

ORDERS FROM MARCH 29 THROUGH  
JUNE 1, 1982

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MARCH 29, 1982

*Dismissal Under Rule 53*

No. 81-1564. KONIAG, INC. *v.* STRATMAN ET AL. C. A. 9th Cir. Certiorari dismissed under this Court's Rule 53. Reported below: 656 F. 2d 1321.

*Affirmed on Appeal*

No. 81-1000. CALIFORNIA STATE BOARD OF EQUALIZATION *v.* UNITED STATES. Affirmed on appeal from C. A. 9th Cir. Reported below: 650 F. 2d 1127.

*Appeal Dismissed*

No. 81-1505. CAMELLIA CORP. *v.* CORNELL. Appeal from Sup. Ct. Ga. dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied. Reported below: 248 Ga. 449, 283 S. E. 2d 264.

*Miscellaneous Orders*

No. A-755. YATES *v.* UNITED STATES COAST GUARD ET AL. Application for injunction, addressed to JUSTICE O'CONNOR and referred to the Court, denied.

No. A-783. KARCHER, SPEAKER, NEW JERSEY ASSEMBLY, ET AL. *v.* DAGGETT ET AL. D. C. N. J. Motions of appellees to vacate the stay entered by JUSTICE BRENNAN on March 15, 1982 [455 U. S. 1303], and requests to expedite docketing of the appeal denied.

No. A-791. CARPENTER *v.* JAMERSON, SHERIFF. Application to continue the stay entered by the Supreme Court of Ohio, addressed to JUSTICE BRENNAN and referred to the Court, denied.

March 29, 1982

456 U. S.

No. A-786. *TERRAZAS ET AL. v. CLEMENTS, GOVERNOR OF TEXAS, ET AL.* Application for stay of the order of the United States District Court for the Northern District of Texas, presented to JUSTICE WHITE, and by him referred to the Court, denied. JUSTICE POWELL took no part in the consideration or decision of this application.

No. A-826. *QUEENSGATE INVESTMENT CO., DBA HOLIDAY INN v. LIQUOR CONTROL COMMISSION OF OHIO.* Sup. Ct. Ohio. Application for stay, presented to JUSTICE O'CONNOR, and by her referred to the Court, denied.

No. A-828 (81-395). *UNITED STEELWORKERS OF AMERICA, AFL-CIO-CLC v. SADLOWSKI ET AL.* C. A. D. C. Cir. [Certiorari granted, 454 U. S. 962.] Application of petitioner for leave to file a reply brief in excess of the page limitations, presented to THE CHIEF JUSTICE, and by him referred to the Court, denied.

No. D-248. *IN RE DISBARMENT OF HOLOBER.* Disbarment entered. [For earlier order herein, see 454 U. S. 936.]

No. D-249. *IN RE DISBARMENT OF BEATTY.* Disbarment entered. [For earlier order herein, see 454 U. S. 937.]

No. D-255. *IN RE DISBARMENT OF HOLMAN.* Disbarment entered. [For earlier order herein, see 455 U. S. 902.]

No. D-261. *IN RE DISBARMENT OF HAMMERSMITH.* It is ordered that Robert K. Hammersmith, of Columbus, Ohio, be suspended from the practice of law in this Court and that a rule issue, returnable within 40 days, requiring him to show cause why he should not be disbarred from the practice of law in this Court.

No. D-262. *IN RE DISBARMENT OF AUWAERTER.* It is ordered that John F. Auwaerter, of Sylvania, 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.

456 U. S.

March 29, 1982

No. D-263. *IN RE DISBARMENT OF KITCHEN*. It is ordered that John W. Kitchen, of Toledo, Ohio, be suspended from the practice of law in this Court and that a rule issue, returnable within 40 days, requiring him to show cause why he should not be disbarred from the practice of law in this Court.

No. D-264. *IN RE DISBARMENT OF EILBERG*. It is ordered that Joshua Eilberg, of Philadelphia, Pa., be suspended from the practice of law in this Court and that a rule issue, returnable within 40 days, requiring him to show cause why he should not be disbarred from the practice of law in this Court.

No. 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 petitioners for leave to file reply brief out of time granted.

No. 81-184. *UNITED STATES v. SECURITY INDUSTRIAL BANK ET AL.* C. A. 10th Cir. [Probable jurisdiction noted, 454 U. S. 1122.] Motion of Security Industrial Bank for divided argument and for additional time for oral argument 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 respondent for divided argument to permit American Federation of Labor and Congress of Industrial Organizations to present oral argument as *amicus curiae* denied.

No. 81-497. *SUMMIT VALLEY INDUSTRIES, INC. v. LOCAL 112, UNITED BROTHERHOOD OF CARPENTERS & JOINERS OF AMERICA.* C. A. 9th Cir. [Certiorari granted, 454 U. S. 1079.] Motion of American Federation of Labor and Congress of Industrial Organizations for leave to file a brief as *amicus curiae* granted.

March 29, 1982

456 U. S.

No. 81-1731. *SCHATZLE v. KIRKPATRICK, SECRETARY OF STATE OF MISSOURI, ET AL.* D. C. W. D. Mo. Motion of appellant to expedite consideration of the appeal denied.

No. 81-5321. *ENMUND v. FLORIDA.* Sup. Ct. Fla. [Certiorari granted, 454 U. S. 939.] Motion of respondent to strike portions of petitioner's reply brief denied.

No. 81-6187. *IN RE BOYER.* Petition for writ of mandamus denied.

No. 81-6192. *IN RE HANSON.* Petition for writ of prohibition denied.

*Probable Jurisdiction Noted*

No. 81-1370. *ENERGY RESERVES GROUP, INC. v. KANSAS POWER & LIGHT CO.* Appeal from Sup. Ct. Kan. Motion of State Corporation Commission of Kansas for leave to file a brief as *amicus curiae* granted. Probable jurisdiction noted. Reported below: 230 Kan. 176, 630 P. 2d 1142.

*Certiorari Granted*

No. 81-1095. *MORRIS, WARDEN v. SLAPPY.* C. A. 9th Cir. Certiorari granted. Reported below: 649 F. 2d 718.

No. 81-1476. *UNITED STATES v. RODGERS ET AL.*; and *UNITED STATES v. INGRAM ET AL.* C. A. 5th Cir. Certiorari granted. Reported below: 649 F. 2d 1117 (first case); 649 F. 2d 1128 (second case).

*Certiorari Denied.* (See also No. 81-1505, *supra.*)

No. 80-2128. *WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY v. HENSLEY.* C. A. D. C. Cir. Certiorari denied. Reported below: 210 U. S. App. D. C. 151, 655 F. 2d 264.

No. 81-547. *DIAZ ET AL. v. BEYER ET UX.* Ct. Civ. App. Tex., 10th Sup. Jud. Dist. Certiorari denied. Reported below: 611 S. W. 2d 726.

456 U. S.

March 29, 1982

No. 81-1001. RIVENBURGH *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied.

No. 81-1115. SOUTHWESTERN BAPTIST THEOLOGICAL SEMINARY *v.* EQUAL EMPLOYMENT OPPORTUNITY COMMISSION. C. A. 5th Cir. Certiorari denied. Reported below: 651 F. 2d 277.

No. 81-1191. WIGGINS BROTHERS, INC., ET AL. *v.* DEPARTMENT OF ENERGY ET AL. Temp. Emerg. Ct. App. Certiorari denied. Reported below: 667 F. 2d 77.

No. 81-1205. NITROCHEM, INC. *v.* INTERSTATE COMMERCE COMMISSION ET AL. C. A. D. C. Cir. Certiorari denied. Reported below: 215 U. S. App. D. C. 1, 665 F. 2d 1304.

No. 81-1219. GOODSTEIN ET AL. *v.* UNITED STATES ET AL. C. A. 2d Cir. Certiorari denied. Reported below: 663 F. 2d 1068.

No. 81-1236. GARNER *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 663 F. 2d 834.

No. 81-1242. GILLILAND ET AL. *v.* UNITED STATES. Ct. Cl. Certiorari denied. Reported below: 228 Ct. Cl. 709.

No. 81-1260. ALLNUTT *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. Reported below: 672 F. 2d 901.

No. 81-1264. FOGG *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 652 F. 2d 551.

No. 81-1382. ATKINSON *v.* ATKINSON, AKA GOELZ. Sup. Ct. Ill. Certiorari denied. Reported below: 87 Ill. 2d 174, 429 N. E. 2d 465.

No. 81-1402. O'GRADY ET AL. *v.* WATT, SECRETARY OF THE INTERIOR, ET AL. C. A. D. C. Cir. Certiorari denied.

March 29, 1982

456 U. S.

No. 81-1433. REIMNITZ *v.* ILLINOIS. App. Ct. Ill., 1st Dist. Certiorari denied. Reported below: 97 Ill. App. 3d 946, 423 N. E. 2d 934.

No. 81-1446. HUNTINGTON MEMORIAL HOSPITAL *v.* MISSIRLIAN. C. A. 9th Cir. Certiorari denied. Reported below: 662 F. 2d 546.

No. 81-1447. LOETERMAN ET AL. *v.* TOWN OF BROOKLINE ET AL. C. A. 1st Cir. Certiorari before judgment denied.

No. 81-1450. MICHELIN TIRE CORP. *v.* COULTER. Ct. App. Mo., Southern Dist. Certiorari denied. Reported below: 622 S. W. 2d 421.

No. 81-1452. FORDEES CORP. *v.* VULCAN, INC. C. A. 6th Cir. Certiorari denied. Reported below: 658 F. 2d 1106.

No. 81-1456. MARIN *v.* MYERS ET AL. C. A. 4th Cir. Certiorari denied. Reported below: 665 F. 2d 57.

No. 81-1471. IMMER *v.* PUERTO RICO MARITIME SHIPPING AUTHORITY ET AL. C. A. D. C. Cir. Certiorari denied.

No. 81-1474. COLE *v.* OHIO. Ct. App. Ohio, Franklin County. Certiorari denied.

No. 81-1475. TAYLOR *v.* VIRGINIA. Sup. Ct. Va. Certiorari denied. Reported below: 222 Va. 816, 284 S. E. 2d 833.

No. 81-1477. WELLS *v.* WHITE, GOVERNOR OF ARKANSAS, ET AL. Sup. Ct. Ark. Certiorari denied. Reported below: 274 Ark. 197, 623 S. W. 2d 187.

No. 81-1484. ALLISON ET AL. *v.* CONTINENTAL GROUP, INC. Sup. Ct. La. Certiorari denied. Reported below: 404 So. 2d 428.

456 U. S.

March 29, 1982

No. 81-1519. *DARWIN v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 663 F. 2d 106.

No. 81-1523. *STEWART ET AL. v. SOCIALIST WORKERS PARTY ET AL.* C. A. 7th Cir. Certiorari denied.

No. 81-1539. *BLOCK v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 660 F. 2d 1086.

No. 81-1541. *BALLENGER v. ALABAMA*. Ct. Crim. App. Ala. Certiorari denied. Reported below: 406 So. 2d 995.

No. 81-1576. *SNISKY, T/A PANTHER VALLEY COIN EXCHANGE v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 673 F. 2d 1303.

No. 81-1579. *MILLER v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 673 F. 2d 1333.

No. 81-1601. *IRWIN v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 661 F. 2d 1063.

No. 81-1603. *SALAZAR v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 659 F. 2d 562.

No. 81-5623. *JOHNSON v. FOGG, SUPERINTENDENT, EASTERN NEW YORK CORRECTIONAL FACILITY, ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 653 F. 2d 750.

No. 81-5836. *IN RE LINGER*. Sup. Ct. Ohio. Certiorari denied.

No. 81-5894. *LEE v. GILSTRAP, CHIEF OF POLICE, WAYNE COUNTY, ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 661 F. 2d 999.

No. 81-5907. *ELLIS v. ILLINOIS*. App. Ct. Ill., 1st Dist. Certiorari denied. Reported below: 93 Ill. App. 3d 981, 418 N. E. 2d 88.

March 29, 1982

456 U. S.

No. 81-5949. *MORENO v. CALIFORNIA*. Ct. App. Cal., 2d App. Dist. Certiorari denied.

No. 81-5980. *WILLIAMS v. TEXAS*. Ct. Crim. App. Tex. Certiorari denied. Reported below: 621 S. W. 2d 613.

No. 81-6163. *YOUNG v. MARSHALL*. C. A. 6th Cir. Certiorari denied. Reported below: 698 F. 2d 1225.

No. 81-6166. *BRENT v. MARYLAND*. Ct. Sp. App. Md. Certiorari denied. Reported below: 49 Md. App. 605, 434 A. 2d 1030.

No. 81-6167. *AFRICA v. PENNSYLVANIA ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 662 F. 2d 1025.

No. 81-6175. *NELSON v. ENGLE, SUPERINTENDENT, CHILLICOTHE CORRECTIONAL INSTITUTE, ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 673 F. 2d 1329.

No. 81-6176. *OWENS v. MILLER*. C. A. 3d Cir. Certiorari denied.

No. 81-6180. *LINDSEY v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 673 F. 2d 1318.

No. 81-6182. *BAKER v. ESTELLE, DIRECTOR, TEXAS DEPARTMENT OF CORRECTIONS*. C. A. 5th Cir. Certiorari denied.

No. 81-6186. *BRENNIN v. KIRBY, COMMISSIONER OF THE SUFFOLK COUNTY DEPARTMENT OF SOCIAL SERVICES, ET AL.* App. Div., Sup. Ct. N. Y., 2d Jud. Dept. Certiorari denied. Reported below: 79 App. Div. 2d 396, 436 N. Y. S. 2d 896.

No. 81-6190. *SZIJARTO v. SINOW*. Ct. App. Cal., 2d App. Dist. Certiorari denied.

No. 81-6194. *TURNER v. ENGLE*. C. A. 6th Cir. Certiorari denied. Reported below: 673 F. 2d 1331.

456 U. S.

March 29, 1982

No. 81-6197. ALLEN *v.* IOWA. Sup. Ct. Iowa. Certiorari denied. Reported below: 304 N. W. 2d 260.

No. 81-6203. STATON *v.* WAINWRIGHT ET AL. C. A. 11th Cir. Certiorari denied. Reported below: 665 F. 2d 686.

No. 81-6209. SCOTT *v.* PERINI. C. A. 6th Cir. Certiorari denied. Reported below: 662 F. 2d 428.

No. 81-6226. CHANG *v.* TEXAS YOUTH COUNCIL ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 663 F. 2d 104.

No. 81-6256. PAYNE *v.* KENTUCKY. Sup. Ct. Ky. Certiorari denied. Reported below: 623 S. W. 2d 867.

No. 81-6263. HORTON *v.* COMPTON ET AL. C. A. 3d Cir. Certiorari denied.

No. 81-6288. O'BRIEN *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 698 F. 2d 1221.

No. 81-6290. JONES *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 668 F. 2d 258.

No. 81-6292. KING *v.* CARLSON ET AL. C. A. 10th Cir. Certiorari denied.

No. 81-6293. KING *v.* CARLSON ET AL. C. A. 10th Cir. Certiorari denied.

No. 81-6305. CANDA *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied.

No. 81-6312. GONSALVES *v.* UNITED STATES. C. A. 1st Cir. Certiorari denied. Reported below: 668 F. 2d 73.

No. 81-6319. ANTONELLI *v.* CHICAGO POLICE DEPARTMENT ET AL. C. A. 7th Cir. Certiorari denied. Reported below: 673 F. 2d 1334.

March 29, 1982

456 U. S.

No. 81-417. WAINWRIGHT, CORRECTIONS SECRETARY *v.* PEREZ. C. A. 5th Cir. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 627 F. 2d 762 and 640 F. 2d 596.

No. 81-1469. TENNESSEE *v.* WEBB. Sup. Ct. Tenn. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 625 S. W. 2d 259.

No. 81-1516. ATKINS, CHAIRMAN, MISSOURI BOARD OF PROBATION AND PAROLE, ET AL. *v.* ELDRIDGE. C. A. 8th Cir. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 665 F. 2d 228.

No. 81-1295. SHEARSON HAYDEN STONE, INC., ET AL. *v.* HOPE ET AL. Ct. App. Cal., 1st App. Dist. Motion of New York Stock Exchange, Inc., et al. for leave to file a brief as *amici curiae* granted. Certiorari denied. Reported below: 122 Cal. App. 3d 147, 175 Cal. Rptr. 851.

No. 81-1517. HILDEBRAND *v.* BOARD OF TRUSTEES OF MICHIGAN STATE UNIVERSITY ET AL. C. A. 6th Cir. Motion of Lansing Michigan Branch of the American Civil Liberties Union of Michigan et al. for leave to file a brief as *amici curiae* granted. Certiorari denied. Reported below: 662 F. 2d 439.

No. 81-6158. VANDERBILT *v.* TEXAS. Ct. Crim. App. Tex.; and

No. 81-6172. CHRISTOPHER *v.* FLORIDA. Sup. Ct. Fla. Certiorari denied. Reported below: No. 81-6158, 629 S. W. 2d 709; No. 81-6172, 407 So. 2d 198.

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.

456 U. S.

March 29, April 5, 1982

*Rehearing Denied*

No. 81-963. FRIENDLY RETIREMENT CENTER, INC. *v.* COLLING, SUCCESSOR TRUSTEE, 455 U. S. 940;

No. 81-5508. SOUNESS *v.* VETERANS ADMINISTRATION, 454 U. S. 1088;

No. 81-5978. CREASY *v.* VIRGINIA, 455 U. S. 957;

No. 81-5998. SMITH *v.* ESTELLE, DIRECTOR, TEXAS DEPARTMENT OF CORRECTIONS, 455 U. S. 958; and

No. 81-6000. RHODES *v.* UNITED STATES NAVY ET AL., 455 U. S. 958. Petitions for rehearing denied.

No. 81-921. KESSINGER ET AL. *v.* KENTUCKY, 455 U. S. 920; and

No. 81-5560. JOHNSON *v.* CONNECTICUT, 454 U. S. 1101. Motions for leave to file petitions for rehearing denied.

APRIL 5, 1982

*Appeals Dismissed*

No. 80-5227. MAFFEY *v.* OREGON EX REL. JUVENILE DEPARTMENT OF KLAMATH COUNTY. Appeal from Ct. App. Ore. dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied. Reported below: 45 Ore. App. 2, 607 P. 2d 232.

No. 81-1034. NEW MEXICO EX REL. ROCK *v.* STOWERS. Appeal from Sup. Ct. N. M. dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied.

*Miscellaneous Orders*

No. A-799 (81-1719). PETRUSCH, DBA B & L DISTRIBUTION CENTER *v.* TEAMSTERS LOCAL 317, SYRACUSE, NEW YORK, ET AL. C. A. 2d Cir. Application for injunction, addressed to JUSTICE REHNQUIST and referred to the Court, denied.

April 5, 1982

456 U. S.

No. A-818. *CONWAY v. UNITED STATES*. C. A. 9th Cir. Application for stay, addressed to JUSTICE MARSHALL and referred to the Court, denied.

No. A-829. *DIVISION 732, AMALGAMATED TRANSIT UNION v. METROPOLITAN ATLANTA RAPID TRANSIT AUTHORITY*. C. A. 11th Cir. Application for stay, presented to JUSTICE POWELL, and by him referred to the Court, denied.

No. D-250. *IN RE DISBARMENT OF DONOVAN*. Disbarment entered. [For earlier order herein, see 454 U. S. 937.]

No. D-254. *IN RE DISBARMENT OF WENCKE*. Disbarment entered. [For earlier order herein, see 454 U. S. 1075.]

No. 8, Orig. *ARIZONA v. CALIFORNIA ET AL.* Report of the Special Master received and ordered filed. Exceptions, if any, with supporting briefs to the Report may be filed by the parties within 45 days. Reply briefs, if any, to such Exceptions may be filed within 30 days. JUSTICE MARSHALL and JUSTICE O'CONNOR took no part in the consideration or decision of this order. [For earlier order herein, see, *e. g.*, 444 U. S. 1009.]

No. 92, Orig. *ARKANSAS v. MISSISSIPPI*. Motion for leave to file bill of complaint granted. Defendant is allowed 60 days within which to answer.

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 the Solicitor General for leave to participate in oral argument as *amicus curiae* and for divided argument granted.

No. 81-1404. *BRISCOE ET AL. v. LAHUE ET AL.* C. A. 7th Cir. [Certiorari granted, 455 U. S. 1016.] Motion of petitioner Carlisle W. Briscoe for leave to proceed further herein *in forma pauperis* granted.

456 U. S.

April 5, 1982

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 respondents to apportion advancement of funds for printing of the joint appendix denied.

No. 81-878. LARKIN ET AL. *v.* GRENDDEL'S DEN, INC. C. A. 1st Cir. [Probable jurisdiction noted, 454 U. S. 1140.] Motion of Paul W. Johnson, Esquire, to permit Gerald J. Caruso, Esquire, to present oral argument *pro hac vice* granted.

No. 81-920. VERLINDEN B. V. *v.* CENTRAL BANK OF NIGERIA. C. A. 2d Cir. [Certiorari granted, 454 U. S. 1140.] Motion of the Solicitor General for leave to participate in oral argument as *amicus curiae* and for divided argument granted. Request for additional time for oral argument denied.

No. 81-1770. ORWOLL ET AL. *v.* LACOMB ET AL. D. C. Minn. Motion of Minnesota State Senate for leave to file a brief as *amicus curiae* granted. Motion of appellants to expedite consideration of the appeal denied. JUSTICE BLACKMUN took no part in the consideration or decision of these motions.

No. 81-6218. IN RE JACKSON; and

No. 81-6317. IN RE SHELBY. Petitions for writs of mandamus denied.

*Probable Jurisdiction Noted*

No. 81-1489. XEROX CORP. *v.* COUNTY OF HARRIS, TEXAS, ET AL. Appeal from Ct. App. Tex., 1st Sup. Jud. Dist. Probable jurisdiction noted. Reported below: 619 S. W. 2d 402.

*Certiorari Granted*

No. 81-1181. LOCKHEED AIRCRAFT CORP. *v.* UNITED STATES ET AL. C. A. D. C. Cir. Certiorari granted. Reported below: 215 U. S. App. D. C. 27, 665 F. 2d 1330.

April 5, 1982

456 U. S.

No. 81-1506. FEDERAL ELECTION COMMISSION ET AL. *v.* NATIONAL RIGHT TO WORK COMMITTEE ET AL. C. A. D. C. Cir. Certiorari granted. Reported below: 214 U. S. App. D. C. 215, 665 F. 2d 371.

No. 81-680. HERMAN & MACLEAN *v.* HUDDLESTON ET AL.; and

No. 81-1076. HUDDLESTON ET AL. *v.* HERMAN & MACLEAN ET AL. C. A. 5th Cir. Certiorari in No. 81-680 granted. Certiorari in No. 81-1076 granted limited to Question 1 presented by the petition. Cases consolidated and a total of one hour allotted for oral argument. Reported below: 640 F. 2d 534.

No. 81-1214. MISSOURI *v.* HUNTER. Ct. App. Mo., Western Dist. Motion of respondent for leave to proceed *in forma pauperis* and certiorari granted. Reported below: 622 S. W. 2d 374.

No. 81-1493. GILLETTE CO. *v.* MINER. Sup. Ct. Ill. Motion of National Association of Independent Insurers et al. for leave to file a brief as *amici curiae* granted. Certiorari granted. Reported below: 87 Ill. 2d 7, 428 N. E. 2d 478.

*Certiorari Denied.* (See also Nos. 80-5227 and 81-1034, *supra.*)

No. 81-826. AMERICAN COMMERCIAL LINES, INC. *v.* GRIFFITH ET AL.; OCEANIC NAVIGATION CORP. ET AL. *v.* SARAUW; and SILVER BULK SHIPPING, LTD. *v.* MCCARTHY. C. A. 3d Cir. Certiorari denied. Reported below: 657 F. 2d 25 (first case); 655 F. 2d 526 (second case); 661 F. 2d 298 (third case).

No. 81-1231. BEDFORD ASSOCIATES ET AL. *v.* UNITED STATES ET AL. C. A. 2d Cir. Certiorari denied. Reported below: 657 F. 2d 1300.

456 U. S.

April 5, 1982

No. 81-1238. *CASHELL v. UNITED STATES*;  
No. 81-1253. *SATTERWHITE v. UNITED STATES*;  
No. 81-1333. *WELCH v. UNITED STATES*; and  
No. 81-6062. *COCHRAN v. UNITED STATES*. C. A. 5th  
Cir. Certiorari denied. Reported below: 656 F. 2d 1039.

No. 81-1254. *ATHENA PRODUCTS, LTD. v. UNITED STATES POSTAL SERVICE*. C. A. 11th Cir. Certiorari denied. Reported below: 654 F. 2d 362.

No. 81-1288. *BRUNSWICK CORP. ET AL. v. FEDERAL TRADE COMMISSION ET AL.* C. A. 8th Cir. Certiorari denied. Reported below: 657 F. 2d 971.

No. 81-1302. *MONTEDISON S.P.A. v. PHILLIPS PETROLEUM CO. ET AL.*; and

No. 81-1303. *STANDARD OIL CO. (INDIANA) v. PHILLIPS PETROLEUM CO. ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 664 F. 2d 356.

No. 81-1338. *ARROW TRANSPORTATION CO. v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 658 F. 2d 392.

No. 81-1441. *BRONSTON v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 658 F. 2d 920.

No. 81-1454. *CIANCI ET AL. v. DIVISION OF LIQUOR CONTROL, DEPARTMENT OF BUSINESS REGULATION*. Super. Ct. Conn., Hartford Jud. Dist. Certiorari denied.

