

ORDERS FROM JUNE 28 THROUGH  
SEPTEMBER 20, 1982

JUNE 28, 1982

*Appeal Dismissed*

No. 81-2062. NEW YORK SHIPPING ASSN., INC., ET AL. *v.* WATERFRONT COMMISSION OF NEW YORK HARBOR. Appeal from Ct. App. N. Y. dismissed for want of substantial federal question. Reported below: 55 N. Y. 2d 11, 432 N. E. 2d 578.

*Vacated and Remanded on Appeal*

No. 81-634. SHARON STEEL CORP. ET AL. *v.* INSURANCE COMMISSIONER OF NEW HAMPSHIRE ET AL. Appeal from Sup. Ct. N. H. Judgment vacated and case remanded for further consideration in light of *Edgar v. MITE Corp.*, 457 U. S. 624 (1982). Reported below: 121 N. H. 607, 433 A. 2d 1250.

*Certiorari Granted—Reversed and Remanded.* (See No. 81-593, *ante*, p. 259; and No. 81-1144, *ante*, p. 263.)

*Certiorari Granted—Vacated and Remanded*

No. 80-1699. PLANTE, COMMISSIONER OF INSTITUTIONS AND AGENCIES OF NEW JERSEY, ET AL. *v.* SCOTT, BY AND THROUGH HIS GUARDIAN, WEINTRAUB. C. A. 3d Cir. Motion of American Psychiatric Association for leave to file a brief as *amicus curiae* granted. *Certiorari* granted, judgment vacated, and case remanded for further consideration in light of *Youngberg v. Romeo*, 457 U. S. 307 (1982). Reported below: 641 F. 2d 117.

No. 80-6397. GRAHAM *v.* NEW YORK. App. Div., Sup. Ct. N. Y., 3d Jud. Dept. Motion of petitioner for leave to proceed *in forma pauperis* and *certiorari* granted. Judgment vacated and case remanded for further consideration in light of *United States v. Johnson*, 457 U. S. 537 (1982). Reported below: 76 App. Div. 2d 228, 431 N. Y. S. 2d 209.

June 28, 1982

458 U. S.

No. 80-6758. MILLER *v.* NEW YORK. App. Div., Sup. Ct. N. Y., 4th Jud. Dept. Motion of petitioner for leave to proceed *in forma pauperis* and certiorari granted. Judgment vacated and case remanded for further consideration in light of *United States v. Johnson*, 457 U. S. 537 (1982). Reported below: 79 App. Div. 2d 1092, 437 N. Y. S. 2d 954.

No. 81-261. MEACHUM ET AL. *v.* LONGVAL. C. A. 1st 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. Goodwin*, 457 U. S. 368 (1982). Reported below: 651 F. 2d 818.

No. 81-835. IRON ARROW HONOR SOCIETY *v.* SCHWEIKER, SECRETARY OF HEALTH AND HUMAN SERVICES, ET AL. C. A. 5th Cir. Certiorari granted, judgment vacated, and case remanded for further consideration in light of *North Haven Board of Education v. Bell*, 456 U. S. 512 (1982). JUSTICE BRENNAN, JUSTICE WHITE, JUSTICE MARSHALL, and JUSTICE BLACKMUN dissent. Reported below: 652 F. 2d 445.

No. 81-1134. ASHCROFT, ATTORNEY GENERAL OF MISSOURI *v.* NATIONAL ORGANIZATION FOR WOMEN, INC. C. A. 8th Cir. Certiorari granted, judgment vacated, and case remanded for further consideration in light of *Nixon v. Fitzgerald*, 457 U. S. 731, 741-743 (1982). Reported below: 676 F. 2d 702.

No. 81-1580. SANBORN ET AL. *v.* WOLFEL. C. A. 6th Cir. Certiorari granted, judgment vacated, and case remanded for further consideration in light of *Harlow v. Fitzgerald*, 457 U. S. 800 (1982). See *Butz v. Economou*, 438 U. S. 478, 504 (1978) (deeming it "untenable to draw a distinction for purposes of immunity law between suits brought against state officials under [42 U. S. C.] §1983 and suits brought directly under the Constitution against federal officials"). Reported below: 666 F. 2d 1005.

