60 days of the entry of the trial court's order but in view of the fact that petitioner understandably attempted to obtain review, prior to seeking review in this Court, in the state courts through the only route available—an extraordinary writ—I would waive the nonjurisdictional time limits for filing petitions in criminal cases set by Supreme Court Rule 20.

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(1935). See, e. g., *Thompson v. Louisville*, 362 U. S. 199, 202-203 (1960).⁴

In my view, the Double Jeopardy Clause of the Fifth Amendment, applied to the States through the Fourteenth Amendment, requires that, except in extremely limited circumstances, not present here, "all the charges against a defendant that grow out of a single criminal act, occurrence, episode, or transaction" be prosecuted in a single proceeding. *Ashe v. Swenson*, 397 U. S. 436, 453-454, and n. 7 (1970) (BRENNAN, J., concurring). See *Thompson v. Oklahoma*, 429 U. S. 1053 (1977) (BRENNAN, J., dissenting), and cases collected therein. Spradling's striking and failing to render aid to the two women was but a single act—the accident and its aftermath a single occurrence. I would therefore reverse the judgment of the Texas trial court.

Accordingly, I respectfully dissent from the denial of the petition for certiorari and would set the case for oral argument.⁵

No. 81-749. CALIFORNIA *v.* WINSON. Sup. Ct. Cal. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 29 Cal. 3d 711, 631 P. 2d 55.

⁴If we treat the papers as a petition for a writ to the trial court, there would be no need to even consider whether the state appellate court's refusal to consider the merits of petitioner's federal claim because of a rule of state procedure is a bar to review by this Court. Cf. *Henry v. Mississippi*, 379 U. S. 443 (1965). Cf. also n. 2, *supra*.

⁵The petition for certiorari was filed jointly on behalf of Spradling and a second petitioner, Dunn, who was tried on drug charges in an unrelated trial. Following his acquittal, Dunn was tried on a different charge arising from the "same transaction." Dunn also unsuccessfully sought leave to file an application for a writ of prohibition in the Texas Court of Criminal Appeals to obtain review of his double jeopardy claim prior to a second trial. But the record in this case indicates that Dunn was convicted on the second charge on November 16, 1981, after this petition was filed. Record 42. Thus, it appears that the Texas appellate courts would now review Dunn's double jeopardy claim and should do so in the first instance.

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No. 81-1195. *MICHIGAN v. HURD*. Ct. App. Mich. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied.

No. 81-795. *J. S. ALBERICI CONSTRUCTION CO., INC. v. SISCO*; and

No. 81-1005. *SISCO v. J. S. ALBERICI CONSTRUCTION CO., INC.* C. A. 8th Cir. Certiorari denied. JUSTICE O'CONNOR would grant certiorari. Reported below: 655 F. 2d 146.

No. 81-850. *ST. LOUIS COUNTY, MISSOURI, ET AL. v. SIMON*. C. A. 8th Cir. Certiorari denied. JUSTICE WHITE would grant certiorari. Reported below: 656 F. 2d 316.

No. 81-851. *COX v. MISSOURI*. Ct. App. Mo., Eastern Dist. Certiorari denied. JUSTICE BRENNAN and JUSTICE MARSHALL would grant the petition for certiorari and reverse the conviction. Reported below: 619 S. W. 2d 794.

No. 81-933. *GREEN v. OHIO*. Ct. App. Ohio, Butler County. Certiorari denied. JUSTICE BRENNAN would set the case for oral argument.

JUSTICE WHITE, with whom JUSTICE BLACKMUN and JUSTICE POWELL join, dissenting.

Because there is no jurisdictional bar to considering this case, and because the decision below fails to give due regard to our cases, I dissent from the denial of certiorari.

I

Petitioner, an attorney, was indicted in 1978 on two counts of grand theft. The first count charged him with obtaining or exerting control over a bank account by deception in that he led the executrix of an estate to believe that the account was a probate asset of the estate rather than a survivorship account. The second count of the indictment charged petitioner with obtaining or exerting control over the account be-

yond the scope of the owner's consent by writing \$9,000 in checks payable to himself on the account. The trial court sustained petitioner's pretrial motion to dismiss the first count of the indictment on the ground that it failed to state an offense under the Ohio statute. He was acquitted following a bench trial on the second count, the trial judge finding that the State had "failed to establish all of [the] elements" of the crime charged in the second count. App. to Pet. for Cert. 13a. The State appealed the pretrial dismissal of the first count and on January 30, 1980, the Court of Appeals for the First Appellate District of Ohio reversed the dismissal of the first count and remanded to the trial court for further proceedings. Petitioner then filed a motion to dismiss on the ground that a trial on the first count would violate the Double Jeopardy Clause of the Fifth Amendment, made applicable to the States by the Fourteenth Amendment. Citing *Ashe v. Swenson*, 397 U. S. 436 (1970), petitioner argued that the principle of collateral estoppel is part of the Fifth Amendment guarantee against double jeopardy and that his acquittal on the second count prevented the State from again attempting to prove one or more of the elements of the crime charged in the first count. The trial court denied the motion and petitioner appealed.

The Court of Appeals for the Twelfth Appellate District of Ohio affirmed the denial of the motion. Relying principally on *Blockburger v. United States*, 284 U. S. 299 (1932), the court said that the test for determining whether the trial on the second count bars a subsequent trial on the first count is whether each count requires proof of an additional fact which the other does not. The court observed that in order to obtain a conviction on the second count, the State was required to prove that petitioner knowingly obtained or exerted control over the property of another, with purpose to deprive the owner of that property, and that he acted beyond the scope of the owner's express or implied consent. To success-

fully prosecute on the first count, the State must prove that petitioner obtained or exerted control over property of another by deception with the purpose of depriving the owner of the property. The court held that the evidence necessary to sustain the conviction on the first count was not sufficient to sustain a conviction on the second count and therefore acquittal of the charges contained in the second count is not a bar to prosecution of the charges contained in the first count. The court went on to state that even if petitioner were correct that the two counts set forth allied offenses with a common animus, he could not avoid a trial on the first count because he filed a motion to dismiss the first count. Therefore, as in *Jeffers v. United States*, 432 U. S. 137, 154 (1977), where the defendant had been granted separate trials on separate counts of the indictment at his own request, petitioner's own actions "deprived him of any right he might have had against consecutive trials." The Supreme Court of Ohio denied petitioner's motion for leave to appeal, and he sought a writ of certiorari from this Court.

II

Petitioner has not yet been tried on the first count of the indictment, and therefore this case lacks the finality ordinarily necessary for our consideration of cases arising from state courts. See 28 U. S. C. § 1257. However, in *Abney v. United States*, 431 U. S. 651 (1977), in a case coming to us from a federal court, the Court held that double jeopardy claims are immediately appealable. "[T]he rights conferred on a criminal accused by the Double Jeopardy Clause would be significantly undermined if appellate review of double jeopardy claims were postponed until after conviction and sentence." *Id.*, at 660. It was emphasized that the Double Jeopardy Clause protects against more than being twice convicted and punished for the same crime: "It is a guarantee against being twice put to *trial* for the same offense." *Id.*, at 661 (footnote omitted). See also *United States v. Jorn*, 400

U. S. 470, 479 (1971); *Price v. Georgia*, 398 U. S. 323, 326 (1970); *Green v. United States*, 355 U. S. 184, 187-188 (1957); *United States v. Ball*, 163 U. S. 662, 669 (1896); *Ex Parte Lange*, 18 Wall. 163, 169 (1874). *Abney* was not, by its terms, limited to federal cases, and we have recognized a "core principle that statutorily created finality requirements should, if possible, be construed so as not to cause crucial collateral claims to be lost and potentially irreparable injuries to be suffered" *Mathews v. Eldridge*, 424 U. S. 319, 331, n. 11 (1976). If the finality requirement of § 1257, which serves to avoid piecemeal review of state-court decisions and to minimize federal intrusion into state affairs, *North Dakota Pharmacy Board v. Snyder's Drug Stores, Inc.*, 414 U. S. 156, 159 (1973), barred our review of this case, petitioner would, in my view, be "forced to endure a trial that the Double Jeopardy Clause was designed to prohibit." *Abney v. United States*, *supra*, at 662 (footnote omitted). The interests served by the finality requirement, though important, do not outweigh petitioner's interest in receiving the full protection afforded by the Double Jeopardy Clause and avoiding the irreparable injury of a second trial.

Nor did petitioner waive his Fifth Amendment right to double jeopardy protection by moving to dismiss the first count of the indictment. In *Green v. United States*, *supra*, it was held that a defendant does not forfeit a double jeopardy defense by appealing a conviction, and under the logic of that case, petitioner did not forfeit a constitutional protection by invoking his right to seek dismissal of a count of the indictment. See also *Burks v. United States*, 437 U. S. 1 (1978). *Jeffers v. United States*, *supra*, relied upon by the lower court, is inapplicable. There the defendant was charged under two separate indictments. The first indictment charged a crime which was a lesser-included offense to the crime charged in the second indictment. The defendant was granted separate trials and *convicted* on the lesser-included offense. We held that petitioner's opposition to consolidat-

ing the indictments for trial deprived him of his right against successive trials. *Id.*, at 152. There is no doubt that had the defendant in *Jeffers* been acquitted at the first trial, the collateral-estoppel provisions embodied in the Double Jeopardy Clause would have barred a second trial on the greater offense.

III

The Court of Appeals apparently thought that since *Blockburger* would not bar successive convictions on counts one and two, a trial on count one after acquittal on count two is permissible. It did not respond to, or make any mention of, petitioner's argument that collateral estoppel precludes a second trial. However, our cases plainly establish that a second trial may sometimes be allowed under *Blockburger* but barred by the application of collateral estoppel, which constitutes an independent safeguard protecting one "who has been acquitted from having to 'run the gauntlet' a second time." *Ashe v. Swenson*, 397 U. S., at 446. The doctrine of collateral estoppel "means simply that when an issue of ultimate fact has once been determined by a valid and final judgment, that issue cannot again be litigated between the same parties in any future lawsuit." *Id.*, at 443. *Ashe* held that the doctrine of collateral estoppel "is embodied in the Fifth Amendment guarantee against double jeopardy." *Id.*, at 445. Thus, as we observed in *Brown v. Ohio*, 432 U. S. 161, 166-167, n. 6 (1977):

"The *Blockburger* test is not the only standard for determining whether successive prosecutions impermissibly involve the same offense. Even if two offenses are sufficiently different to permit the imposition of consecutive sentences, successive prosecutions will be barred in some circumstances where the second prosecution requires the relitigation of factual issues already resolved by the first."

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The Court of Appeals thus erred in assuming that its *Blockburger* analysis sufficiently addressed the collateral-estoppel issues petitioner submitted. Two of the three elements in each of the counts were identical. If the acquittal on the second count was based on the failure of the State to prove either of the two identical elements, it is clear that collateral estoppel would bar a trial on the first count. Yet neither the trial court nor the appellate court indicated which elements of the crime charged in count two the State had failed to prove, and surely the trial court entering the acquittal would have been well aware of that fact. It may be that the State's proof fell short on each of the three elements required to prove the charge in count two. Petitioner also argues that if his acquittal on the second count was based on the failure of proof that petitioner acted beyond the scope of the owner's consent, then he cannot be found to have acted by deception as required for conviction on the first count.

In any event, the collateral-estoppel submission was not adequately disposed of by the *Blockburger* analysis, and I would grant certiorari, vacate the judgment, and remand the case for further consideration. The case does not warrant plenary consideration, however.

No. 81-1241. *GOLDSTEIN v. CITY OF NORFOLK*. Cir. Ct., City of Norfolk, Va. Certiorari denied. JUSTICE BRENNAN and JUSTICE MARSHALL would grant the petition for certiorari and reverse the conviction.

No. 81-964. *MARSHALL & ILSLEY CORP. ET AL. v. CONOVER, COMPTROLLER OF THE CURRENCY OF THE UNITED STATES, ET AL.* C. A. 7th Cir. Certiorari denied. JUSTICE BLACKMUN took no part in the consideration or decision of this petition. Reported below: 652 F. 2d 685.

No. 81-1135. *HESTER v. MARTINDALE-HUBBELL, INC., ET AL.* C. A. 4th Cir. Certiorari denied. JUSTICE BLACKMUN took no part in the consideration or decision of this petition. Reported below: 659 F. 2d 433.

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No. 81-1022. *PRESS-ENTERPRISE CO. ET AL. v. SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO*. Ct. App. Cal., 4th App. Dist. Certiorari denied. JUSTICE BRENNAN, JUSTICE MARSHALL, and JUSTICE O'CONNOR would grant certiorari.

No. 81-1033. *ST. JOE PAPER CO. v. SUPERIOR COURT OF CALIFORNIA, CITY AND COUNTY OF SAN FRANCISCO (ESPRIT DE CORP., REAL PARTY IN INTEREST)*. Ct. App. Cal., 1st App. Dist. Certiorari denied. JUSTICE POWELL would grant certiorari. Reported below: 120 Cal. App. 3d 991, 175 Cal. Rptr. 94.

No. 81-1052. *WILLIAMS v. SHIPPING CORPORATION OF INDIA*. C. A. 4th Cir. Motion of petitioner to defer consideration of the petition for certiorari denied. Certiorari denied. Reported below: 653 F. 2d 875.

No. 81-1213. *MOBIL CORP. ET AL. v. MARATHON OIL CO.* C. A. 6th Cir. Certiorari denied. JUSTICE O'CONNOR took no part in the consideration or decision of this petition. Reported below: 669 F. 2d 378.

No. 81-5834. *SOULE v. RAINES*. C. A. 9th Cir. Certiorari denied. JUSTICE O'CONNOR took no part in the consideration or decision of this petition. Reported below: 661 F. 2d 942.

No. 81-1229. *PAXTON NATIONAL INSURANCE CO. v. TRANSPORT INDEMNITY CO.* C. A. 5th Cir. Certiorari denied. JUSTICE WHITE would grant certiorari to resolve the conflict between the decision of the Court of Appeals in this case and the decisions of the Court of Appeals for the Tenth Circuit in *Argonaut Insurance Co. v. National Indemnity Co.*, 435 F. 2d 718 (1971), and *Hagans v. Glens Falls Insurance Co.*, 465 F. 2d 1249 (1972). Reported below: 657 F. 2d 657.