No. 81-1468. *COASTAL PETROLEUM CO. v. UNITED STATES*. Ct. Cl. Certiorari denied. Reported below: 207 Ct. Cl. 701, 524 F. 2d 1206; and 228 Ct. Cl. 864.

No. 81-1502. *MURNANE v. AMERICAN AIRLINES, INC., ET AL.* C. A. D. C. Cir. Certiorari denied. Reported below: 215 U. S. App. D. C. 55, 667 F. 2d 98.

April 5, 1982

456 U. S.

No. 81-1504. *BECKSTROM v. CALIFORNIA*. Ct. App. Cal., 4th App. Dist. Certiorari denied.

No. 81-1520. *BAUTISTA v. CALIFORNIA*. Ct. App. Cal., 2d App. Dist. Certiorari denied.

No. 81-1527. *HALL v. HALL*. Sup. Ct. Ark. Certiorari denied. Reported below: 274 Ark. 266, 623 S. W. 2d 833.

No. 81-1532. *OLIVER v. AMINOIL, USA, INC.* C. A. 5th Cir. Certiorari denied. Reported below: 662 F. 2d 349.

No. 81-1540. *TANGREN ET AL. v. WACKENHUT SERVICES, INC., ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 658 F. 2d 705.

No. 81-1559. *VILLALTA v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 662 F. 2d 1205.

No. 81-1584. *FRANGELLA MUSHROOM FARMS, INC., ET AL. v. UNITED STATES*. Ct. Cl. Certiorari denied. Reported below: 229 Ct. Cl. 578.

No. 81-1599. *MAHROOM v. MARSH, SECRETARY OF THE ARMY OF THE UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 667 F. 2d 1031.

No. 81-1608. *COVEN v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 662 F. 2d 162.

No. 81-1628. *REILLY v. SCHWEIKER, SECRETARY OF HEALTH AND HUMAN SERVICES*. C. A. 7th Cir. Certiorari denied. Reported below: 673 F. 2d 1333.

No. 81-1638. *ALBERT v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 663 F. 2d 105.

No. 81-1648. *ANDERSON v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 673 F. 2d 1302.

No. 81-1652. *RIDEN v. UNITED STATES NUCLEAR REGULATORY COMMISSION*. C. A. 7th Cir. Certiorari denied. Reported below: 676 F. 2d 697.

456 U. S.

April 5, 1982

No. 81-5849. *POUSSON v. ESTELLE, DIRECTOR, TEXAS DEPARTMENT OF CORRECTIONS*. C. A. 5th Cir. Certiorari denied.

No. 81-5897. *WILSON v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 659 F. 2d 1091.

No. 81-6038. *MOORE v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 656 F. 2d 378.

No. 81-6079. *LOCKLEAR v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 672 F. 2d 914.

No. 81-6094. *MCKEE v. HARRIS*. C. A. 2d Cir. Certiorari denied. Reported below: 649 F. 2d 927.

No. 81-6130. *SIMER ET AL. v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 661 F. 2d 655.

No. 81-6144. *SALMAN v. SWANSON, DISTRICT DIRECTOR, INTERNAL REVENUE SERVICE*. C. A. 9th Cir. Certiorari denied. Reported below: 665 F. 2d 1053.

No. 81-6191. *CONNER v. ANDERSON, WARDEN, STATE PRISON OF SOUTHERN MICHIGAN*. C. A. 6th Cir. Certiorari denied. Reported below: 672 F. 2d 916.

No. 81-6200. *PELCZARSKI v. SULLIVAN ET AL.* C. A. 1st Cir. Certiorari denied.

No. 81-6204. *NORWOOD v. WOODARD*. C. A. 4th Cir. Certiorari denied. Reported below: 673 F. 2d 1315.

No. 81-6207. *TYLER v. TYLER*. Ct. App. Wis. Certiorari denied. Reported below: 105 Wis. 2d 765, 318 N. W. 2d 23.

No. 81-6210. *TAYLOR v. BLACKBURN, WARDEN, LOUISIANA STATE PENITENTIARY*. Sup. Ct. La. Certiorari denied. Reported below: 409 So. 2d 656.

No. 81-6215. *DRYSDALE v. KEITH*. C. A. 4th Cir. Certiorari denied. Reported below: 661 F. 2d 920.

April 5, 1982

456 U. S.

No. 81-6211. *TRIMMER v. VAN BOMEL*. App. Div., Sup. Ct. N. Y., 1st Jud. Dept. Certiorari denied. Reported below: 82 App. Div. 2d 1023, 441 N. Y. S. 2d 762.

No. 81-6229. *WIGA v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 662 F. 2d 1325.

No. 81-6239. *HOWELL v. TANNER, COMMISSIONER, DEPARTMENT OF NATURAL RESOURCES OF GEORGIA, ET AL.* C. A. 11th Cir. Certiorari denied. Reported below: 650 F. 2d 610.

No. 81-6250. *PENNINGTON v. HOUSEWRIGHT, DIRECTOR, ARKANSAS DEPARTMENT OF CORRECTION*. C. A. 8th Cir. Certiorari denied. Reported below: 666 F. 2d 329.

No. 81-6295. *ANTONELLI v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 673 F. 2d 1332.

No. 81-6303. *TAYLOR ET AL. v. UNITED STATES*. Ct. Cl. Certiorari denied. Reported below: 229 Ct. Cl. 521.

No. 81-6310. *JONES v. UNITED STATES*. Ct. App. D. C. Certiorari denied. Reported below: 438 A. 2d 444.

No. 81-6313. *MANGIAMELI v. UNITED STATES*. C. A. 10th Cir. Certiorari denied. Reported below: 668 F. 2d 1172.

No. 81-6321. *LEE v. UNITED STATES*; and

No. 81-6328. *NANCE v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 666 F. 2d 353.

No. 81-6324. *CONROY v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 698 F. 2d 1224.

No. 81-6343. *GREEN v. CARLSON, DIRECTOR, FEDERAL BUREAU OF PRISONS, ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 673 F. 2d 1310.

456 U. S.

April 5, 1982

No. 81-6325. HOWARD *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 667 F. 2d 95.

No. 81-6345. LEE *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 672 F. 2d 924.

No. 81-6347. GOLDEN *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. Reported below: 671 F. 2d 369.

No. 81-6350. ROSS *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 665 F. 2d 346.

No. 81-6351. GRAY *v.* UNITED STATES. Ct. App. D. C. Certiorari denied.

No. 81-1210. RAULERSON *v.* HOWELL. C. A. 11th Cir. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 650 F. 2d 610.

No. 81-6016. CHANEY *v.* OKLAHOMA. Ct. Crim. App. Okla.; and

No. 81-6224. GODFREY *v.* GEORGIA. Sup. Ct. Ga. Certiorari denied. Reported below: No. 81-6224, 248 Ga. 616, 284 S. E. 2d 422.

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. 81-5930. WHITELAW *v.* MWP LIMITED PARTNERSHIP, 455 U. S. 955;

No. 81-5955. DIXON *v.* MACDOUGALL, 455 U. S. 955;

No. 81-6067. MCCOLPIN *v.* BARNES, 455 U. S. 1004; and

No. 81-6099. WILLIAMS *v.* CARMEN, ADMINISTRATOR, GENERAL SERVICES ADMINISTRATION, ET AL., 455 U. S. 992. Petitions for rehearing denied.

April 5, 6, 9, 19, 1982

456 U. S.

No. 81-271. CALIFORNIA EX REL. COOPER, CITY ATTORNEY OF SANTA ANA, CALIFORNIA *v.* MITCHELL BROTHERS' SANTA ANA THEATER ET AL., 454 U. S. 90. Motion for leave to file petition for rehearing denied.

APRIL 6, 1982

*Dismissal Under Rule 53*

No. 81-1592. TRAVELERS EXPRESS CO., INC. *v.* MINNESOTA ET AL. C. A. 8th Cir. Certiorari dismissed under this Court's Rule 53. Reported below: 664 F. 2d 691.

APRIL 9, 1982

*Dismissal Under Rule 53*

No. 81-6213. IN RE ARTWAY. Petition for writ of mandamus dismissed under this Court's Rule 53.

APRIL 19, 1982

*Dismissal Under Rule 53*

No. 81-1729. NATURAL RESOURCES DEFENSE COUNCIL, INC., ET AL. *v.* CITY OF NEW YORK ET AL. C. A. 2d Cir. Certiorari dismissed under this Court's Rule 53. Reported below: 672 F. 2d 292.

*Appeals Dismissed*

No. 81-1594. RAFTER *v.* HIGGINS ET AL. Appeal from Ct. App. N. Y. dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied. Reported below: 54 N. Y. 2d 1025.

No. 81-1621. BILFORD ET AL. *v.* FLORIDA. Appeal from Sup. Ct. Fla. dismissed for want of jurisdiction. Reported below: 405 So. 2d 973.

456 U. S.

April 19, 1982

No. 81-1642. *BEST INVESTMENT CO. v. CITY OF DALLAS ET AL.* Appeal from D. C. N. D. Tex. dismissed for want of jurisdiction.

*Certiorari Granted—Vacated and Remanded*

No. 80-5861. *WILLIAMS v. LUCKY.* Ct. Civ. App. Tex., 5th Sup. Jud. Dist. Motion of petitioner for leave to proceed *in forma pauperis* and certiorari granted. Judgment vacated and case remanded for further consideration in light of *Mills v. Habluetzel, ante*, p. 91. Reported below: 599 S. W. 2d 108.

No. 80-6701. *ROSS v. REED ET AL.* C. A. 4th Cir. Motion of petitioner for leave to proceed *in forma pauperis* and certiorari granted. Judgment vacated and case remanded for further consideration in light of *Engle v. Isaac, ante*, p. 107, and *United States v. Frady, ante*, p. 152. Reported below: 660 F. 2d 492.

No. 81-1056. *WASHINGTON v. MYERS.* C. A. 9th Cir. Motion of respondent for leave to proceed *in forma pauperis* and certiorari granted. Judgment vacated and case remanded for further consideration in light of *Engle v. Isaac, ante*, p. 107, and *United States v. Frady, ante*, p. 152. Reported below: 646 F. 2d 355.

*Miscellaneous Orders*

No. A-852 (81-1867). *COHEN v. KENTUCKY BAR ASSN.* Sup. Ct. Ky. Application for continuation of stay, presented to JUSTICE BRENNAN, and by him referred to the Court, denied.

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.] Motion of the Solicitor General for leave to file a supplemental brief as *amicus curiae* denied.

April 19, 1982

456 U. S.

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 file a supplemental brief as *amicus curiae* denied.

No. 81-1. GOLDSBORO CHRISTIAN SCHOOLS, INC. *v.* UNITED STATES; and

No. 81-3. BOB JONES UNIVERSITY *v.* UNITED STATES. C. A. 4th Cir. [Certiorari granted, 454 U. S. 892.] (1) Motion of National Association for the Advancement of Colored People et al. for leave to intervene as parties respondent and for leave to participate in oral argument denied. (2) Alternative request to file a brief as *amici curiae* granted. (3) Motion of Laurence H. Tribe et al. for leave to file a brief as *amici curiae* granted. (4) Motion of Agencies of the United Church of Christ for leave to file a brief as *amicus curiae* granted. (5) Motion of Lawyers' Committee for Civil Rights Under Law et al. for leave to file a supplemental brief as *amici curiae* granted. (6) Motion of North Carolina Association of Black Lawyers for leave to file a brief as *amicus curiae* granted. (7) Motion of the Solicitor General for leave to file a brief on the merits out of time granted. (8) Motion of the Solicitor General for leave to file a motion for divided argument out of time granted. (9) Motion of petitioner in No. 81-3 for an order directing respondent to act with respect to respondent's memorandum filed January 8, 1982, denied. (10) Motions of petitioners for summary reversal denied. (11) William T. Coleman, Jr., Esquire, of Washington, D. C., a member of the Bar of this Court, is invited to brief and argue these cases as *amicus curiae* in support of the judgments below.

No. 81-184. UNITED STATES *v.* SECURITY INDUSTRIAL BANK ET AL. C. A. 10th Cir. [Probable jurisdiction noted, 454 U. S. 1122.] Motion of appellee Beneficial Finance of Kansas, Inc., to schedule oral argument during April 1982 session denied.

456 U. S.

April 19, 1982

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.] Motions of petitioners for divided argument and for additional time for oral argument granted. Ten additional minutes are allotted for that purpose.

No. 81-300. FORD MOTOR CO. *v.* EQUAL EMPLOYMENT OPPORTUNITY COMMISSION. C. A. 4th Cir. [Certiorari granted, 454 U. S. 1030.] Motion of the Solicitor General to permit David A. Strauss, Esquire, to present oral argument *pro hac vice* 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, 455 U. S. 917.] Motion of Michigan et al. for leave to participate in oral argument as *amici curiae* and for divided argument denied. 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 petitioners to schedule oral argument during April 1982 session denied. Motion of Philip L. Barnum et al. for leave to file a brief as *amici curiae* granted. JUSTICE O'CONNOR took no part in the consideration or decision of these motions.

No. 81-1180. DICKERSON, DIRECTOR, BUREAU OF ALCOHOL, TOBACCO AND FIREARMS *v.* NEW BANNER INSTITUTE, INC. C. A. 4th Cir. [Certiorari granted, 455 U. S. 1015.] Motion of the parties to dispense with printing the joint appendix granted.

No. 81-1476. UNITED STATES *v.* RODGERS ET AL.; and UNITED STATES *v.* INGRAM ET AL. C. A. 5th Cir. [Certiorari granted, *ante*, p. 904.] Motion of the parties to dispense with printing the joint appendix granted.

April 19, 1982

456 U. S.

No. 81-1591. CHASE MANHATTAN BANK, N.A. *v.* VISHIPCO LINE ET AL. C. A. 2d Cir. The Solicitor General is invited to file a brief in this case expressing the views of the United States.

No. 81-1860. J. P. STEVENS & Co., INC. *v.* NATIONAL LABOR RELATIONS BOARD ET AL. C. A. 4th Cir. Motion of petitioner to expedite consideration of the petition for writ of certiorari denied.

No. 81-1874. SENTINEL GOVERNMENT SECURITIES ET AL. *v.* UNITED STATES. C. A. 2d Cir. Motion of petitioners to expedite consideration of the petition for writ of certiorari denied.

No. 81-6277. IN RE DE VINCENT; and

No. 81-6342. IN RE GREEN. Petitions for writs of mandamus denied.

No. 81-1483. IN RE WILLIAMS ET AL. Motion of FLAG, Inc., for leave to file a brief as *amicus curiae* granted. Petition for writ of mandamus denied.

*Probable Jurisdiction Noted*

No. 81-1578. KRAMARSKY, COMMISSIONER, NEW YORK STATE DIVISION OF HUMAN RIGHTS, ET AL. *v.* DELTA AIR LINES, INC., ET AL.; KRAMARSKY, COMMISSIONER, NEW YORK STATE DIVISION OF HUMAN RIGHTS *v.* BURROUGHS CORP.; and KRAMARSKY, COMMISSIONER, NEW YORK STATE DIVISION OF HUMAN RIGHTS, ET AL. *v.* METROPOLITAN LIFE INSURANCE CO. Appeals from C. A. 2d Cir. Probable jurisdiction noted. Reported below: 650 F. 2d 1287 and 666 F. 2d 21 (first case); 666 F. 2d 27 (second case); 666 F. 2d 26 (third case).

*Certiorari Granted*

No. 81-1196. SMITH *v.* WADE. C. A. 8th Cir. Certiorari granted. Reported below: 663 F. 2d 778.

456 U. S.

April 19, 1982

No. 81-1273. BOWSER, COMPTROLLER GENERAL OF THE UNITED STATES, ET AL. *v.* MERCK & CO., INC.; and

No. 81-1472. MERCK & CO., INC. *v.* BOWSER, COMPTROLLER GENERAL OF THE UNITED STATES, ET AL. C. A. D. C. Cir. Certiorari granted, cases consolidated, and a total of one hour allotted for oral argument. Reported below: 214 U. S. App. D. C. 418, 665 F. 2d 1236.

No. 81-1304. NATIONAL ASSOCIATION OF GREETING CARD PUBLISHERS *v.* UNITED STATES POSTAL SERVICE ET AL.; and

No. 81-1381. UNITED PARCEL SERVICE OF AMERICA, INC. *v.* UNITED STATES POSTAL SERVICE ET AL. C. A. 2d Cir. Certiorari granted, cases consolidated, and a total of one hour allotted for oral argument. Reported below: 663 F. 2d 1186.

*Certiorari Denied.* (See also No. 81-1594, *supra.*)

No. 81-1014. O'BRIEN *v.* UNITED STATES;

No. 81-1296. BROWN *v.* UNITED STATES; and

No. 81-1408. LEE *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 661 F. 2d 943.

No. 81-1086. THOMAS, SHERIFF *v.* BARRETT ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 649 F. 2d 1193.

No. 81-1113. ODOM *v.* FLORIDA. Sup. Ct. Fla. Certiorari denied. Reported below: 403 So. 2d 936.

No. 81-1132. KELLY *v.* LOUISIANA. Sup. Ct. La. Certiorari denied. Reported below: 404 So. 2d 239.

No. 81-1200. BROWN *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 653 F. 2d 196.

No. 81-1216. SILLER BROS., INC. *v.* UNITED STATES. Ct. Cl. Certiorari denied. Reported below: 228 Ct. Cl. 76, 655 F. 2d 1039.

April 19, 1982

456 U. S.

No. 81-1220. *SCHMEDT v. DE BACA ET AL.* C. A. 10th Cir. Certiorari denied.

No. 81-1225. *SANDINI v. FLORIDA.* Dist. Ct. App. Fla., 4th Dist. Certiorari denied. Reported below: 395 So. 2d 1178.

No. 81-1227. *HUBBARD ET AL. v. UNITED STATES.* C. A. D. C. Cir. Certiorari denied. Reported below: 215 U. S. App. D. C. 206, 668 F. 2d 1238.

No. 81-1256. *NEW MEXICO ET AL. v. UNITED STATES.* C. A. 10th Cir. Certiorari denied. Reported below: 647 F. 2d 104.

No. 81-1275. *FOUNDING CHURCH OF SCIENTOLOGY v. UNITED STATES.* C. A. D. C. Cir. Certiorari denied. Reported below: 215 U. S. App. D. C. 74, 667 F. 2d 117.

No. 81-1300. *REX v. CIA. PERVANA DE VAPORES, S.A., ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 660 F. 2d 61.

No. 81-1317. *CITY OF PARMA, OHIO v. UNITED STATES.* C. A. 6th Cir. Certiorari denied. Reported below: 661 F. 2d 562 and 669 F. 2d 1100.

No. 81-1365. *BRIGHT v. UNITED STATES.* C. A. 9th Cir. Certiorari denied. Reported below: 665 F. 2d 1051.

No. 81-1376. *400 E. BALTIMORE STREET, INC. v. MARYLAND.* Crim. Ct. Baltimore City, Md. Certiorari denied.

No. 81-1388. *PRINCESS SEA INDUSTRIES ET AL. v. NEVADA ET AL.* Sup. Ct. Nev. Certiorari denied. Reported below: 97 Nev. 534, 635 P. 2d 281.

No. 81-1413. *PLAQUEMINES PARISH MOSQUITO CONTROL DISTRICT ET AL. v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. Reported below: 656 F. 2d 699.

456 U. S.

April 19, 1982

No. 81-1428. GRAND LABORATORIES, INC. *v.* SCHWEIKER, SECRETARY OF HEALTH AND HUMAN SERVICES. C. A. 8th Cir. Certiorari denied. Reported below: 660 F. 2d 1288.

No. 81-1434. FRANK *v.* ILLINOIS. App. Ct. Ill., 2d Dist. Certiorari denied. Reported below: 98 Ill. App. 3d 388, 424 N. E. 2d 799.

No. 81-1455. HOWARD *v.* BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF WELD, COLORADO, ET AL. C. A. 10th Cir. Certiorari denied.

No. 81-1481. LAMB *v.* EQUIFAX SERVICES, INC. Ct. App. Ky. Certiorari denied. Reported below: 621 S. W. 2d 28.

No. 81-1492. STANDARD DRYWALL, INC. *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. Reported below: 668 F. 2d 156.

No. 81-1535. FACTORS ETC., INC., ET AL. *v.* PRO ARTS, INC., ET AL. C. A. 2d Cir. Certiorari denied. Reported below: 652 F. 2d 278.

No. 81-1545. RKO GENERAL, INC. *v.* FEDERAL COMMUNICATIONS COMMISSION ET AL. C. A. D. C. Cir. Certiorari denied. Reported below: 216 U. S. App. D. C. 57, 670 F. 2d 215.

No. 81-1550. MELICHAR *v.* OST. C. A. 4th Cir. Certiorari denied. Reported below: 661 F. 2d 300.

No. 81-1554. CLARK ET AL. *v.* CITY OF LOS ANGELES ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 650 F. 2d 1033.

No. 81-1555. CITY OF ALLEN PARK *v.* MICHIGAN ET AL. C. A. 6th Cir. Certiorari denied. Reported below: 667 F. 2d 1028.

April 19, 1982

456 U. S.

No. 81-1556. *NAREL v. LIBURDI, WARDEN*. Sup. Ct. Conn. Certiorari denied. Reported below: 185 Conn. 562, 441 A. 2d 177.

No. 81-1560. *VIGORITO v. NEW YORK*. Sup. Ct. N. Y., Kings County. Certiorari denied.

No. 81-1562. *ADKINSON v. CAMPBELL, DIRECTOR, DIVISION OF CORRECTIONS OF ALASKA*. C. A. 9th Cir. Certiorari denied. Reported below: 671 F. 2d 503.

No. 81-1566. *MANITOWOC ENGINEERING CO. v. TERRY ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 658 F. 2d 398.

No. 81-1569. *ROGERS, PRESIDENT OF THE UNIVERSITY OF TEXAS AT AUSTIN, ET AL. v. WHITE*. C. A. 5th Cir. Certiorari denied. Reported below: 658 F. 2d 1055.

No. 81-1570. *HARLOW ET AL. v. SARGENT ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 679 F. 2d 872.

No. 81-1572. *LANE, DIRECTOR, ILLINOIS DEPARTMENT OF CORRECTIONS v. ALLEN*. C. A. 7th Cir. Certiorari denied. Reported below: 659 F. 2d 745.

No. 81-1573. *MC SHANE v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 673 F. 2d 1303.

No. 81-1575. *RICE v. PRESIDENT AND FELLOWS OF HARVARD COLLEGE*. C. A. 2d Cir. Certiorari denied. Reported below: 663 F. 2d 336.

No. 81-1582. *QUINN v. BURLINGTON NORTHERN INC. PENSION PLAN ET AL.* C. A. 8th Cir. Certiorari denied. Reported below: 664 F. 2d 675.

No. 81-1597. *KILCOYNE v. MORGAN ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 664 F. 2d 940.

No. 81-1647. *BRODERICK ET AL. v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 660 F. 2d 532.

456 U. S.

April 19, 1982

No. 81-1654. *MCCORD v. GEORGIA*. Sup. Ct. Ga. Certiorari denied. Reported below: 248 Ga. 765, 285 S. E. 2d 724.

No. 81-1655. *BALDWIN v. MINNESOTA COMMISSIONER OF REVENUE*. Sup. Ct. Minn. Certiorari denied. Reported below: 309 N. W. 2d 750.

No. 81-1657. *TOMY CORP., A SUBSIDIARY OF TOMY KOGYO, INC. v. NATIONAL LABOR RELATIONS BOARD*. C. A. 9th Cir. Certiorari denied. Reported below: 667 F. 2d 1032.

No. 81-1680. *ANDERSEN v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 671 F. 2d 504.

No. 81-1696. *HAWKINS v. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION ET AL.* C. A. 7th Cir. Certiorari denied. Reported below: 665 F. 2d 1050.

No. 81-1702. *VOORHIES v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 663 F. 2d 30.

No. 81-1705. *HELGESEN v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 669 F. 2d 69.

No. 81-1709. *HAWAIIAN AIRLINES, INC. v. NATIONAL MEDIATION BOARD ET AL.* C. A. 9th Cir. Certiorari denied.

No. 81-1712. *MARTINO ET AL. v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 676 F. 2d 699.

No. 81-1713. *MARQUEZ v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 685 F. 2d 427.

No. 81-1722. *DRAPER v. MERIT SYSTEMS PROTECTION BOARD*. C. A. 8th Cir. Certiorari denied. Reported below: 676 F. 2d 705.

No. 81-1725. *LEBOVITZ v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 669 F. 2d 894.

April 19, 1982

456 U. S.

No. 81-1727. *MARCHESE ET AL. v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 667 F. 2d 1029.

No. 81-1740. *DAVIS v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 656 F. 2d 153.

No. 81-1743. *SCHROEDER v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 676 F. 2d 699.

No. 81-1759. *FLYNN ET AL. v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 664 F. 2d 1296.

No. 81-5839. *HAYES v. HARRIS*. C. A. 2d Cir. Certiorari denied. Reported below: 672 F. 2d 900.

No. 81-5857. *ABEITA v. GUTIERREZ ET AL.* C. A. 10th Cir. Certiorari denied.

No. 81-5873. *INNIS v. RHODE ISLAND*. Sup. Ct. R. I. Certiorari denied.\* Reported below: — R. I. —, 433 A. 2d 646.