458 U. S.

June 28, 1982

No. 81-5871. FORD *v.* KENTUCKY. Sup. Ct. Ky. Motion of petitioner for leave to proceed *in forma pauperis* and certiorari granted. Judgment vacated and case remanded for further consideration in light of *United States v. Johnson*, 457 U. S. 537 (1982). Reported below: 622 S. W. 2d 915.

No. 81-6225. GILMORE *v.* PENNSYLVANIA. Sup. Ct. Pa. Motion of petitioner for leave to proceed *in forma pauperis* and certiorari granted. Judgment vacated and case remanded for further consideration in light of *United States v. Johnson*, 457 U. S. 537 (1982). Reported below: 496 Pa. 420, 437 A. 2d 944.

#### *Miscellaneous Orders*

No. A-1039. WEIGANG *v.* SMITH, ATTORNEY GENERAL (No. 81-6915); and IN RE WEIGANG (No. 81-6916). Application for injunction, addressed to JUSTICE BRENNAN and referred to the Court, denied.

No. A-1041. MONEX INTERNATIONAL LTD. ET AL. *v.* COMMODITY FUTURES TRADING COMMISSION ET AL. C. A. 6th Cir. Application for stay, addressed to JUSTICE REHNQUIST and referred to the Court, denied. JUSTICE REHNQUIST took no part in the consideration or decision of this application.

No. A-1075. AMERICAN LAUNDRY PRESS CO. ET AL. *v.* OK NYO REXRODE. D. C. Kan. Application for stay, addressed to JUSTICE BLACKMUN and referred to the Court, denied.

No. 81-1095. MORRIS, WARDEN *v.* SLAPPY. C. A. 9th Cir. [Certiorari granted, 456 U. S. 904.] Motion of National Legal Aid and Defender Association for leave to participate in oral argument as *amicus curiae* and for additional time for oral argument denied.

No. 81-1114. ILLINOIS *v.* ABBOTT & ASSOCIATES, INC., ET AL. C. A. 7th Cir. [Certiorari granted, 455 U. S. 1015.] Motion of the Solicitor General for divided argument granted.

June 28, 1982

458 U. S.

No. 81-185. SIMOPOULOS *v.* VIRGINIA. Sup. Ct. Va. [Probable jurisdiction noted, 456 U. S. 988];

No. 81-1255. PLANNED PARENTHOOD ASSOCIATION OF KANSAS CITY, MISSOURI, INC., ET AL. *v.* ASHCROFT, ATTORNEY GENERAL OF MISSOURI, ET AL. C. A. 8th Cir. [Certiorari granted, 456 U. S. 988]; 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, 456 U. S. 988.] Motions of Legal Defense Fund for Unborn Children for leave to file briefs as *amicus curiae* granted. Motions of Alan Ernest to represent children unborn and born alive denied.

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, 456 U. S. 988.] Motion of Alan Ernest to represent children unborn and born alive denied.

No. 81-1686. WATT, SECRETARY OF THE INTERIOR, ET AL. *v.* WESTERN NUCLEAR, INC. C. A. 10th Cir. [Certiorari granted, 456 U. S. 988.] Motion of the parties to dispense with printing the joint appendix granted.

No. 81-6857. IN RE GUICE. Petition for writ of habeas corpus denied.

No. 81-2156. IN RE HOLLAND ET AL.;

No. 81-6771. IN RE KULWIEC; and

No. 81-6873. IN RE SHABAZZ. Petitions for writs of mandamus denied.

#### *Certiorari Granted*

No. 81-469. BUSH *v.* LUCAS. C. A. 5th Cir. Certiorari granted. Reported below: 647 F. 2d 573.

458 U. S.

June 28, 1982

No. 81-1314. W. R. GRACE & CO. *v.* LOCAL UNION 759, INTERNATIONAL UNION OF THE UNITED RUBBER, CORK, LINOLEUM & PLASTIC WORKERS OF AMERICA. C. A. 5th Cir. Certiorari granted. Reported below: 652 F. 2d 1248.

No. 81-1998. PRICE WATERHOUSE *v.* PANZIRER ET AL. C. A. 2d Cir. Certiorari granted. Reported below: 663 F. 2d 365.