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No. 81-5786. *STROUTH v. TENNESSEE*. Sup. Ct. Tenn.;
No. 81-5840. *DAVIS v. ZANT, SUPERINTENDENT, GEORGIA DIAGNOSTIC AND CLASSIFICATION CENTER*. Super. Ct. Ga., Butts County;

No. 81-5844. *BOWEN v. ZANT, WARDEN*. Super. Ct. Ga., Butts County;

No. 81-5872. *JUSTUS v. VIRGINIA*. Sup. Ct. Va.;

No. 81-5919. *SCHAD v. ARIZONA*. Sup. Ct. Ariz.;

No. 81-5935. *GREEN v. ZANT, WARDEN, GEORGIA DIAGNOSTIC AND CLASSIFICATION CENTER*. Super. Ct. Ga., Butts County;

No. 81-5937. *COLEMAN v. MONTANA*. Sup. Ct. Mont.;
and

No. 81-5970. *TAFERO v. FLORIDA*. Sup. Ct. Fla. Certiorari denied. Reported below: No. 81-5786, 620 S. W. 2d 467; No. 81-5872, 222 Va. 667, 283 S. E. 2d 905; No. 81-5919, 129 Ariz. 557, 633 P. 2d 366; No. 81-5937, — Mont. —, 633 P. 2d 624; No. 81-5970, 403 So. 2d 355.

JUSTICE BRENNAN and 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. 80-1396. *BRANDON ET AL. v. BOARD OF EDUCATION OF GUILDERLAND SCHOOL DISTRICT ET AL.*, 454 U. S. 1123;

No. 81-222. *VALERO ENERGY CORP. v. SOHYDE DRILLING & WORKOVER, INC., ET AL.*, 454 U. S. 1081;

No. 81-256. *MOORE v. SCURR, WARDEN, ET AL.*, 454 U. S. 1098; and

No. 81-747. *PATTERSON ET AL. v. YOUNGSTOWN SHEET & TUBE CO. ET AL.*, 454 U. S. 1100. Petitions for rehearing denied.

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- No. 81-5060. JOHNSON *v.* LOUISIANA, 454 U. S. 1100;
 No. 81-5454. ANTHON *v.* UNITED STATES, 454 U. S. 1164;
 No. 81-5586. DAVIS *v.* COMMISSIONER OF PATENTS AND TRADEMARKS, 454 U. S. 1090;
 No. 81-5611. FOWLER *v.* GARRAHY, GOVERNOR OF RHODE ISLAND, ET AL., 454 U. S. 1102;
 No. 81-5666. HEGWOOD *v.* BLACKBURN, WARDEN, 454 U. S. 1153;
 No. 81-5712. HOLLOWAY *v.* ESTELLE, DIRECTOR, TEXAS DEPARTMENT OF CORRECTIONS, 454 U. S. 1154;
 No. 81-5818. SHABAZZ *v.* MAYNARD, WARDEN, ET AL., *ante*, p. 925; and
 No. 81-5819. PENOYER *v.* WAINWRIGHT, SECRETARY, FLORIDA DEPARTMENT OF OFFENDER REHABILITATION, *ante*, p. 925. Petitions for rehearing denied.
 No. 81-700. LOESCH ET AL. *v.* UNITED STATES, 454 U. S. 1099. Motion of petitioners to defer consideration of petition for rehearing denied. Petition for rehearing denied.

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Dismissal Under Rule 53

- No. 81-822. LEVISON *v.* LEVISON, 454 U. S. 1147. Petition for rehearing dismissed under this Court's Rule 53.

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Certiorari Dismissed. (See No. 78-1549, *ante*, at 392, n. 5.)

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Affirmed on Appeal

- No. 81-1161. HIGHTOWER ET AL. *v.* SEARCY ET AL. Affirmed on appeal from C. A. 11th Cir. Reported below: 656 F. 2d 1003.

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Appeals Dismissed

No. 81-960. *LOCKE ET AL. v. FLORIDA*. Appeal from Dist. Ct. App. Fla., 1st Dist., dismissed for want of substantial federal question. Reported below: 402 So. 2d 618.

No. 81-1035. *LAIRD, AKA HORNE, ET AL. v. SOUTH CAROLINA*. Appeal from Sup. Ct. S. C. dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied.

Vacated and Remanded on Appeal

No. 80-629. *MAREN ENGINEERING CORP. v. VELMOHOS*. Appeal from Sup. Ct. N. J. Judgment vacated and case remanded for further consideration in light of *G. D. Searle & Co. v. Cohn, ante*, p. 404. JUSTICE REHNQUIST, JUSTICE STEVENS, and JUSTICE O'CONNOR would dismiss the appeal for want of jurisdiction. Reported below: 83 N. J. 282, 416 A. 2d 372.

Certiorari Granted—Vacated and Remanded

No. 80-663. *KELSEY-HAYES, INC. v. HOPKINS*. C. A. 3d Cir. Certiorari granted, judgment vacated, and case remanded for further consideration in light of *G. D. Searle & Co. v. Cohn, ante*, p. 404. Reported below: 628 F. 2d 801.

Miscellaneous Orders

No. A-672. *ERNEST v. COHEN, UNITED STATES ATTORNEY FOR THE DISTRICT OF MAINE, ET AL.* Application for injunction, addressed to JUSTICE O'CONNOR and referred to the Court, denied.

No. 80-1121. *UNITED STATES v. CLARK ET AL.*, 454 U. S. 555. Motion of respondents not to tax costs denied.

No. 80-2100. *ROGERS ET AL. v. LODGE ET AL.* C. A. 5th Cir. [Probable jurisdiction noted, 454 U. S. 811.] Motion of appellants for leave to file a delayed reply brief granted.

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No. 80-1305. ALFRED L. SNAPP & SON, INC., ET AL. *v.* PUERTO RICO EX REL. QUIROS, SECRETARY OF LABOR AND HUMAN RESOURCES. C. A. 4th Cir. [Certiorari granted, 454 U. S. 1079.] Motion of Migrant Legal Action Program, Inc., et al. for leave to file a brief as *amici curiae* granted.

No. 80-2146. FLORIDA *v.* ROYER. Dist. Ct. App. Fla., 3d Dist. [Certiorari granted, 454 U. S. 1079.] Motion of the Solicitor General for leave to participate in oral argument as *amicus curiae*, for divided argument, and for additional time for oral argument granted, and five additional minutes allotted for that purpose. Respondent also allotted an additional five minutes for oral argument.

No. 81-184. UNITED STATES *v.* SECURITY INDUSTRIAL BANK ET AL. C. A. 10th Cir. [Probable jurisdiction noted, 454 U. S. 1122.] Motion of the Solicitor General to dispense with printing the joint appendix granted.

No. 81-334. ASSOCIATED GENERAL CONTRACTORS OF CALIFORNIA, INC. *v.* CALIFORNIA STATE COUNCIL OF CARPENTERS ET AL. C. A. 9th Cir. [Certiorari granted, 454 U. S. 1141.] Motion of the parties to dispense with printing the joint appendix granted.

No. 81-411. JACKSON TRANSIT AUTHORITY ET AL. *v.* LOCAL DIVISION 1285, AMALGAMATED TRANSIT UNION, AFL-CIO-CLC. C. A. 6th Cir. [Certiorari granted, 454 U. S. 1079.] Motion of Railway Labor Executives' Association for leave to file a brief as *amicus curiae* granted.

No. 81-430. ILLINOIS *v.* GATES ET UX. Sup. Ct. Ill. [Certiorari granted, 454 U. S. 1140.] Motion of petitioner for leave to amend or enlarge question presented for review denied.

No. 81-485. HILLSBORO NATIONAL BANK *v.* COMMISSIONER OF INTERNAL REVENUE. C. A. 7th Cir. [Certiorari granted, *ante*, p. 906.] Motion of the Solicitor General to dispense with printing the joint appendix granted.

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No. 81-525. *BOWEN v. UNITED STATES POSTAL SERVICE ET AL.* C. A. 4th Cir. [Certiorari granted, 454 U. S. 1097.] Motion of the Solicitor General for divided argument granted. Request for additional time for oral argument denied.

No. 81-876. *ST. LUKE'S FEDERATION OF NURSES & HEALTH PROFESSIONALS v. PRESBYTERIAN/ST. LUKE'S MEDICAL CENTER; BETH ISRAEL FEDERATION OF NURSES & HEALTH PROFESSIONALS v. BETH ISRAEL HOSPITAL AND GERIATRIC CENTER; and ST. ANTHONY FEDERATION OF NURSES & HEALTH PROFESSIONALS v. ST. ANTHONY HOSPITAL SYSTEMS.* C. A. 10th Cir. Motion of petitioners to defer consideration of the petition for writ of certiorari granted.

No. 81-912. *CLICK ET AL. v. IDAHO EX REL. EVANS, GOVERNOR OF IDAHO, ET AL.* Sup. Ct. Idaho;

No. 81-1020. *EXXON CORP. ET AL. v. EAGERTON, COMMISSIONER OF REVENUE OF ALABAMA, ET AL.* Sup. Ct. Ala.; and

No. 81-1268. *EXCHANGE OIL & GAS CORP. ET AL. v. EAGERTON, COMMISSIONER OF REVENUE OF ALABAMA.* Sup. Ct. Ala. The Solicitor General is invited to file briefs in these cases expressing the views of the United States.

No. 81-930. *UNITED STATES v. BLISS DAIRY, INC.* C. A. 9th Cir. [Certiorari granted, *ante*, p. 906.] Motion of the Solicitor General to dispense with printing the joint appendix granted.

No. 81-6020. *IN RE MA.* Petition for writ of mandamus denied.

Probable Jurisdiction Noted

No. 81-773. *NORTH DAKOTA v. UNITED STATES.* Appeal from C. A. 8th Cir. Probable jurisdiction noted. Reported below: 650 F. 2d 911.

No. 81-802. *CITY OF LOCKHART v. UNITED STATES ET AL.* Appeal from D. C. D. C. Probable jurisdiction noted. Reported below: 559 F. Supp. 581.

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Certiorari Granted

No. 81-1008. BURLINGTON NORTHERN INC. ET AL. *v.* UNITED STATES ET AL. C. A. D. C. Cir. Certiorari granted. Reported below: 211 U. S. App. D. C. 111, 655 F. 2d 1341.

No. 81-1222. UNITED STATES *v.* GENERIX DRUG CORP. ET AL. C. A. 11th Cir. Certiorari granted. Reported below: 654 F. 2d 1114.

No. 81-1244. HENSLEY ET AL. *v.* ECKERHART ET AL. C. A. 8th Cir. Certiorari granted. Reported below: 664 F. 2d 294.

No. 81-1271. FALLS CITY INDUSTRIES, INC. *v.* VANCO BEVERAGE, INC. C. A. 7th Cir. Certiorari granted limited to Questions 1 and 2 presented by the petition. Reported below: 654 F. 2d 1224.

Certiorari Denied. (See also No. 81-1035, *supra.*)

No. 80-1527. LUMMIS, TEMPORARY ADMINISTRATOR, ET AL. *v.* LOS ANGELES AIRWAYS, INC. Ct. Civ. App. Tex., 14th Sup. Jud. Dist. Certiorari denied. Reported below: 603 S. W. 2d 246.

No. 81-152. WEIT ET AL. *v.* CONTINENTAL ILLINOIS NATIONAL BANK & TRUST COMPANY OF CHICAGO ET AL. C. A. 7th Cir. Certiorari denied. Reported below: 641 F. 2d 457.

No. 81-373. BRIDGEPORT FIREFIGHTERS FOR MERIT EMPLOYMENT, INC., ET AL. *v.* ASSOCIATION AGAINST DISCRIMINATION IN EMPLOYMENT, INC., ET AL.; and

No. 81-374. CITY OF BRIDGEPORT ET AL. *v.* ASSOCIATION AGAINST DISCRIMINATION IN EMPLOYMENT, INC., ET AL. C. A. 2d Cir. Certiorari denied. Reported below: 647 F. 2d 256.

No. 81-789. RUSHEN, DIRECTOR, CALIFORNIA DEPARTMENT OF CORRECTIONS, ET AL. *v.* TAYLOR ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 659 F. 2d 1090.

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No. 81-836. *LEICHT v. FLORIDA*. Sup. Ct. Fla. Certiorari denied. Reported below: 402 So. 2d 1153.

No. 81-926. *CONNECTICUT v. GORDON*. Sup. Ct. Conn. Certiorari denied. Reported below: 185 Conn. 402, 441 A. 2d 119.

No. 81-942. *MONTANA WILDERNESS ASSN. ET AL. v. UNITED STATES FOREST SERVICE ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 655 F. 2d 951.

No. 81-987. *WRIGHT LINE, A DIVISION OF WRIGHT LINE, INC. v. NATIONAL LABOR RELATIONS BOARD*. C. A. 1st Cir. Certiorari denied. Reported below: 662 F. 2d 899.

No. 81-1046. *GOMEZ v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 645 F. 2d 68.

No. 81-1060. *SIEGEL v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 656 F. 2d 279.

No. 81-1081. *BRUSCHI ET AL. v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 661 F. 2d 915.

No. 81-1123. *CATALINA v. CITY OF COLUMBUS, OHIO, ET AL.*; and *OHIO EX REL. CATALINA v. MOODY, MAYOR OF COLUMBUS, ET AL.* Sup. Ct. Ohio. Certiorari denied.

No. 81-1126. *TRUCK DRIVERS & HELPERS LOCAL UNION NO. 728 ET AL. v. ALLEN ET AL.* C. A. 11th Cir. Certiorari denied. Reported below: 653 F. 2d 1016.

No. 81-1127. *F. W. WOOLWORTH CO. v. NATIONAL LABOR RELATIONS BOARD*. C. A. 8th Cir. Certiorari denied. Reported below: 655 F. 2d 151.

No. 81-1228. *WATKINS ET AL. v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 662 F. 2d 1090.

No. 81-1247. *SPIELER v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 646 F. 2d 955.

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No. 81-1248. DENNINGHAM *v.* DENNINGHAM. Ct. Sp. App. Md. Certiorari denied. Reported below: 49 Md. App. 328, 431 A. 2d 755.

No. 81-1252. BOGGS *v.* McDONALD ET AL. C. A. 4th Cir. Certiorari denied. Reported below: 673 F. 2d 1306.

No. 81-1258. SHAHEEN ET AL. *v.* CLARKSON COMPANY LTD., TRUSTEE IN BANKRUPTCY, ET AL. C. A. 2d Cir. Certiorari denied. Reported below: 660 F. 2d 506.

No. 81-1266. IVIE ET AL. *v.* BROWN. C. A. 11th Cir. Certiorari denied. Reported below: 661 F. 2d 62.

No. 81-1276. McLISTER *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 661 F. 2d 943.

No. 81-1277. McGUINN *v.* CRIST, WARDEN, MONTANA STATE PENITENTIARY. C. A. 9th Cir. Certiorari denied. Reported below: 657 F. 2d 1107.

No. 81-1279. BROWN ET AL., DBA THUNDERGUARDS MOTORCYCLE CLUB *v.* COUNTY COMMISSIONERS OF KENT COUNTY, MARYLAND. Ct. Sp. App. Md. Certiorari denied. Reported below: 49 Md. App. 729.