No. 81-5940. *CALVERT v. IOWA*. Sup. Ct. Iowa. Certiorari denied. Reported below: 310 N. W. 2d 185.

No. 81-5957. *CHOUINARD v. NEW MEXICO*. Sup. Ct. N. M. Certiorari denied. Reported below: 96 N. M. 658, 634 P. 2d 680.

No. 81-5979. *GRIFFIN v. KENTUCKY*. Sup. Ct. Ky. Certiorari denied. Reported below: 622 S. W. 2d 214.

No. 81-5984. *BUSTILLOS v. CALIFORNIA*. Ct. App. Cal., 4th App. Dist. Certiorari denied.

No. 81-5989. *CAMPBELL ET AL. v. CALIFORNIA*. Ct. App. Cal., 4th App. Dist. Certiorari denied.

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\*[REPORTER'S NOTE: For amendment of this order, see *post*, p. 942.]

456 U. S.

April 19, 1982

No. 81-5990. *HAMPTON v. WATERS ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 673 F. 2d 1310.

No. 81-5996. *MCLAUGHLIN v. UNITED STATES.* C. A. 3d Cir. Certiorari denied. Reported below: 673 F. 2d 1303.

No. 81-6014. *EVERY v. LOUISIANA.* Sup. Ct. La. Certiorari denied. Reported below: 409 So. 2d 611.

No. 81-6015. *CAMPBELL v. GUNN, SHERIFF OF BELL COUNTY, TEXAS.* C. A. 5th Cir. Certiorari denied. Reported below: 663 F. 2d 100.

No. 81-6019. *CHAKA v. BOARD OF DIRECTORS, BUR OAK LIBRARY, ET AL.* C. A. 7th Cir. Certiorari denied.

No. 81-6027. *MONOSSO v. WISCONSIN.* Ct. App. Wis. Certiorari denied. Reported below: 103 Wis. 2d 368, 308 N. W. 2d 891.

No. 81-6036. *TURNER v. MISSOURI.* Sup. Ct. Mo. Certiorari denied. Reported below: 623 S. W. 2d 4.

No. 81-6054. *CHAMBERS v. ARIZONA.* Ct. App. Ariz. Certiorari denied.

No. 81-6061. *BOWMAN v. WISCONSIN.* Ct. App. Wis. Certiorari denied. Reported below: 103 Wis. 2d 687, 309 N. W. 2d 888.

No. 81-6072. *HOWELL v. UNITED STATES.* C. A. 9th Cir. Certiorari denied. Reported below: 671 F. 2d 504.

No. 81-6216. *BROWN v. ENGLE.* C. A. 6th Cir. Certiorari denied. Reported below: 698 F. 2d 1217.

No. 81-6221. *SHABAZZ v. OKLAHOMA.* Ct. Crim. App. Okla. Certiorari denied.

No. 81-6227. *BURRELL v. UNION CORRECTIONAL INSTITUTE, RAIFORD, FLORIDA.* C. A. 5th Cir. Certiorari denied. Reported below: 664 F. 2d 290.

April 19, 1982

456 U. S.

No. 81-6230. SAUNDERS *v.* WEINER. C. A. 3d Cir. Certiorari denied.

No. 81-6231. TUBBS *v.* MAGGIO, WARDEN. C. A. 5th Cir. Certiorari denied.

No. 81-6236. PAYNE *v.* SMITH ET AL. C. A. 6th Cir. Certiorari denied. Reported below: 667 F. 2d 541.

No. 81-6238. DOUGLAS *v.* LONG ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 661 F. 2d 747.

No. 81-6241. BUTCHER *v.* CALIFORNIA. Ct. App. Cal., 2d App. Dist. Certiorari denied.

No. 81-6242. HALL *v.* NEW YORK CITY TRANSIT AUTHORITY. Ct. App. N. Y. Certiorari denied. Reported below: 55 N. Y. 2d 698, 431 N. E. 2d 307.

No. 81-6244. GLASS, AKA HABERLAND *v.* PENNSYLVANIA. Sup. Ct. Pa. Certiorari denied. Reported below: 495 Pa. 405, 434 A. 2d 707.

No. 81-6246. STREETER *v.* ALABAMA. Ct. Crim. App. Ala. Certiorari denied. Reported below: 406 So. 2d 1024.

No. 81-6247. NASH *v.* MORRIS, WARDEN, UTAH STATE PRISON, ET AL. C. A. 10th Cir. Certiorari denied.

No. 81-6248. WILLIAMS *v.* ESTELLE, DIRECTOR, TEXAS DEPARTMENT OF CORRECTIONS. C. A. 5th Cir. Certiorari denied.

No. 81-6252. WILLIAMS *v.* NORTH CAROLINA. Sup. Ct. N. C. Certiorari denied. Reported below: 304 N. C. 394, 284 S. E. 2d 437.

No. 81-6253. TARVER *v.* HOWARD ET AL. C. A. 3d Cir. Certiorari denied.

No. 81-6254. STEDMAN *v.* PARSONS, DIRECTOR OF CLASSIFICATION, ET AL. C. A. 10th Cir. Certiorari denied.

456 U. S.

April 19, 1982

No. 81-6260. *BOBO v. ITT, CONTINENTAL BAKING CO.* C. A. 5th Cir. Certiorari denied. Reported below: 662 F. 2d 340.

No. 81-6261. *CHAKA v. LEIGHTON ET AL.* C. A. 7th Cir. Certiorari denied.

No. 81-6264. *THOMAS v. ESTELLE, DIRECTOR, TEXAS DEPARTMENT OF CORRECTIONS, ET AL.* C. A. 5th Cir. Certiorari denied.

No. 81-6265. *NZONGOLA v. NZONGOLA.* Ct. App. D. C. Certiorari denied.

No. 81-6266. *NZONGOLA v. NZONGOLA.* Super. Ct. Ga., Fulton County. Certiorari denied.

No. 81-6268. *MECHLER v. TEXAS.* Ct. Crim. App. Tex. Certiorari denied. Reported below: 622 S. W. 2d 136.

No. 81-6269. *POUNCY v. HUTTO.* C. A. 4th Cir. Certiorari denied. Reported below: 673 F. 2d 1315.

No. 81-6270. *STINNETT v. KENTUCKY.* Sup. Ct. Ky. Certiorari denied.

No. 81-6274. *LACKEY, AKA JERNIGAN v. ROSE, WARDEN.* C. A. 6th Cir. Certiorari denied. Reported below: 698 F. 2d 1221.

No. 81-6275. *OMERNICK v. CAROW ET AL.* C. A. 7th Cir. Certiorari denied. Reported below: 673 F. 2d 1333.

No. 81-6276. *JACKSON v. O'LONE ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 673 F. 2d 1299.

No. 81-6278. *HARTFORD v. ARIZONA.* Sup. Ct. Ariz. Certiorari denied. Reported below: 130 Ariz. 422, 636 P. 2d 1204.

No. 81-6281. *APPLEBY v. WTIC-FM RADIO STATION ET AL.* C. A. 1st Cir. Certiorari denied.

No. 81-6282. *HEJL v. TEXAS ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 664 F. 2d 1273.

April 19, 1982

456 U. S.

No. 81-6283. *VALENZANO v. CALIFORNIA*. Ct. App. Cal., 1st App. Dist. Certiorari denied.

No. 81-6284. *WIDNER v. OHIO*. Sup. Ct. Ohio. Certiorari denied. Reported below: 68 Ohio St. 2d 188, 429 N. E. 2d 1065.

No. 81-6286. *WALKER v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 673 F. 2d 1331.

No. 81-6287. *BEASLEY v. OKLAHOMA*. Ct. Crim. App. Okla. Certiorari denied.

No. 81-6298. *HARRISON v. CALIFORNIA*. Ct. App. Cal., 4th App. Dist. Certiorari denied.

No. 81-6332. *GRANT v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 672 F. 2d 924.

No. 81-6354. *BERRY v. ALABAMA*. Ct. Crim. App. Ala. Certiorari denied. Reported below: 408 So. 2d 548.

No. 81-6359. *MARTIN-TRIGONA v. ILLINOIS*. App. Ct. Ill., 4th Dist. Certiorari denied. Reported below: 94 Ill. App. 3d 519, 418 N. E. 2d 763.

No. 81-6371. *WADE v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 667 F. 2d 95.

No. 81-6378. *HALBERT v. UNITED STATES*. C. A. 10th Cir. Certiorari denied. Reported below: 668 F. 2d 489.

No. 81-6384. *BLEDSON v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 669 F. 2d 446.

No. 81-6389. *MCCOLLOM v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 664 F. 2d 56.

No. 81-6394. *GREEN v. WARDEN, U. S. PENITENTIARY, EL RENO, OKLAHOMA, ET AL.* C. A. 10th Cir. Certiorari denied.

No. 81-6395. *GOLDBLATT v. VOGEL ET AL.* C. A. 11th Cir. Certiorari denied.

456 U. S.

April 19, 1982

No. 81-6400. CARAPPELLA ET AL. *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 667 F. 2d 1029.

No. 81-6401. GREEN *v.* WILKERSON, WARDEN, ET AL. C. A. 10th Cir. Certiorari denied.

No. 81-6405. BROWN *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied.

No. 81-6406. HAYWARD *v.* UNITED STATES PAROLE COMMISSION ET AL. C. A. 8th Cir. Certiorari denied. Reported below: 659 F. 2d 857.

No. 81-6409. LINTON *v.* ESTELLE, DIRECTOR, TEXAS DEPARTMENT OF CORRECTIONS. C. A. 5th Cir. Certiorari denied. Reported below: 663 F. 2d 105.

No. 81-6410. TOLLIVER *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 665 F. 2d 1005.

No. 81-6411. THOMPSON *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied.

No. 81-6416. WEBSTER *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 639 F. 2d 174 and 669 F. 2d 185.

No. 81-6426. VETETO *v.* DIRECTOR, UNITED STATES BUREAU OF PRISONS, SOUTHEAST REGIONAL OFFICE. C. A. 11th Cir. Certiorari denied. Reported below: 668 F. 2d 535.

No. 81-6431. BRITT ET AL. *v.* UNITED STATES. Ct. App. D. C. Certiorari denied. Reported below: 438 A. 2d 444.

No. 80-6863. TYLER *v.* PHELPS, CORRECTIONS DIRECTOR, ET AL. C. A. 5th Cir. Certiorari denied. JUSTICE MARSHALL would grant certiorari. Reported below: 643 F. 2d 1095.

April 19, 1982

456 U. S.

No. 81-989. DALLAS COUNTY, TEXAS, ET AL. *v.* BARRETT ET AL. C. A. 5th Cir. Motion of County Judges and Commissioners Association of Texas for leave to file a brief as *amicus curiae* granted. Certiorari denied. Reported below: 649 F. 2d 1193.

No. 81-990. DALLAS COUNTY, TEXAS, ET AL. *v.* COLLINS ET AL. C. A. 5th Cir. Motion of County Judges and Commissioners Association of Texas for leave to file a brief as *amicus curiae* granted. Certiorari denied. Reported below: 649 F. 2d 1203.

No. 81-1359. COTTON PETROLEUM CORP. *v.* EDWARDS, SECRETARY OF ENERGY, ET AL. Temp. Emerg. Ct. App. Certiorari denied. JUSTICE WHITE took no part in the consideration or decision of this petition. Reported below: 659 F. 2d 154.

No. 81-1380. NORTHSIDE REALTY ASSOCIATES, INC., ET AL. *v.* UNITED STATES; and

No. 81-1405. BROWNING-FERRIS INDUSTRIES OF GEORGIA, INC., ET AL. *v.* UNITED STATES. C. A. 11th Cir. Motion of American Civil Liberties Union of Georgia for leave to file a brief as *amicus curiae* granted. Certiorari denied. Reported below: 659 F. 2d 590.

No. 81-1385. PEPSI-COLA DISTRIBUTING COMPANY OF KNOXVILLE, TENNESSEE, INC. *v.* NATIONAL LABOR RELATIONS BOARD. C. A. 6th Cir. Certiorari denied. JUSTICE BLACKMUN and JUSTICE O'CONNOR would grant certiorari. Reported below: 646 F. 2d 1173.

No. 81-1391. THREE J FARMS, INC., ET AL. *v.* PLAINTIFFS' STEERING COMMITTEE ET AL. C. A. 5th Cir. Certiorari denied. JUSTICE POWELL took no part in the consideration or decision of this petition. Reported below: 659 F. 2d 1332.

456 U. S.

April 19, 1982

No. 81-1568. *LIEBERMAN v. UNIVERSITY OF CHICAGO ET AL.* C. A. 7th Cir. Certiorari denied. JUSTICE BRENNAN would grant certiorari. Reported below: 660 F. 2d 1185.

No. 81-5952. *MCKINNEY v. ESTELLE, DIRECTOR, TEXAS DEPARTMENT OF CORRECTIONS.* C. A. 5th Cir. Certiorari denied. JUSTICE BRENNAN would grant certiorari. Reported below: 657 F. 2d 740.

No. 81-1583. *MEAD CORP. ET AL. v. ADAMS EXTRACT CO. ET AL.* C. A. 5th Cir. Certiorari denied. JUSTICE POWELL and JUSTICE O'CONNOR took no part in the consideration or decision of this petition. Reported below: 659 F. 2d 1330.

No. 81-1616. *TOYOTA MOTOR CO., LTD., ET AL. v. GENERAL MOTORS CORP.* C. A. 6th Cir. Motion of National Business Systems, Inc., for leave to file a brief as *amicus curiae* granted. Certiorari denied. Reported below: 667 F. 2d 504.

No. 81-1626. *GREEN ET AL. v. REGAN, SECRETARY OF THE TREASURY, ET AL.* C. A. D. C. Cir. Motion of petitioners to expedite consideration of the petition for writ of certiorari and to consolidate this case with No. 81-1, *Goldsboro Christian Schools, Inc. v. United States*, and No. 81-3, *Bob Jones University v. United States* [certiorari granted, 454 U. S. 892], denied. Certiorari before judgment denied.

No. 81-1667. *ANDERSON, WARDEN v. CONNER.* C. A. 6th Cir. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 672 F. 2d 916.

No. 81-6112. *FENDLER v. UNITED STATES.* C. A. 9th Cir. Certiorari denied. JUSTICE O'CONNOR took no part in the consideration or decision of this petition. Reported below: 663 F. 2d 1079.

April 19, 1982

456 U. S.

- No. 81-6081. *CERVI v. GEORGIA*. Sup. Ct. Ga.;  
No. 81-6156. *WHITE v. TEXAS*. Ct. Crim. App. Tex.;  
No. 81-6174. *FRANKLIN v. ZANT, SUPERINTENDENT, GEORGIA DIAGNOSTIC AND CLASSIFICATION CENTER*. Super. Ct. Ga., Butts County;  
No. 81-6235. *THOMPSON v. SOUTH CAROLINA*. Sup. Ct. S. C.;  
No. 81-6245. *SINGLETON v. ARKANSAS*. Sup. Ct. Ark.;  
and  
No. 81-6353. *BASSETT v. VIRGINIA*. Sup. Ct. Va. Certiorari denied. Reported below: No. 81-6081, 248 Ga. 325, 282 S. E. 2d 629; No. 81-6156, 629 S. W. 2d 701; No. 81-6235, 278 S. C. 1, 292 S. E. 2d 581; No. 81-6245, 274 Ark. 126, 623 S. W. 2d 180; No. 81-6353, 222 Va. 844, 284 S. E. 2d 844.

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. 81-152. *WEIT ET AL. v. CONTINENTAL ILLINOIS NATIONAL BANK & TRUST COMPANY OF CHICAGO ET AL.*, 455 U. S. 988. Petition for rehearing denied. JUSTICE WHITE took no part in the consideration or decision of this petition.

No. 81-1724. *UPHAM ET AL. v. SEAMON ET AL.*, *ante*, p. 37. Application for stay of the order of the United States District Court for the Eastern District of Texas, entered April 5, 1982, and motion to recall the judgment issued April 1, 1982, denied. Petition for rehearing denied.

No. 81-5905. *LOWE v. NEW YORK CITY DEPARTMENT OF SOCIAL SERVICES*, 455 U. S. 953. Motion for leave to file petition for rehearing denied.

456 U. S.

April 19, 1982

No. 80-1239. RAILWAY LABOR EXECUTIVES' ASSN. *v.* GIBBONS, TRUSTEE, ET AL., 455 U. S. 457;

No. 80-1527. LUMMIS, TEMPORARY ADMINISTRATOR, ET AL. *v.* LOS ANGELES AIRWAYS, INC., 455 U. S. 988;

No. 81-291. ILLINOIS *v.* BOCHNIAK, 455 U. S. 938;

No. 81-933. GREEN *v.* OHIO, 455 U. S. 976;

No. 81-1022. PRESS-ENTERPRISE CO. ET AL. *v.* SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO, 455 U. S. 982;

No. 81-1148. BUTLER ET AL. *v.* UNITED STATES, 455 U. S. 945;

No. 81-1206. CHILDERS *v.* ILLINOIS, 455 U. S. 947;

No. 81-1221. GENERAL ATOMIC CO. *v.* UNITED NUCLEAR CORP., 455 U. S. 948;

No. 81-1237. ANGELILLI *v.* UNITED STATES, 455 U. S. 945;

No. 81-1269. AVEDISIAN *v.* HUBBARD ET AL., 455 U. S. 949;

No. 81-1364. EATON *v.* DRAKE UNIVERSITY ET AL., 455 U. S. 990;

No. 81-1412. CONNOR *v.* PHILLIPS, ADMINISTRATOR, ET AL., 455 U. S. 991;

No. 81-5838. CLARK *v.* MUNICIPAL EMPLOYEES CREDIT UNION OF BALTIMORE, INC., 455 U. S. 951;

No. 81-5844. BOWEN *v.* ZANT, WARDEN, 455 U. S. 983;

No. 81-5935. GREEN *v.* ZANT, WARDEN, GEORGIA DIAGNOSTIC AND CLASSIFICATION CENTER, 455 U. S. 983;

No. 81-5970. TAFERO *v.* FLORIDA, 455 U. S. 983;

No. 81-6008. THAYER *v.* PUERTO RICO, 455 U. S. 958;

No. 81-6025. LEVY *v.* HIGH'S DAIRY STORES ET AL., 455 U. S. 1003; and

No. 81-6070. LEBRIGHT *v.* CHRISTIAN, UNITED STATES DISTRICT JUDGE, ET AL., 455 U. S. 1023. Petitions for rehearing denied.

April 19, 23, 26, 1982

456 U. S.

No. 80-951. INDEPENDENT FEDERATION OF FLIGHT ATTENDANTS *v.* TRANS WORLD AIRLINES, INC., ET AL., 455 U. S. 385. Petition for rehearing denied. JUSTICE STEVENS took no part in the consideration or decision of this petition.

APRIL 23, 1982

*Miscellaneous Order*

No. A-889. BINGAMAN ET AL. *v.* KING, GOVERNOR OF NEW MEXICO, ET AL. It is ordered that the order of the United States District Court for the District of New Mexico, in consolidated cases Nos. 82-67-M, 82-84-C, 82-180-C, 82-219-JB, and 82-246-JB, entered on April 13, 1982, be, and the same is hereby, stayed to the extent that that order applies to primary elections other than for state legislative offices, pending the timely filing and disposition by this Court of an appeal. This order shall have no effect on the orders of the United States District Court for the District of New Mexico in the cases set forth above entered on April 5 and April 8, 1982, enjoining the primary filing deadline for New Mexico state legislative election and adjudging the New Mexico apportionment plan unconstitutional.

APRIL 26, 1982

*Appeals Dismissed*

No. 81-1310. RAGNO *v.* FLORIDA. Appeal from Dist. Ct. App. Fla., 4th Dist., dismissed for want of jurisdiction. Reported below: 403 So. 2d 1097.

No. 81-1426. BUCHEIT *v.* LAUDENBERGER ET AL. Appeal from Sup. Ct. Pa. dismissed for want of substantial federal question. Reported below: 496 Pa. 52, 436 A. 2d 147.

No. 81-1609. HELTON ET AL. *v.* CITY OF BURKBURNETT. Appeal from Ct. Civ. App. Tex., 2d Sup. Jud. Dist., dismissed for want of substantial federal question. Reported below: 619 S. W. 2d 23.

456 U. S.

April 26, 1982

No. 81-1631. *SHELDON v. SHELDON*. Appeal from Ct. App. Cal., 4th App. Dist. Motion of appellee for damages and double costs denied. Appeal dismissed for want of substantial federal question. Reported below: 124 Cal. App. 3d 371, 177 Cal. Rptr. 380.

No. 81-1641. *REPUBLICAN NATIONAL COMMITTEE ET AL. v. BURTON ET AL.* Appeal from Sup. Ct. Cal. dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied. Reported below: 30 Cal. 3d 638, 639 P. 2d 939.

*Certiorari Granted—Vacated and Remanded*

No. 81-1319. *WHITE, SUPERINTENDENT, MISSOURI TRAINING CENTER FOR MEN v. THOMPSON*. C. A. 8th Cir. Motion of respondent for leave to proceed *in forma pauperis* and certiorari granted. Judgment vacated and case remanded for further consideration in light of *United States v. Frady, ante*, p. 152. Reported below: 661 F. 2d 103.

*Miscellaneous Orders*

No. — — —. *WEST VIRGINIA v. SECRETARY OF EDUCATION, UNITED STATES DEPARTMENT OF EDUCATION*. Motion to direct the Clerk to file the petition for writ of certiorari denied.

No. A-773. *CRUMPACKER v. INDIANA SUPREME COURT DISCIPLINARY COMMISSION*. Sup. Ct. Ind. Application for stay, addressed to JUSTICE WHITE and referred to the Court, denied.

No. A-861. *MIZELL, WARDEN v. WELSH*. C. A. 7th Cir. Application for stay, addressed to JUSTICE REHNQUIST and referred to the Court, denied.

No. 80-1690. *AMERICAN MEDICAL ASSN. ET AL. v. FEDERAL TRADE COMMISSION*, 455 U. S. 676. Motion of American Dental Association for leave to file a brief as *amicus curiae* in support of petition for rehearing denied. JUSTICE BLACKMUN took no part in the consideration or decision of this motion.

April 26, 1982

456 U. S.

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 Grace Brethren Church et al. for leave to file a supplemental brief after argument granted.

No. 81-55. NEW YORK *v.* FERBER. Ct. App. N. Y. [Certiorari granted, 454 U. S. 1052.] Motion of American Booksellers Association, Inc., et al. for leave to participate in oral argument as *amici curiae* and for divided argument denied.

No. 81-1095. MORRIS, WARDEN *v.* SLAPPY. C. A. 9th Cir. [Certiorari granted, *ante*, p. 904.] Motion of respondent for leave to proceed further herein *in forma pauperis* granted. Motion for appointment of counsel granted, and it is ordered that Michael B. Bassi, Esquire, of San Francisco, Cal., be appointed to serve as counsel for respondent in this case.

No. 81-1222. UNITED STATES *v.* GENERIX DRUG CORP. ET AL. C. A. 11th Cir. [Certiorari granted, 455 U. S. 988.] Motions of Generic Pharmaceutical Industry Association, Medicine in the Public Interest, The Proprietary Association, and Pharmaceutical Manufacturers Association for leave to file briefs as *amici curiae* granted.

No. 81-5873. INNIS *v.* RHODE ISLAND. Sup. Ct. R. I. The order entered April 19, 1982 [*ante*, p. 930], denying the petition for writ of certiorari is amended to read as follows: Certiorari denied. JUSTICE MARSHALL would grant certiorari.

No. 81-6316. IN RE REMBERT. Petition for writ of mandamus denied.

456 U. S.

April 26, 1982

*Probable Jurisdiction Noted*

No. 81-1613. MEMPHIS BANK & TRUST CO. *v.* GARNER, SHELBY COUNTY TRUSTEE, ET AL. Appeal from Sup. Ct. Tenn. Probable jurisdiction noted. Reported below: 624 S. W. 2d 551.

*Certiorari Granted*

No. 81-1120. UNITED STATES ET AL. *v.* RYLANDER ET AL. C. A. 9th Cir. Motion of respondent Richard W. Rylander, Sr., for leave to proceed *in forma pauperis* and certiorari granted. Reported below: 656 F. 2d 1313.

*Certiorari Denied.* (See also No. 81-1641, *supra.*)

No. 81-875. ALABAMA HOSPITAL ASSN. ET AL. *v.* UNITED STATES. Ct. Cl. Certiorari denied. Reported below: 228 Ct. Cl. 176, 656 F. 2d 606.

No. 81-905. LAZZARA *v.* UNITED STATES;

No. 81-956. FARINA *v.* UNITED STATES;

No. 81-1458. RUSSELLO *v.* UNITED STATES;

No. 81-5700. MACALUSO *v.* UNITED STATES;

No. 81-5716. SCIONTI *v.* UNITED STATES;

No. 81-5748. MORGADO *v.* UNITED STATES;

No. 81-5820. FISHER *v.* UNITED STATES;

No. 81-5826. YOUNG *v.* UNITED STATES; and

No. 81-5865. PALERMO *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 648 F. 2d 367.

No. 81-1185. STEVENSON *v.* GRENTEC, INC., ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 652 F. 2d 20.

No. 81-1281. SANCHEZ *v.* SCHWEIKER, SECRETARY OF HEALTH AND HUMAN SERVICES. C. A. 5th Cir. Certiorari denied. Reported below: 656 F. 2d 966.

No. 81-1308. MCMURTRY *v.* ILLINOIS. App. Ct. Ill., 1st Dist. Certiorari denied. Reported below: 93 Ill. App. 3d 1204, 420 N. E. 2d 1211.