No. 81-1335. DISTRICT OF COLUMBIA COURT OF APPEALS ET AL. *v.* FELDMAN ET AL. C. A. D. C. Cir. Motion of Conference of Chief Justices for leave to file a brief as *amicus curiae* granted. Certiorari granted. Reported below: 213 U. S. App. D. C. 119, 661 F. 2d 1295.

No. 81-6633. BEARDEN *v.* GEORGIA. Ct. App. Ga. Motion of petitioner for leave to proceed *in forma pauperis* and certiorari granted. Reported below: 161 Ga. App. 640, 288 S. E. 2d 662.

*Certiorari Denied*

No. 80-1058. HAMPTON ROADS SHIPPING ASSN. ET AL. *v.* INTERNATIONAL LONGSHOREMEN'S ASSN. ET AL. C. A. 4th Cir. Certiorari denied. Reported below: 631 F. 2d 282.

No. 80-1501. SULLIVAN ET AL. *v.* FIRST TENNESSEE BANK N. A. MEMPHIS, EXECUTOR, ET AL.; and

No. 80-1528. SMITH ET AL. *v.* FIRST TENNESSEE BANK N. A. MEMPHIS, EXECUTOR, ET AL. C. A. 6th Cir. Certiorari denied. Reported below: 636 F. 2d 1217.

No. 80-6609. WILKERSON *v.* BLACKBURN, WARDEN. Sup. Ct. La. Certiorari denied. Reported below: 398 So. 2d 536.

No. 81-585. HONDO BOATS, INC. *v.* MCCRAINE ET AL. Sup. Ct. La. Certiorari denied. Reported below: 399 So. 2d 163.

June 28, 1982

458 U. S.

No. 81-806. *LORD ET AL. v. LOCAL UNION No. 2088, INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS, AFL-CIO, ET AL.* C. A. 11th Cir. Certiorari denied. Reported below: 646 F. 2d 1057.

No. 81-1526. *FELDMAN v. DISTRICT OF COLUMBIA COURT OF APPEALS ET AL.*; and

No. 81-1537. *HICKEY v. DISTRICT OF COLUMBIA COURT OF APPEALS ET AL.* C. A. D. C. Cir. Certiorari denied. Reported below: 213 U. S. App. D. C. 119, 661 F. 2d 1295.

No. 81-1674. *ALABAMA v. GRADDICK.* Sup. Ct. Ala. Certiorari denied. Reported below: 408 So. 2d 548.

No. 81-1689. *HUEY v. TELEDYNE, INC., ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 662 F. 2d 621.

No. 81-1803. *CITY OF STAMFORD v. IEVA ET AL.*; and

No. 81-2056. *IEVA v. CITY OF STAMFORD ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 681 F. 2d 801.

No. 81-1818. *CASARI, DIRECTOR OF THE SECTION OF HOSPITAL AND MEDICAL FACILITIES OF THE NEBRASKA DEPARTMENT OF HEALTH, ET AL. v. FIRST FEDERAL SAVINGS & LOAN ASSOCIATION OF LINCOLN.* C. A. 8th Cir. Certiorari denied. Reported below: 667 F. 2d 734.

No. 81-1908. *RHEAUME v. SAFFELL.* C. A. 5th Cir. Certiorari denied. Reported below: 666 F. 2d 925.

No. 81-1940. *ARTHUR YOUNG & Co. v. SUMMER ET AL.*; and

No. 81-2001. *RAYMOND, JAMES & ASSOCIATES, INC. v. SUMMER ET AL.*; and

No. 81-2060. *LAND & LEISURE, INC., ET AL. v. SUMMER ET AL.* C. A. 11th Cir. Certiorari denied. Reported below: 664 F. 2d 965.

No. 81-1973. *IRWIN v. MONTGOMERY COUNTY, MARYLAND, ET AL.* Ct. Sp. App. Md. Certiorari denied. Reported below: 50 Md. App. 742.

458 U. S.

June 28, 1982

No. 81-1980. ARTHUR TREACHER'S FISH & CHIPS, INC., ET AL. *v.* HORSTMYER ET AL. C. A. 3d Cir. Certiorari denied. Reported below: 676 F. 2d 686.

No. 81-1989. WILSON *v.* WILSON. C. A. 5th Cir. Certiorari denied. Reported below: 667 F. 2d 497.