No. 81-1280. DUMAS *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 658 F. 2d 411.

No. 81-1286. CALIFORNIA ET AL. *v.* STANDARD OIL COMPANY OF CALIFORNIA ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 658 F. 2d 1355.

No. 81-1342. COWETTA NEWS, INC., DBA PLAYMATE VISUAL CENTER *v.* CITY OF MEMPHIS. Ct. App. Tenn. Certiorari denied.

No. 81-1364. EATON *v.* DRAKE UNIVERSITY ET AL. C. A. 8th Cir. Certiorari denied. Reported below: 676 F. 2d 703.

No. 81-1398. SKRUZNY *v.* MYERS ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 659 F. 2d 1090.

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No. 81-1401. *SCHMIDT v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 672 F. 2d 914.

No. 81-1403. *TAGE v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 663 F. 2d 105.

No. 81-1412. *CONNOR v. PHILLIPS, ADMINISTRATOR, ET AL.* Sup. Ct. N. J. Certiorari denied.

No. 81-1424. *CARNEY v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 665 F. 2d 348.

No. 81-1429. *LONGO v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 667 F. 2d 1028.

No. 81-1440. *RHODES ET AL. v. STEWART ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 656 F. 2d 1216.

No. 81-1443. *DRESSEL v. UNITED STATES*. C. A. 10th Cir. Certiorari denied.

No. 81-1451. *MAYNARD v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 656 F. 2d 1181.

No. 81-5635. *COATS v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 663 F. 2d 1076.

No. 81-5802. *TSUI v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 646 F. 2d 365.

No. 81-5828. *SHEIKH v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 654 F. 2d 1057.

No. 81-5852. *SANFORD v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 658 F. 2d 342.

No. 81-6002. *FIORINI v. ABSHIRE, SUPERINTENDENT, RIVERSIDE CORRECTIONAL FACILITY*. C. A. 6th Cir. Certiorari denied. Reported below: 667 F. 2d 1026.

No. 81-6006. *AHMED ET UX. v. KUNKLE ET UX*. Ct. App. Ariz. Certiorari denied.

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No. 81-6013. *HICKS v. ROSE, WARDEN, TENNESSEE STATE PENITENTIARY, ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 667 F. 2d 1026.

No. 81-6017. *CURTIS v. ILLINOIS.* App. Ct. Ill., 4th Dist. Certiorari denied. Reported below: 97 Ill. App. 3d 1201, 426 N. E. 2d 1288.

No. 81-6018. *WILLIAMS v. NEW YORK.* App. Div., Sup. Ct. N. Y., 4th Jud. Dept. Certiorari denied. Reported below: 81 App. Div. 2d 486, 442 N. Y. S. 2d 300.

No. 81-6031. *SMITH v. RABALAIS ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 659 F. 2d 539.

No. 81-6037. *WILLIAMS v. WYRICK, WARDEN, MISSOURI PENITENTIARY.* C. A. 8th Cir. Certiorari denied. Reported below: 664 F. 2d 193.

No. 81-6040. *TOWNSEND v. INDIANA.* Ct. App. Ind. Certiorari denied. Reported below: — Ind. App. —, 418 N. E. 2d 554.

No. 81-6041. *ADAMSON v. HILL, SHERIFF OF MARICOPA COUNTY, ARIZONA, ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 667 F. 2d 1030.

No. 81-6080. *HENRY v. UNITED STATES.* C. A. 11th Cir. Certiorari denied. Reported below: 661 F. 2d 894.

No. 81-6096. *SUTTERER v. UNITED STATES.* C. A. 11th Cir. Certiorari denied. Reported below: 659 F. 2d 1077.

No. 81-6099. *WILLIAMS v. CARMEN, ADMINISTRATOR, GENERAL SERVICES ADMINISTRATION, ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 665 F. 2d 1056.

No. 81-6117. *WATKINS v. GARRISON ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 665 F. 2d 1042.

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No. 81-6125. IN RE NEARIS. C. A. 1st Cir. Certiorari denied.

No. 81-6141. RODRIGUES *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 667 F. 2d 1032.

No. 81-6149. GARZA ET AL. *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied. Reported below: 664 F. 2d 135.

No. 81-6154. IN RE RANDOLPH T. Ct. App. Md. Certiorari denied. Reported below: 292 Md. 97, 437 A. 2d 230.

No. 81-6155. ANTONELLI *v.* LIPPMAN, WARDEN. C. A. 7th Cir. Certiorari denied.

No. 81-868. DEVITO, DIRECTOR OF THE ILLINOIS DEPARTMENT OF MENTAL HEALTH *v.* HARRINGTON ET AL. C. A. 7th Cir. Motion of respondents for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 656 F. 2d 264.

No. 81-1133. MISSOURI BOARD OF PROBATION AND PAROLE ET AL. *v.* WILLIAMS ET AL. C. A. 8th Cir. Motion of respondents for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 661 F. 2d 697.

No. 81-1470. MEYER, WARDEN *v.* WILSON. C. A. 7th Cir. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 665 F. 2d 118.

No. 81-900. NUCLEAR ENGINEERING CO., INC. *v.* FAHNER, ATTORNEY GENERAL OF ILLINOIS. C. A. 7th Cir. Certiorari denied. JUSTICE WHITE would grant certiorari. Reported below: 660 F. 2d 241.

No. 81-1263. DEVON CORP. ET AL. *v.* MILLER, DIRECTOR, WEST VIRGINIA DEPARTMENT OF MINES, ET AL. Sup. Ct. App. W. Va. Certiorari denied. JUSTICE WHITE would grant certiorari. Reported below: — W. Va. —, 280 S. E. 2d 108.

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No. 81-1154. COX ENTERPRISES, INC., DBA LUFKIN NEWS, ET AL. *v.* VASCOCU, JUDGE, DISTRICT COURT OF ANGELINA COUNTY, TEXAS, ET AL. Sup. Ct. Tex. Certiorari denied. JUSTICE BRENNAN would grant certiorari.

No. 81-1270. LOCKHEED CORP. *v.* SCHNEIDER ET AL. C. A. D. C. Cir. Certiorari denied. JUSTICE O'CONNOR took no part in the consideration or decision of this petition. Reported below: 212 U. S. App. D. C. 87, 658 F. 2d 835.

No. 81-1307. CHELSEA HOUSE PUBLISHERS, A DIVISION OF CHELSEA HOUSE EDUCATIONAL COMMUNICATIONS, INC., ET AL. *v.* NICHOLSTONE BOOK BINDERY, INC. Sup. Ct. Tenn. Certiorari denied. Reported below: 621 S. W. 2d 560.

JUSTICE WHITE, with whom THE CHIEF JUSTICE and JUSTICE POWELL join, dissenting.

As I stated in dissenting from the denial of a writ of certiorari in *Lakeside Bridge & Steel Co. v. Mountain State Construction Co.*, 445 U. S. 907 (1980), "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." *Id.*, at 909. I cited 22 cases in which lower courts had split 14-8 on the question and stressed the "considerable importance [of the issue] to contractual dealings between purchasers and sellers located in different States." *Id.*, at 909-910. This case presents the same issue as *Lakeside*, and the disarray among federal and state courts noted in *Lakeside* has continued. Compare *Taubler v. Giraud*, 655 F. 2d 991 (CA9 1981), with *Nu-Way Systems of Indianapolis, Inc. v. Belmont Marketing, Inc.*, 635 F. 2d 617 (CA7 1980). For the reasons stated in *Lakeside*, I would grant the petition and set the case for oral argument.

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Rehearing Denied

No. 81-743. COWGILL ET AL. *v.* FLORIDA, 454 U. S. 1134;
No. 81-833. ROSS *v.* BIRD, CHIEF JUSTICE, CALIFORNIA
SUPREME COURT, ET AL.; and ROSS *v.* SAN DIEGO COUNTY
SUPERIOR COURT ET AL., 454 U. S. 1147;

No. 81-5612. IN RE BEACH, *ante*, p. 906;

No. 81-5641. FISCHETTI *v.* ASCIONE, 454 U. S. 1135;

No. 81-5648. WARD *v.* UNITED STATES, *ante*, p. 922;

No. 81-5675. CARABALLO *v.* SECRETARY OF HEALTH
AND HUMAN SERVICES, 454 U. S. 1153;

No. 81-5676. BAILEY *v.* REDMAN, WARDEN, DELAWARE
CORRECTIONAL CENTER, ET AL., 454 U. S. 1153;

No. 81-5739. GALLO *v.* MASSACHUSETTS, 454 U. S. 1155;
and

No. 81-5860. CRENSHAW *v.* UNITED STATES ET AL.,
ante, p. 912. Petitions for rehearing denied.

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Dismissal Under Rule 53

No. 81-1309. REINSTEIN *v.* SUPERIOR COURT DEPART-
MENT OF THE TRIAL COURT OF MASSACHUSETTS. C. A. 1st
Cir. Certiorari dismissed under this Court's Rule 53. Re-
ported below: 661 F. 2d 255.

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Affirmed on Appeal

No. 81-865. METROCENTRE IMPROVEMENT DISTRICT
NO. 1, CITY OF LITTLE ROCK, ARKANSAS *v.* FEDERAL RE-
SERVE BANK OF ST. LOUIS. Affirmed on appeal from C. A.
8th Cir. JUSTICE BLACKMUN, JUSTICE REHNQUIST, and
JUSTICE O'CONNOR would note probable jurisdiction and set
case for oral argument. Reported below: 657 F. 2d 183.

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Appeals Dismissed

No. 81-1315. WESTPHALEN *v.* CITY OF CHICAGO ET AL. Appeal from App. Ct. Ill., 1st 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: 93 Ill. App. 3d 1110, 418 N. E. 2d 63.

No. 81-6055. HERNANDEZ *v.* DEPARTMENT OF LABOR AND HUMAN RESOURCES ET AL. Appeal from Sup. Ct. P. R. dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied.

No. 81-1324. ESPOSITO *v.* ABRAMS, ATTORNEY GENERAL OF NEW YORK. Appeal from Ct. App. N. Y. dismissed for want of jurisdiction. Reported below: 54 N. Y. 2d 886, 429 N. E. 2d 425.

Vacated and Remanded on Appeal

No. 80-2003. HONDA MOTOR CO., LTD. *v.* COONS. Appeal from Super. Ct. N. J., App. Div. Judgment vacated and case remanded for further consideration in light of *G. D. Searle & Co. v. Cohn*, ante, p. 404. JUSTICE REHNQUIST, JUSTICE STEVENS, and JUSTICE O'CONNOR would dismiss the appeal for want of jurisdiction. Reported below: 176 N. J. Super. 575, 424 A. 2d 446.

Certiorari Granted—Vacated and Remanded

No. 81-1038. DUCKWORTH, WARDEN, ET AL. *v.* COWELL. C. A. 7th Cir. Certiorari granted, judgment vacated, and case remanded to the Court of Appeals with directions that it instruct the United States District Court for the Northern District of Indiana to dismiss the petition for writ of habeas corpus. *Rose v. Lundy*, ante, p. 509. JUSTICE BLACKMUN and JUSTICE STEVENS would deny the petition for writ of certiorari. Reported below: 665 F. 2d 1050.

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No. 81-1098. CENTRAL INTELLIGENCE AGENCY ET AL. *v.* HOLY SPIRIT ASSOCIATION FOR THE UNIFICATION OF WORLD CHRISTIANITY. C. A. D. C. Cir. Certiorari granted. Upon the representation of counsel for respondent set forth in her letter of February 18, 1982, and the response of the Solicitor General filed February 24, 1982, the judgment is vacated insofar as it affirms the decision of the United States District Court for the District of Columbia requiring the disclosure of the six documents in question and the case is remanded to the United States Court of Appeals for the District of Columbia Circuit with directions that it instruct the United States District Court to dismiss this aspect of the case as moot. Reported below: 205 U. S. App. D. C. 91, 636 F. 2d 838.

No. 81-5047. RODRIQUEZ *v.* HARRIS, CORRECTIONAL SUPERINTENDENT. C. A. 2d Cir. Motion of petitioner for leave to proceed *in forma pauperis* and certiorari granted. Judgment vacated and case remanded to the Court of Appeals with directions that it instruct the United States District Court for the Southern District of New York to dismiss the petition for writ of habeas corpus. *Rose v. Lundy, ante*, p. 509. JUSTICE STEVENS would grant the petition for writ of certiorari and set case for oral argument. Reported below: 659 F. 2d 1062.

Miscellaneous Orders

No. — — —. GITRE *v.* BACHE, HALSEY, STUART, SHIELDS, INC. Motion to direct the Clerk to file the petition for writ of certiorari denied.

No. 89, Orig. CALIFORNIA EX REL. STATE LANDS COMMISSION *v.* UNITED STATES. Motion of the Solicitor General for leave to file a supplemental brief granted. [For earlier order herein, see, *e. g.*, 454 U. S. 1096.]

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No. A-710 (81-1589). HUNT *v.* COLLINS. Super. Ct. Ga., Fulton County. Application for stay, addressed to JUSTICE BRENNAN and referred to the Court, denied.

No. A-724. LORDEON *v.* PETERS, COMMISSIONER, DIVISION OF MOTOR VEHICLES, DEPARTMENT OF TRANSPORTATION OF NORTH CAROLINA. Sup. Ct. N. C. Application for stay, addressed to JUSTICE MARSHALL and referred to the Court, denied.

No. A-746 (81-1114). ILLINOIS *v.* ABBOTT & ASSOCIATES, INC., ET AL. C. A. 7th Cir. Application of "undisclosed respondents" for an order to keep identities of certain respondents held *in camera*, presented to JUSTICE STEVENS, and by him referred to the Court, granted.

No. 81-731. ARKANSAS ELECTRIC COOPERATIVE CORP. *v.* ARKANSAS PUBLIC SERVICE COMMISSION. Sup. Ct. Ark. The Solicitor General is invited to file a brief in this case expressing the views of the United States.

No. 81-1055. POYTHRESS, SECRETARY OF STATE OF GEORGIA, ET AL. *v.* DUNCAN ET AL. C. A. 11th Cir. [Certiorari granted, *ante*, p. 937.] Motion of respondents to advance case for oral argument and for abridgement of time to file briefs denied.

No. 81-1565. VSL CORP. *v.* UNITED STATES. C. A. 10th Cir. Motion of petitioner for an order placing the petition for writ of certiorari, brief in opposition, and record under seal denied.

No. 81-6068. IN RE SMILEY. Petition for writ of mandamus denied.

No. 81-6046. IN RE BOWINE. Petition for writ of mandamus and/or prohibition denied.