April 26, 1982

456 U. S.

No. 81-1339. *ELLSWORTH v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 647 F. 2d 957.

No. 81-1379. *CEAT S.P.A., PNEUMATICI v. BRYANT*. Sup. Ct. Ala. Certiorari denied. Reported below: 406 So. 2d 376.

No. 81-1409. *RAYMER ET AL. v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 660 F. 2d 1136.

No. 81-1411. *PHELPS v. KANSAS SUPREME COURT ET AL.* C. A. 10th Cir. Certiorari denied. Reported below: 662 F. 2d 649.

No. 81-1425. *PUBLIC UTILITIES COMMISSION OF COLORADO v. FEDERAL ENERGY REGULATORY COMMISSION ET AL.* C. A. D. C. Cir. Certiorari denied. Reported below: 213 U. S. App. D. C. 1, 660 F. 2d 821.

No. 81-1432. *LEVENSON ET AL. v. UNITED STATES*; and  
No. 81-1507. *FEINBERG v. UNITED STATES*. C. A. 2d Cir. Certiorari denied.

No. 81-1449. *LOGE ET VIR v. UNITED STATES ET AL.* C. A. 8th Cir. Certiorari denied. Reported below: 662 F. 2d 1268.

No. 81-1538. *THAM v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 665 F. 2d 855.

No. 81-1571. *HALL v. COMMISSIONER OF INTERNAL REVENUE*. C. A. 5th Cir. Certiorari denied. Reported below: 659 F. 2d 1073.

No. 81-1593. *INCORPORATED TRUSTEES OF THE GOSPEL WORKER SOCIETY v. UNITED STATES*. C. A. D. C. Cir. Certiorari denied. Reported below: 217 U. S. App. D. C. 360, 672 F. 2d 894.

No. 81-1602. *WATKINS v. PENTZIEN, INC.* C. A. 5th Cir. Certiorari denied. Reported below: 660 F. 2d 604.

456 U. S.

April 26, 1982

No. 81-1604. *CHIA v. WESTINGHOUSE ELECTRIC CORP.* C. A. 9th Cir. Certiorari denied. Reported below: 665 F. 2d 1051.

No. 81-1606. *REGAN v. CONROY, CHIEF OF POLICE OF THE VILLAGE OF SCHAUMBURG.* App. Ct. Ill., 1st Dist. Certiorari denied. Reported below: 99 Ill. App. 3d 52, 425 N. E. 2d 37.

No. 81-1607. *HUSTED v. ILLINOIS.* App. Ct. Ill., 2d Dist. Certiorari denied. Reported below: 97 Ill. App. 3d 160, 422 N. E. 2d 962.

No. 81-1610. *EDWARDS v. LOUISIANA.* Sup. Ct. La. Certiorari denied. Reported below: 406 So. 2d 1331.

No. 81-1612. *ST. LOUIS SOUTHWESTERN RAILWAY CO. v. BROTHERHOOD OF RAILROAD SIGNALMEN ET AL.* C. A. 10th Cir. Certiorari denied. Reported below: 665 F. 2d 987.

No. 81-1620. *VINEBERG ET AL. v. CALIFORNIA.* Ct. App. Cal., 2d App. Dist. Certiorari denied. Reported below: 125 Cal. App. 3d 127, 177 Cal. Rptr. 819.

No. 81-1624. *BAKER ET AL. v. AMSTED INDUSTRIES, INC., ET AL.* C. A. 7th Cir. Certiorari denied. Reported below: 656 F. 2d 1245.

No. 81-1633. *THE GAP STORES, INC. v. SAILOR MUSIC ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 668 F. 2d 84.

No. 81-1634. *W. B. GIBSON CO. v. DUBROOK, INC.* C. A. 3d Cir. Certiorari denied. Reported below: 673 F. 2d 1299.

No. 81-1640. *LUBIN ET UX. v. EDINBURGH INSURANCE CO., LTD.* C. A. 4th Cir. Certiorari denied. Reported below: 673 F. 2d 1314.

April 26, 1982

456 U. S.

No. 81-1645. *ILLINOIS BELL TELEPHONE CO. v. GETTO*. Sup. Ct. Ill. Certiorari denied. Reported below: 86 Ill. 2d 39, 426 N. E. 2d 844.

No. 81-1646. *KITCH v. DELANO ET AL.* C. A. 10th Cir. Certiorari denied. Reported below: 663 F. 2d 990.

No. 81-1650. *CITY OF CINCINNATI v. JONES ET AL.* Ct. App. Ohio, Hamilton County. Certiorari denied.

No. 81-1656. *BOWERS v. ST. LOUIS SOUTHWESTERN RAILWAY Co.* C. A. 8th Cir. Certiorari denied. Reported below: 668 F. 2d 369.

No. 81-1676. *JERGUSON v. BLUE DOT INVESTMENT, INC.* C. A. 11th Cir. Certiorari denied. Reported below: 659 F. 2d 31.

No. 81-1737. *MINIS v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. Reported below: 666 F. 2d 134.

No. 81-1764. *VEATCH v. UNITED STATES.* C. A. 9th Cir. Certiorari denied. Reported below: 674 F. 2d 1217.

No. 81-1768. *BOSS v. UNITED STATES.* C. A. 10th Cir. Certiorari denied.

No. 81-1773. *CALHOUN ET AL. v. UNITED STATES.* C. A. 4th Cir. Certiorari denied. Reported below: 669 F. 2d 923.

No. 81-1783. *HEBEL ET AL. v. UNITED STATES.* C. A. 8th Cir. Certiorari denied. Reported below: 668 F. 2d 995.

No. 81-1789. *GILBERT v. UNITED STATES.* C. A. 2d Cir. Certiorari denied. Reported below: 668 F. 2d 94.

No. 81-1796. *COWARD v. UNITED STATES.* C. A. 4th Cir. Certiorari denied. Reported below: 669 F. 2d 180.

No. 81-6045. *SHAFFNER v. UNITED STATES.* C. A. 7th Cir. Certiorari denied. Reported below: 673 F. 2d 1334.

456 U. S.

April 26, 1982

No. 81-6142. *RODRIGUEZ v. ILLINOIS*. App. Ct. Ill., 1st Dist. Certiorari denied. Reported below: 98 Ill. App. 3d 1201, 427 N. E. 2d 1052.

No. 81-6145. *MUHAMMAD v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 658 F. 2d 249.

No. 81-6161. *AGURS v. KELLER, REGIONAL PAROLE COMMISSIONER, U. S. PAROLE COMMISSION*. C. A. 6th Cir. Certiorari denied. Reported below: 672 F. 2d 916.

No. 81-6271. *BARHAM v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 666 F. 2d 521.

No. 81-6297. *MCCOLPIN v. EIKELBLOOM ET AL.* C. A. 10th Cir. Certiorari denied.

No. 81-6299. *SMITH v. ALABAMA*. Ct. Crim. App. Ala. Certiorari denied. Reported below: 416 So. 2d 1122.

No. 81-6300. *OLIVER v. CUYLER ET AL.* C. A. 3d Cir. Certiorari denied.

No. 81-6307. *DRAPER ET AL. v. PRESCOTT, TOWN CLERK OF GREENFIELD, MASSACHUSETTS, ET AL.* Sup. Jud. Ct. Mass. Certiorari denied. Reported below: 384 Mass. 444, 425 N. E. 2d 333.

No. 81-6308. *THOMAS v. ESTELLE, DIRECTOR, TEXAS DEPARTMENT OF CORRECTIONS, ET AL.* C. A. 5th Cir. Certiorari denied.

No. 81-6311. *ATHERTON v. ATHERTON*. Sup. Ct. Va. Certiorari denied.

No. 81-6314. *MARTIN v. WYRICK, WARDEN, MISSOURI STATE PENITENTIARY*. C. A. 8th Cir. Certiorari denied. Reported below: 676 F. 2d 704.

No. 81-6315. *MEDLEY v. GARRISON, WARDEN*. C. A. 4th Cir. Certiorari denied. Reported below: 673 F. 2d 1313.

April 26, 1982

456 U. S.

No. 81-6318. *ARTWAY v. KRAMER, JUDGE, BURLINGTON COUNTY COURT, ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 676 F. 2d 684.

No. 81-6320. *WHITE v. WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY ET AL.* C. A. D. C. Cir. Certiorari denied.

No. 81-6322. *WILSON v. JAGO.* C. A. 6th Cir. Certiorari denied. Reported below: 701 F. 2d 182.

No. 81-6326. *LAMOUNTAIN v. RAINES.* C. A. 9th Cir. Certiorari denied. Reported below: 667 F. 2d 1031.

No. 81-6327. *BROWN v. HARRIS, SUPERINTENDENT, GREEN HAVEN CORRECTIONAL FACILITY, ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 666 F. 2d 782.

No. 81-6334. *LAMANTIA v. NEW YORK.* App. Term, Sup. Ct. N. Y., 9th and 10th Jud. Dists. Certiorari denied.

No. 81-6335. *JERALD v. O'ROURKE.* C. A. 9th Cir. Certiorari denied. Reported below: 661 F. 2d 940.

No. 81-6336. *DENTLY v. IRVIN ET AL.* C. A. 7th Cir. Certiorari denied. Reported below: 673 F. 2d 1335.

No. 81-6337. *DEWITT v. MANSON, COMMISSIONER, CONNECTICUT DEPARTMENT OF CORRECTION.* C. A. 2d Cir. Certiorari denied. Reported below: 681 F. 2d 801.

No. 81-6339. *BIRDEN v. SMITH.* C. A. 2d Cir. Certiorari denied.

No. 81-6341. *PLOTKIN v. GRUMAN ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 671 F. 2d 493.

No. 81-6349. *MCZEAL v. MAGGIO ET AL.* C. A. 5th Cir. Certiorari denied.

No. 81-6362. *SMITH v. COHEN.* C. A. 11th Cir. Certiorari denied.

456 U. S.

April 26, 1982

No. 81-6390. GRIFFIN *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 659 F. 2d 932.

No. 81-6398. GAINES *v.* SMITH, ATTORNEY GENERAL, ET AL. C. A. 5th Cir. Certiorari denied.

No. 81-6418. WARD *v.* MACDOUGALL ET AL. C. A. 9th Cir. Certiorari denied.

No. 81-6442. STRAGER *v.* UNITED STATES DISTRICT COURT FOR THE CENTRAL DISTRICT OF CALIFORNIA ET AL. C. A. 9th Cir. Certiorari denied.

No. 81-6443. PARCELL *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 698 F. 2d 1224.

No. 81-6451. TOLERTON *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. Reported below: 669 F. 2d 652.

No. 81-6452. MAYO *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. Reported below: 685 F. 2d 427.

No. 81-6455. FLOWERS *v.* SCULLY, SUPERINTENDENT, GREEN HAVEN CORRECTIONAL FACILITY. C. A. 2d Cir. Certiorari denied.

No. 81-6465. MCBEE *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 659 F. 2d 1302.

No. 81-907. MARTINO *v.* UNITED STATES. C. A. 11th Cir. Motion of petitioner to strike brief in opposition denied. Certiorari denied. Reported below: 648 F. 2d 367.

No. 81-1291. MARYLAND *v.* BRYANT. Ct. Sp. App. Md. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 49 Md. App. 272, 431 A. 2d 714.

No. 81-1659. WATKINS, COMMISSIONER, MISSISSIPPI DEPARTMENT OF CORRECTIONS, ET AL. *v.* WASHINGTON. C. A. 5th Cir. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 655 F. 2d 1346 and 662 F. 2d 1116.

April 26, 1982

456 U. S.

No. 81-6243. *JONES v. LEIDINGER ET AL.* C. A. 4th Cir. Certiorari denied. JUSTICE MARSHALL and JUSTICE BLACKMUN would grant certiorari. Reported below: 672 F. 2d 910.

No. 81-6301. *BALDWIN v. BLACKBURN, WARDEN, LOUISIANA STATE PENITENTIARY, ET AL.* C. A. 5th Cir.; and

No. 81-6304. *COLLINS v. ZANT, WARDEN.* Sup. Ct. Ga. Certiorari denied. Reported below: No. 81-6301, 653 F. 2d 942.

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. 81-1239. *STEPHENS ET AL. v. BLACK ET UX.*, 455 U. S. 1008;

No. 81-1329. *BOLLOTIN v. SCHWARTZ ET AL.*, 455 U. S. 1001;

No. 81-6055. *HERNANDEZ v. DEPARTMENT OF LABOR AND HUMAN RESOURCES ET AL.*, 455 U. S. 996;

No. 81-6083. *JURAS v. AMAN COLLECTION SERVICE, INC.*, 455 U. S. 1024;

No. 81-6106. *IVEY v. ALASKA*, 455 U. S. 1010;

No. 81-6147. *HALL v. THOMAS*, 455 U. S. 1026; and

No. 81-6208. *STOUTE v. UNITED STATES ET AL.*, 455 U. S. 1027. Petitions for rehearing denied.

No. 80-1681. *VILLAGE OF HOFFMAN ESTATES ET AL. v. THE FLIPSIDE, HOFFMAN ESTATES, INC.*, 455 U. S. 489; and

No. 81-415. *CASBAH, INC., ET AL. v. THONE, GOVERNOR OF NEBRASKA, ET AL.*, 455 U. S. 1005. Petitions for rehearing denied. JUSTICE STEVENS took no part in the consideration or decision of these petitions.

456 U. S.

April 26, 28, May 3, 1982

No. 81-1012. INSURANCE COMPANY OF NORTH AMERICA *v.* KEENE CORP. ET AL., 455 U. S. 1007;

No. 81-1197. HARTFORD ACCIDENT & INDEMNITY CO. *v.* KEENE CORP. ET AL., 455 U. S. 1007;

No. 81-1298. AETNA CASUALTY & SURETY CO. *v.* KEENE CORP. ET AL., 455 U. S. 1007; and

No. 81-1328. LIBERTY MUTUAL INSURANCE CO. *v.* KEENE CORP. ET AL., 455 U. S. 1007. Petition for rehearing denied. JUSTICE BRENNAN took no part in the consideration or decision of this petition.

No. 81-1141. RIBOTSKY *v.* UNITED STATES, 455 U. S. 910. Motion for leave to file petition for rehearing denied.

No. 81-1500. IN RE CHING YEE, 455 U. S. 1015. Petition for rehearing and all other relief denied.

## APRIL 28, 1982

*Miscellaneous Orders.* (For the Court's orders prescribing amendments to the Federal Rules of Civil Procedure, see *post*, p. 1015; amendments to the Federal Rules of Criminal Procedure, see *post*, p. 1023; and amendments to the Rules and Forms Governing Proceedings in the United States District Courts under 28 U. S. C. §§ 2254 and 2255, see *post*, p. 1033.)

## MAY 3, 1982

*Affirmed on Appeal*

No. 80-1207. RUSK, MAYOR OF ALBUQUERQUE, ET AL. *v.* ESPINOSA ET AL. Affirmed on appeal from C. A. 10th Cir. JUSTICE REHNQUIST and JUSTICE O'CONNOR would note probable jurisdiction and set case for oral argument. Reported below: 634 F. 2d 477.

*Appeals Dismissed*

No. 81-1351. SMITH *v.* FLORIDA. Appeal from Dist. Ct. App. Fla., 4th Dist., dismissed for want of jurisdiction. Reported below: 402 So. 2d 1360.

May 3, 1982

456 U. S.

No. 81-1259. WESTERN MARYLAND RAILWAY CO. *v.* ROSE, TAX COMMISSIONER OF WEST VIRGINIA; and

No. 81-1267. UNION-MECHLING CORP. *v.* ROSE, TAX COMMISSIONER OF WEST VIRGINIA. Appeals from Sup. Ct. App. W. Va. dismissed for want of substantial federal question. JUSTICE WHITE and JUSTICE POWELL would note probable jurisdiction and set cases for oral argument. Reported below: — W. Va. —, 282 S. E. 2d 240.

No. 81-1671. AU *v.* KELLY ET AL., TRUSTEES, DBA FINANCIAL PLAZA OF THE PACIFIC. Appeal from Int. Ct. App. Haw. dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied. Reported below: 2 Haw. App. 534, 634 P. 2d 619.

No. 81-1753. BALASH *v.* NEW YORK CITY EMPLOYEES' RETIREMENT SYSTEM ET AL. Appeal from Ct. App. N. Y. dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied. Reported below: 54 N. Y. 2d 847, 428 N. E. 2d 393.

No. 81-1681. JACOB BROTHERS, INC., ET AL. *v.* DELEON. Appeal from App. Sess., Super. Ct. Conn., dismissed for want of substantial federal question. Reported below: 38 Conn. Supp. 331, 446 A. 2d 831.

*Certiorari Granted—Vacated and Remanded*

No. 80-2117. LOCAL UNION NO. 84, INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS, AFL-CIO *v.* UNITED STATES ET AL. C. A. 5th Cir. Certiorari granted, judgment vacated, and case remanded for further consideration in light of *Pullman-Standard v. Swint*, ante, p. 273. Reported below: 634 F. 2d 929.

456 U. S.

May 3, 1982

No. 81-310. BERGMAN, WARDEN *v.* BURTON. C. A. 6th Cir. Motion of respondent for leave to proceed *in forma pauperis* and certiorari granted. Judgment vacated and case remanded for further consideration in light of *Rose v. Lundy*, 455 U. S. 509 (1982). Reported below: 649 F. 2d 428.

JUSTICE STEVENS, with whom JUSTICE MARSHALL and JUSTICE BLACKMUN join, dissenting.

In *Rose v. Lundy*, 455 U. S. 509, the Court wrote:

“There is no basis to believe that today’s holdings will ‘complicate and delay’ the resolution of habeas petitions (STEVENS, J., *post*, at 550), or will serve to ‘trap the unwary *pro se* prisoner.’ (BLACKMUN, J., *post*, at 530.)” *Id.*, at 520.

Today, however, the Court interprets *Rose* as requiring further proceedings that can serve no purpose other than to “complicate and delay” the ultimate termination of this litigation.

In 1975 the respondent was convicted in a Michigan state court of assault with intent to commit murder and was sentenced to life imprisonment. His conviction was affirmed by the Michigan Court of Appeals in 1977 and the Michigan Supreme Court denied leave to appeal.

In 1980 the respondent sought a writ of habeas corpus in the United States District Court for the Eastern District of Michigan on two grounds: (1) that the trial court’s instructions to the jury deprived him of due process of law; and (2) that he was denied the effective assistance of counsel. The District Court found no merit to the first claim and refused to consider the second because the respondent had not exhausted his state remedies as required by 28 U. S. C. § 2254(b).

The Court of Appeals reversed, holding that the instructions were improper under *Sandstrom v. Montana*, 442 U. S.

510, and that even though trial counsel had not objected to the erroneous instruction, *Wainwright v. Sykes*, 433 U. S. 72, did not foreclose relief because the Michigan Court of Appeals had reviewed the asserted errors in the trial court's jury charge and rejected the respondent's claims on the merits. The Sixth Circuit did not address the respondent's unexhausted claim of ineffective assistance of counsel.

The Warden's petition for certiorari in this Court raises the *Wainwright v. Sykes* issue and three questions concerning *Sandstrom v. Montana*.<sup>1</sup> The petition makes no reference to the unexhausted claim. Ignoring the four questions presented by the Warden, the Court grants his petition, vacates the judgment of the Court of Appeals, and remands for reconsideration in the light of *Rose v. Lundy*.

Under *Rose v. Lundy*—if I read the Court's opinion correctly—after the case gets back to the District Court, that court must dismiss the habeas corpus petition that is now a part of the record.<sup>2</sup> Thereafter, the respondent immediately will be entitled to resubmit a petition eliminating the unexhausted claim and confining his claim to relief to the issue

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<sup>1</sup> The questions presented for review read as follows:

"I. Where no timely objection was made to the state court's jury instructions as required by state law, the state appellate courts arguably relied on the failure to object in affirming the conviction and neither cause for the failure to object nor actual prejudice has been shown, is this state prison inmate barred from challenging the state court's jury instructions in federal habeas corpus proceedings under the doctrine of *Wainwright v. Sykes*, 4[3]3 US 72 (1977)?

"II. Should *Sandstrom v. Montana*, 442 US 510 (1979) be applied retroactively to a 1975 state court conviction?

"III. If *Sandstrom* is to be applied retroactively, do the state court's jury instructions in this case violate the *Sandstrom* doctrine?

"IV. If the state court's jury instructions in this case violate *Sandstrom*, is the violation nevertheless harmless beyond a reasonable doubt under the doctrine of *Chapman v. California*, 386 US 18 (1967)?" Pet. for Cert. i.

<sup>2</sup> "[W]e hold that a district court must dismiss habeas petitions containing both unexhausted and exhausted claims." *Rose v. Lundy*, 455 U. S., at 522.

456 U. S.

May 3, 1982

that has already been resolved in his favor by the Court of Appeals.<sup>3</sup> It seems reasonable to assume that the District Court will grant the relief mandated by the Court of Appeals, that the District Court order will then be promptly appealed by the Warden, and that the Court of Appeals thereafter will decide both the *Wainwright v. Sykes* issue and the three *Sandstrom* questions precisely as it decided them in the opinion that this Court today is vacating. It seems equally likely that the Warden will remain dissatisfied with that ruling and then once again file a petition for certiorari, at which time the Court can then determine whether to review the questions that are now presented.

The predictable consequences of the order the Court enters today illustrate the fact that the rule of *Rose v. Lundy* merely complicates and delays the termination of habeas corpus litigation.<sup>4</sup> It disserves the interest of busy federal judges as well as the interest of deserving litigants.

I respectfully dissent.

No. 81-1029. INTERNATIONAL ASSOCIATION OF MACHINISTS & AEROSPACE WORKERS, AFL-CIO, ET AL. *v.* TERRELL ET AL. C. A. 5th Cir. Certiorari granted, judgment vacated, and case remanded for further consideration in light of *Pullman-Standard v. Swint*, *ante*, p. 273. Reported below: 644 F. 2d 1112.

No. 81-1666. GRANT *v.* WASHINGTON PUBLIC EMPLOYMENT RELATIONS COMMISSION ET AL. Sup. Ct. Wash. Certiorari granted, judgment vacated, and case remanded for further consideration in light of *Larson v. Valente*, *ante*, p. 228. Reported below: 96 Wash. 2d 454, 635 P. 2d 1071.

<sup>3</sup> "Those prisoners who misunderstand this requirement and submit mixed petitions nevertheless are entitled to resubmit a petition with only exhausted claims or to exhaust the remainder of their claims." *Id.*, at 520.

<sup>4</sup> Nothing in the Court's opinion in *Rose v. Lundy*, or in anything the Court has written since, justifies the Court's reaching out on its own initiative to apply its new rule to previously decided cases.

May 3, 1982

456 U. S.

*Miscellaneous Orders*

No. A-891. BENJAMIN S. *v.* KURIANSKY, DEPUTY ATTORNEY GENERAL OF NEW YORK. Ct. App. N. Y. Application for stay, addressed to THE CHIEF JUSTICE and referred to the Court, denied.

No. A-897. COASTAL PETROLEUM CO. *v.* MOBIL OIL CORP.; and

No. A-913. BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND OF FLORIDA *v.* MOBIL OIL CORP. C. A. 11th Cir. Applications for stay, addressed to JUSTICE BRENNAN and referred to the Court, denied.

No. A-906. ANDERSON ET AL. *v.* FLATEAU ET AL. Application for stay of the order of the United States District Court for the Southern District of New York, entered March 26, 1982, addressed to JUSTICE REHNQUIST and referred to the Court, denied.

No. D-265. IN RE DISBARMENT OF GRANT. It is ordered that Arthur H. Grant, of Chicago, Ill., 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-266. IN RE DISBARMENT OF FELDMAN. It is ordered that Herman Feldman, of Chicago, Ill., 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-267. IN RE DISBARMENT OF DEFazio. It is ordered that Charles DeFazio III, of Newark, N. J., 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.

456 U. S.

May 3, 1982

No. D-256. IN RE DISBARMENT OF DEFRANCIS. Disbarment entered. [For earlier order herein, see 455 U. S. 902.]

No. D-268. IN RE DISBARMENT OF CYPHERS. It is ordered that Phillip L. Cyphers, of Pasadena, Tex., be suspended from the practice of law in this Court and that a rule issue, returnable within 40 days, requiring him to show cause why he should not be disbarred from the practice of law in this Court.

No. D-269. IN RE DISBARMENT OF BROWN. It is ordered that Callis N. Brown, of Teaneck, N. J., 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-270. IN RE DISBARMENT OF MORITZ. It is ordered that Andrew Bruce Moritz, of San Diego, Cal., be suspended from the practice of law in this Court and that a rule issue, returnable within 40 days, requiring him to show cause why he should not be disbarred from the practice of law in this Court.

No. D-271. IN RE DISBARMENT OF WAJERT. It is ordered that John M. Wajert, of Phoenixville, Pa., be suspended from the practice of law in this Court and that a rule issue, returnable within 40 days, requiring him to show cause why he should not be disbarred from the practice of law in this Court.

No. D-272. IN RE DISBARMENT OF LANGKAM. It is ordered that Leonard Langkam, of Detroit, Mich., 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.

May 3, 1982

456 U. S.

No. 27, Orig. OHIO *v.* KENTUCKY; and

No. 81, Orig. KENTUCKY *v.* INDIANA ET AL. Report of the Special Master on the motion of Dorothy Cole et al. for leave to intervene is received and ordered filed. Motion of Dorothy Cole et al. for leave to intervene denied. [For earlier order herein, see, *e. g.*, 454 U. S. 1076.]