No. 81-1990. OPPENHEIM ET AL. *v.* MOREAU ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 663 F. 2d 1300.

No. 81-1993. CAPPS *v.* NEW MEXICO. Sup. Ct. N. M. Certiorari denied. Reported below: 97 N. M. 453, 641 P. 2d 484.

No. 81-2007. DISTRICT COURT IN AND FOR THE SEVENTEENTH JUDICIAL DISTRICT OF COLORADO ET AL. *v.* MARKS ET AL. Sup. Ct. Colo. Certiorari denied. Reported below: 643 P. 2d 741.

No. 81-2010. WILDER *v.* GILMAN PAPER CO. C. A. 11th Cir. Certiorari denied. Reported below: 669 F. 2d 735.

No. 81-2011. PANZIRER *v.* WOLF ET AL. C. A. 2d Cir. Certiorari denied. Reported below: 663 F. 2d 365.

No. 81-2013. JOHNSON *v.* JOHNSON ET AL. C. A. 6th Cir. Certiorari denied. Reported below: 698 F. 2d 1220.

No. 81-2016. RUPPEL *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 666 F. 2d 261.

No. 81-2021. FANNON ET AL. *v.* FLORIDA. Dist. Ct. App. Fla., 1st Dist. Certiorari denied. Reported below: 412 So. 2d 475.

No. 81-2024. WIESEN *v.* VIRGINIA. Sup. Ct. Va. Certiorari denied.

No. 81-2031. WILLIAMS ENTERPRISES, INC. *v.* BINKLEY CO. C. A. 4th Cir. Certiorari denied. Reported below: 673 F. 2d 1320.

June 28, 1982

458 U. S.

No. 81-2033. ABC CONTAINERLINE, N.V., ET AL. *v.* KINGSTON SHIPPING CO., INC., ET AL. C. A. 11th Cir. Certiorari denied. Reported below: 667 F. 2d 34.

No. 81-2045. NIEMI *v.* NATIONAL BROADCASTING CO., INC., ET AL. Ct. App. Cal., 1st App. Dist. Certiorari denied. Reported below: 126 Cal. App. 3d 488, 178 Cal. Rptr. 888.

No. 81-2053. MCGRAW-EDISON CO. *v.* SIKES ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 665 F. 2d 731 and 671 F. 2d 150.

No. 81-2063. SCOTT *v.* OHIO. Ct. App. Ohio, Hamilton County. Certiorari denied.

No. 81-2091. WILT ET AL., DBA ROY WILT & SON, ET AL. *v.* AETNA INSURANCE CO. Dist. Ct. App. Fla., 2d Dist. Certiorari denied. Reported below: 412 So. 2d 491.

No. 81-2128. MARINELLO ET AL. *v.* CITY OF NEW YORK. App. Div., Sup. Ct. N. Y., 2d Jud. Dept. Certiorari denied. Reported below: 85 App. Div. 2d 663, 445 N. Y. S. 2d 214.

No. 81-2168. ADVANCE ROSS ELECTRONICS CORP. ET AL. *v.* GREEN, TRUSTEE. Ct. App. Tex., 12th Sup. Jud. Dist. Certiorari denied. Reported below: 624 S. W. 2d 316.

No. 81-2172. 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. 81-2181. ANDREWS *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied.

No. 81-2204. GOLDFARB ET AL. *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 671 F. 2d 975.

458 U. S.

June 28, 1982

No. 81-2194. *HOOD v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 665 F. 2d 616.

No. 81-5509. *NORRIS v. ESTELLE, DIRECTOR, TEXAS DEPARTMENT OF CORRECTIONS*. C. A. 5th Cir. Certiorari denied. Reported below: 652 F. 2d 998.

No. 81-5725. *STEVENS v. NEW MEXICO*. Sup. Ct. N. M. Certiorari denied. Reported below: 96 N. M. 627, 633 P. 2d 1225.

No. 81-6093. *THOMPSON v. ILLINOIS*. App. Ct. Ill., 1st Dist. Certiorari denied. Reported below: 93 Ill. App. 3d 995, 418 N. E. 2d 112.

No. 81-6386. *GAULT v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 665 F. 2d 348.