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Probable Jurisdiction Noted

No. 81-1320. KOLENDER, CHIEF OF POLICE OF SAN DIEGO, ET AL. *v.* LAWSON. Appeal from C. A. 9th Cir. Probable jurisdiction noted. Reported below: 658 F. 2d 1362.

Certiorari Granted

No. 81-1251. CONNICK, DISTRICT ATTORNEY IN AND FOR THE PARISH OF ORLEANS, LOUISIANA *v.* MYERS. C. A. 5th Cir. Certiorari granted. Reported below: 654 F. 2d 719.

No. 81-638. HEWITT ET AL. *v.* HELMS. C. A. 3d Cir. Motion of respondent for leave to proceed *in forma pauperis* and certiorari granted. Reported below: 655 F. 2d 487.

No. 81-827. JEFFERSON COUNTY PHARMACEUTICAL ASSN., INC. *v.* ABBOTT LABORATORIES ET AL. C. A. 5th Cir. Certiorari granted. JUSTICE O'CONNOR took no part in the consideration or decision of this petition. Reported below: 656 F. 2d 92.

Certiorari Denied. (See also Nos. 81-1315 and 81-6055, *supra.*)

No. 80-704. GIBBONS, TRUSTEE, ET AL. *v.* RAILWAY LABOR EXECUTIVES' ASSN. ET AL. C. A. 7th Cir. Certiorari before judgment denied.

No. 80-2036. JOSEPH *v.* CANNON ET AL. C. A. D. C. Cir. Certiorari denied. Reported below: 206 U. S. App. D. C. 405, 642 F. 2d 1373.

No. 80-6902. STEDMAN *v.* MAYNARD, WARDEN. C. A. 10th Cir. Certiorari denied.

No. 81-752. CAREY, GOVERNOR OF NEW YORK, ET AL. *v.* BALDRIGE, SECRETARY OF COMMERCE, ET AL. C. A. 2d Cir. Certiorari denied. Reported below: 653 F. 2d 732.

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No. 81-986. *MCLEMORE'S WHOLESALE & RETAIL STORES, INC. v. PAYNE*. C. A. 5th Cir. Certiorari denied. Reported below: 654 F. 2d 1130.

No. 81-996. *MANNEY, BY HIS MOTHER, MANNEY v. FARE, LOS ANGELES COUNTY CHIEF PROBATION OFFICER, ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 654 F. 2d 1280.

No. 81-1071. *VANNIER v. UNITED STATES*; and

No. 81-1108. *HERMANN v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 664 F. 2d 423.

No. 81-1084. *ILLINOIS ET AL. v. UNITED STATES ET AL.* C. A. 7th Cir. Certiorari denied. Reported below: 668 F. 2d 923.

No. 81-1087. *ALASKA v. HEFFLE ET AL.* Sup. Ct. Alaska. Certiorari denied. Reported below: 633 P. 2d 264.

No. 81-1091. *PAUK v. BOARD OF TRUSTEES OF THE CITY UNIVERSITY OF NEW YORK ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 654 F. 2d 856.

No. 81-1101. *DEPARTMENT OF TRANSPORTATION OF CALIFORNIA ET AL. v. SAN DIEGO UNIFIED PORT DISTRICT ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 651 F. 2d 1306.

No. 81-1143. *YETTKE v. ILLINOIS*. App. Ct. Ill., 4th Dist. Certiorari denied. Reported below: 95 Ill. App. 3d 365, 420 N. E. 2d 194.

No. 81-1157. *DOE ET AL. v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 662 F. 2d 1073.

No. 81-1250. *RAILWAY LABOR EXECUTIVES' ASSN. v. OGILVIE, TRUSTEE, ET AL.* C. A. 7th Cir. Certiorari denied. Reported below: 658 F. 2d 1149.

No. 81-1294. *ST. LOUIS-SAN FRANCISCO RAILWAY CO. v. VANSKIKE ET AL.* C. A. 8th Cir. Certiorari denied. Reported below: 665 F. 2d 188.

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No. 81-1297. LOCAL LODGES 743 ET AL., INTERNATIONAL ASSOCIATION OF MACHINISTS & AEROSPACE WORKERS, AFL-CIO *v.* NATIONAL LABOR RELATIONS BOARD ET AL. C. A. 2d Cir. Certiorari denied. Reported below: 661 F. 2d 909.

No. 81-1299. ILLINOIS ET AL. *v.* INTERSTATE COMMERCE COMMISSION ET AL. C. A. 7th Cir. Certiorari denied.

No. 81-1301. UNITED STATES *v.* DISALVATORE, ADMINISTRATOR, ET AL. C. A. 3d Cir. Certiorari denied. Reported below: 672 F. 2d 902.

No. 81-1311. SACKS *v.* INDIANA. C. A. 7th Cir. Certiorari denied. Reported below: 672 F. 2d 920.

No. 81-1321. ROYAL NETHERLANDS STEAMSHIP CO. *v.* SINGER. C. A. 5th Cir. Certiorari denied. Reported below: 660 F. 2d 495.

No. 81-1325. GRAHAM ET AL. *v.* KENTUCKY. Cir. Ct. Ky., Hardin County. Certiorari denied.

No. 81-1327. NATIONAL HEALTH AGENCIES *v.* UNITED WAY OF SAN DIEGO COUNTY, INC., ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 661 F. 2d 941.

No. 81-1329. BOLLOTIN *v.* SCHWARTZ ET AL. C. A. 2d Cir. Certiorari denied. Reported below: 671 F. 2d 491.

No. 81-1355. MALONE *v.* RICHARDSON ET AL. App. Ct. Ill., 2d Dist. Certiorari denied. Reported below: 93 Ill. App. 3d 1205, 420 N. E. 2d 1211.

No. 81-1362. MONTREAL TRADING LTD. *v.* AMAX, INC., ET AL. C. A. 10th Cir. Certiorari denied. Reported below: 661 F. 2d 864.

No. 81-1363. HOLT MARINE TERMINAL, INC. *v.* TRANSPORT INTERNATIONAL POOL, INC., ET AL. Super. Ct. N. J., App. Div. Certiorari denied.

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No. 81-1400. *PRESTON ET AL. v. UNITED STATES*. C. A. 10th Cir. Certiorari denied. Reported below: 634 F. 2d 1285.

No. 81-1416. *THOMAS v. SOARES, JUDGE, ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 665 F. 2d 1054.

No. 81-1417. *THOMAS v. PURNELL ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 665 F. 2d 1054.

No. 81-1430. *KIMBERLIN v. UNITED STATES*. C. A. 7th Cir. Certiorari denied.

No. 81-1435. *COLACURCIO v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 659 F. 2d 684.

No. 81-1445. *PETERS v. DIAMOND, COMMISSIONER OF PATENTS*. C. A. D. C. Cir. Certiorari denied. Reported below: 217 U. S. App. D. C. 362, 672 F. 2d 896.

No. 81-1457. *CITIZENS AGAINST UFO SECRECY v. NATIONAL SECURITY AGENCY*. C. A. D. C. Cir. Certiorari denied. Reported below: 217 U. S. App. D. C. 359, 672 F. 2d 893.

No. 81-1459. *POSTON v. BOLGER, POSTMASTER GENERAL*. C. A. 4th Cir. Certiorari denied. Reported below: 672 F. 2d 912.

No. 81-1465. *PRING ET AL. v. UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF CALIFORNIA (UNITED STATES, REAL PARTY IN INTEREST)*. C. A. 9th Cir. Certiorari denied.

No. 81-1466. *DOYLE v. UNITED STATES DEPARTMENT OF JUSTICE ET AL.* C. A. D. C. Cir. Certiorari denied. Reported below: 215 U. S. App. D. C. 333, 668 F. 2d 1365.

No. 81-5677. *BIBBY v. UNITED STATES*; and

No. 81-5790. *REED v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 658 F. 2d 624.

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No. 81-5777. *MEFFORD v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 658 F. 2d 588.

No. 81-5858. *GRANVIEL v. ESTELLE, DIRECTOR, TEXAS DEPARTMENT OF CORRECTIONS*. C. A. 5th Cir. Certiorari denied. Reported below: 655 F. 2d 673.

No. 81-5867. *BACON v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 667 F. 2d 1028.

No. 81-5882. *JACKSON v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 659 F. 2d 73.

No. 81-6025. *LEVY v. HIGH'S DAIRY STORES ET AL.* Sup. Ct. Va. Certiorari denied.

No. 81-6032. *FORD v. CALIFORNIA*. Sup. Ct. Cal. Certiorari denied. Reported below: 30 Cal. 3d 209, 635 P. 2d 1176.

No. 81-6039. *MARTIN v. ESTELLE, DIRECTOR, TEXAS DEPARTMENT OF CORRECTIONS*. C. A. 5th Cir. Certiorari denied.

No. 81-6042. *MINCEY v. ARIZONA*. Sup. Ct. Ariz. Certiorari denied. Reported below: 130 Ariz. 389, 636 P. 2d 637.

No. 81-6043. *POE v. TENNESSEE*. Ct. Crim. App. Tenn. Certiorari denied.

No. 81-6047. *NOTARO v. NEW JERSEY*. Sup. Ct. N. J. Certiorari denied.

No. 81-6048. *MORRIS v. VIRGINIA*. Sup. Ct. Va. Certiorari denied.

No. 81-6053. *HATCH v. IDAHO*. Sup. Ct. Idaho. Certiorari denied.

No. 81-6057. *CODY v. UNION ELECTRIC Co.* C. A. 8th Cir. Certiorari denied. Reported below: 664 F. 2d 292.

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No. 81-6058. *MORRIS v. FAULKNER, SHERIFF OF TULSA COUNTY, OKLAHOMA, ET AL.* C. A. 10th Cir. Certiorari denied.

No. 81-6060. *BETTS v. KEEBLER Co.* C. A. 6th Cir. Certiorari denied. Reported below: 665 F. 2d 1043.

No. 81-6063. *COLLINS v. HOUSEWRIGHT.* C. A. 8th Cir. Certiorari denied. Reported below: 664 F. 2d 181.

No. 81-6065. *JAMES v. SOUTH CAROLINA.* Sup. Ct. S. C. Certiorari denied.

No. 81-6066. *NYMAN v. ESTELLE, DIRECTOR, TEXAS DEPARTMENT OF CORRECTIONS.* C. A. 5th Cir. Certiorari denied.

No. 81-6067. *MCCOLPIN v. BARNES.* C. A. 10th Cir. Certiorari denied.

No. 81-6069. *MITCHELL v. MARYLAND.* Ct. Sp. App. Md. Certiorari denied. Reported below: 48 Md. App. 779.

No. 81-6071. *COGGINS v. AUSTIN, WARDEN, GEORGIA STATE PRISON.* C. A. 11th Cir. Certiorari denied. Reported below: 663 F. 2d 106.

No. 81-6091. *BOZEMAN v. PERINI.* C. A. 6th Cir. Certiorari denied. Reported below: 667 F. 2d 1025.

No. 81-6123. *CURRIER v. UNITED STATES.* C. A. 1st Cir. Certiorari denied.

No. 81-6135. *HOOTON v. UNITED STATES.* C. A. 9th Cir. Certiorari denied. Reported below: 662 F. 2d 628.

No. 81-6165. *MERCADO v. GENERAL SERVICES ADMINISTRATION ET AL.* C. A. 1st Cir. Certiorari denied. Reported below: 673 F. 2d 1297.

No. 81-6169. *HALE v. KANSAS ET AL.* C. A. 8th Cir. Certiorari denied.

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No. 81-6177. *SERE v. UNITED STATES*. Ct. Cl. Certiorari denied. Reported below: 228 Ct. Cl. 882.

No. 81-6178. *VANDER PAUWERT v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 671 F. 2d 505.

No. 81-6179. *CAMERON v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 673 F. 2d 1318.

No. 81-6181. *BELL v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 664 F. 2d 286.

No. 81-6185. *HOWELL v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 664 F. 2d 101.

No. 81-6188. *MAGILL v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 666 F. 2d 69.

No. 81-6189. *RAMSEY ET AL. v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 661 F. 2d 1013.

No. 81-6193. *TINSLEY v. UNITED STATES AIR FORCE*. Ct. Cl. Certiorari denied. Reported below: 229 Ct. Cl. 705.

No. 81-6195. *HENDRIX v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 666 F. 2d 590.

No. 81-415. *CASBAH, INC., ET AL. v. THONE, GOVERNOR OF NEBRASKA, ET AL.* C. A. 8th Cir. Certiorari denied. JUSTICE STEVENS took no part in the consideration or decision of this petition. Reported below: 651 F. 2d 551.

No. 81-998. *BRACHE ET AL. v. COUNTY OF WESTCHES-TER ET AL.* C. A. 2d Cir. Certiorari denied. JUSTICE STEVENS took no part in the consideration or decision of this petition. Reported below: 658 F. 2d 47.

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No. 81-6201. *TOWSON v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 673 F. 2d 1302.

No. 81-899. *BAXTER ET AL. v. MOUZAVIRES*. Ct. App. D. C. Certiorari denied. Reported below: 434 A. 2d 988.

JUSTICE WHITE, with whom JUSTICE POWELL joins, dissenting.

In this case, the District of Columbia Court of Appeals concluded that the Due Process Clause permitted the trial court to exercise personal jurisdiction over petitioners, members of a Florida law firm, on the basis of an agreement with respondent, a District of Columbia patent attorney, to assist them in defending a suit filed against one of their clients in a Federal District Court in Florida. The Court of Appeals acknowledged that under *Hanson v. Denckla*, 357 U. S. 235, 253 (1958), "it is essential in each case that there be some act by which the defendant purposefully avails itself of the privilege of conducting activities within the forum State, thus invoking the benefits and protections of its laws." It concluded, however, that, by voluntarily entering into a contractual arrangement with a forum plaintiff, defendant satisfied this standard. The opinion equated the defendant law firm's entering this contract with the solicitation of business by the defendant insurance company in *McGee v. International Life Ins. Co.*, 355 U. S. 220 (1957).

The standard of the District of Columbia Court of Appeals would permit a District of Columbia merchant who, in response to a telephone order, sends merchandise to Florida, to sue for the price in the District of Columbia. As I wrote in dissenting from denial of certiorari in *Chelsea House Publishers v. Nicholstone Book Bindery*, ante, p. 994, and in *Lakeside Bridge & Steel Co. v. Mountain State Construction Co.*, 445 U. S. 907 (1980), the disarray among federal and state courts on the issue of minimal contacts based on contractual dealings continues unabated. This case, which involves services instead of goods, further demonstrates that

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this Court should address the issue. I dissent from the denial of certiorari.