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 for leave to file a supplemental brief after argument granted. JUSTICE MARSHALL took no part in the consideration or decision of this motion.

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 respondents for additional time for oral argument granted, and 10 additional minutes allotted for that purpose. Request of respondents for divided argument denied.

No. 81-349. CHICAGO BRIDGE & IRON CO. *v.* CATERPILAR TRACTOR CO. ET AL. Sup. Ct. Ill. [Probable jurisdiction noted, 454 U. S. 1029.] Case restored to calendar for reargument. JUSTICE STEVENS took no part in the consideration or decision of this order.

No. 81-680. HERMAN & MACLEAN *v.* HUDDLESTON ET AL.; and

No. 81-1076. HUDDLESTON ET AL. *v.* HERMAN & MACLEAN ET AL. C. A. 5th Cir. [Certiorari granted, *ante*, p. 914.] Motion of Ralph E. Huddleston et al. for leave to enlarge question presented for review denied.

No. 81-1222. UNITED STATES *v.* GENERIX DRUG CORP. ET AL. C. A. 11th Cir. [Certiorari granted, 455 U. S. 988.] Respondents' suggestion of mootness rejected.

456 U. S.

May 3, 1982

No. 81-827. JEFFERSON COUNTY PHARMACEUTICAL ASSN., INC. *v.* ABBOTT LABORATORIES ET AL. C. A. 5th Cir. [Certiorari granted, 455 U. S. 999.] Motion of American Pharmaceutical Association 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. 81-1320. KOLENDER, CHIEF OF POLICE OF SAN DIEGO, ET AL. *v.* LAWSON. C. A. 9th Cir. [Probable jurisdiction noted, 455 U. S. 999.] Motion of the parties to dispense with printing the joint appendix denied. Motion of Appellate Committee of the California District Attorneys Association for leave to file a brief as *amicus curiae* granted.

No. 81-1672. PENNZOIL CO. *v.* PUBLIC SERVICE COMMISSION OF WEST VIRGINIA. Sup. Ct. App. W. Va. The Solicitor General is invited to file a brief in this case expressing the views of the United States.

No. 81-6323. GAINES *v.* ILLINOIS. Sup. Ct. Ill. Motion of petitioner to dismiss the petition for writ of certiorari denied. Motion of court-appointed counsel to order a hearing to determine the competency of petitioner to file a motion to dismiss his petition denied.

No. 81-6458. NAJAR *v.* OMAN ET UX. Ct. App. Tex., 3d Sup. Jud. Dist. Motion of Texas for leave to intervene as a party respondent granted.

No. 81-6365. IN RE HOOVER; and

No. 81-6432. IN RE BRISCOE. Petitions for writs of mandamus denied.

*Probable Jurisdiction Noted*

No. 81-1551. SCHWEIKER, SECRETARY OF HEALTH AND HUMAN SERVICES *v.* ROSOFSKY. Appeal from D. C. E. D. N. Y. Probable jurisdiction noted. Reported below: 523 F. Supp. 1180.

May 3, 1982

456 U. S.

No. 81-523. CONTAINER CORPORATION OF AMERICA *v.* FRANCHISE TAX BOARD. Appeal from Ct. App. Cal., 1st App. Dist. Probable jurisdiction noted. JUSTICE STEVENS took no part in the consideration or decision of this case. Reported below: 117 Cal. App. 3d 988, 173 Cal. Rptr. 121.

*Certiorari Granted*

No. 81-1032. UNITED STATES *v.* SELLS ENGINEERING, INC., ET AL. C. A. 9th Cir. Certiorari granted. Reported below: 642 F. 2d 1184.

No. 81-1536. COMMISSIONER OF INTERNAL REVENUE *v.* TUFTS ET AL. C. A. 5th Cir. Certiorari granted. Reported below: 651 F. 2d 1058.

No. 81-1635. ANDERSON ET AL. *v.* CELEBREZZE, SECRETARY OF STATE OF OHIO. C. A. 6th Cir. Certiorari granted. Reported below: 664 F. 2d 554.

*Certiorari Denied.* (See also Nos. 81-1671 and 81-1753, *supra.*)

No. 81-160. MISSISSIPPI ET AL. *v.* PHILLIPS ET AL.; and  
No. 81-181. JOINT LEGISLATIVE COMMITTEE FOR PERFORMANCE, EVALUATION, AND EXPENDITURE REVIEW OF MISSISSIPPI ET AL. *v.* PHILLIPS ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 637 F. 2d 1014.

No. 81-1024. SALAZAR *v.* SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT. C. A. 9th Cir. Certiorari denied. Reported below: 661 F. 2d 942.

No. 81-1257. MILLER *v.* WEBSTER, DIRECTOR, FEDERAL BUREAU OF INVESTIGATION, ET AL. C. A. 7th Cir. Certiorari denied. Reported below: 661 F. 2d 623.

No. 81-1427. LEAF ET AL. *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 661 F. 2d 740.

No. 81-1464. CANN ET AL. *v.* FORD MOTOR CO. C. A. 2d Cir. Certiorari denied. Reported below: 658 F. 2d 54.

456 U. S.

May 3, 1982

No. 81-1467. *UNVERT ET AL. v. COMMISSIONER OF INTERNAL REVENUE*. C. A. 9th Cir. Certiorari denied. Reported below: 656 F. 2d 483.

No. 81-1480. *BOWMAN v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 661 F. 2d 943.

No. 81-1501. *LACEY v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 661 F. 2d 1021.

No. 81-1522. *PEACHTREE CITY v. H & H OPERATIONS, INC.* Sup. Ct. Ga. Certiorari denied. Reported below: 248 Ga. 500, 283 S. E. 2d 867.

No. 81-1558. *COCHRANE & BRESNAHAN v. SMITH, GUARDIAN AD LITEM*. C. A. 5th Cir. Certiorari denied. Reported below: 656 F. 2d 161.

No. 81-1632. *HONDA MOTOR CO., LTD. v. HAUSCHILD*. C. A. 7th Cir. Certiorari denied. Reported below: 673 F. 2d 1333.

No. 81-1639. *MOUNT VERNON MEMORIAL PARK ET AL. v. SECURITIES AND EXCHANGE COMMISSION*. C. A. 9th Cir. Certiorari denied. Reported below: 664 F. 2d 1358.

No. 81-1663. *KIBLER v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 667 F. 2d 452.

No. 81-1668. *PINE BELT LAND CO. ET AL. v. MISSISSIPPI STATE HIGHWAY COMMISSION ET AL.* Sup. Ct. Miss. Certiorari denied. Reported below: 406 So. 2d 329.

No. 81-1669. *SCHIAVO BROTHERS, INC. v. UNITED STATES GYPSUM CO.* C. A. 3d Cir. Certiorari denied. Reported below: 668 F. 2d 172.

No. 81-1670. *BANKERS TRUST CO. ET AL. v. BP OIL, INC., ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 658 F. 2d 103.

May 3, 1982

456 U. S.

No. 81-1678. *WEAVER ET AL. v. MARTIN, ADMINISTRATOR*. C. A. 6th Cir. Certiorari denied. Reported below: 666 F. 2d 1013.

No. 81-1690. *GERALDO v. OHIO*. Sup. Ct. Ohio. Certiorari denied. Reported below: 68 Ohio St. 2d 120, 429 N. E. 2d 141.

No. 81-1691. *CHEATHAM v. FLORIDA*; and  
No. 81-1693. *JONES v. FLORIDA*. Dist. Ct. App. Fla., 4th Dist. Certiorari denied.

No. 81-1694. *GRIFFITH v. CLAWSON, FORMERLY KNOWN AS GRIFFITH*. Ct. App. Ohio, Clermont County. Certiorari denied.

No. 81-1695. *YELLOW FORWARDING CO. v. ATLANTIC CONTAINER LINE ET AL.* C. A. 8th Cir. Certiorari denied. Reported below: 668 F. 2d 350.

No. 81-1697. *EDWARD W. MINTE CO., INC., ET AL. v. MURPHY*. C. A. 4th Cir. Certiorari denied. Reported below: 672 F. 2d 911.

No. 81-1704. *HATCH ET UX. v. MADSEN, SUPERINTENDENT OF BANKS OF ARIZONA, RECEIVER, ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 665 F. 2d 1053.

No. 81-1716. *VAUGHN v. HINCHY, WITTE, WOOD, ANDERSON & HODGES*. Ct. App. Cal., 4th App. Dist. Certiorari denied.

No. 81-1779. *WALGREN v. UNITED STATES*;  
No. 81-1780. *BAGNARIOL v. UNITED STATES*; and  
No. 81-1840. *GALLAGHER v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 665 F. 2d 877.

No. 81-1806. *BARNES v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 685 F. 2d 426.

No. 81-1837. *FREEMAN v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 685 F. 2d 427.

456 U. S.

May 3, 1982

No. 81-6030. *WHITE v. MISSOURI*. Sup. Ct. Mo. Certiorari denied. Reported below: 622 S. W. 2d 939.

No. 81-6101. *PISANO v. OKLAHOMA*. Ct. Crim. App. Okla. Certiorari denied. Reported below: 636 P. 2d 358.

No. 81-6164. *RIPPLINGER ET AL. v. KIDDER COUNTY SOCIAL SERVICE BOARD*. C. A. 8th Cir. Certiorari denied. Reported below: 676 F. 2d 703.

No. 81-6196. *APACHITO ET AL. v. WATT, SECRETARY OF THE INTERIOR, ET AL.* C. A. 10th Cir. Certiorari denied. Reported below: 664 F. 2d 229.

No. 81-6237. *G. B. v. ILLINOIS*. Sup. Ct. Ill. Certiorari denied. Reported below: 88 Ill. 2d 36, 430 N. E. 2d 1096.

No. 81-6291. *GLENN v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 667 F. 2d 95.

No. 81-6346. *BROOKSHER v. HARREL ET AL.* C. A. 10th Cir. Certiorari denied.

No. 81-6358. *WALKER v. TEXAS*. Ct. Crim. App. Tex. Certiorari denied. Reported below: 625 S. W. 2d 740.

No. 81-6360. *RICHARDSON v. LOUISIANA*. Sup. Ct. La. Certiorari denied. Reported below: 400 So. 2d 1375.

No. 81-6364. *MEDVED v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 665 F. 2d 1045.

No. 81-6366. *ABU-BAKR v. REED ET AL.* C. A. 7th Cir. Certiorari denied.

No. 81-6367. *MCCRARY v. SMITH, SUPERINTENDENT, ATTICA CORRECTIONAL FACILITY*. C. A. 2d Cir. Certiorari denied.

No. 81-6369. *WILLIAMS v. EVERETT, DIRECTOR, ARKANSAS DEPARTMENT OF LABOR*. Ct. App. Ark. Certiorari denied. Reported below: 4 Ark. App. xxi.

May 3, 1982

456 U. S.

No. 81-6370. *SALMAN v. SWANSON ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 672 F. 2d 923.

No. 81-6372. *WADE v. TEXAS.* C. A. 5th Cir. Certiorari denied.

No. 81-6376. *WEBB v. NEW YORK.* App. Div., Sup. Ct. N. Y., 2d Jud. Dept. Certiorari denied.

No. 81-6377. *SEAGLE v. NORTH CAROLINA.* Super. Ct. N. C., Durham County. Certiorari denied.

No. 81-6421. *WESTOVER v. RICHENBERGER ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 665 F. 2d 1056.

No. 81-6469. *MILLER v. UNITED STATES;* and

No. 81-6477. *MILLER v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. Reported below: 666 F. 2d 991.

No. 81-6476. *KIMBERLIN v. UNITED STATES.* C. A. 7th Cir. Certiorari denied. Reported below: 673 F. 2d 1335.

No. 81-6479. *SANDERS v. UNITED STATES.* C. A. 9th Cir. Certiorari denied. Reported below: 669 F. 2d 609.

No. 81-6483. *PACE v. UNITED STATES.* C. A. 6th Cir. Certiorari denied. Reported below: 698 F. 2d 1224.

No. 81-6498. *GUERRERO v. UNITED STATES.* C. A. 10th Cir. Certiorari denied. Reported below: 667 F. 2d 862.

No. 81-221. *UNITED TRANSPORTATION UNION, SUCCESSOR TO BROTHERHOOD OF RAILROAD TRAINMEN v. SEARS ET AL.* C. A. 10th Cir. Certiorari denied. JUSTICE O'CONNOR took no part in the consideration or decision of this petition. Reported below: 645 F. 2d 1365.

No. 81-1488. *ALASKA MARINE TRUCKING, A DIVISION OF LYNDEN TRANSPORT, INC. v. CARNATION CO.* Ct. App. Wash. Certiorari denied. JUSTICE O'CONNOR took no part in the consideration or decision of this petition. Reported below: 30 Wash. App. 144, 633 P. 2d 105.

456 U. S.

May 3, 1982

No. 81-1437. *NORTHERN STATES POWER CO. v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. JUSTICE WHITE and JUSTICE BLACKMUN would grant certiorari. Reported below: 663 F. 2d 55.

No. 81-1521. *DAVIS v. UNITED AIR LINES, INC.* C. A. 2d Cir. Certiorari denied. JUSTICE BLACKMUN would grant certiorari. Reported below: 662 F. 2d 120.

No. 81-1698. *BATTAGLIA v. UNION COUNTY WELFARE BOARD ET AL.* Sup. Ct. N. J. Certiorari denied. JUSTICE BLACKMUN would grant certiorari. Reported below: 88 N. J. 48, 438 A. 2d 530.

No. 81-6110. *PORTER v. TEXAS*. Ct. Crim. App. Tex.;  
No. 81-6205. *BASS v. TEXAS*. Ct. Crim. App. Tex.; and  
No. 81-6352. *HANCE v. ZANT, SUPERINTENDENT, GEORGIA DIAGNOSTIC AND CLASSIFICATION CENTER*. Super. Ct. Ga., Butts County. Certiorari denied. Reported below: No. 81-6110, 623 S. W. 2d 374; No. 81-6205, 622 S. W. 2d 101.

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. 80-6680. *MC ELROY v. UNITED STATES*, 455 U. S. 642;

No. 81-660. *ADDISON SAVMOR, INC. v. UNITED STATES*, 454 U. S. 1144;

No. 81-1116. *O. HOMMEL CO. v. FERRO CORP.*, 455 U. S. 1017;

No. 81-1382. *ATKINSON v. ATKINSON, AKA GOELZ*, *ante*, p. 905; and

No. 81-6151. *CUNNINGHAM v. GEORGIA*, 455 U. S. 1038. Petitions for rehearing denied.

May 3, 17, 1982

456 U. S.

No. 80-1690. AMERICAN MEDICAL ASSN. ET AL. *v.* FEDERAL TRADE COMMISSION, 455 U. S. 676. Petition for rehearing denied. JUSTICE BLACKMUN took no part in the consideration or decision of this petition.

MAY 17, 1982

*Dismissals Under Rule 53*

No. 81-1733. DREDGE GENERAL G. L. GILLESPIE ET AL. *v.* MERCHANTS NATIONAL BANK OF MOBILE ET AL. C. A. 5th Cir. Certiorari dismissed under this Court's Rule 53. Reported below: 663 F. 2d 1338.

No. 81-1066. BANCO DE CREDITO RURAL ARGENTINO, S.A. *v.* BANQUE ARABE ET INTERNATIONALE D'INVESTISSEMENT. Appeal from App. Div., Sup. Ct. N. Y., 1st Jud. Dept., dismissed under this Court's Rule 53. Reported below: 81 App. Div. 2d 1047, 440 N. Y. S. 2d 803.

*Affirmed on Appeal*

No. 81-1731. SCHATZLE *v.* KIRKPATRICK, SECRETARY OF STATE OF MISSOURI, ET AL. Affirmed on appeal from D. C. W. D. Mo. Reported below: 541 F. Supp. 922.

JUSTICE REHNQUIST, concurring.

Appellant in this case requests that we overrule *Kirkpatrick v. Preisler*, 394 U. S. 526 (1969). But here the District Court did not invalidate a reapportionment plan duly adopted by the state legislature; it merely adopted a plan of its own when the legislature was unable to reach agreement. This case, therefore, does not require that we address appellant's suggestion respecting *Kirkpatrick v. Preisler*, *supra*.

No. 81-1770. ORWOLL ET AL. *v.* LACOMB ET AL. Affirmed on appeal from D. C. Minn. JUSTICE STEVENS would note probable jurisdiction and set case for oral argument. JUSTICE BLACKMUN took no part in the consideration or decision of this case. Reported below: 541 F. Supp. 145.

456 U. S.

May 17, 1982

*Appeals Dismissed*

No. 79-6584. *IN RE TRAPP ET AL.* Appeal from Sup. Ct. Mo. dismissed for want of jurisdiction. Reported below: 593 S. W. 2d 193.

No. 81-1738. *FIRST NATIONAL BANK OF SAINT PAUL v. MINNESOTA, BY LORD, ITS TREASURER.* Appeal from Sup. Ct. Minn. dismissed for want of jurisdiction. Reported below: 313 N. W. 2d 390.

No. 81-1614. *ROSENBERG ET AL. v. JOHNS-MANVILLE SALES CORP. ET AL.*; and

No. 81-1615. *STEINHARDT, EXECUTRIX v. JOHNS-MANVILLE CORP. ET AL.* Appeals from Ct. App. N. Y. dismissed for want of jurisdiction. Treating the papers whereon the appeals were taken as petitions for writs of certiorari, certiorari denied. JUSTICE BRENNAN took no part in the consideration or decision of these cases. Reported below: 54 N. Y. 2d 1008, 430 N. E. 2d 1297.

No. 81-1700. *GILLILAND v. CITY OF PALMDALE*; and *GILLILAND ET AL. v. COUNTY OF LOS ANGELES.* Appeals from Ct. App. Cal., 2d App. Dist., dismissed for want of substantial federal question. Reported below: 126 Cal. App. 3d 610, 179 Cal. Rptr. 73 (second case).

No. 81-6202. *ADDISON ET AL. v. CITY OF CHESTER.* Appeal from Sup. Ct. S. C. dismissed for want of substantial federal question. Reported below: 277 S. C. 179, 284 S. E. 2d 579.

No. 81-6424. *BACIK v. PENNSYLVANIA.* Appeal from Pa. Commw. Ct. dismissed for want of substantial federal question. Reported below: 61 Pa. Commw. 552, 434 A. 2d 860.

May 17, 1982

456 U. S.

No. 81-1752. HOWARD *v.* BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF WELD, COLORADO, ET AL. Appeal from Sup. Ct. Colo. dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied. Reported below: 640 P. 2d 1128.

*Vacated and Remanded on Appeal*

No. 81-1649. CITY OF PARMA, OHIO, ET AL. *v.* RECORD REVOLUTION, NO. 6, INC., ET AL. Appeal from C. A. 6th Cir. Judgment vacated and case remanded for further consideration in light of *Hoffman Estates v. Flipside, Hoffman Estates, Inc.*, 455 U. S. 489 (1982). JUSTICE STEVENS took no part in the consideration or decision of this case.

*Certiorari Granted—Vacated and Remanded*

No. 80-1542. RIVERS, EXECUTOR, ET AL. *v.* ROSENTHAL & Co. C. A. 5th Cir. Certiorari granted, judgment vacated, and case remanded for further consideration in light of *Merrill Lynch, Pierce, Fenner & Smith v. Curran, ante*, p. 353. Reported below: 634 F. 2d 774.

No. 81-1118. INTERNATIONAL MOLDERS & ALLIED WORKERS UNION, AFL-CIO, LOCAL 342, ET AL. *v.* TERRELL ET AL. C. A. 5th Cir. Certiorari granted, judgment vacated, and case remanded for further consideration in light of *Pullman-Standard v. Swint, ante*, p. 273. Reported below: 644 F. 2d 1112.

No. 81-1750. WASHINGTON *v.* GIBSON. C. A. 9th Cir. Motion of respondent for leave to proceed *in forma pauperis* and certiorari granted. Judgment vacated and case remanded for further consideration in light of *Engle v. Isaac, ante*, p. 107, and *United States v. Frady, ante*, p. 152. Reported below: 665 F. 2d 863.

456 U. S.

May 17, 1982

No. 81-1800. WHITE-WILSON MEDICAL CLINIC, INC. *v.* ROBBINS. C. A. 11th Cir. Certiorari granted, judgment vacated, and case remanded for further consideration in light of *Pullman-Standard v. Swint*, *ante*, p. 273. Reported below: 660 F. 2d 1064.

*Miscellaneous Orders*

No. — — ——. RITTER *v.* BOARD OF COMMISSIONERS OF ADAMS COUNTY PUBLIC HOSPITAL DISTRICT NO. 1. Motion to direct the Clerk to file the petition for writ of certiorari denied.

No. A-916. IN RE DREFKE. D. C. W. D. Mo. Application for stay, addressed to JUSTICE REHNQUIST and referred to the Court, denied.

No. A-929 (81-1871). MECO, INC. *v.* SINNETTE, JUDGE, BOYD CIRCUIT COURT, DIVISION II, ET AL. Sup. Ct. Ky. Application for stay, addressed to JUSTICE STEVENS and referred to the Court, denied.

No. D-264. IN RE DISBARMENT OF EILBERG. Disbarment entered. [For earlier order herein, see *ante*, p. 903.]

No. 81-523. CONTAINER CORPORATION OF AMERICA *v.* FRANCHISE TAX BOARD. Ct. App. Cal., 1st App. Dist. [Probable jurisdiction noted, *ante*, p. 960.] Motions of National Association of Manufacturers, Committee on State Taxation of the Council of State Chambers of Commerce, EMI, Limited, and Canadian Imperial Bank of Commerce et al. for leave to file briefs as *amici curiae* granted. JUSTICE STEVENS took no part in the consideration or decision of these motions.

No. 81-1784. AMERICAN CYANAMID CO. *v.* OIL, CHEMICAL & ATOMIC WORKERS INTERNATIONAL UNION ET AL. C. A. D. C. Cir. The Solicitor General is invited to file a brief in this case expressing the views of the United States.

May 17, 1982

456 U. S.

No. 81-1717. AMERICAN BANK & TRUST CO. ET AL. *v.* DALLAS COUNTY ET AL.; BANK OF TEXAS ET AL. *v.* CHILDS ET AL.; and WYNNEWOOD BANK & TRUST ET AL. *v.* CHILDS ET AL. Ct. App. Tex., 5th Sup. Jud. Dist. The Solicitor General is invited to file a brief in these cases expressing the views of the United States. JUSTICE O'CONNOR took no part in the consideration or decision of this order.

*Probable Jurisdiction Noted or Postponed*

No. 81-969. WASHINGTON ET AL. *v.* UNITED STATES. Appeal from C. A. 9th Cir. Probable jurisdiction noted. Reported below: 654 F. 2d 570.

No. 81-1590. BOLGER ET AL. *v.* YOUNGS DRUG PRODUCTS CORP. Appeal from D. C. D. C. Probable jurisdiction noted. Reported below: 526 F. Supp. 823.

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

No. 81-1268. EXCHANGE OIL & GAS CORP. ET AL. *v.* EAGERTON, COMMISSIONER OF REVENUE OF ALABAMA. Appeals from Sup. Ct. Ala. Probable jurisdiction noted, cases consolidated, and a total of one hour allotted for oral argument. Reported below: 404 So. 2d 1.

No. 81-1756. LEHR *v.* ROBERTSON ET AL. Appeal from Ct. App. N. Y. Further consideration of question of jurisdiction postponed to hearing of case on the merits. Reported below: 54 N. Y. 2d 417, 430 N. E. 2d 896.

*Certiorari Granted*

No. 81-1284. EICKE *v.* EICKE. Ct. App. La., 3d Cir. Certiorari granted. Reported below: 399 So. 2d 1231.

No. 81-1627. SHEPARD *v.* NATIONAL LABOR RELATIONS BOARD ET AL. C. A. D. C. Cir. Certiorari granted. Reported below: 215 U. S. App. D. C. 373, 669 F. 2d 759.

456 U. S.

May 17, 1982

No. 81-1453. SOUTH DAKOTA *v.* NEVILLE. Sup. Ct. S. D. Motion of respondent for leave to proceed *in forma pauperis* and certiorari granted. Reported below: 312 N. W. 2d 723.

No. 81-1463. UNITED STATES *v.* HASTING ET AL. C. A. 7th Cir. Motions of respondents Kevin Wendell Anderson, Gable Gibson, Gregory Lamont Williams, Kelvin Hasting, and Napoleon Stewart for leave to proceed *in forma pauperis* granted. Certiorari granted. Reported below: 660 F. 2d 301.

No. 81-1618. WEYERHAEUSER CO. ET AL. *v.* LYMAN LAMB CO. ET AL.; and

No. 81-1619. GEORGIA-PACIFIC CORP. *v.* LYMAN LAMB CO. ET AL. C. A. 5th Cir. Motions of Chamber of Commerce of the United States, Business Roundtable, and National Association of Manufacturers for leave to file briefs as *amici curiae* granted. Motion of Bowie-Sims-Prange, Inc., et al. for leave to file a brief as *amici curiae* in No. 81-1618 granted. Certiorari granted, cases consolidated, and a total of one hour allotted for oral argument. JUSTICE WHITE and JUSTICE O'CONNOR took no part in the consideration or decision of these motions and these petitions. Reported below: 655 F. 2d 627.

No. 81-1810. NARANJO ET AL. *v.* CORRIZ. C. A. 10th Cir. Certiorari granted limited to Questions 1 and 2 presented by the petition. Reported below: 667 F. 2d 892.