No. 81-6548. *DEVINE v. ILLINOIS*. App. Ct. Ill., 3d Dist. Certiorari denied. Reported below: 98 Ill. App. 3d 914, 424 N. E. 2d 823.

No. 81-6631. *KELLY v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 698 F. 2d 1224.

No. 81-6654. *UNITED STATES EX REL. MILLER v. MCCARTHY, SUPERINTENDENT, CALIFORNIA MEN'S COLONY, ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 676 F. 2d 711.

No. 81-6666. *PERRY v. PERRY*. Ct. App. D. C. Certiorari denied.

No. 81-6677. *ROMANO v. CALIFORNIA*. App. Dept., Super. Ct. Cal., County of Los Angeles. Certiorari denied.

No. 81-6679. *WEDRA v. THOMAS ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 671 F. 2d 713.

No. 81-6690. *VILLAREAL v. CALIFORNIA*. Ct. App. Cal., 2d App. Dist. Certiorari denied.

June 28, 1982

458 U. S.

No. 81-6688. HOGAN *v.* PENNSYLVANIA. Sup. Ct. Pa. Certiorari denied. Reported below: 497 Pa. 447, 441 A. 2d 1223.

No. 81-6691. SUTAIN ET AL. *v.* COMMISSIONER OF INTERNAL REVENUE. C. A. 9th Cir. Certiorari denied. Reported below: 672 F. 2d 923.

No. 81-6692. HOWELL *v.* STEFFEY. C. A. 10th Cir. Certiorari denied.

No. 81-6694. GLOVER-EL *v.* ILLINOIS. App. Ct. Ill., 1st Dist. Certiorari denied. Reported below: 102 Ill. App. 3d 535, 430 N. E. 2d 147.

No. 81-6705. HARRIS *v.* HOUSEWRIGHT, WARDEN, ILLINOIS STATE PENITENTIARY. C. A. 7th Cir. Certiorari denied. Reported below: 676 F. 2d 700.

No. 81-6732. REYNOLDS *v.* ATTORNEY GENERAL OF THE UNITED STATES ET AL. C. A. 8th Cir. Certiorari denied.

No. 81-6743. SMITH *v.* UNITED STATES. Ct. App. D. C. Certiorari denied.

No. 81-6752. JACKSON *v.* LEEKE ET AL. C. A. 4th Cir. Certiorari denied. Reported below: 673 F. 2d 1311.

No. 81-6755. MILLER *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. Reported below: 664 F. 2d 860.

No. 81-6765. OLSON *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 670 F. 2d 185.

No. 81-6769. INGRAM *v.* SMITH, WARDEN, ET AL. C. A. 6th Cir. Certiorari denied. Reported below: 701 F. 2d 178.

No. 81-6780. STINE *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied. Reported below: 675 F. 2d 69.

No. 81-6783. POPE *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied. Reported below: 681 F. 2d 810.

458 U. S.

June 28, 1982

No. 81-6797. ADAMS ET AL. *v.* HOWERTON, ACTING DISTRICT DIRECTOR, IMMIGRATION AND NATURALIZATION SERVICE. C. A. 9th Cir. Certiorari denied. Reported below: 673 F. 2d 1036.

No. 81-6803. SNYDER *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. Reported below: 668 F. 2d 686.

No. 81-6804. NEBEKER *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied.

No. 81-6806. RICE *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied. Reported below: 681 F. 2d 810.

No. 81-6810. TROY *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 673 F. 2d 1340.

No. 81-6825. QUIROS *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. Reported below: 685 F. 2d 427.

No. 81-6845. COMBS ET AL. *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 672 F. 2d 574.

No. 81-6862. TATUM *v.* BURLINGTON NORTHERN RAILROAD Co. C. A. 8th Cir. Certiorari denied. Reported below: 676 F. 2d 706.

No. 81-879. UNITED STATES *v.* GILLESPIE. C. A. 7th Cir. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 650 F. 2d 127.

No. 81-1875. ZANT, WARDEN, GEORGIA DIAGNOSTIC AND CLASSIFICATION CENTER *v.* SPIVEY. C. A. 11th Cir. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 661 F. 2d 464.

No. 81-2048. ESTELLE, DIRECTOR, TEXAS DEPARTMENT OF CORRECTIONS *v.* MOORE. C. A. 5th Cir. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 670 F. 2d 56.