No. 81-1011. ESTELLE, DIRECTOR, TEXAS DEPARTMENT OF CORRECTIONS *v.* GRANVIEL. C. A. 5th Cir. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 655 F. 2d 673.

No. 81-1318. CATHOLIC SOCIAL SERVICES OF TUCSON *v.* P. C. Ct. App. Ariz. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 130 Ariz. 202, 635 P. 2d 187.

No. 81-1012. INSURANCE COMPANY OF NORTH AMERICA *v.* KEENE CORP. ET AL.;

No. 81-1197. HARTFORD ACCIDENT & INDEMNITY CO. *v.* KEENE CORP. ET AL.;

No. 81-1298. AETNA CASUALTY & SURETY CO. *v.* KEENE CORP. ET AL.; and

No. 81-1328. LIBERTY MUTUAL INSURANCE CO. *v.* KEENE CORP. ET AL. C. A. D. C. Cir. Motions of Commercial Union Insurance Cos. and American Home Assurance Co. et al. for leave to file briefs as *amici curiae* in No. 81-1012 granted. Motion of Walbrook Insurance Co., Ltd., et al. for leave to file a brief as *amici curiae* in No. 81-1328 granted. Motions of Armstrong World Industries, Inc., et al. and Home Insurance Co. for leave to file briefs as *amici curiae* granted. Certiorari denied. JUSTICE WHITE, JUSTICE BLACKMUN, and JUSTICE POWELL would grant certiorari. JUSTICE BRENNAN took no part in the consideration or decision of these petitions and motions. Reported below: 215 U. S. App. D. C. 156, 667 F. 2d 1034.

No. 81-1198. MINNESOTA *v.* BLOCK, SECRETARY OF AGRICULTURE, ET AL. C. A. 8th Cir. Certiorari denied. JUSTICE O'CONNOR would grant certiorari. Reported below: 660 F. 2d 1240.

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No. 81-1239. STEPHENS ET AL. *v.* BLACK ET UX. C. A. 3d Cir. Certiorari denied. JUSTICE POWELL and JUSTICE O'CONNOR would grant certiorari. Reported below: 662 F. 2d 181.

No. 81-1349. DELLWAY VILLA OF TENNESSEE, LTD., ET AL. *v.* JORDAN ET AL. C. A. 6th Cir. Motion of respondent Charlie Mai Jordan for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 661 F. 2d 588.

No. 81-5876. WILLIAMS *v.* TEXAS. Ct. Crim. App. Tex. Certiorari denied. Reported below: 622 S. W. 2d 116.

JUSTICE BRENNAN and 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. 81-6056 (A-711). MUINA ET AL. *v.* MONTANA ET AL. C. A. 9th Cir. Application for stay, addressed to THE CHIEF JUSTICE and referred to the Court, denied. Certiorari denied. Reported below: 659 F. 2d 1089.

Rehearing Denied

No. 81-819. STAINBROOK *v.* PENNSYLVANIA DEPARTMENT OF TRANSPORTATION, 454 U. S. 1146;

No. 81-830. GIESEY *v.* DEVINE, DIRECTOR, OFFICE OF PERSONNEL MANAGEMENT, ET AL., *ante*, p. 908;

No. 81-965. GUTTER *v.* MERRILL LYNCH, PIERCE, FENNER & SMITH, INC., *ante*, p. 909;

No. 81-5624. ARNOLD *v.* MARSHALL ET AL., *ante*, p. 922;

No. 81-5632. IN RE DOWNS, 454 U. S. 1121;

No. 81-5713. CORTEZ, AKA CORTEZ-ESPINOZA *v.* UNITED STATES, *ante*, p. 923; and

No. 81-5749. MORGAN *v.* MONTGOMERY, WARDEN, GEORGIA STATE PRISON, *ante*, p. 927. Petitions for rehearing denied.

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No. 81-5805. *CHICCO v. CITY OF NEW BEDFORD ET AL.*, ante, p. 924; and

No. 81-5842. *MOSS v. POLLAND ET AL.*, ante, p. 925. Petitions for rehearing denied.

No. 81-198. *INSURANCE COMPANY OF NORTH AMERICA v. FORTY-EIGHT INSULATIONS, INC., ET AL.*, 454 U. S. 1109; and

No. 81-200. *AETNA CASUALTY & SURETY CO. v. PORTER ET AL.*, 454 U. S. 1109. Petitions for rehearing denied. JUSTICE BRENNAN and JUSTICE O'CONNOR took no part in the consideration or decision of these petitions.

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Dismissal Under Rule 53

No. 81-741. *U. S. MARKETING, INC., ET AL. v. IDAHO ET AL.* Sup. Ct. Idaho. [Probable jurisdiction noted, 454 U. S. 1140.] Appeal dismissed under this Court's Rule 53.

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Affirmed on Appeal

No. 81-1356. *JONES v. MORRIS ET AL.* Affirmed on appeal from D. C. S. D. Ohio. Reported below: 541 F. Supp. 11.

Appeals Dismissed

No. 81-5827. *IN RE TURNER.* Appeal from Sup. Ct. Fla. dismissed for want of jurisdiction. Reported below: 402 So. 2d 383.

No. 81-6073. *FLUKER v. GEORGIA.* Appeal from Sup. Ct. Ga. dismissed for want of jurisdiction. Reported below: 248 Ga. 290, 282 S. E. 2d 112.

No. 81-6097. *RICHARDS v. CITY OF LOS ANGELES.* Appeal from Ct. App. Cal., 2d App. Dist., dismissed for want of substantial federal question.

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No. 81-6106. *IVEY v. ALASKA*. Appeal from Sup. Ct. Alaska dismissed for want of substantial federal question.

No. 81-6157. *WOLFSON v. MURRAY 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: 665 F. 2d 1056.

Certiorari Granted—Reversed and Remanded. (See No. 81-1049, *ante*, p. 603.)

Certiorari Granted—Vacated and Remanded. (See also No. 81-844, *ante*, p. 591.)

No. 76-1234. *PIERCE, SECRETARY OF HOUSING AND URBAN DEVELOPMENT, ET AL. v. ROSS ET AL.* C. A. 4th Cir.; and

No. 76-1261. *PIERCE, SECRETARY OF HOUSING AND URBAN DEVELOPMENT, ET AL. v. ABRAMS ET AL.* C. A. 9th Cir. Upon consideration of the motion to vacate filed by the Solicitor General on March 11, 1982, the judgments of the United States Court of Appeals for the Fourth Circuit and the United States Court of Appeals for the Ninth Circuit are vacated and the cases are remanded to the United States District Court for the District of Maryland and the United States District Court for the Central District of California, respectively, with directions to dismiss the causes as moot when the parties jointly so move. Reported below: No. 76-1234, 544 F. 2d 514; No. 76-1261, 547 F. 2d 1062.

Certiorari Granted—Reversed. (See No. 81-362, *ante*, p. 586.)

Miscellaneous Orders

No. — — —. *CHICAGO FIRE FIGHTERS UNION, LOCAL NO. 2, ET AL. v. CITY OF CHICAGO.* Application to direct the Clerk to file the petition for writ of certiorari denied.

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No. A-582. *WORTLEY v. UNITED STATES*. Application for bail pending appeal, addressed to JUSTICE POWELL and referred to the Court, denied.

No. A-720 (81-1636). *FLORIDA v. BRADY ET AL.* Sup. Ct. Fla. Application for stay, addressed to JUSTICE REHNQUIST and referred to the Court, denied.

No. A-733. *OPPENHEIM ET AL. v. MOREAU ET AL.* C. A. 5th Cir. Application for stay, addressed to JUSTICE BRENNAN and referred to the Court, denied.

No. A-748 (81-1729). *NATURAL RESOURCES DEFENSE COUNCIL, INC., ET AL. v. CITY OF NEW YORK ET AL.* C. A. 2d Cir. Application for an injunction, presented to JUSTICE MARSHALL, and by him referred to the Court, denied. The order heretofore entered by JUSTICE MARSHALL on March 4, 1982, is vacated.

No. A-764. *CALIFORNIA v. RAMOS*. Sup. Ct. Cal. Application for stay, presented to JUSTICE REHNQUIST, and by him referred to the Court, denied.

No. D-244. *IN RE DISBARMENT OF IVLER*. Disbarment entered. [For earlier order herein, see 454 U. S. 935.]

No. D-245. *IN RE DISBARMENT OF PRESSMAN*. Disbarment entered. [For earlier order herein, see 454 U. S. 936.]

No. D-246. *IN RE DISBARMENT OF KAHN*. Disbarment entered. [For earlier order herein, see 454 U. S. 936.]

No. D-247. *IN RE DISBARMENT OF COSTELLO*. Disbarment entered. [For earlier order herein, see 454 U. S. 936.]

No. D-251. *IN RE DISBARMENT OF GOLD*. Disbarment entered. [For earlier order herein, see 454 U. S. 938.]

No. D-252. *IN RE DISBARMENT OF RAWLINS*. Disbarment entered. [For earlier order herein, see 454 U. S. 1027.]

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No. D-253. IN RE DISBARMENT OF CALDWELL. Disbarment entered. [For earlier order herein, see 454 U. S. 1027.]

No. D-257. IN RE DISBARMENT OF GOTKIN. It is ordered that Martin E. Gotkin, of New York, N. Y., be suspended from the practice of law in this Court and that a rule issue, returnable within 40 days, requiring him to show cause why he should not be disbarred from the practice of law in this Court.

No. D-258. IN RE DISBARMENT OF ROOT. It is ordered that Stanley Roy Root, of New York, N. Y., be suspended from the practice of law in this Court and that a rule issue, returnable within 40 days, requiring him to show cause why he should not be disbarred from the practice of law in this Court.

No. D-259. IN RE DISBARMENT OF COVEN. It is ordered that Bernard J. Coven, of New York, N. Y., be suspended from the practice of law in this Court and that a rule issue, returnable within 40 days, requiring him to show cause why he should not be disbarred from the practice of law in this Court.

No. D-260. IN RE DISBARMENT OF BUSSEY. It is ordered that Richard M. Bussey, of Santa Rosa, Cal., be suspended from the practice of law in this Court and that a rule issue, returnable within 40 days, requiring him to show cause why he should not be disbarred from the practice of law in this Court.

No. 80-2205. FINLEY, CLERK OF THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS *v.* MURRAY. C. A. 7th Cir. [Certiorari granted, 454 U. S. 962.] Motion of Chicago Lawyers' Committee for Civil Rights Under Law for leave to file a brief as *amicus curiae* granted.

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No. 81-150. NORTHERN PIPELINE CONSTRUCTION CO. *v.* MARATHON PIPE LINE CO. ET AL.; and

No. 81-546. UNITED STATES *v.* MARATHON PIPE LINE CO. ET AL. D. C. Minn. [Probable jurisdiction noted, 454 U. S. 1029.] Motion of Beneficial Corp. for leave to participate in oral argument as *amicus curiae* and for additional time for oral argument denied. Motion of Commercial Law League of America to reconsider order denying motion for leave to participate in oral argument as *amicus curiae* denied.

No. 81-213. SCHWEIKER, SECRETARY OF HEALTH AND HUMAN SERVICES *v.* HOGAN ET AL. D. C. Mass. [Probable jurisdiction noted, 454 U. S. 891.] Motion of the Solicitor General to permit George W. Jones, Esquire, to present oral argument *pro hac vice* granted.

No. 81-280. GENERAL BUILDING CONTRACTORS ASSN., INC. *v.* PENNSYLVANIA ET AL.;

No. 81-330. UNITED ENGINEERS & CONSTRUCTORS, INC. *v.* PENNSYLVANIA ET AL.;

No. 81-331. CONTRACTORS ASSOCIATION OF EASTERN PENNSYLVANIA ET AL. *v.* PENNSYLVANIA ET AL.;

No. 81-332. GLASGOW, INC. *v.* PENNSYLVANIA ET AL.; and

No. 81-333. BECHTEL POWER CORP. *v.* PENNSYLVANIA ET AL. C. A. 3d Cir. [Certiorari granted, 454 U. S. 939.] Motion of Black Economic Survival for leave to file a brief as *amicus curiae* out of time denied.

No. 81-334. ASSOCIATED GENERAL CONTRACTORS OF CALIFORNIA, INC. *v.* CALIFORNIA STATE COUNCIL OF CARPENTERS ET AL. C. A. 9th Cir. [Certiorari granted, 454 U. S. 1141.] Motion of Associated General Contractors of America, Inc., for leave to file a brief as *amicus curiae* granted.

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No. 81-389. UNION LABOR LIFE INSURANCE CO. *v.* PIRENO; and

No. 81-390. NEW YORK STATE CHIROPRACTIC ASSN. *v.* PIRENO. C. A. 2d Cir. [Certiorari granted, 454 U. S. 1052.] Motion of the Solicitor General for leave to participate in oral argument as *amicus curiae* and for divided argument granted. Motion of Arizona et al. for leave to participate in oral argument as *amici curiae* and for divided argument denied. Motion of petitioner in No. 81-390 to reconsider order denying divided argument denied.

No. 81-406. MISSISSIPPI UNIVERSITY FOR WOMEN ET AL. *v.* HOGAN. C. A. 5th Cir. [Certiorari granted, 454 U. S. 962.] Motion of petitioners for leave to file reply brief out of time granted.

No. 81-750. FIDELITY FEDERAL SAVINGS & LOAN ASSN. ET AL. *v.* DE LA CUESTA ET AL. Ct. App. Cal., 4th App. Dist. [Probable jurisdiction noted, *ante*, p. 917.] Motion of the Solicitor General for leave to participate in oral argument as *amicus curiae* and for divided argument granted. JUSTICE POWELL took no part in the consideration or decision of this motion.

No. 81-825. PILLSBURY CO. ET AL. *v.* CONBOY. C. A. 7th Cir. [Certiorari granted, 454 U. S. 1141.] Motion of Mead Corp. for leave to file a brief as *amicus curiae* granted. JUSTICE O'CONNOR took no part in the consideration or decision of this motion.

No. 81-1374. BLUM, COMMISSIONER, NEW YORK STATE DEPARTMENT OF SOCIAL SERVICES *v.* STENSON. C. A. 2d Cir. Motion of respondent Ellen Stenson for leave to proceed *in forma pauperis* granted.

No. 81-5152. TAYLOR *v.* ALABAMA. Sup. Ct. Ala. [Certiorari granted, 454 U. S. 963.] Motion of petitioner for leave to file reply brief out of time granted.

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No. 81-1641 (A-768). REPUBLICAN NATIONAL COMMITTEE ET AL. *v.* BURTON ET AL. Sup. Ct. Cal. Motion of appellants to expedite consideration of the appeal denied. Application to stay enforcement of the judgment of the Supreme Court of California, addressed to JUSTICE WHITE and referred to the Court, denied.