*Certiorari Denied.* (See also Nos. 81-1614, 81-1615, and 81-1752, *supra*.)

No. 81-155. BOARD OF TRUSTEES OF INSTITUTIONS OF HIGHER EDUCATION ET AL. *v.* MISSISSIPPI COUNCIL ON HUMAN RELATIONS ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 637 F. 2d 1014.

May 17, 1982

456 U. S.

No. 81-510. *FLORIDA STATE UNIVERSITY ET AL. v. JOSHI*. C. A. 5th Cir. Certiorari denied. Reported below: 646 F. 2d 981.

No. 81-1050. *TAPP v. LUCAS, WARDEN, MISSISSIPPI STATE PENITENTIARY, ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 658 F. 2d 383.

No. 81-1069. *TERRELL ET AL. v. INTERNATIONAL ASSOCIATION OF MACHINISTS & AEROSPACE WORKERS ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 644 F. 2d 1112.

No. 81-1184. *CHATHAM VENTURES, INC., ET AL. v. FEDERAL DEPOSIT INSURANCE CORPORATION*. C. A. 11th Cir. Certiorari denied. Reported below: 651 F. 2d 355.

No. 81-1306. *MATHERNE v. TERREBONNE PARISH POLICE JURY*. Sup. Ct. La. Certiorari denied. Reported below: 405 So. 2d 314.

No. 81-1346. *JAFFEE ET AL. v. UNITED STATES ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 663 F. 2d 1226.

No. 81-1361. *WEST VIRGINIA EX REL. AIR POLLUTION CONTROL COMMISSION v. GORSUCH, ADMINISTRATOR, UNITED STATES ENVIRONMENTAL PROTECTION AGENCY, ET AL.*; and

No. 81-1524. *PENNSYLVANIA v. GORSUCH, ADMINISTRATOR, UNITED STATES ENVIRONMENTAL PROTECTION AGENCY, ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: No. 81-1361, 672 F. 2d 904; No. 81-1524, 672 F. 2d 902.

No. 81-1372. *CITY OF ATLANTA v. OWEN ET AL.* Sup. Ct. Ga. Certiorari denied. Reported below: 248 Ga. 299, 282 S. E. 2d 906.

456 U. S.

May 17, 1982

No. 81-1393. FLORIDA MARBLE POLISHERS HEALTH & WELFARE TRUST FUND ET AL. *v.* EDWIN M. GREEN, INC., ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 653 F. 2d 972.

No. 81-1439. BLINKEN *v.* MARYLAND. Ct. App. Md. Certiorari denied. Reported below: 291 Md. 297, 435 A. 2d 86.

No. 81-1498. CAVALIERI *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. Reported below: 685 F. 2d 426.

No. 81-1533. MERCHANTS REFRIGERATING COMPANY OF CALIFORNIA *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 659 F. 2d 116.

No. 81-1543. SOUTHWEST SUNSITES, INC., ET AL. *v.* FEDERAL TRADE COMMISSION. C. A. 5th Cir. Certiorari denied. Reported below: 665 F. 2d 711.

No. 81-1544. LIQUOR SALESMEN'S UNION OF THE STATE OF NEW YORK, LOCAL 2, DISTILLERY, RECTIFYING, WINE & ALLIED WORKERS INTERNATIONAL UNION, AFL-CIO *v.* CHARMER INDUSTRIES, INC., ET AL. C. A. 2d Cir. Certiorari denied. Reported below: 664 F. 2d 318.

No. 81-1547. CITY OF PLEASANT GROVE ET AL. *v.* WHEELER ET AL. C. A. 11th Cir. Certiorari denied. Reported below: 664 F. 2d 99.

No. 81-1549. MASTRANGELO *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. Reported below: 662 F. 2d 946.

No. 81-1553. MONTEZ *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 673 F. 2d 1331.

No. 81-1586. TORRES ET AL. *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. Reported below: 663 F. 2d 1019.

May 17, 1982

456 U. S.

No. 81-1565. *VSL CORP. v. UNITED STATES*. C. A. 10th Cir. Certiorari denied.

No. 81-1596. *MITCHELL ENERGY CORP. v. FEDERAL ENERGY REGULATORY COMMISSION*. C. A. 5th Cir. Certiorari denied. Reported below: 662 F. 2d 1111.

No. 81-1684. *INTERNATIONAL ASSOCIATION OF MACHINISTS & AEROSPACE WORKERS ET AL. v. FEDERAL ELECTION COMMISSION ET AL.* C. A. D. C. Cir. Certiorari denied. Reported below: 217 U. S. App. D. C. 360, 672 F. 2d 894.

No. 81-1706. *BALSLEY v. GULLEY ET AL.* C. A. 7th Cir. Certiorari denied. Reported below: 668 F. 2d 325.

No. 81-1707. *SKELTON ET AL. v. GENERAL MOTORS CORP.* C. A. 7th Cir. Certiorari denied. Reported below: 660 F. 2d 311.

No. 81-1710. *OHIO VALLEY CARPENTERS DISTRICT COUNCIL, UNITED BROTHERHOOD OF CARPENTERS & JOINERS OF AMERICA, AFL-CIO, LOCAL No. 1787 v. PEASE CO. ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 666 F. 2d 1044.

No. 81-1711. *MCNEW v. BANK OF MOUNT VERNON ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 673 F. 2d 1329.

No. 81-1719. *PETRUSCH, DBA B & L DISTRIBUTION CENTER v. TEAMSTERS LOCAL 317, SYRACUSE, NEW YORK, ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 667 F. 2d 297.

No. 81-1720. *SAVASTANO, ADMINISTRATRIX v. BOARD OF EDUCATION, KINGS PARK SCHOOL DISTRICT No. 5, COUNTY OF SUFFOLK, ET AL.* App. Div., Sup. Ct. N. Y., 2d Jud. Dept. Certiorari denied. Reported below: 81 App. Div. 2d 1049, 439 N. Y. S. 2d 227.

456 U. S.

May 17, 1982

No. 81-1721. ALFORD ET AL. *v.* CITY OF LUBBOCK, TEXAS, ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 664 F. 2d 1263.

No. 81-1723. PANDIL *v.* ILLINOIS CENTRAL GULF RAILROAD Co. Ct. App. Iowa. Certiorari denied. Reported below: 312 N. W. 2d 139.

No. 81-1726. SIGER *v.* PENNSYLVANIA. Sup. Ct. Pa. Certiorari denied. Reported below: 496 Pa. 396, 437 A. 2d 932.

No. 81-1734. MONTAG *v.* OUTBOARD MARINE CORP. C. A. 3d Cir. Certiorari denied. Reported below: 673 F. 2d 1300.

No. 81-1741. COURIER-JOURNAL ET AL. *v.* MCCALL. Sup. Ct. Ky. Certiorari denied. Reported below: 623 S. W. 2d 882.

No. 81-1745. TRIFA *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 662 F. 2d 447.

No. 81-1751. GAY ET AL. *v.* P. K. LINDSAY CO., INC. C. A. 1st Cir. Certiorari denied. Reported below: 666 F. 2d 710.

No. 81-1754. OXMAN ET AL. *v.* PENNSYLVANIA. Sup. Ct. Pa. Certiorari denied. Reported below: 496 Pa. 534, 437 A. 2d 1169.

No. 81-1758. SHEET METAL WORKERS' INTERNATIONAL ASSN., AFL-CIO *v.* MOBILE MECHANICAL CONTRACTORS ASSN., INC., ET AL. C. A. 11th Cir. Certiorari denied. Reported below: 664 F. 2d 481.

No. 81-1762. WOODS *v.* ALABAMA. Ct. Crim. App. Ala. Certiorari denied. Reported below: 408 So. 2d 555.

No. 81-1765. TOWNSHIP OF DOYLESTOWN *v.* AD WORLD, INC. C. A. 3d Cir. Certiorari denied. Reported below: 672 F. 2d 1136.

May 17, 1982

456 U. S.

No. 81-1766. UNITED TECHNOLOGIES CORP. *v.* FIACCO ET AL. C. A. 2d Cir. Certiorari denied. Reported below: 671 F. 2d 492.

No. 81-1767. SABET ET AL. *v.* REPUBLIC NATIONAL BANK OF NEW YORK. C. A. 2d Cir. Certiorari denied. Reported below: 681 F. 2d 802.

No. 81-1771. CITY OF BEACHWOOD, OHIO *v.* CENTRAL MOTORS, INC., ET AL. Ct. App. Ohio, Cuyahoga County. Certiorari denied.

No. 81-1775. DOUGLAS *v.* FLORIDA. Dist. Ct. App. Fla., 2d Dist. Certiorari denied. Reported below: 411 So. 2d 393.

No. 81-1786. NORTH RIVER INSURANCE CO. *v.* SCALI, MCCABE, SLOVES, INC. C. A. 2d Cir. Certiorari denied. Reported below: 681 F. 2d 802.

No. 81-1788. OPTION ADVISORY SERVICE, INC. *v.* BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM ET AL. C. A. 2d Cir. Certiorari denied. Reported below: 681 F. 2d 802.

No. 81-1790. BRIDGEPORT EDUCATION ASSN. *v.* CITY OF BRIDGEPORT ET AL. C. A. 2d Cir. Certiorari denied. Reported below: 685 F. 2d 424.

No. 81-1792. MCINNIS *v.* DISTRICT GRIEVANCE COMMITTEE FOR DISTRICT 12-B OF THE STATE BAR OF TEXAS. Ct. Civ. App. Tex., 9th Sup. Jud. Dist. Certiorari denied. Reported below: 618 S. W. 2d 389.

No. 81-1795. SMITH INTERNATIONAL, INC. *v.* HUGHES TOOL Co. C. A. 9th Cir. Certiorari denied. Reported below: 664 F. 2d 1373.

No. 81-1812. FOUNDING CHURCH OF SCIENTOLOGY OF WASHINGTON, D. C., INC. *v.* REGAN, SECRETARY OF THE TREASURY, ET AL. C. A. D. C. Cir. Certiorari denied. Reported below: 216 U. S. App. D. C. 339, 670 F. 2d 1158.

456 U. S.

May 17, 1982

No. 81-1816. *CANHAM v. OBERLIN COLLEGE*. C. A. 6th Cir. Certiorari denied. Reported below: 666 F. 2d 1057.

No. 81-1823. *MAECOM S.A., GENEVA, ET AL. v. ANGLOMAR BULK CARRIERS, LTD.* C. A. 2d Cir. Certiorari denied. Reported below: 685 F. 2d 423.

No. 81-1825. *CROSSMAN ET AL. v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 663 F. 2d 607.

No. 81-1841. *CONWAY v. OKLAHOMA*. Ct. Crim. App. Okla. Certiorari denied.

No. 81-1850. *KNYFF ET AL. v. UNITED STATES ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 654 F. 2d 729.

No. 81-1874. *SENTINEL GOVERNMENT SECURITIES ET AL. v. UNITED STATES*. C. A. 2d Cir. Certiorari denied.

No. 81-1877. *BRUMMITT v. UNITED STATES*; and *SCARBOROUGH v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 665 F. 2d 521 (first case); 664 F. 2d 286 (second case).

No. 81-1898. *BREWER v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 698 F. 2d 1224.

No. 81-1902. *TANAKA v. CREDITORS' COMMITTEE #1 ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 659 F. 2d 951.

No. 81-1912. *HUBER & ANTILLA CONSTRUCTION v. CARPENTERS LOCAL 470, UNITED BROTHERHOOD OF CARPENTERS & JOINERS OF AMERICA, AFL-CIO*. C. A. 9th Cir. Certiorari denied. Reported below: 659 F. 2d 1013.

No. 81-1914. *PEARSON v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 685 F. 2d 427.

No. 81-1927. *FOSTER v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 685 F. 2d 427.

May 17, 1982

456 U. S.

No. 81-1937. *BOOTH ET AL. v. UNITED STATES*. C. A. 1st Cir. Certiorari denied. Reported below: 673 F. 2d 27.

No. 81-1952. *ROWE v. UNITED STATES*. Ct. Cl. Certiorari denied. Reported below: 229 Ct. Cl. 531.

No. 81-1957. *PENA v. UNITED STATES*. C. A. 1st Cir. Certiorari denied. Reported below: 668 F. 2d 625.

No. 81-1981. *COTTON BELT INSURANCE CO., INC., ET AL. v. UNITED STATES ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 667 F. 2d 20.

No. 81-6078. *TAYLOR v. MINNEAPOLIS PUBLIC SCHOOLS ET AL.* C. A. 8th Cir. Certiorari denied. Reported below: 664 F. 2d 293.

No. 81-6090. *SMITH v. HOUSEWRIGHT, ARKANSAS DEPARTMENT OF CORRECTION*. C. A. 8th Cir. Certiorari denied. Reported below: 667 F. 2d 689.

No. 81-6126. *VANCE v. HEDRICK ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 659 F. 2d 447.

No. 81-6222. *JACKSON v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 661 F. 2d 943.

No. 81-6249. *CULHANE v. HARRIS, SUPERINTENDENT, GREEN HAVEN CORRECTIONAL FACILITY*. C. A. 2d Cir. Certiorari denied. Reported below: 671 F. 2d 491.

No. 81-6258. *CANTRELL v. UNITED STATES*. C. A. 10th Cir. Certiorari denied.

No. 81-6329. *WOOTON v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 672 F. 2d 918.

No. 81-6344. *GIBSON v. UNITED STATES*;  
No. 81-6373. *WILLIAMS v. UNITED STATES*; and  
No. 81-6379. *HASTING v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 660 F. 2d 301.

456 U. S.

May 17, 1982

No. 81-6348. *WILSON v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 676 F. 2d 688.

No. 81-6374. *BOSTON v. DIFANIS*. C. A. 7th Cir. Certiorari denied. Reported below: 665 F. 2d 1049.

No. 81-6387. *BARBEE v. MITCHELL, WARDEN*. C. A. 4th Cir. Certiorari denied. Reported below: 673 F. 2d 1305.

No. 81-6392. *ZARCONE v. PERRY ET AL.* Ct. App. N. Y. Certiorari denied. Reported below: 55 N. Y. 2d 782, 431 N. E. 2d 974.

No. 81-6393. *AHMED v. EIKERENKOETTER*. Ct. App. D. C. Certiorari denied.

No. 81-6397. *ARROYO v. NEW YORK*. Ct. App. N. Y. Certiorari denied. Reported below: 54 N. Y. 2d 567, 431 N. E. 2d 271.

No. 81-6399. *KOOP ET AL. v. IOWA*. Sup. Ct. Iowa. Certiorari denied. Reported below: 314 N. W. 2d 384.

No. 81-6402. *HYPPOLITE v. ABC ET AL.* C. A. 11th Cir. Certiorari denied.

No. 81-6403. *CHASE v. MAGGIO ET AL.* Sup. Ct. La. Certiorari denied. Reported below: 410 So. 2d 1138.

No. 81-6412. *MCLAUGHLIN ET AL. v. CITY OF LAGRANGE, GEORGIA, ET AL.* C. A. 11th Cir. Certiorari denied. Reported below: 662 F. 2d 1385.

No. 81-6413. *BELASCO v. CALIFORNIA*. Ct. App. Cal., 2d App. Dist. Certiorari denied. Reported below: 125 Cal. App. 3d 974, 178 Cal. Rptr. 461.

No. 81-6414. *DAVIS v. PARRATT, WARDEN, NEBRASKA STATE PENITENTIARY*. C. A. 8th Cir. Certiorari denied. Reported below: 668 F. 2d 451.

May 17, 1982

456 U. S.

No. 81-6417. REED *v.* WEBSTER ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 665 F. 2d 1053.

No. 81-6420. CARTER *v.* JAGO. C. A. 6th Cir. Certiorari denied. Reported below: 637 F. 2d 449.

No. 81-6427. ROOTS *v.* WAINWRIGHT ET AL. C. A. 11th Cir. Certiorari denied.

No. 81-6428. KINES ET AL. *v.* BUTTERWORTH ET AL. C. A. 1st Cir. Certiorari denied. Reported below: 669 F. 2d 6.

No. 81-6429. FORSTON *v.* ORANGE UNIFIED SCHOOL DISTRICT ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 667 F. 2d 1030.

No. 81-6430. GROFF *v.* TOWNSHIP OF ELIZABETH, LANCASTER COUNTY, PENNSYLVANIA. Pa. Commw. Ct. Certiorari denied. Reported below: 62 Pa. Commw. 46, 434 A. 2d 917.

No. 81-6433. BRIAN LEE W. *v.* CALIFORNIA. Ct. App. Cal., 2d App. Dist. Certiorari denied. Reported below: 125 Cal. App. 3d 590, 178 Cal. Rptr. 159.

No. 81-6434. LEWIS *v.* ENGLE. C. A. 6th Cir. Certiorari denied. Reported below: 701 F. 2d 178.

No. 81-6436. PENN *v.* PENNSYLVANIA. Sup. Ct. Pa. Certiorari denied. Reported below: 497 Pa. 232, 439 A. 2d 1154.

No. 81-6438. BEACH *v.* KAPNER, JUDGE, FIFTEENTH JUDICIAL CIRCUIT OF FLORIDA. C. A. 11th Cir. Certiorari denied. Reported below: 659 F. 2d 1078.

No. 81-6439. RICHARDS *v.* NEW YORK. App. Div., Sup. Ct. N. Y., 1st Jud. Dept. Certiorari denied. Reported below: 59 App. Div. 2d 656, 398 N. Y. S. 2d 351.

456 U. S.

May 17, 1982

No. 81-6440. PASCHAL *v.* FLORIDA DEPARTMENT OF LABOR AND EMPLOYMENT SECURITY, DIVISION OF EMPLOYMENT SECURITY, ET AL. Dist. Ct. App. Fla., 3d Dist. Certiorari denied. Reported below: 405 So. 2d 1020.

No. 81-6441. WATSON *v.* ARIZONA. Sup. Ct. Ariz. Certiorari denied.

No. 81-6446. DAVID LYNN C. *v.* CALIFORNIA. Ct. App. Cal., 2d App. Dist. Certiorari denied.

No. 81-6447. AH LO ET AL. *v.* HAWAII. Int. Ct. App. Haw. Certiorari denied. Reported below: 2 Haw. App. 462, 634 P. 2d 421.

No. 81-6449. JOHNSON *v.* ADAMS. Sup. Ct. N. H. Certiorari denied.

No. 81-6450. HOLSEY *v.* MCCAULEY ET AL. C. A. 4th Cir. Certiorari denied. Reported below: 665 F. 2d 1040.

No. 81-6456. SAYERS *v.* FLORIDA. Dist. Ct. App. Fla., 1st Dist. Certiorari denied. Reported below: 412 So. 2d 479.

No. 81-6457. SINCLAIR *v.* HUNTER, CHAIRMAN, LOUISIANA BOARD OF PARDONS. C. A. 5th Cir. Certiorari denied. Reported below: 670 F. 2d 183.

No. 81-6467. McDONALD *v.* THOMPSON ET AL. C. A. 6th Cir. Certiorari denied. Reported below: 701 F. 2d 179.

No. 81-6487. MOORE *v.* UNITED STATES. Ct. Cl. Certiorari denied. Reported below: 230 Ct. Cl. 819.

No. 81-6501. DUDLEY *v.* UNITED STATES DISTRICT COURT FOR THE CENTRAL DISTRICT OF CALIFORNIA ET AL. C. A. 9th Cir. Certiorari denied.

May 17, 1982

456 U. S.

No. 81-6504. *MAXWELL v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 698 F. 2d 1224.

No. 81-6507. *BOYDEN v. SMITH, ATTORNEY GENERAL, ET AL.* C. A. 9th Cir. Certiorari denied.

No. 81-6508. *ZAMBITO v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 685 F. 2d 427.

No. 81-6510. *PETERSON v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 671 F. 2d 505.

No. 81-6514. *GREEN v. CARLSON, DIRECTOR, FEDERAL BUREAU OF PRISONS*. C. A. D. C. Cir. Certiorari denied.

No. 81-6515. *NICKERSON v. WRIGHT ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 673 F. 2d 1314.

No. 81-6523. *STRINICH v. CLAIRTON SCHOOL DISTRICT*. Sup. Ct. Pa. Certiorari denied. Reported below: 494 Pa. 297, 431 A. 2d 267.

No. 81-6526. *BOWLES v. UNITED STATES*. C. A. D. C. Cir. Certiorari denied. Reported below: 218 U. S. App. D. C. 162, 673 F. 2d 553.

No. 81-6539. *FINCE v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 670 F. 2d 1356.

No. 81-6541. *IN RE BAIRD*. C. A. 8th Cir. Certiorari denied. Reported below: 668 F. 2d 432.

No. 81-6542. *HEGWOOD v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 673 F. 2d 1334.

No. 81-6550. *AVON v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 671 F. 2d 505.

No. 81-6564. *COOK v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 670 F. 2d 46.

No. 81-6567. *LONDON v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 676 F. 2d 688.

456 U. S.

May 17, 1982

No. 81-6589. RHODES *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 676 F. 2d 695.

No. 81-6590. BENAVIDEZ *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 668 F. 2d 533.

No. 81-6596. WILLIAMS *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 666 F. 2d 594.

No. 81-1448. RAYMOND INTERNATIONAL, INC. *v.* BAKER. C. A. 5th Cir. Motion of petitioner to strike portions of respondent's brief denied. Certiorari denied. Reported below: 656 F. 2d 173.

No. 81-1479. GULF OIL CORP. ET AL. *v.* PETROL STOPS NORTHWEST ET AL. C. A. 11th Cir. Certiorari denied. JUSTICE POWELL took no part in the consideration or decision of this petition.

No. 81-1746. PUREX CORP. *v.* PROCTER & GAMBLE CO. ET AL. C. A. 9th Cir. Certiorari denied. JUSTICE POWELL took no part in the consideration or decision of this petition. Reported below: 664 F. 2d 1105.

No. 81-1563. SACRAMENTO BEE, PUBLISHED BY MCCLATCHY NEWSPAPERS *v.* UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF CALIFORNIA (UNITED STATES ET AL., REAL PARTIES IN INTEREST). C. A. 9th Cir. Certiorari denied. JUSTICE BRENNAN would grant certiorari. Reported below: 656 F. 2d 477.

No. 81-1665. DYKEMA ET AL. *v.* UNITED STATES ET AL. C. A. 7th Cir. Certiorari denied. JUSTICE WHITE would grant certiorari. Reported below: 666 F. 2d 1096.

No. 81-1730. HALL ET AL. *v.* BLAKE ET AL. C. A. 1st Cir. Motion of respondents Albert Blake, Ralph Hamm, and Patrick Rahilly for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 668 F. 2d 52.

May 17, 1982

456 U. S.

No. 81-1769. *FEDERATED PUBLICATIONS, INC. v. SWEDBERG*. Sup. Ct. Wash. Certiorari denied. JUSTICE BRENNAN and JUSTICE MARSHALL would grant certiorari. Reported below: 96 Wash. 2d 13, 633 P. 2d 74.

- No. 81-5379. *SIRECI v. FLORIDA*. Sup. Ct. Fla.;  
No. 81-5562. *GILREATH v. GEORGIA*. Sup. Ct. Ga.;  
No. 81-5784. *COMBS v. FLORIDA*. Sup. Ct. Fla.;  
No. 81-5848. *GILBERT ET AL. v. SOUTH CAROLINA*.  
Sup. Ct. S. C.;  
No. 81-5944. *MESSER v. FLORIDA*. Sup. Ct. Fla.;  
No. 81-6338. *FAIR v. ZANT, WARDEN, GEORGIA DI-  
AGNOSTIC AND CLASSIFICATION CENTER*. Super. Ct. Ga.,  
Butts County;  
No. 81-6385. *ORTIZ v. ARIZONA*. Sup. Ct. Ariz.;  
No. 81-6435. *MOORE v. NEBRASKA*. Sup. Ct. Neb.; and  
No. 81-6437. *SMITH v. FLORIDA*. Sup. Ct. Fla. Certio-  
rari denied. Reported below: No. 81-5379, 399 So. 2d 964;  
No. 81-5562, 247 Ga. 814, 279 S. E. 2d 650; No. 81-5784, 403  
So. 2d 418; No. 81-5848, 277 S. C. 53, 283 S. E. 2d 179; No.  
81-5944, 403 So. 2d 341; No. 81-6385, 131 Ariz. 195, 639 P. 2d  
1020; No. 81-6435, 210 Neb. 457, 316 N. W. 2d 33; No.  
81-6437, 407 So. 2d 894.

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. 81-824. *JACKS v. DUCKWORTH, WARDEN*, 454 U. S. 1147; and

No. 81-5418. *PAPP v. JAGO*, 454 U. S. 1035. Motions for leave to file petitions for rehearing denied.

456 U. S.

May 17, 24, 1982

No. 80-2092. SCM CORP. *v.* XEROX CORP., 455 U. S. 1016;

No. 81-363. KARR *v.* KARR, 455 U. S. 1016;

No. 81-417. WAINWRIGHT, CORRECTIONS SECRETARY *v.* PEREZ, *ante*, p. 910;

No. 81-547. DIAZ ET AL. *v.* BEYER ET UX., *ante*, p. 904;

No. 81-1000. CALIFORNIA STATE BOARD OF EQUALIZATION *v.* UNITED STATES, *ante*, p. 901;

No. 81-1343. ROSENBAUM *v.* ROSENBAUM, 455 U. S. 1018;

No. 81-1419. MADISON *v.* BARRY, MAYOR OF THE DISTRICT OF COLUMBIA, ET AL., 455 U. S. 1020;

No. 81-1471. IMMER *v.* PUERTO RICO MARITIME SHIPPING AUTHORITY ET AL., *ante*, p. 906;

No. 81-1542. MAZALESKI *v.* SCHWEIKER, SECRETARY OF HEALTH AND HUMAN SERVICES, ET AL., 455 U. S. 1022;

No. 81-5897. WILSON *v.* UNITED STATES, *ante*, p. 917;

No. 81-6132. HAMILTON *v.* MAYS ET AL., 455 U. S. 1025; and

No. 81-6395. GOLDBLATT *v.* VOGEL ET AL., *ante*, p. 934. Petitions for rehearing denied.