No. 81-5321. ENMUND *v.* FLORIDA. Sup. Ct. Fla. [Certiorari granted, 454 U. S. 939.] Motion of Washington Legal Foundation for leave to participate in oral argument as *amicus curiae* and for additional time for oral argument denied.

No. 81-1500. IN RE CHING YEE. Petition for writ of common-law certiorari and for all other relief denied.

Certiorari Granted

No. 81-1044. UNITED STATES POSTAL SERVICE BOARD OF GOVERNORS *v.* AIKENS. C. A. D. C. Cir. Certiorari granted. Reported below: 214 U. S. App. D. C. 239, 665 F. 2d 1057.

No. 81-1114. ILLINOIS *v.* ABBOTT & ASSOCIATES, INC., ET AL. C. A. 7th Cir. Certiorari granted. Reported below: 659 F. 2d 800.

No. 81-1180. DICKERSON, DIRECTOR, BUREAU OF ALCOHOL, TOBACCO AND FIREARMS *v.* NEW BANNER INSTITUTE, INC. C. A. 4th Cir. Certiorari granted. Reported below: 649 F. 2d 216.

No. 81-1062. UNITED STATES *v.* EIGHT THOUSAND EIGHT HUNDRED AND FIFTY DOLLARS (\$8,850) IN UNITED STATES CURRENCY. C. A. 9th Cir. Motion of respondent Mary Josephine Vasquez for leave to proceed *in forma pauperis* and certiorari granted. Reported below: 645 F. 2d 836.

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No. 81-1404. BRISCOE ET AL. *v.* LAHUE ET AL. C. A. 7th Cir. Motion of petitioners Chris P. Vickers, Sr., and James N. Ballard for leave to proceed *in forma pauperis* and certiorari granted. Reported below: 663 F. 2d 713.

Certiorari Denied. (See also Nos. 81-1500 and 81-6157, *supra.*)

No. 80-2092. SCM CORP. *v.* XEROX CORP. C. A. 2d Cir. Certiorari denied. Reported below: 645 F. 2d 1195.

No. 81-363. KARR *v.* KARR. Sup. Ct. Mont. Certiorari denied. Reported below: — Mont. —, 628 P. 2d 267.

No. 81-672. IRWIN *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. Reported below: 654 F. 2d 671.

No. 81-834. CLARKE ET AL. *v.* FLORIDA. Dist. Ct. App. Fla., 4th Dist. Certiorari denied.

No. 81-917. ST. PETER *v.* MARSH, SECRETARY OF THE ARMY. C. A. D. C. Cir. Certiorari denied. Reported below: 212 U. S. App. D. C. 249, 659 F. 2d 1133.

No. 81-950. JAMIESON-MCKAMES PHARMACEUTICALS, INC., ET AL. *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied. Reported below: 651 F. 2d 532.

No. 81-955. POTOMAC ELECTRIC POWER Co. *v.* ENVIRONMENTAL PROTECTION AGENCY ET AL. C. A. 4th Cir. Certiorari denied. Reported below: 650 F. 2d 509.

No. 81-1090. RENO, STATE ATTORNEY, ET AL. *v.* ABRAMS ET AL. C. A. 11th Cir. Certiorari denied. Reported below: 649 F. 2d 342.

No. 81-1103. THERMOFIL INC. *v.* NATIONAL LABOR RELATIONS BOARD. C. A. 6th Cir. Certiorari denied. Reported below: 650 F. 2d 858.

No. 81-1110. SALPETER *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied. Reported below: 672 F. 2d 905.

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No. 81-1106. JOINT APPRENTICESHIP COMMITTEE LOCAL NO. 130, U. A. *v.* EGGLESTON ET AL.;

No. 81-1208. PLUMBING CONTRACTORS ASSOCIATION OF CHICAGO AND COOK COUNTY *v.* PLUMMER ET AL.; and

No. 81-1209. CHICAGO JOURNEYMEN PLUMBERS' LOCAL UNION No. 130, U. A. *v.* PLUMMER ET AL. C. A. 7th Cir. Certiorari denied. Reported below: 657 F. 2d 890.

No. 81-1116. O. HOMMEL CO. *v.* FERRO CORP. C. A. 3d Cir. Certiorari denied. Reported below: 659 F. 2d 340.

No. 81-1142. STUCKEY *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. Reported below: 671 F. 2d 494.

No. 81-1168. JENTGEN, TRUSTEE *v.* UNITED STATES. Ct. Cl. Certiorari denied. Reported below: 228 Ct. Cl. 527, 657 F. 2d 1210.

No. 81-1170. BERNOTAS *v.* SOUTH CAROLINA. Sup. Ct. S. C. Certiorari denied. Reported below: 277 S. C. 106, 283 S. E. 2d 580.

No. 81-1175. INTERNATIONAL MEDICATION SYSTEMS, LTD. *v.* NATIONAL LABOR RELATIONS BOARD. C. A. 9th Cir. Certiorari denied. Reported below: 640 F. 2d 1110.

No. 81-1186. GREER *v.* CITY OF SEGUIN, TEXAS, ET AL. Ct. Civ. App. Tex., 11th Sup. Jud. Dist. Certiorari denied.

No. 81-1207. DELTONA CORP. *v.* UNITED STATES. Ct. Cl. Certiorari denied. Reported below: 228 Ct. Cl. 476, 657 F. 2d 1184.

No. 81-1223. CARGO GASOLINE CO. ET AL. *v.* UNITED STATES ET AL. C. A. 11th Cir. Certiorari denied. Reported below: 657 F. 2d 676.

No. 81-1262. McDONNELL DOUGLAS CORP. *v.* NATIONAL LABOR RELATIONS BOARD ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 655 F. 2d 932.

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No. 81-1272. *SALKIN ET AL. v. UNITED STATES ET AL.* C. A. 7th Cir. Certiorari denied. Reported below: 658 F. 2d 526.

No. 81-1316. *MCCUTCHEON v. CHICAGO BOARD OF EDUCATION ET AL.* App. Ct. Ill., 1st Dist. Certiorari denied. Reported below: 94 Ill. App. 3d 993, 419 N. E. 2d 451.

No. 81-1323. *MURPHY TUGBOAT CO. v. SHIPOWNERS & MERCHANTS TOWBOAT CO., LTD., ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 658 F. 2d 1256.

No. 81-1330. *OHIO STATE BOARD OF EDUCATION ET AL. v. REED ET AL.*; and *OHIO STATE BOARD OF EDUCATION ET AL. v. PENICK ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 662 F. 2d 1219 (first case); 663 F. 2d 24 (second case).

No. 81-1331. *COUNTY OF SAN DIEGO v. NELSON, COMMISSIONER, IMMIGRATION AND NATURALIZATION SERVICE, ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 665 F. 2d 1051.

No. 81-1336. *PAGE v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. Reported below: 661 F. 2d 1080.

No. 81-1340. *F. D. RICH HOUSING OF THE VIRGIN ISLANDS, INC., ET AL. v. GOVERNMENT OF THE VIRGIN ISLANDS.* C. A. 3d Cir. Certiorari denied. Reported below: 663 F. 2d 419.

No. 81-1343. *ROSENBAUM v. ROSENBAUM.* App. Ct. Ill., 1st Dist. Certiorari denied. Reported below: 94 Ill. App. 3d 352, 418 N. E. 2d 939.

No. 81-1344. *SHUFFMAN, EXECUTRIX v. HARTFORD TEXTILE CORP. ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 659 F. 2d 299.

No. 81-1345. *SIMONS v. SOUTH-WESTERN PUBLISHING Co.* C. A. 9th Cir. Certiorari denied. Reported below: 651 F. 2d 653.

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No. 81-1347. CHIAZOR ET AL. *v.* TRANSWORLD DRILLING CO., LTD., ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 648 F. 2d 1015.

No. 81-1348. FALLS STAMPING & WELDING CO. *v.* INTERNATIONAL UNION, UNITED AUTOMOBILE, AIRCRAFT & AGRICULTURAL IMPLEMENT WORKERS OF AMERICA, ET AL. C. A. 6th Cir. Certiorari denied. Reported below: 667 F. 2d 1026.

No. 81-1352. ROMANO'S NETCONG, INC., ET AL. *v.* LERNER, DIRECTOR OF THE DIVISION OF ALCOHOLIC BEVERAGE CONTROL, ET AL. Super. Ct. N. J., App. Div. Certiorari denied.

No. 81-1354. MUELLER *v.* SUPERIOR COURT OF CALIFORNIA, COUNTY OF ORANGE (CALIFORNIA, REAL PARTY IN INTEREST). Ct. App. Cal., 4th App. Dist. Certiorari denied.

No. 81-1358. FLEER CORP. *v.* TOPPS CHEWING GUM, INC., ET AL. C. A. 3d Cir. Certiorari denied. Reported below: 658 F. 2d 139.

No. 81-1367. FRIERSON *v.* KENTUCKY. Ct. App. Ky. Certiorari denied. Reported below: 625 S. W. 2d 872.

No. 81-1369. SCHWANECKE ET AL. *v.* HARRIS COUNTY HOSPITAL DISTRICT. Ct. Civ. App. Tex., 10th Sup. Jud. Dist. Certiorari denied.

No. 81-1375. KERR-MCGEE REFINING CORP. *v.* THOMPSON. C. A. 10th Cir. Certiorari denied. Reported below: 660 F. 2d 1380.

No. 81-1377. DRESSER INDUSTRIES, INC. *v.* ALASKA DEPARTMENT OF LABOR. Sup. Ct. Alaska. Certiorari denied. Reported below: 633 P. 2d 998.

No. 81-1383. HASKON, INC., ET AL. *v.* LESUEUR CREAMERY, INC. C. A. 8th Cir. Certiorari denied. Reported below: 660 F. 2d 342.

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No. 81-1384. PENNSYLVANIA DEPARTMENT OF LABOR AND INDUSTRY, BUREAU OF VOCATIONAL REHABILITATION, ET AL. *v.* SULLIVAN. C. A. 3d Cir. Certiorari denied. Reported below: 663 F. 2d 443.

No. 81-1386. PACIFIC FIRST FEDERAL SAVINGS & LOAN ASSN. *v.* GUINASSO ET UX. C. A. 9th Cir. Certiorari denied. Reported below: 656 F. 2d 1364.

No. 81-1390. MISKOW, EXECUTOR, ET AL. *v.* BOEING CO. ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 664 F. 2d 205.

No. 81-1407. BENHAM-BLAIR & AFFILIATES, INC., DBA W. R. HOLWAY & ASSOCIATES *v.* CITY OF BROKEN ARROW, OKLAHOMA. C. A. 10th Cir. Certiorari denied. Reported below: 660 F. 2d 450.

No. 81-1410. REHBERGER *v.* DARNELL. App. Ct. Ill., 5th Dist. Certiorari denied. Reported below: 98 Ill. App. 3d 1207, 427 N. E. 2d 1056.

No. 81-1415. BUTTERWORTH, SHERIFF OF BROWARD COUNTY, FLORIDA *v.* SEMINOLE TRIBE OF FLORIDA. C. A. 11th Cir. Certiorari denied. Reported below: 658 F. 2d 310.

No. 81-1418. QUALITY AUTO BODY, INC. *v.* ALLSTATE INSURANCE CO. ET AL. C. A. 7th Cir. Certiorari denied. Reported below: 660 F. 2d 1195.

No. 81-1419. MADISON *v.* BARRY, MAYOR OF THE DISTRICT OF COLUMBIA, ET AL. C. A. D. C. Cir. Certiorari denied. Reported below: 213 U. S. App. D. C. 32, 661 F. 2d 253.

No. 81-1420. STILL *v.* PERSONNEL BOARD OF JEFFERSON COUNTY ET AL. Sup. Ct. Ala. Certiorari denied. Reported below: 406 So. 2d 860.

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No. 81-1422. *SMOKE-CRAFT, INC. v. UNITED STEEL WORKERS OF AMERICA, AFL-CIO-CLC.* C. A. 9th Cir. Certiorari denied. Reported below: 652 F. 2d 1356.

No. 81-1423. *WILSON v. RENNER, UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF MINNESOTA (MUTUAL OF OMAHA INSURANCE CO., REAL PARTY IN INTEREST).* C. A. 8th Cir. Certiorari denied.

No. 81-1431. *JOINT COUNCIL OF TEAMSTERS NO. 42, INTERNATIONAL BROTHERHOOD OF TEAMSTERS, CHAUFFEURS, WAREHOUSEMEN & HELPERS OF AMERICA, ET AL. v. ASSOCIATED GENERAL CONTRACTORS OF CALIFORNIA, INC., ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 662 F. 2d 531.

No. 81-1436. *PAINTER, SUPERVISOR OF LYONS TOWNSHIP v. NEKOLNY ET AL.* C. A. 7th Cir. Certiorari denied. Reported below: 653 F. 2d 1164.

No. 81-1442. *LEWIS ET AL. v. CALIFORNIA.* Ct. App. Cal., 2d App. Dist. Certiorari denied.

No. 81-1461. *CONTRERAS ET AL. v. CITY OF LOS ANGELES ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 656 F. 2d 1267.

No. 81-1462. *GREAT AMERICAN FEDERAL SAVINGS & LOAN ASSN. ET AL. v. NALORE ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 663 F. 2d 841.

No. 81-1473. *KLINSKI v. FOUR WINDS TRAVEL, INC.* App. Ct. Ill., 1st Dist. Certiorari denied.

No. 81-1482. *KENDALL v. UNITED STATES.* C. A. 7th Cir. Certiorari denied. Reported below: 665 F. 2d 126.

No. 81-1499. *COLORADO SPANISH PEAKS RANCH, INC. v. TRAVELERS INSURANCE CO.* C. A. 9th Cir. Certiorari denied. Reported below: 661 F. 2d 759.

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No. 81-1509. *HINDS ET AL. v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 662 F. 2d 362.

No. 81-1510. *MCLAUGHLIN ET AL. v. UNITED STATES*;

No. 81-6198. *TOUCHARD v. UNITED STATES*; and

No. 81-6199. *TOUCHARD v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 667 F. 2d 1029.

No. 81-1518. *HAYDEL v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 649 F. 2d 1152.

No. 81-1530. *WOODARD v. MARSH, SECRETARY OF THE ARMY*. C. A. 5th Cir. Certiorari denied. Reported below: 658 F. 2d 989.

No. 81-1542. *MAZALESKI v. SCHWEIKER, SECRETARY OF HEALTH AND HUMAN SERVICES, ET AL.* C. A. D. C. Cir. Certiorari denied. Reported below: 216 U. S. App. D. C. 416, 670 F. 2d 1235.

No. 81-1567. *FAGREY v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 671 F. 2d 504.

No. 81-5017. *EDWARDS v. UNITED STATES*. Ct. App. D. C. Certiorari denied. Reported below: 430 A. 2d 1321.

No. 81-5614. *WEST v. OKLAHOMA*. Ct. Crim. App. Okla. Certiorari denied.

No. 81-5682. *PASSMAN v. BLACKBURN, WARDEN, LOUISIANA STATE PENITENTIARY*. C. A. 5th Cir. Certiorari denied. Reported below: 652 F. 2d 559.

No. 81-5756. *FASICK v. HILTON, WARDEN, TRENTON STATE PRISON*. C. A. 3d Cir. Certiorari denied. Reported below: 661 F. 2d 914.

No. 81-5759. *SANDERS v. OKLAHOMA*. Ct. Crim. App. Okla. Certiorari denied. Reported below: 635 P. 2d 1023.

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No. 81-5795. *CARTWRIGHT v. CUPP*, SUPERINTENDENT, OREGON STATE PENITENTIARY. C. A. 9th Cir. Certiorari denied. Reported below: 650 F. 2d 1103.

No. 81-5822. *KENDZIA v. WAINWRIGHT*, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS. C. A. 5th Cir. Certiorari denied. Reported below: 654 F. 2d 722.

No. 81-5887. *UNITED STATES EX REL. FULTON v. FRANZEN*, DIRECTOR, DEPARTMENT OF CORRECTIONS OF ILLINOIS, ET AL. C. A. 7th Cir. Certiorari denied. Reported below: 659 F. 2d 741.

No. 81-5960. *VON LUDWITZ v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 659 F. 2d 1090.

No. 81-5961. *VON LUDWITZ v. LAPPIN ET AL.* C. A. 9th Cir. Certiorari denied.

No. 81-5968. *MOSS v. SECURITIES AND EXCHANGE COMMISSION*. C. A. 4th Cir. Certiorari denied. Reported below: 644 F. 2d 313.

No. 81-5986. *WILSON ET AL. v. UNITED STATES*. C. A. 10th Cir. Certiorari denied.

No. 81-5988. *NETTLES BEY v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 672 F. 2d 918.

No. 81-6028. *SPINNEY v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 660 F. 2d 498.

No. 81-6044. *SPRINGER ET UX. v. UNITED STATES*. C. A. 9th Cir. Certiorari denied.

No. 81-6052. *JOHNSTON v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 665 F. 2d 1055.

No. 81-6070. *LEBRIGHT v. CHRISTIAN*, UNITED STATES DISTRICT JUDGE, ET AL. C. A. 3d Cir. Certiorari denied.

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No. 81-6074. *ABU-BAKR v. KOON ET AL.* C. A. 7th Cir. Certiorari denied.

No. 81-6075. *LONG v. SMITH, SUPERINTENDENT, KENTUCKY STATE REFORMATORY.* C. A. 6th Cir. Certiorari denied. Reported below: 663 F. 2d 18.

No. 81-6077. *MCDONALD v. GEORGIA KRAFT CO.* Ct. App. Ga. Certiorari denied. Reported below: 160 Ga. App. 696, 288 S. E. 2d 60.

No. 81-6083. *JURAS v. AMAN COLLECTION SERVICE, INC.* Sup. Ct. Mont. Certiorari denied.

No. 81-6087. *MINAYA v. NEW YORK.* Ct. App. N. Y. Certiorari denied. Reported below: 54 N. Y. 2d 360, 429 N. E. 2d 1161.

No. 81-6088. *CLARK v. MAGGIO, WARDEN.* C. A. 5th Cir. Certiorari denied.

No. 81-6095. *MATHIS v. MONTGOMERY, WARDEN, GEORGIA STATE PRISON.* C. A. 11th Cir. Certiorari denied. Reported below: 664 F. 2d 295.

No. 81-6100. *SKINNER v. ESTELLE, DIRECTOR, TEXAS DEPARTMENT OF CORRECTIONS.* C. A. 5th Cir. Certiorari denied. Reported below: 663 F. 2d 104.

No. 81-6102. *THORNE v. ARKANSAS.* Sup. Ct. Ark. Certiorari denied. Reported below: 274 Ark. 102, 622 S. W. 2d 178.

No. 81-6103. *KINCAID v. ILLINOIS.* Sup. Ct. Ill. Certiorari denied. Reported below: 87 Ill. 2d 107, 429 N. E. 2d 508.

No. 81-6105. *CELESTINE v. MUNICIPAL CORRECTION INSTITUTION.* C. A. 8th Cir. Certiorari denied.

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No. 81-6107. *HUFF v. BORDENKIRCHER, SUPERINTENDENT, KENTUCKY STATE PENITENTIARY*. C. A. 6th Cir. Certiorari denied. Reported below: 667 F. 2d 1026.

No. 81-6108. *SIMPSON v. MICHIGAN*. Ct. App. Mich. Certiorari denied.

No. 81-6111. *VENERI v. CIRCUIT COURT OF GASCONADE COUNTY ET AL.* C. A. 8th Cir. Certiorari denied.

No. 81-6114. *BARBER v. NEW YORK*. App. Div., Sup. Ct. N. Y., 2d Jud. Dept. Certiorari denied. Reported below: 83 App. Div. 2d 794, 441 N. Y. S. 2d 757.

No. 81-6118. *NORDSTROM v. WALT DISNEY PRODUCTIONS, INC.* C. A. 10th Cir. Certiorari denied.

No. 81-6119. *JAFFER v. NUCLEAR REGULATORY COMMISSION ET AL.* C. A. D. C. Cir. Certiorari denied.

No. 81-6120. *BEHLIN v. NEW YORK*. App. Div., Sup. Ct. N. Y., 2d Jud. Dept. Certiorari denied. Reported below: 83 App. Div. 2d 557, 440 N. Y. S. 2d 948.

No. 81-6122. *AUSTIN v. OSBORNE ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 672 F. 2d 906.

No. 81-6124. *TYLER v. WOODSON ET AL.* C. A. 8th Cir. Certiorari denied. Reported below: 676 F. 2d 702.

No. 81-6127. *JOHNSON v. BLACKBURN, WARDEN*. C. A. 5th Cir. Certiorari denied. Reported below: 659 F. 2d 1074.

No. 81-6132. *HAMILTON v. MAYS ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 663 F. 2d 104.

No. 81-6134. *HAMPTON v. PENNSYLVANIA ET AL.* C. A. 3d Cir. Certiorari denied.

No. 81-6136. *GRIM ET AL. v. OHIO*. Ct. App. Ohio, Champaign County. Certiorari denied.

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No. 81-6133. *SULLIVAN v. LANE*, ACTING WARDEN, ET AL.; *SULLIVAN v. LANDHOUSE ET AL.*; *SULLIVAN v. BURGESS ET AL.*; *SULLIVAN v. THOMPSON*, GOVERNOR OF ILLINOIS, ET AL.; and *SULLIVAN v. JOHNSON ET AL.* C. A. 7th Cir. Certiorari denied.

No. 81-6137. *BEARDEN v. WHITE*, GOVERNOR OF ARKANSAS, ET AL. C. A. 8th Cir. Certiorari denied. Reported below: 676 F. 2d 704.

No. 81-6138. *BEACH v. LEBEL ET AL.* C. A. 11th Cir. Certiorari denied. Reported below: 659 F. 2d 1077.

No. 81-6139. *BRAY v. ESTELLE*, DIRECTOR, TEXAS DEPARTMENT OF CORRECTIONS. C. A. 5th Cir. Certiorari denied.

No. 81-6146. *COOKS v. SPALDING*, WARDEN, WASHINGTON STATE PENITENTIARY, ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 660 F. 2d 738.

No. 81-6147. *HALL v. THOMAS*. Sup. Ct. Va. Certiorari denied.

No. 81-6148. *FRANKS v. OKLAHOMA*. Ct. Crim. App. Okla. Certiorari denied. Reported below: 636 P. 2d 361.

No. 81-6150. *FILLYAW v. WISCONSIN*. Sup. Ct. Wis. Certiorari denied. Reported below: 104 Wis. 2d 700, 312 N. W. 2d 795.

No. 81-6153. *ELLISON v. DELAWARE*. Sup. Ct. Del. Certiorari denied. Reported below: 437 A. 2d 1127.

No. 81-6159. *MONTANA v. COMMISSIONERS COURT ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 659 F. 2d 19.

No. 81-6160. *HOLIFIELD v. DAVIS*, WARDEN, ET AL. C. A. 11th Cir. Certiorari denied. Reported below: 662 F. 2d 710.

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No. 81-6162. *IN RE GAINES*. C. A. 5th Cir. Certiorari denied.

No. 81-6168. *CRATER v. ILLINOIS*. App. Ct. Ill., 3d Dist. Certiorari denied. Reported below: 97 Ill. App. 3d 1200, 426 N. E. 2d 1287.

No. 81-6173. *WHITE v. THOMAS ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 660 F. 2d 680.

No. 81-6184. *BRODY v. PRESIDENT AND FELLOWS OF HARVARD COLLEGE*. C. A. 1st Cir. Certiorari denied. Reported below: 664 F. 2d 10.

No. 81-6206. *WERNER v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 663 F. 2d 896.

No. 81-6208. *STOUTE v. UNITED STATES ET AL.* C. A. 1st Cir. Certiorari denied.

No. 81-6212. *BEGAY v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 671 F. 2d 504.

No. 81-6217. *MATTHEIS v. ANDERSON, WARDEN, STATE PRISON OF SOUTHERN MICHIGAN*. C. A. 6th Cir. Certiorari denied. Reported below: 672 F. 2d 917.

No. 81-6219. *ESPINOSA-FERNANDEZ v. UNITED STATES*. C. A. 9th Cir. Certiorari denied.

No. 81-6223. *HALL v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 667 F. 2d 1032.

No. 81-6228. *BUTLER v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 660 F. 2d 532.

No. 81-6233. *GHOLSTON v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 698 F. 2d 1224.

No. 81-6234. *TALBERT v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 665 F. 2d 1042.

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No. 81-6240. *KITCHENS v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 665 F. 2d 1055.

No. 81-6251. *MELNICK v. CITY OF PUEBLO*. Dist. Ct. Colo., Pueblo County. Certiorari denied.

No. 81-6257. *GALVAN v. UNITED STATES*. C. A. 10th Cir. Certiorari denied.

No. 81-6259. *HAWK v. SCHWEIKER, SECRETARY OF HEALTH AND HUMAN SERVICES*. C. A. 9th Cir. Certiorari denied. Reported below: 661 F. 2d 940.

No. 81-6273. *HOWARD v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 667 F. 2d 95.

No. 81-855. *ANDERSON, WARDEN v. FULLER*. C. A. 6th Cir. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 662 F. 2d 420.

Opinion of JUSTICE STEVENS respecting the denial of the petition for writ of certiorari.

Although I believe that *Jackson v. Virginia*, 443 U. S. 307, was decided incorrectly, it is not at all clear to me that the Court of Appeals in this case misapplied the dicta in the Court's opinion in *Jackson*. The Court of Appeals did not purport to resolve any conflict in the evidence. Quite properly it attached no weight to the fact that the defendant did not testify, or to the fact that his mother may have testified falsely in support of an alibi defense. Neither of those facts is affirmative evidence of guilt.

Based on their duty to "review the evidence in the light most favorable to the prosecution," 662 F. 2d 420, 423 (CA6 1981), a majority of the judges of the Court of Appeals concluded—as had the District Court and two of five justices of the Michigan Supreme Court—that there was insufficient evidence in the record that the respondent had intended to commit a crime. It is quite misleading to describe the slim record in this case as "a classic case of conflicting evidence,"

post, at 1031, or to imply that these conscientious federal judges chose "to sit as a jury and set aside the lawful jury's findings of fact." *Post*, at 1033. What the Court of Appeals did conclude was that evidence that the respondent, like several other boys, was present at the scene of the crime was legally insufficient to permit any rational trier of fact to find beyond a reasonable doubt that respondent was a participant in that crime. See 662 F. 2d, at 423. The essence of the Court of Appeals decision is explained in the following few paragraphs:

"The district court correctly concluded that the evidence introduced at petitioner's trial only showed that on the morning of May 18 Fuller was present at the Turner residence along with Zerious Meadows and the other boys. The evidence showed that Fuller looked around while Meadows started the fires. But as Judge Feikens pointed out:

"This *suggests*, as Jefferey Coleman surmised, that the petitioner *may have been* acting as a lookout for Meadows. It is reasonable speculation. But could a rational jury find it to be proof beyond a reasonable doubt? No evidence was presented that the petitioner intended to burn the Turner home. The evidence that he knew that Zerious Meadows planned to do [*sic*] is simply too meager to support conviction.' (emphasis in original)

"We note that there was no evidence at trial that the 'Molotov cocktail' which started the fire was prepared in advance, or, if it was, whether any of the boys other than Zerious Meadows knew that the 'Molotov cocktail' existed. There was of course no evidence that any of the boys, except Fuller [*sic*], participated in the manufacture of the 'Molotov cocktail'.

"Moreover, there was no direct evidence that the youths approached the Turner house with intent to set the house on fire. Assuming Zerious Meadows had this

intent, however, there was no evidence that it was shared by petitioner or the other boys.

“The only direct evidence supporting the State’s contention that Fuller ‘stood guard and acted as a lookout’ for Zerious Meadows was Jefferey Coleman’s testimony that over a period of several minutes Fuller turned his head from side to side ‘more than twice.’ We agree with the district court that this is insufficient to establish beyond a reasonable doubt that Fuller took conscious action to aid Meadows’ commission of arson.” *Id.*, at 424.

In my judgment it would not be an appropriate use of this Court’s scarce resources to grant certiorari and review every record in which a federal court makes a conscientious effort to apply the dictates of *Jackson v. Virginia*. For that reason, without reaching the question whether I would have decided this case the same way the Court of Appeals did had I been a member of that court, I think this Court wisely denies certiorari.

CHIEF JUSTICE BURGER, with whom JUSTICE O’CONNOR joins, dissenting.

Respondent Fuller was convicted of felony murder in 1970, following a fire in which two children died. The fire occurred on the morning of May 18, 1970. The prosecution’s evidence showed that Fuller served as a lookout while Meadows set the fire. Fuller was 17 years old at the time. A neighbor testified that she saw Fuller, along with a few other boys, standing in front of the Turner house on the morning of the fire. A 14-year-old, Coleman, testified that he saw Fuller and Meadows behind the house. Meadows was on the back porch. As Coleman watched, for 5 or 10 minutes, Meadows stuffed a rag inside a bottle, ignited the rag, and threw the bottle against the house, starting a fire. Meadows then set another fire. Fuller, meanwhile, stood by a gate leading from the backyard to an alley. Coleman testified that Fuller looked up and down the alley while Meadows was setting the fires. Fuller and Meadows then left the yard

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through the gate and ran down the alley together. Coleman went to the house of a friend, Martin, and reported that the Turner house was on fire.