MAY 24, 1982

*Affirmed on Appeal*

No. 81-1814. LAKE CARRIERS' ASSN. ET AL. *v.* KELLEY, ATTORNEY GENERAL OF MICHIGAN, ET AL. Affirmed on appeal from D. C. E. D. Mich. Reported below: 527 F. Supp. 1114.

*Appeals Dismissed*

No. 81-1785. HUNTER *v.* NEW YORK STATE DEPARTMENT OF CIVIL SERVICE. Appeal from Ct. App. N. Y. dismissed for want of substantial federal question. Reported below: 55 N. Y. 2d 1036, 434 N. E. 2d 1082.

May 24, 1982

456 U. S.

No. 81-1855. RED OWL STORES, INC. *v.* COMMISSIONER OF AGRICULTURE. Appeal from Sup. Ct. Minn. dismissed for want of substantial federal question. Reported below: 310 N. W. 2d 99.

*Vacated and Remanded on Appeal*

No. 81-1787. DEVINE, DIRECTOR, OFFICE OF PERSONNEL MANAGEMENT, ET AL. *v.* SULLIVAN. Appeal from D. C. N. D. Ill. Judgment vacated and case remanded with instructions to dismiss the cause as moot.

*Certiorari Granted—Vacated and Remanded*

No. 80-1023. BELL, SECRETARY OF EDUCATION, ET AL. *v.* DOUGHERTY COUNTY SCHOOL SYSTEM. C. A. 5th Cir. Certiorari granted, judgment vacated, and case remanded for further consideration in light of *North Haven Board of Education v. Bell*, ante, p. 512. Reported below: 622 F. 2d 735.

*Vacated and Remanded After Certiorari Granted*

No. 80-493. UNITED STATES DEPARTMENT OF EDUCATION *v.* SEATTLE UNIVERSITY. C. A. 9th Cir. [Certiorari granted, 449 U. S. 1009.] Motion of American Civil Liberties Union Women's Rights Project et al. for leave to file a brief as *amici curiae* granted. Judgment vacated and case remanded for further consideration in light of *North Haven Board of Education v. Bell*, ante, p. 512.

*Miscellaneous Orders*

No. A-950. BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND OF FLORIDA *v.* AMERICAN CYANAMID CO. C. A. 11th Cir. Application to recall and stay the mandate, addressed to JUSTICE BRENNAN and referred to the Court, denied.

No. D-258. IN RE DISBARMENT OF ROOT. Disbarment entered. [For earlier order herein, see 455 U. S. 1012.]

456 U. S.

May 24, 1982

No. D-259. IN RE DISBARMENT OF COVEN. Disbarment entered. [For earlier order herein, see 455 U. S. 1012.]

No. D-273. IN RE DISBARMENT OF MICUN. It is ordered that Richard P. Micun, of Evergreen Park, Ill., 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. 81-827. JEFFERSON COUNTY PHARMACEUTICAL ASSN., INC. *v.* ABBOTT LABORATORIES ET AL. C. A. 5th Cir. [Certiorari granted, 455 U. S. 999.] Motion of respondent Board of Trustees of the University of Alabama for divided argument and for additional time for oral argument denied. JUSTICE O'CONNOR took no part in the consideration or decision of this motion.

No. 81-1271. FALLS CITY INDUSTRIES, INC. *v.* VANCO BEVERAGE, INC. C. A. 7th Cir. [Certiorari granted, 455 U. S. 988.] Motion of the Solicitor General for leave to participate in oral argument as *amicus curiae* and for divided argument granted.

No. 81-1958. ARIZONA ELECTRIC POWER COOPERATIVE, INC. *v.* MID-LOUISIANA GAS CO. ET AL. C. A. 5th Cir. Motion of petitioner to expedite consideration of petition for writ of certiorari denied.

No. 81-6464. IN RE ESTES. Petition for writ of mandamus denied.

*Probable Jurisdiction Noted or Postponed*

No. 81-1574. LOCAL 926, INTERNATIONAL UNION OF OPERATING ENGINEERS, AFL-CIO, ET AL. *v.* JONES. Appeal from Ct. App. Ga. Further consideration of question of jurisdiction postponed to hearing of case on the merits. Reported below: 159 Ga. App. 693, 285 S. E. 2d 30.

May 24, 1982

456 U. S.

No. 81-185. SIMOPOULOS *v.* VIRGINIA. Appeal from Sup. Ct. Va. Probable jurisdiction noted. Reported below: 221 Va. 1059, 277 S. E. 2d 194.

*Certiorari Granted*

No. 81-1636. FLORIDA *v.* BRADY ET AL. Sup. Ct. Fla. Certiorari granted. Reported below: 406 So. 2d 1093.

No. 81-1686. WATT, SECRETARY OF THE INTERIOR, ET AL. *v.* WESTERN NUCLEAR, INC. C. A. 10th Cir. Certiorari granted. Reported below: 664 F. 2d 234.

No. 81-746. CITY OF AKRON *v.* AKRON CENTER FOR REPRODUCTIVE HEALTH, INC., ET AL.; and

No. 81-1172. AKRON CENTER FOR REPRODUCTIVE HEALTH, INC., ET AL. *v.* CITY OF AKRON ET AL. C. A. 6th Cir. Certiorari granted, cases consolidated, and a total of one hour allotted for oral argument. Reported below: 651 F. 2d 1198.

No. 81-1255. PLANNED PARENTHOOD ASSOCIATION OF KANSAS CITY, MISSOURI, INC., ET AL. *v.* ASHCROFT, ATTORNEY GENERAL OF MISSOURI, ET AL.; and

No. 81-1623. ASHCROFT, ATTORNEY GENERAL OF MISSOURI, ET AL. *v.* PLANNED PARENTHOOD ASSOCIATION OF KANSAS CITY, MISSOURI, INC., ET AL. C. A. 8th Cir. Certiorari granted, cases consolidated, and a total of one hour allotted for oral argument. Reported below: 664 F. 2d 687.

No. 81-1494. BLOCK, SECRETARY OF AGRICULTURE, ET AL. *v.* NEAL. C. A. 6th Cir. Motion of respondent for leave to proceed *in forma pauperis* and certiorari granted. Reported below: 646 F. 2d 1178.

No. 81-1661. GENERAL MOTORS CORP. *v.* DEVEX CORP. ET AL. C. A. 3d Cir. Certiorari granted limited to Question 1 presented by the petition. Reported below: 667 F. 2d 347.

456 U. S.

May 24, 1982

*Certiorari Denied*

No. 80-1771. HYDROLEVEL CORP. *v.* AMERICAN SOCIETY OF MECHANICAL ENGINEERS, INC. C. A. 2d Cir. Certiorari denied. Reported below: 635 F. 2d 118.

No. 80-2138. CARTER *v.* DAYTON BOARD OF EDUCATION ET AL. C. A. 6th Cir. Certiorari denied. Reported below: 652 F. 2d 56.

No. 81-854. SEGUIN ET AL. *v.* AKRON CENTER FOR REPRODUCTIVE HEALTH, INC., ET AL. C. A. 6th Cir. Certiorari denied. Reported below: 651 F. 2d 1198.

No. 81-1274. ROBINSON *v.* CITY OF JUNCTION CITY. Ct. App. Kan. Certiorari denied. Reported below: 6 Kan. App. 2d xiv, 632 P. 2d 1082.

No. 81-1360. HOME INDEMNITY CO. ET AL. *v.* OESTERLE. C. A. 11th Cir. Certiorari denied. Reported below: 651 F. 2d 401.

No. 81-1486. FRIEDLAND *v.* UNITED STATES; and  
No. 81-1490. FRIEDLAND *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied. Reported below: 660 F. 2d 919.

No. 81-1495. MOORE *v.* JORDAN ET AL. C. A. 6th Cir. Certiorari denied. Reported below: 673 F. 2d 1329.

No. 81-1508. ANDREW MARTIN MARINE CORP. ET AL. *v.* MOTOREN-WERKE MANNHEIM, A.G., ET AL. C. A. 5th Cir. Certiorari denied.

No. 81-1629. AMERICAN INDIANS RESIDING ON THE MARICOPA-AK CHIN RESERVATION *v.* UNITED STATES. Ct. Cl. Certiorari denied. Reported below: 229 Ct. Cl. 167, 667 F. 2d 980.

No. 81-1630. MODICA *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. Reported below: 663 F. 2d 1173.

No. 81-1658. MONACO *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 661 F. 2d 129.

May 24, 1982

456 U. S.

No. 81-1660. MEMPHIS MOBILE TELEPHONE, INC., ET AL. *v.* FEDERAL COMMUNICATIONS COMMISSION ET AL. C. A. D. C. Cir. Certiorari denied.

No. 81-1683. MAHER, COMMISSIONER OF INCOME MAINTENANCE OF CONNECTICUT *v.* SCHWEIKER, SECRETARY OF HEALTH AND HUMAN SERVICES, ET AL. C. A. 2d Cir. Certiorari denied. Reported below: 679 F. 2d 873.

No. 81-1701. JOHNSON *v.* J. RAY MCDERMOTT & Co., INC., ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 660 F. 2d 495.

No. 81-1718. DEVEX CORP. ET AL. *v.* GENERAL MOTORS CORP.; and

No. 81-1865. DEVEX CORP. ET AL. *v.* GENERAL MOTORS CORP. C. A. 3d Cir. Certiorari denied. Reported below: 667 F. 2d 347.

No. 81-1739. EADY *v.* ERBE. Ct. Civ. App. Ala. Certiorari denied. Reported below: 406 So. 2d 936.

No. 81-1781. SOLEBURY TOWNSHIP ET AL. *v.* HERITAGE FARMS, INC., ET AL. C. A. 3d Cir. Certiorari denied. Reported below: 671 F. 2d 743.

No. 81-1797. THEATRE TECHNIQUES, INC. *v.* UNITED SCENIC ARTISTS, LOCAL 829 OF THE BROTHERHOOD OF PAINTERS & ALLIED TRADES, AFL-CIO, ET AL. C. A. 2d Cir. Certiorari denied. Reported below: 671 F. 2d 493.

No. 81-1801. KRAMER *v.* ABRAMS, ATTORNEY GENERAL OF NEW YORK. C. A. 2d Cir. Certiorari denied.

No. 81-1807. SOUTHEASTERN PENNSYLVANIA TRANSPORTATION AUTHORITY *v.* RAILWAY LABOR EXECUTIVES' ASSN. ET AL. Sp. Ct. R. R. R. A. Certiorari denied. Reported below: 534 F. Supp. 832.

No. 81-1822. FIALA *v.* VILLAGE OF CARPENTERSVILLE. App. Ct. Ill., 2d Dist. Certiorari denied. Reported below: 98 Ill. App. 3d 1005, 425 N. E. 2d 33.

456 U. S.

May 24, 1982

No. 81-1824. COHEN ET AL. *v.* UNITED STATES; and  
No. 81-1851. CARLONE *v.* UNITED STATES. C. A. 7th  
Cir. Certiorari denied. Reported below: 666 F. 2d 1112.

No. 81-1826. DAVIS ET AL. *v.* CITY OF SOUTH BEND.  
Ct. App. Ind. Certiorari denied. Reported below: —  
Ind. App. —, 423 N. E. 2d 712.

No. 81-1827. E. W. SCRIPPS CO. *v.* HEHEMAN ET AL.  
C. A. 6th Cir. Certiorari denied. Reported below: 661 F.  
2d 1115 and 668 F. 2d 878.

No. 81-1838. HUGHES TOOL CO. *v.* RICHARDS. Ct. App.  
Tex., 14th Sup. Jud. Dist. Certiorari denied. Reported  
below: 624 S. W. 2d 598.

No. 81-1846. LUSTGARTEN *v.* AYRES ET AL. C. A. 6th  
Cir. Certiorari denied. Reported below: 698 F. 2d 1221.

No. 81-1854. LYONS *v.* NIPPON GAKKI SEIZO KABUSHIKI  
KAISHA (NIPPON GAKKI CO., LTD.) ET AL. C. A. 7th Cir.  
Certiorari denied. Reported below: 673 F. 2d 1335.

No. 81-1892. BONEN *v.* UNITED STATES. Ct. Cl. Cer-  
tiorari denied. Reported below: 229 Ct. Cl. 144, 666 F. 2d  
536.

No. 81-1901. FAKER ET UX. *v.* ELMORE ET UX. Ct.  
App. Wash. Certiorari denied. Reported below: 30 Wash.  
App. 1013.

No. 81-1932. MCCARTY *v.* UNITED STATES. C. A. 5th  
Cir. Certiorari denied. Reported below: 665 F. 2d 596.

No. 81-1935. MCGRATH *v.* STATE UNIVERSITY OF NEW  
YORK AT PLATTSBURGH. C. A. 2d Cir. Certiorari denied.  
Reported below: 679 F. 2d 873.

No. 81-1939. BARKSDALE *v.* UNITED STATES. C. A.  
11th Cir. Certiorari denied. Reported below: 667 F. 2d 97.

No. 81-1942. MCCAIN *v.* UNITED STATES. C. A. 11th  
Cir. Certiorari denied. Reported below: 661 F. 2d 436.

May 24, 1982

456 U. S.

No. 81-1975. *SAINT PRIX v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 672 F. 2d 1077.

No. 81-1977. *HODAKIEVIC v. MARADO ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 698 F. 2d 1220.

No. 81-1984. *ROSENBERG v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 685 F. 2d 427.

No. 81-1987. *BRYANT v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 676 F. 2d 688.

No. 81-2029. *VASILE ET AL. v. LOCAL 676, INTERNATIONAL BROTHERHOOD OF TEAMSTERS, CHAUFFEURS, WAREHOUSEMEN & HELPERS OF AMERICA*. C. A. 3d Cir. Certiorari denied. Reported below: 676 F. 2d 689.

No. 81-5113. *BOICE v. STATE UNIVERSITY OF NEW YORK AT NEW PALTZ ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 646 F. 2d 21.

No. 81-6214. *LAKE v. ESTELLE, DIRECTOR, TEXAS DEPARTMENT OF CORRECTIONS*. Ct. Crim. App. Tex. Certiorari denied.

No. 81-6255. *BRADBURY v. WAINWRIGHT, SECRETARY, DEPARTMENT OF FLORIDA REHABILITATION*. C. A. 5th Cir. Certiorari denied. Reported below: 658 F. 2d 1083.

No. 81-6285. *MATHIS v. UNITED STATES*. C. A. 10th Cir. Certiorari denied. Reported below: 668 F. 2d 1157.

No. 81-6459. *DOHNER v. MORRIS, WARDEN*. Sup. Ct. Cal. Certiorari denied.

No. 81-6460. *BROWN v. LOGGINS ET AL.* C. A. 9th Cir. Certiorari denied.

No. 81-6466. *WRIGHT v. LEIGHTON, JUDGE, UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF INDIANA*. C. A. 7th Cir. Certiorari denied.

456 U. S.

May 24, 1982

No. 81-6468. *SCOTT v. COWLEY, WARDEN, ET AL.* C. A. 10th Cir. Certiorari denied.

No. 81-6470. *SCOTT v. ARKANSAS.* Ct. App. Ark. Certiorari denied.

No. 81-6474. *ANTONE v. WARDEN, MARYLAND PENITENTIARY.* C. A. 4th Cir. Certiorari denied. Reported below: 672 F. 2d 906.

No. 81-6475. *THOMAS v. ILLINOIS.* App. Ct. Ill., 3d Dist. Certiorari denied. Reported below: 98 Ill. App. 3d 852, 424 N. E. 2d 985.

No. 81-6478. *POSEY v. ILLINOIS.* App. Ct. Ill., 5th Dist. Certiorari denied. Reported below: 99 Ill. App. 3d 943, 426 N. E. 2d 209.

No. 81-6481. *BODETTE v. NEW YORK.* App. Div., Sup. Ct. N. Y., 3d Jud. Dept. Certiorari denied. Reported below: 84 App. Div. 2d 968, 448 N. Y. S. 2d 339.

No. 81-6482. *CHANNEY v. WARDEN, MARYLAND PENITENTIARY.* C. A. 4th Cir. Certiorari denied. Reported below: 673 F. 2d 1307.

No. 81-6485. *JOHNSON v. MILLIKEN, GOVERNOR OF MICHIGAN, ET AL.* C. A. 6th Cir. Certiorari denied.

No. 81-6486. *JACKSON v. ROSE, WARDEN, ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 698 F. 2d 1220.

No. 81-6488. *JACKSON v. DISTRICT OF COLUMBIA DEPARTMENT OF EMPLOYMENT SERVICES.* Ct. App. D. C. Certiorari denied.

No. 81-6495. *THOMPSON v. MORROW ET AL.* Ct. App. Tenn. Certiorari denied. Reported below: 626 S. W. 2d 706.

No. 81-6496. *CLARK v. WILMOT.* C. A. 2d Cir. Certiorari denied. Reported below: 685 F. 2d 423.

May 24, 1982

456 U. S.

No. 81-6544. *TATUM v. NATIONAL BANK OF COMMERCE, LINCOLN, NEBRASKA*. C. A. 8th Cir. Certiorari denied.

No. 81-6565. *KOPACK ET AL. v. NATIONAL LABOR RELATIONS BOARD ET AL.* C. A. 7th Cir. Certiorari denied. Reported below: 668 F. 2d 946.

No. 81-6577. *ROMIEH v. REAGAN, PRESIDENT OF THE UNITED STATES, ET AL.* C. A. D. C. Cir. Certiorari denied.

No. 81-6599. *MONTGOMERY v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 673 F. 2d 1325.

No. 81-6601. *GREEN v. WARDEN, U. S. PENITENTIARY, TERRE HAUTE, INDIANA, ET AL.* C. A. 7th Cir. Certiorari denied.

No. 81-6605. *TOMBRELLO ET AL. v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 666 F. 2d 485.

No. 81-6610. *SCOTT v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 665 F. 2d 825 and 671 F. 2d 1138.

No. 81-6613. *GONZALEZ-HERNANDEZ v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 671 F. 2d 441.

No. 81-1460. *TEJEDA-MATA v. IMMIGRATION AND NATURALIZATION SERVICE*. C. A. 9th Cir. Certiorari denied. JUSTICE O'CONNOR would grant certiorari. Reported below: 626 F. 2d 721.

No. 81-1497. *CHEVERES v. SUPERIOR COURT OF CALIFORNIA, VENTURA COUNTY (MILLER, REAL PARTY IN INTEREST)*. Ct. App. Cal., 2d App. Dist. Motion of respondent Glenda Cheveres Miller for leave to proceed *in forma pauperis* granted. Certiorari denied.

456 U. S.

May 24, 1982

No. 81-6622. *PARKER v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 672 F. 2d 918.

No. 81-1512. *DOWDLE, SUPERINTENDENT, SAFFORD CONSERVATION CENTER, ET AL. v. WRIGHT*. C. A. 9th Cir. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 659 F. 2d 1091.

No. 81-1833. *MICHIGAN v. PAINTMAN*. Sup. Ct. Mich. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 412 Mich. 518, 315 N. W. 2d 418.

No. 81-1585. *WATT, SECRETARY OF THE INTERIOR, ET AL. v. HOLMES LIMESTONE CO. ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 655 F. 2d 732.

JUSTICE WHITE, with whom JUSTICE BLACKMUN joins, dissenting.

This action was brought by respondents as a challenge to the validity of a regulation defining the term "cemetery" as used in § 522(e)(5) of the Surface Mining Control and Reclamation Act of 1977, 91 Stat. 509, 30 U. S. C. § 1272(e)(5) (1976 ed., Supp. IV). The United States District Court for the Northern District of Ohio dismissed the complaint for lack of jurisdiction, holding that § 526(a)(1) of the Act, 30 U. S. C. § 1276(a)(1) (1976 ed., Supp. IV), permits challenges to such regulations to be brought only in the United States District Court for the District of Columbia.

The United States Court of Appeals reversed and remanded the case for consideration of the merits. *Holmes Limestone Co. v. Andrus*, 655 F. 2d 732 (CA6 1981). It held that § 526(a)(1)<sup>1</sup> permits review of challenges to national

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<sup>1</sup>Section 526(a)(1) provides, in pertinent part:

"Any action by the Secretary promulgating national rules or regulations . . . shall be subject to judicial review in the United States District Court for the District of Columbia. . . . A petition for review of any action sub-

regulations in courts other than the United States District Court for the District of Columbia because while the statute provides that certain actions may be brought *only* in the district court where the mining operation is located, in the final version of the bill the word "only" was deleted from the phrase providing for judicial review of national regulations in the District of Columbia. 655 F. 2d, at 737. The court also concluded that there are "serious questions about the propriety" of the 60-day limitation on the filing of petitions for judicial review of rulemaking actions contained in § 526(a)(1). 655 F. 2d, at 738.

The decision below is troubling for several reasons. First, § 526(a)(1) provides that regulations with a national impact be reviewed in the District of Columbia, those with a statewide impact in the district court for the district of the capital of the State involved, and all other regulations only in the district where the surface mining operation at issue is located. By allowing a national regulation to be challenged in federal courts other than those in the District of Columbia, the Court of Appeals here arguably frustrated Congress' carefully devised plan for judicial review. Second, the court below based its holding on the fact that both the House<sup>2</sup> and Senate<sup>3</sup> versions of the bill provided that national regulations were to be reviewed *only* in the District Court for the District of Columbia, while the word "only" was omitted from the final version of the bill reported out of the Conference Committee. However, the Conference Committee's discussion of the changes made in the bill does not even mention this deletion, and it may well have been inadvertent. H. R. Rep. No. 95-493, p. 111 (1977). Finally, the only other

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ject to judicial review under this subsection shall be filed in the appropriate Court within sixty days from the date of such action . . . ." 91 Stat. 512.

<sup>2</sup>H. R. 2, 95th Cong., 1st Sess., § 526(a)(1) (1977). See also H. R. Rep. No. 95-218, p. 46 (1977).

<sup>3</sup>S. 7, 95th Cong., 1st Sess., § 426(a)(1) (1977). See also S. Rep. No. 95-128, p. 41 (1977).

456 U. S.

May 24, 1982

courts to rule on this question have both held that § 526(a)(1) provides for exclusive review of national regulations in the District Court for the District of Columbia. *Reading Anthracite Co. v. Office of Surface Mining, Reclamation and Enforcement*, No. 80-0667 (ED Pa., Oct. 8, 1980); *Union Carbide Corp. v. Andrus*, 13 ERC 1481, 1489 (SD W. Va. 1979).

Because there are serious questions whether the Court of Appeals properly interpreted § 526(a)(1) and because such an interpretation appears to conflict with the congressional intent that there be uniform national performance standards for surface mining, see S. Rep. No. 95-128, p. 49 (1977); H. R. Rep. No. 95-218, pp. 57-58 (1977), I would grant the petition for certiorari and set the case for oral argument. Delaying resolution of the issue could cause substantial disruption both to the coal mining industry and to the agencies charged with administering the Surface Mining Act.<sup>4</sup>

No. 81-1605. *RED BALL MOTOR FREIGHT, INC. v. NATIONAL LABOR RELATIONS BOARD*. C. A. 5th Cir. Certiorari denied. Reported below: 660 F. 2d 626.

JUSTICE WHITE, with whom JUSTICE REHNQUIST joins, dissenting.

In *Wright Line, a Division of Wright Line, Inc.*, 251 N. L. R. B. 1083, 1089 (1980), the National Labor Relations Board announced a test for identifying violations of § 8(a)(3) of the National Labor Relations Act, 29 U. S. C. § 158(a)(3): General Counsel must first "make a *prima facie* showing sufficient to support the inference that [an employer's opposition to] protected conduct was a 'motivating factor' in the employer's [discharge] decision. Once this is established, the burden will shift to the employer to demonstrate that the same action would have taken place even in the absence of the pro-

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<sup>4</sup>The Court of Appeals did not rule directly on the 60-day limitation period for filing petitions for judicial review of rulemaking actions. Accordingly, it would not be necessary for the Court to address that issue.

May 24, 1982

456 U. S.

tected conduct." Most Courts of Appeals, including the Court of Appeals for the Fifth Circuit in this case, have endorsed the Board's test in its entirety. See *NLRB v. Robin American Corp.*, 654 F. 2d 1022 (CA5 1981); *NLRB v. Lloyd A. Fry Roofing Co., Inc., of Delaware*, 651 F. 2d 442 (CA6 1981); *Peavey Co. v. NLRB*, 648 F. 2d 460 (CA7 1981); *NLRB v. Nevis Industries, Inc.*, 647 F. 2d 905 (CA9 1981); *NLRB v. Fixtures Manufacturing Corp.*, 669 F. 2d 547 (CA8 1982). The Court of Appeals for the Third Circuit and that for the First Circuit, however, disagree with the Board on the exact nature of the employer's burden after the General Counsel establishes a prima facie case. These two Circuits hold the burden to be one of production, rather than one of persuasion. See *NLRB v. Wright Line*, 662 F. 2d 899 (CA1 1981), cert. denied, 455 U. S. 989 (1982); *Behring International, Inc. v. NLRB*, 675 F. 2d 83 (CA3 1982). In order to resolve this conflict on what is obviously a recurring issue that should be resolved, I would grant the writ of certiorari.