The defense moved for a directed verdict of acquittal at the close of the State's evidence. The trial judge ruled that the evidence against Fuller established a prima facie case and denied the motion.

The defense put on one witness, Fuller's mother. She testified that Fuller was at home asleep until 9 o'clock on the morning of the fire; therefore, he could not have been involved in setting the fires. The defense case was based solely on this alibi and an attempt to discredit Coleman's testimony. Defense counsel told the jury that the only real issue in the case was whether Fuller or someone else was standing behind the Turner house.

There was no challenge to the trial judge's instructions on reasonable doubt and the presumption of innocence. This, then, was a classic case of conflicting evidence in which the jury had to pass on the credibility of the witnesses. The jury returned a verdict of guilty. The verdict shows the jury did not believe Fuller's mother and accept his alibi defense. The jury obviously accepted as true the testimony of Coleman and the testimony of two other witnesses who said that they saw Fuller at the scene on the morning of the fire. The trial judge denied a motion for a new trial, and Fuller received a mandatory life sentence as an accessory to murder by arson. Meadows was convicted of first-degree murder in a separate trial.

Fuller appealed directly to the Michigan Court of Appeals, which unanimously affirmed the conviction. *People v. Fuller*, 44 Mich. App. 297, 205 N. W. 2d 287 (1973). It held that the evidence was sufficient to convict Fuller because, if the jury believed Coleman, it could reasonably conclude that Fuller acted as a lookout for Meadows. A divided Michigan Supreme Court affirmed. 395 Mich. 451, 236 N. W. 2d 58 (1975). It also noted that evidence was presented, which, if believed by the jury, showed that Fuller acted as a lookout.

In another in a series of cases in which federal courts retry issues of fact and credibility, the District Court for the Eastern District of Michigan granted Fuller's application for a writ of habeas corpus under 28 U. S. C. § 2254. The court purported to apply *Jackson v. Virginia*, 443 U. S. 307 (1979). It noted that *Jackson* held that habeas relief could only be granted if "no rational trier of fact could have found proof of guilt beyond a reasonable doubt." *Id.*, at 324. The District Court then reviewed and reweighed the evidence presented at trial and concluded that the evidence which persuaded 12 jurors, who heard all the evidence and observed the demeanor of *all* the witnesses, was too meager to support the prosecution's contention that Fuller acted as a lookout. The District Court relied heavily on the fact that no evidence was presented to show Fuller knew that Meadows planned to burn the Turner home; Fuller, of course, did not take the stand.

A divided Court of Appeals for the Sixth Circuit affirmed. 662 F. 2d 420 (1981). That court again reweighed the evidence which 12 jurors found sufficient under instructions not questioned. Like the District Court, two of the members of the panel concluded that there was insufficient evidence presented to establish that Fuller knew Meadows intended to commit arson.

Dissenting, Judge Weick cogently contended that the federal courts were improperly usurping the function of the state-court jury. If the jury which saw and heard the witnesses chose to believe Coleman's testimony, it was reasonable to infer that Fuller acted as a lookout for Meadows. The jury clearly chose to believe Coleman, just as it chose to disbelieve Fuller's alibi.

The District Court and the Court of Appeals incorrectly applied *Jackson*. There we held that "the relevant question is whether, after viewing the evidence in the light most favorable to the prosecution, *any* rational trier of fact could have found the essential elements of the crime beyond a rea-

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sonable doubt." 443 U. S., at 319. It is sheer nonsense to suggest that, on this record, the 12 jurors acted irrationally. With all respect, I suggest that the District Court and the Court of Appeals' majority forgot that it is the function of the jury to determine who is telling the truth. Judges betray their function when they arrogate themselves over the legal factfinder. Either we accept the jury system with the risk of human fallibility or we ought to change the structure of the system and redefine the standard of review under the habeas corpus statutes. The District Court and the Court of Appeals did not view the evidence in the light most favorable to the prosecution, as the law and their oaths require. If they had, they could not have rationally concluded that the jury could not reasonably reach the result it reached. Instead, the courts reweighed Coleman's testimony, noting that he was young, that he had been placed in a youth house because he ran away from home, and that he attended a "special school." Put simply—and bluntly, as this case demands—the federal judges who set aside this state-court judgment acted like jurors, not jurists.

This Court cannot sit as a court of errors to correct every mistake by other courts. But the decision here warrants consideration by this Court because the courts have misapplied *Jackson* in a way that threatens to lead to reversals of state-court criminal convictions whenever a federal court chooses to sit as a jury and set aside the lawful jury's findings of fact. There was a flagrant refusal here to review the evidence in the light most favorable to the prosecution, as the law commands. *Jackson* did not authorize such gross interference with the functioning of state criminal justice systems.

I would grant certiorari and reverse the decision below, with appropriate reminders to my colleagues as to certain fundamental propositions concerning their role. Our heavy docket is an insufficient reason to allow this erroneous judgment to stand.

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No. 81-871. AMERICAN PETROLEUM INSTITUTE ET AL. *v.* GORSUCH, ADMINISTRATOR, ENVIRONMENTAL PROTECTION AGENCY, ET AL.; and

No. 81-1019. CITY OF HOUSTON, TEXAS *v.* GORSUCH, ADMINISTRATOR, ENVIRONMENTAL PROTECTION AGENCY, ET AL. C. A. D. C. Cir. Certiorari denied. JUSTICE WHITE, JUSTICE POWELL, and JUSTICE O'CONNOR took no part in the consideration or decision of these petitions. Reported below: 214 U. S. App. D. C. 358, 665 F. 2d 1176.

No. 81-959. SAXTON, MOTHER AND NATURAL GUARDIAN OF DENNIS ET AL. *v.* DENNIS. Sup. Ct. Minn. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 309 N. W. 2d 298.

No. 81-1152. STANDARD OIL COMPANY OF CALIFORNIA *v.* WILTSHIRE. C. A. 9th Cir. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. JUSTICE O'CONNOR took no part in the consideration or decision of this motion and this petition. Reported below: 652 F. 2d 837.

No. 81-1341. DEL RIO LAND, INC., ET AL. *v.* CITY OF PHOENIX ET AL. Ct. App. Ariz. Certiorari denied. JUSTICE O'CONNOR took no part in the consideration or decision of this petition.

No. 81-1371. HOOPA VALLEY TRIBE OF INDIANS *v.* SHORT ET AL.; and

No. 81-1373. UNITED STATES *v.* SHORT ET AL. Ct. Cl. Motion of Quinault Indian Nation for leave to file a brief as *amicus curiae* in No. 81-1371 granted. Motion of National Congress of American Indians et al. for leave to file a brief as *amici curiae* granted. Certiorari denied. Reported below: 228 Ct. Cl. 535, 661 F. 2d 150.

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No. 81-1406. *GREENE v. GRIEVANCE COMMITTEE FOR THE NINTH JUDICIAL DISTRICT*. Ct. App. N. Y. Certiorari denied. JUSTICE BRENNAN, JUSTICE WHITE, JUSTICE BLACKMUN, and JUSTICE POWELL would grant certiorari, vacate the judgment, and remand the case for further consideration in light of *In re R. M. J.*, *ante*, p. 191. Reported below: 54 N. Y. 2d 118, 429 N. E. 2d 390.

No. 81-1421. *SEDELBAUER v. INDIANA*. Sup. Ct. Ind. Certiorari denied. JUSTICE BRENNAN and JUSTICE MARSHALL would grant the petition for certiorari and reverse the conviction. Reported below: — Ind. —, 428 N. E. 2d 206.

No. 81-5908. *ZEIGLER v. FLORIDA*. Sup. Ct. Fla. Certiorari denied. Reported below: 402 So. 2d 365.

JUSTICE BRENNAN, dissenting.

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

JUSTICE MARSHALL, dissenting.

Petitioner seeks review of the State Supreme Court's decision upholding his murder conviction and death sentence. He argues that his conviction and death sentence should be set aside because they were based in part on evidence obtained in flagrant violation of his Fourth Amendment rights. He objects to the State Supreme Court's holding that, by calling the Chief of Police for assistance, he consented to a broad-ranging 12-day search of his furniture store. Because I believe that this petition raises serious Fourth Amendment claims¹ and offers an opportunity for this Court to clarify the

¹Petitioner also objects that his alleged consent to a search of his home was not voluntary. The morning after the crimes, police asked to see peti-

standards for consent to search under *Schneckloth v. Bustamonte*, 412 U. S. 218 (1973), I dissent from the denial of certiorari.²

On December 24, 1975, four persons were killed at a furniture store owned by petitioner. Petitioner's wife, her parents, and another person had been shot to death, and petitioner had been shot in the abdomen and was seriously wounded. That night, shortly after the shootings, petitioner called the local Police Chief, a personal friend of petitioner, and requested immediate assistance. The Police Chief testified: "He told me that he had been shot. I said, what happened. He said please come help me, hurry." In response to this call, the police entered the store, found petitioner, who was bleeding badly, and rushed him to the hospital. The police found four bodies, searched for the killer, and secured the building.

Later that night, a local detective arrived to direct the investigation. The store was searched again that night and repeatedly over the next *12 days*. No effort was made to ob-

tioner in the hospital, but were refused admission because of his physical and emotional condition. Petitioner had come out of surgery only six hours earlier, was under the influence of anesthesia, and had recently been given morphine for pain. The officers drafted a consent form and asked two nurses to obtain petitioner's signature. The nurses awoke petitioner and told him that the police would like to search his home and would like him to sign the form, which they read to him. Although the nurses testified that he was coherent when he signed the form, petitioner stated that he had no recollection of signing.

As a result of this purported consent, the police searched petitioner's home and seized numerous items of evidence that were introduced at trial. These circumstances—the extraction of consent from a recuperating and drugged patient in a hospital bed—demand the most careful scrutiny before the consent may be deemed voluntary. If the petition for certiorari were granted, I would address this issue as well.

² Because I continue to believe that the death penalty is under all circumstances cruel and unusual punishment forbidden by the Eighth Amendment, I would also grant the petition for certiorari in this case and vacate the judgment below insofar as it leaves undisturbed the death sentence.

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tain a warrant until January 6, 1976. On December 26, police made a warrantless entry into petitioner's office, which was separated from the area where the victims were found, breaking two locks in the process. They went through petitioner's personal papers, checkbooks, and corporate records, and seized several documents. In searching through one of petitioner's desks, police found an insurance policy that petitioner had taken out on his wife's life. A second policy was seized in a search the next day. The two policies were introduced at trial to support the State's theory that petitioner had a pecuniary motive for killing his wife. On January 2, police searched the store yet again. They entered a back-room separated from the area in which the victims had been found, searched the inside of a closed storage cabinet, and seized a large amount of damaging evidence that was introduced at trial.

The detective testified that in conducting these warrantless searches, he relied on a so-called crime scene exception to the warrant requirement. He specifically stated that he did *not* have petitioner's consent to all of the searches. The trial court upheld the searches under this crime scene rationale. Although the State Supreme Court recognized that a crime scene exception is inconsistent with *Mincey v. Arizona*, 437 U. S. 385 (1978), it nevertheless upheld the searches, reasoning that the police were at the store at the "invitation" of petitioner. 402 So. 2d 365, 372 (Fla. 1981).³

The decision below stretches the consent exception to the warrant requirement beyond recognition. Particularly when the defendant's life hangs in the balance, courts should be careful that convictions are not based on illegally obtained evidence. Here, the conclusion that a seriously wounded de-

³The State contends that petitioner shot himself and called the police as part of a deliberate scheme to pin the blame on another. This contention is irrelevant to the scope of petitioner's consent. Whether or not the call for help was self-serving, the question remains whether it can reasonably be construed as a consent to a search unlimited in time and location.

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fendant who requests police aid thereby consents to an unlimited 12-day search of his business premises ignores the relevant context of the consent—the need for immediate medical assistance—and amounts to a rule that a cry for help waives all Fourth Amendment protection. I would set the case for plenary argument.

No. 81-6082. *RUFFIN v. AUSTIN, WARDEN, GEORGIA STATE PRISON*. Super. Ct. Ga., Tatnall County;

No. 81-6131. *EVANS v. VIRGINIA*. Sup. Ct. Va.;

No. 81-6143. *ROOK v. NORTH CAROLINA*. Sup. Ct. N. C.; and

No. 81-6151. *CUNNINGHAM v. GEORGIA*. Sup. Ct. Ga. Certiorari denied. Reported below: No. 81-6131, 222 Va. 766, 284 S. E. 2d 816; No. 81-6143, 304 N. C. 201, 283 S. E. 2d 732; No. 81-6151, 248 Ga. 558, 284 S. E. 2d 390.

JUSTICE BRENNAN and 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. 80-6843. *HIGH v. GEORGIA*, *ante*, p. 927;

No. 81-23. *HUTTO, DIRECTOR, VIRGINIA STATE DEPARTMENT OF CORRECTIONS, ET AL. v. DAVIS*, 454 U. S. 370;

No. 81-1013. *JOHNSON v. SUPERIOR COURT OF CALIFORNIA, CITY AND COUNTY OF SAN FRANCISCO (BANK OF AMERICA ET AL., REAL PARTIES IN INTEREST)*, *ante*, p. 921;

No. 81-1078. *GELLER v. MERIT SYSTEMS PROTECTION BOARD ET AL.*, *ante*, p. 901;

No. 81-5566. *DENARDO v. MURPHY*, 454 U. S. 1096;

No. 81-5801. *WALLACE v. GEORGIA*, *ante*, p. 927;

No. 81-5831. *LEUSCHNER v. MARYLAND*, *ante*, p. 951; and

No. 81-5841. *SABIR v. RAINIER NATIONAL BANK*, 454 U. S. 1157. Petitions for rehearing denied.

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No. 81-5621. JOHNSON *v.* AETNA CASUALTY & SURETY COMPANY OF HARTFORD, CONNECTICUT, ET AL., 454 U. S. 1118. Petition for rehearing denied. JUSTICE O'CONNOR took no part in the consideration or decision of this petition.

MARCH 23, 1982

Miscellaneous Order

No. 81-1724. UPHAM ET AL. *v.* SEAMON ET AL. D. C. E. D. Tex. Motion of appellants to expedite is granted insofar as the appellees are directed to file motions to dismiss or affirm on or before Monday, March 29, 1982.

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REPORTER'S NOTE

The next page is purposely numbered 1301. The numbers between 1039 and 1301 were intentionally omitted, in order to make it possible to publish in-chambers opinions with *permanent* page numbers, thus making the official citations available upon publication of the preliminary prints of the United States Reports.