No. 81-1715. RAILWAY LABOR EXECUTIVES' ASSN. *v.* SCOTT, TRUSTEE, ET AL. C. A. 3d Cir.; and

No. 81-1805. RAILWAY LABOR EXECUTIVES' ASSN. *v.* GIBBONS, TRUSTEE, ET AL. C. A. 7th Cir. Motion of petitioner to consolidate the petitions for writs of certiorari denied. Certiorari denied. Reported below: No. 81-1715, 673 F. 2d 1301; No. 81-1805, 672 F. 2d 920.

No. 81-1813. FOUST ET AL. *v.* GARMON. C. A. 8th Cir. Motion of respondent for leave to proceed *in forma pauperis* denied. Certiorari denied. Reported below: 668 F. 2d 400.

No. 81-1820. CFS CONTINENTAL, INC., ET AL. *v.* ADAMS EXTRACT CO. ET AL. C. A. 5th Cir. Certiorari denied. JUSTICE POWELL took no part in the consideration or decision of this petition. Reported below: 643 F. 2d 195 and 659 F. 2d 1322.

456 U. S.

May 24, 1982

No. 81-1890. BECKMAN *v.* EQUAL EMPLOYMENT OPPORTUNITY COMMISSION ET AL. C. A. 10th Cir. Motion of petitioner for leave to proceed as a veteran granted. Certiorari denied.

No. 81-6171. BROOKS *v.* OKLAHOMA. C. A. 10th Cir. Certiorari denied.

JUSTICE BRENNAN, dissenting.

During the evening of August 2, 1974, petitioner Alfred Brooks and a male companion abducted two women at gunpoint. After robbing the women, the men took the victims into a field and shot them, wounding one and killing the other. Petitioner was thereafter charged, tried, and convicted in District Court, Oklahoma County, Okla., for the offense of murder in the first degree. He was sentenced to death. On appeal, the conviction was affirmed, but the sentence was modified to life imprisonment. *Brooks v. State*, 556 P. 2d 147 (Okla. Crim. App. 1977). The State later prosecuted petitioner for two additional offenses related to the events of August 2, 1974: assault and battery with a deadly weapon with intent to kill, and robbery with firearms. Petitioner pleaded guilty to both charges, and was sentenced to two concurrent 20-year terms of imprisonment. Seeking postconviction relief in the Oklahoma court, petitioner challenged the later convictions on double jeopardy grounds, *inter alia*. Following the denial of relief, which was affirmed on appeal, Brooks filed a petition for a writ of habeas corpus in the United States District Court for the Western District of Oklahoma. That court dismissed the petition, and the Court of Appeals for the Tenth Circuit affirmed.

Although all the charges leveled against petitioner arose out of the same criminal transaction or episode, they were prosecuted by the State in two separate proceedings. Accordingly, I would grant the petition for certiorari, vacate the judgment of the Court of Appeals, and remand for fur-

ther proceedings.\* I adhere to my view that the Double Jeopardy Clause of the Fifth Amendment, applied to the States through the Fourteenth Amendment, *Benton v. Maryland*, 395 U. S. 784 (1969), 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 one proceeding. *Ashe v. Swenson*, 397 U. S. 436, 453-454 (1970) (BRENNAN, J., concurring). See *Thompson v. Oklahoma*, 429 U. S. 1053 (1977) (BRENNAN, J., dissenting); *Cousins v. Maryland*, 429 U. S. 1027 (BRENNAN, J., dissenting); *Dempsey v. United States*, 423 U. S. 1079 (1976) (BRENNAN, J., dissenting); *Susi v. Flowers*, 423 U. S. 1006 (1975) (BRENNAN, J., dissenting); *Vardas v. Texas*, 423 U. S. 904 (1975) (BRENNAN, J., dissenting); *Stewart v. Iowa*, 423 U. S. 902 (1975) (BRENNAN, J., dissenting); *Waugh v. Gray*, 422 U. S. 1027 (1975) (BRENNAN, J., dissenting); *Wells v. Missouri*, 419 U. S. 1075 (1974) (BRENNAN, J., dissenting); *Moton v. Swenson*, 417 U. S. 957 (1974) (BRENNAN, J., dissenting); *Tijerina v. New Mexico*, 417 U. S. 956 (1974) (BRENNAN, J., dissenting); *Ciuzio v. United States*, 416 U. S. 995 (1974) (BRENNAN, J., dissenting); *Harris v. Washington*, 404 U. S. 55, 57 (1971) (concurring statement); *Waller v. Florida*, 397 U. S. 387, 395 (1970) (BRENNAN, J., concurring). See also *People v. White*, 390 Mich. 245, 212 N. W. 2d 222 (1973); *State v. Brown*, 262 Ore. 442, 497 P. 2d 1191 (1972); *Commonwealth v. Campana*, 452 Pa. 233, 304 A. 2d 432, vacated and remanded, 414 U. S. 808 (1973), adhered to on remand, 455 Pa. 622, 314 A. 2d 854 (1974); *State v. Gregory*, 66 N. J. 510, 333 A. 2d 257 (1975).

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\*Because the Court of Appeals held that "the double jeopardy clause is not applicable in this case," it declined to consider petitioner's "contention that by pleading guilty he did not waive his right to claim dismissal by reason of double jeopardy." App. to Pet. for Cert. A-3. The case therefore should be remanded to permit the Court of Appeals to consider this contention.

456 U. S.

May 24, 1982

No. 81-6323. *GAINES v. ILLINOIS*. Sup. Ct. Ill. Certiorari denied. Reported below: 88 Ill. 2d 342, 430 N. E. 2d 1046.

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.

*Rehearing Denied*

No. 80-6701. *ROSS v. REED ET AL.*, *ante*, p. 921;

No. 81-1369. *SCHWANECKE ET AL. v. HARRIS COUNTY HOSPITAL DISTRICT*, 455 U. S. 1019;

No. 81-6224. *GODFREY v. GEORIGIA*, *ante*, p. 919;

No. 81-6278. *HARTFORD v. ARIZONA*, *ante*, p. 933;

No. 81-6282. *HEJL v. TEXAS ET AL.*, *ante*, p. 933; and

No. 81-6297. *MCCOLPIN v. EIKELBLOOM ET AL.*, *ante*, p. 947. Petitions for rehearing denied.

No. 80-1430. *ENGLE, CORRECTIONAL SUPERINTENDENT v. ISAAC*; *PERINI, CORRECTIONAL SUPERINTENDENT v. BELL*; and *ENGLE, CORRECTIONAL SUPERINTENDENT v. HUGHES*, *ante*, p. 107. Petitions of Howard Hughes and Lincoln Isaac for rehearing denied.

No. 80-1595. *UNITED STATES v. FRADY*, *ante*, p. 152. Petition for rehearing denied. THE CHIEF JUSTICE and JUSTICE MARSHALL took no part in the consideration or decision of this petition.

MAY 26, 1982

*Dismissal Under Rule 53*

No. 81-1864. *COMMUNITY COMMUNICATIONS CO., INC. v. CITY OF BOULDER, COLORADO, ET AL.* C. A. 10th Cir. Certiorari dismissed under this Court's Rule 53. Reported below: 660 F. 2d 1370.

JUNE 1, 1982

*Affirmed on Appeal*

No. 81-837. CITY OF INDIANOLA, MISSISSIPPI, ET AL. *v.* DOTSON ET AL. Affirmed on appeal from D. C. N. D. Miss. Reported below: 521 F. Supp. 934.

No. 81-1856. SUMTER COUNTY SCHOOL DISTRICT ET AL. *v.* EDGE ET AL. Affirmed on appeal from D. C. M. D. Ga. Reported below: 541 F. Supp. 55.

*Appeals Dismissed*

No. 81-1529. BILOFSKY ET AL. *v.* DEUKMEJIAN, ATTORNEY GENERAL OF CALIFORNIA, ET AL. Appeal from Ct. App. Cal., 2d App. Dist., dismissed for want of substantial federal question. JUSTICE BRENNAN and JUSTICE WHITE would note probable jurisdiction and set case for oral argument. Reported below: 124 Cal. App. 3d 825, 177 Cal. Rptr. 621.

No. 81-1829. KRAFT, INC. *v.* FLORIDA DEPARTMENT OF CITRUS. Appeal from Sup. Ct. Fla. dismissed for want of substantial federal question. Reported below: 406 So. 2d 1079.

No. 81-1862. WILLIAMS ET AL. *v.* SMITH ET AL. Appeal from Ct. App. Ohio, Wood County, 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. 81-656. CONSOLIDATED FOODS CORP. *v.* UNGER. C. A. 7th Cir. Certiorari granted, judgment vacated, and case remanded for further consideration in light of *Kremer v. Chemical Construction Corp.*, ante, p. 461. Reported below: 657 F. 2d 909.

JUSTICE BLACKMUN, concurring.

Respondent Trudy Unger filed charges with the Illinois Fair Employment Practices Commission (FEPC) alleging

that she had been a victim of sex discrimination in employment. The FEPC ruled against her, but on judicial review the state trial court found that the FEPC's decision was against the manifest weight of the evidence. The Appellate Court of Illinois reversed, concluding that the FEPC's order was not arbitrary, capricious, or an abuse of discretion. *Unger v. Sirena Division of Consolidated Foods Corp.*, 60 Ill. App. 3d 840, 845, 377 N. E. 2d 266, 270-271 (1978). The Illinois Supreme Court denied respondent's petition for leave to appeal.

During the pendency of the state proceedings, respondent filed this Title VII suit in the United States District Court for the Northern District of Illinois. Sometime after the Illinois Appellate Court ruled against respondent, the District Court found that she had in fact been a victim of sex discrimination. The United States Court of Appeals for the Seventh Circuit affirmed on this issue. 657 F. 2d 909 (1981).

Following its recent decision in *Kremer v. Chemical Construction Corp.*, *ante*, p. 461, the Court must grant, vacate, and remand the case for further consideration. But since the Illinois court professed to apply a deferential standard of review, it is not clear that *Kremer* governs this case. See *ante*, at 480-481, n. 21; *ante*, at 492-493, n. 8 (BLACKMUN, J., dissenting). In addition, on remand respondent will be free to argue that *Kremer* should not apply retroactively. See *Chevron Oil Co. v. Huson*, 404 U. S. 97 (1971).

If the Court of Appeals concludes that *Kremer* controls this case, it will be forced to order the dismissal of respondent's complaint as barred by the Illinois Appellate Court's affirmance of the FEPC's decision. Only one court, the District Court, has given respondent a full *de novo* hearing, and that court determined that respondent had been discriminated against because of her sex. Yet application of this Court's *Kremer* decision denies her any relief under Title VII, simply because she took the reasonable step of seeking correction of the FEPC's decision in the state courts. As I explained in my *Kremer* dissent, *ante*, p. 486, I cannot accept that this re-

June 1, 1982

456 U. S.

sult is consistent with the congressional purpose underlying Title VII—that the fight against employment discrimination be a national policy of the highest priority. Surely all future discrimination victims in respondent's situation should be very careful to avoid the state courts entirely so that those victims will not risk losing the relief that Congress intended Title VII to afford them.

*Miscellaneous Orders*

No. — — —. HYDABURG COOPERATIVE ASSN. ET AL. *v.* UNITED STATES. Ct. Cl. Motion of petitioners for leave to proceed *in forma pauperis* granted.

No. A-968. ERNEST *v.* COHEN, UNITED STATES ATTORNEY FOR THE DISTRICT OF MAINE, ET AL. Application for injunction and/or writ of habeas corpus, addressed to JUSTICE O'CONNOR and referred to the Court, denied.

No. A-988 (81-5848). GILBERT ET AL. *v.* SOUTH CAROLINA, *ante*, p. 984. Application to suspend the effect of the order denying certiorari, presented to THE CHIEF JUSTICE, and by him referred to the Court, denied. JUSTICE BRENNAN and JUSTICE MARSHALL would grant the application.

No. D-263. IN RE DISBARMENT OF KITCHEN. Disbarment entered. [For earlier order herein, see *ante*, p. 903.]

No. D-274. IN RE DISBARMENT OF KLEINDIENST. It is ordered that Richard G. Kleindienst, of Tucson, 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. JUSTICE REHNQUIST and JUSTICE O'CONNOR took no part in the consideration or decision of this order.

No. 80, Orig. COLORADO *v.* NEW MEXICO ET AL. Motion of Kaiser Steel Corp. et al. for leave to file a brief as *amici curiae* granted. Exceptions of New Mexico to the Report of the Special Master are set for oral argument in due course. [For earlier order herein, see, *e. g.*, 455 U. S. 932.]

456 U. S.

June 1, 1982

No. 81-1120. UNITED STATES ET AL. *v.* RYLANDER ET AL. C. A. 9th Cir. [Certiorari granted, *ante*, p. 943.] Motion for appointment of counsel granted, and it is ordered that Joseph F. Harbison III, Esquire, of Sacramento, Cal., be appointed to serve as counsel for respondent Richard W. Rylander, Sr., in this case.

No. 81-1798. LARRY V. MUKO, INC. *v.* SOUTHWESTERN PENNSYLVANIA BUILDING & CONSTRUCTION TRADES COUNCIL ET AL. C. A. 3d Cir. The Solicitor General is invited to file a brief in this case expressing the views of the United States.

No. 81-1887. IN RE CENTRE FOR THE INDEPENDENCE OF JUDGES AND LAWYERS OF THE UNITED STATES, INC. Petition for writ of mandamus denied.

*Certiorari Granted*

No. 81-1487. BANKAMERICA CORP. ET AL. *v.* UNITED STATES. C. A. 9th Cir. Certiorari granted. Reported below: 656 F. 2d 428.

No. 81-1581. OLIM ET AL. *v.* WAKINEKONA. C. A. 9th Cir. Motion of respondent for leave to proceed *in forma pauperis* and certiorari granted. Reported below: 664 F. 2d 708.

*Certiorari Denied.* (See also No. 81-1862, *supra*.)

No. 80-108. FIRST PENNSYLVANIA BANK N.A. *v.* ZEFFIRO ET AL. C. A. 3d Cir. Certiorari denied. Reported below: 623 F. 2d 290.

No. 81-1233. GIACOMINO ET AL. *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied. Reported below: 661 F. 2d 937.

No. 81-1414. HOSKINS *v.* CUYLER, SUPERINTENDENT, STATE CORRECTIONAL INSTITUTION AT GRATERFORD, ET AL. C. A. 3d Cir. Certiorari denied. Reported below: 673 F. 2d 1299.

June 1, 1982

456 U. S.

No. 81-1525. THOMPSON *v.* WOLTENBERG. C. A. 6th Cir. Certiorari denied. Reported below: 665 F. 2d 1047.

No. 81-1528. LEE *v.* MONTANA. Sup. Ct. Mont. Certiorari denied. Reported below: 195 Mont. 1, 635 P. 2d 1282.

No. 81-1546. CLEPPE *v.* WASHINGTON. Sup. Ct. Wash. Certiorari denied. Reported below: 96 Wash. 2d 373, 635 P. 2d 435.

No. 81-1598. NEW YORK STATE LIQUOR AUTHORITY *v.* BELLANCA, DBA THE MAIN EVENT, ET AL. Ct. App. N. Y. Certiorari denied. Reported below: 54 N. Y. 2d 228, 429 N. E. 2d 765.

No. 81-1622. PUEBLO OF SANTO DOMINGO *v.* UNITED STATES. Ct. Cl. Certiorari denied. Reported below: 227 Ct. Cl. 265, 647 F. 2d 1087.

No. 81-1644. DEAN *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied. Reported below: 667 F. 2d 729.

No. 81-1651. GALLOWAY *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied. Reported below: 664 F. 2d 161.

No. 81-1831. ALABAMA *v.* MCCURLEY. Sup. Ct. Ala. Certiorari denied. Reported below: 412 So. 2d 1236.

No. 81-1832. LINK ET UX. *v.* ILLINOIS. App. Ct. Ill., 2d Dist. Certiorari denied. Reported below: 100 Ill. App. 3d 1000, 427 N. E. 2d 589.

No. 81-1845. BENSON *v.* WYOMING. Sup. Ct. Wyo. Certiorari denied. Reported below: 640 P. 2d 83.

No. 81-1847. COLLINS ET AL. *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 698 F. 2d 1218.

No. 81-1848. BROCK *v.* KENTUCKY. Ct. App. Ky. Certiorari denied. Reported below: 627 S. W. 2d 39.

456 U. S.

June 1, 1982

No. 81-1853. *SPUDNIK EQUIPMENT CO. v. GARZA, REPRESENTATIVE OF THE ESTATE OF GARZA, ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 667 F. 2d 1030.

No. 81-1858. *COBBS v. VIRGINIA.* Cir. Ct. Henrico County, Va. Certiorari denied.

No. 81-1867. *COHEN v. KENTUCKY BAR ASSN.* Sup. Ct. Ky. Certiorari denied. Reported below: 625 S. W. 2d 573.

No. 81-1869. *JOHNS-MANVILLE CORP. ET AL. v. LAM, INC.* C. A. 10th Cir. Certiorari denied. Reported below: 668 F. 2d 462.

No. 81-1870. *BLUE DIAMOND COAL CO. ET AL. v. UNITED STATES.* C. A. 6th Cir. Certiorari denied. Reported below: 667 F. 2d 510.

No. 81-1871. *MECO, INC. v. SINNETTE, JUDGE, BOYD CIRCUIT COURT, DIVISION II, ET AL.* Sup. Ct. Ky. Certiorari denied. Reported below: 625 S. W. 2d 863.

No. 81-1879. *DE VAULT v. MENOCAL ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 672 F. 2d 921.

No. 81-1883. *UNITED AIR LINES, INC. v. SMALLWOOD.* C. A. 4th Cir. Certiorari denied. Reported below: 661 F. 2d 303.

No. 81-1884. *STAFOS v. BELL.* C. A. 10th Cir. Certiorari denied. Reported below: 666 F. 2d 1343.

No. 81-1930. *UNITED FRUIT & VEGETABLE CO., INC. v. DIRECTOR OF THE FRUIT AND VEGETABLE DIVISION, MARKETING SERVICE, UNITED STATES DEPARTMENT OF AGRICULTURE, ET AL.* C. A. 8th Cir. Certiorari denied. Reported below: 668 F. 2d 983.

No. 81-1996. *HOSPANH COAL CO. ET AL. v. CHACO ENERGY CO. ET AL.* C. A. 10th Cir. Certiorari denied. Reported below: 673 F. 2d 1161.

June 1, 1982

456 U. S.

No. 81-2003. LABASH ET AL. *v.* UNITED STATES DEPARTMENT OF THE ARMY ET AL. C. A. 10th Cir. Certiorari denied. Reported below: 668 F. 2d 1153.

No. 81-2017. DEAN *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 666 F. 2d 174.

No. 81-2023. LILES ET AL. *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 670 F. 2d 989.

No. 81-2025. EVANS *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 665 F. 2d 616.

No. 81-2035. MERLING *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. Reported below: 681 F. 2d 802.

No. 81-2052. PATTERSON *v.* CARR, JUDGE, UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF FLORIDA. C. A. 11th Cir. Certiorari denied.

No. 81-6170. SLATIN *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied. Reported below: 673 F. 2d 1303.

No. 81-6272. COBLE *v.* ARKANSAS. Sup. Ct. Ark. Certiorari denied. Reported below: 274 Ark. 134, 624 S. W. 2d 421.

No. 81-6333. COLLINS, ADMINISTRATOR *v.* DIFFER ET AL. C. A. 3d Cir. Certiorari denied. Reported below: 673 F. 2d 1298.

No. 81-6363. MARTINEZ *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. Reported below: 667 F. 2d 886.

No. 81-6381. McNARY *v.* SOWDERS, SUPERINTENDENT, KENTUCKY STATE PENITENTIARY. C. A. 6th Cir. Certiorari denied. Reported below: 660 F. 2d 703.

No. 81-6425. NELSON *v.* SCULLY, WARDEN. C. A. 2d Cir. Certiorari denied. Reported below: 672 F. 2d 266.

456 U. S.

June 1, 1982

No. 81-6484. *MATTHEWS v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 671 F. 2d 1383.

No. 81-6492. *MARSHALL v. UNITED STATES STEEL CORP.* C. A. 7th Cir. Certiorari denied. Reported below: 673 F. 2d 1333.

No. 81-6493. *KREPS v. NEW YORK*. Ct. App. N. Y. Certiorari denied. Reported below: 55 N. Y. 2d 881, 433 N. E. 2d 541.

No. 81-6499. *KOSTANTAS, ADMINISTRATRIX v. EXXON Co., U.S.A.* C. A. 5th Cir. Certiorari denied. Reported below: 663 F. 2d 605.

No. 81-6500. *BROCK v. KENTUCKY*. Ct. App. Ky. Certiorari denied. Reported below: 627 S. W. 2d 42.

No. 81-6502. *POLK v. NEW YORK*. App. Div., Sup. Ct. N. Y., 1st Jud. Dept. Certiorari denied.

No. 81-6503. *WILSON v. JAGO ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 701 F. 2d 183.

No. 81-6505. *SWAIN v. FLORIDA*. Dist. Ct. App. Fla., 1st Dist. Certiorari denied. Reported below: 413 So. 2d 883.

No. 81-6506. *GRIJALVA v. WEST, DIRECTOR, CALIFORNIA YOUTH AUTHORITY*. C. A. 9th Cir. Certiorari denied. Reported below: 672 F. 2d 922.

No. 81-6509. *OLSON v. GREEN, CHAIRMAN, MINNESOTA BOARD OF CORRECTIONS, ET AL.* C. A. 8th Cir. Certiorari denied. Reported below: 668 F. 2d 421.

No. 81-6513. *GREEN v. WHITE, SUPERINTENDENT, MISSOURI TRAINING CENTER FOR MEN*. C. A. 8th Cir. Certiorari denied.

June 1, 1982

456 U. S.

No. 81-6517. *MORRIS v. ROSS*. C. A. 11th Cir. Certiorari denied. Reported below: 663 F. 2d 1032.

No. 81-6520. *BRIDGES v. TEXAS*. Ct. Crim. App. Tex. Certiorari denied.

No. 81-6521. *GONZALEZ v. NEW YORK*. Ct. App. N. Y. Certiorari denied. Reported below: 55 N. Y. 2d 720, 431 N. E. 2d 630.

No. 81-6522. *HEMPHILL v. CALIFORNIA*. Ct. App. Cal., 2d App. Dist. Certiorari denied.

No. 81-6566. *BURNS v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 667 F. 2d 781.

No. 81-6571. *STRAHAN v. UNITED STATES*. C. A. 1st Cir. Certiorari denied. Reported below: 674 F. 2d 96.

No. 81-6588. *FORD v. CALIFORNIA*. App. Dept., Super. Ct. Cal., County of Los Angeles. Certiorari denied.

No. 81-6607. *CELIFIE v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 685 F. 2d 427.

No. 81-6615. *ANTONELLI v. SCHRIEBER ET AL.* C. A. 7th Cir. Certiorari denied.

No. 81-6625. *HOWARD v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 667 F. 2d 1374.

No. 81-6626. *DIFRONZO v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 681 F. 2d 809.

No. 81-6632. *HUMPHREY v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 670 F. 2d 153.

No. 81-6643. *TOWNLEY v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 665 F. 2d 579.

456 U. S.

June 1, 1982

No. 81-6646. *MCRARY v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 665 F. 2d 674.

No. 81-6648. *BENNETT v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 675 F. 2d 596.

No. 81-6651. *KING v. OKLAHOMA*. Ct. Crim. App. Okla. Certiorari denied. Reported below: 640 P. 2d 983.

No. 81-6663. *FIOROT v. OKLAHOMA*. Ct. Crim. App. Okla. Certiorari denied. Reported below: 641 P. 2d 551.

No. 81-6675. *WIGGAN v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 673 F. 2d 145.

No. 81-6678. *WHITLEY v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 701 F. 2d 182.

No. 81-1587. *BALCOM, WARDEN v. BATY*. C. A. 11th Cir. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 661 F. 2d 391.

No. 81-1776. *LEWIS v. ILLINOIS*. Sup. Ct. Ill.; and

No. 81-6419. *MIKENAS v. FLORIDA*. Sup. Ct. Fla. Certiorari denied. Reported below: No. 81-1776, 88 Ill. 2d 129, 430 N. E. 2d 1346; No. 81-6419, 407 So. 2d 892.

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. 81-1872. *TURF PARADISE, INC. v. ARIZONA DOWNS*. C. A. 9th Cir. Certiorari denied. JUSTICE O'CONNOR took no part in the consideration or decision of this petition. Reported below: 670 F. 2d 813.

June 1, 1982

456 U. S.

No. 81-2044. *THREE J FARMS, INC., ET AL. v. ADAMS EXTRACT CO. ET AL.* C. A. 5th Cir. Certiorari denied. JUSTICE WHITE and JUSTICE POWELL took no part in the consideration or decision of this petition. Reported below: 659 F. 2d 1322.

*Rehearing Denied*

No. 81-1317. *CITY OF PARMA, OHIO v. UNITED STATES*, *ante*, p. 926; and

No. 81-6271. *BARHAM v. UNITED STATES*, *ante*, p. 947. Petitions for rehearing denied.