June 28, 1982

458 U. S.

No. 81-2041. *SPENCER, DBA J&M DESIGN CO., ET AL. v. AMERICAN CONSULTING ASSN., INC.* App. Ct. Ill., 1st Dist. Certiorari denied. JUSTICE STEVENS took no part in the consideration or decision of this petition. Reported below: 100 Ill. App. 3d 917, 427 N. E. 2d 579.

No. 81-2097. *MARISCAL, AS NEXT FRIEND OF MARISCAL v. JOHNSON, EXECUTOR.* Ct. Civ. App. Tex., 13th Sup. Jud. Dist. Certiorari denied. JUSTICE WHITE would grant certiorari. Reported below: 620 S. W. 2d 905.

No. 81-5783. *FRAZIER v. CONNECTICUT.* Sup. Ct. Conn. Certiorari denied. JUSTICE BRENNAN, JUSTICE MARSHALL, and JUSTICE BLACKMUN would grant certiorari. Reported below: 185 Conn. 211, 440 A. 2d 916.

No. 81-6340. *DAWSON v. NEW YORK.* App. Div., Sup. Ct. N. Y., 4th Jud. Dept. Certiorari denied. JUSTICE BRENNAN, JUSTICE MARSHALL, and JUSTICE BLACKMUN would grant certiorari. Reported below: 84 App. Div. 2d 957, 444 N. Y. S. 2d 333.

No. 81-6629. *ETLIN v. ROBB, GOVERNOR OF VIRGINIA, ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 673 F. 2d 1309.

JUSTICE WHITE, with whom JUSTICE BRENNAN joins, dissenting.

This case arises from a child custody dispute between private parties. A Virginia trial court awarded petitioner's ex-wife custody of their 3-year-old son and ordered petitioner to pay child support. Petitioner then brought this action under 42 U. S. C. § 1983 against the trial judge, the State Governor, and the State Attorney General. His complaint sought monetary, injunctive, and declaratory relief, premised on allegations that the custody and support award violated the First, Fifth, Thirteenth, and Fourteenth Amendments. The District Court dismissed the suit without prejudice because

1112

WHITE, J., dissenting

the constitutional questions could be addressed in the state-court custody action.

The Court of Appeals for the Fourth Circuit affirmed. 673 F. 2d 1309 (1981). In a brief *per curiam* opinion, the court explained:

“Under Virginia law, child custody determinations and support orders may be subject to modification at any time. See Va. Code Ann. § 16.1–242 (1981 Cum. Supp.); § 20–108 (1975 Repl. Vol.); § 31–17 (1979 Repl. Vol.). Because custody proceedings are considered ongoing proceedings in Virginia, they afford a disappointed litigant, such as [petitioner], an adequate opportunity to present his constitutional claims. *Younger v. Harris*, 401 U. S. 37, 49 (1971). See *Juidice v. Vail*, 430 U. S. 327, 337 (1977). Therefore, it is clear that the doctrine of abstention applies in this instance. See *Moore v. Sims*, 442 U. S. 415 (1979).” App. to Pet. for Cert. A–2.

Petitioner now seeks a writ of certiorari, and presents, as his fourth question, the question of whether the Court of Appeals has properly applied the *Younger* doctrine.<sup>1</sup>

This question is not easily answered because the Fourth Circuit has, in at least two respects, gone beyond our cases in dismissing the action under *Younger v. Harris*, 401 U. S. 37 (1971). First, this Court has never applied the *Younger* doctrine to a case where the State was not a party to the pending state proceedings. *Younger* and its early progeny were criminal proceedings, in which, of course, the State is always a party. In *Huffman v. Pursue, Ltd.*, 420 U. S. 592 (1975), the initial application of *Younger* to a civil proceeding, the Court relied heavily on the State’s direct participation.

“*Younger*, however, also rests upon the traditional reluctance of courts of equity, even within a unitary system,

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<sup>1</sup> I agree that review of the three other questions presented in the petition, concerning the merits of his cause and the absence of an automatic right of appeal, is unwarranted.

to interfere with a criminal prosecution. Strictly speaking, this element of *Younger* is not available to mandate federal restraint in civil cases. But whatever may be the weight attached to this factor in civil litigation involving private parties, we deal here with a state proceeding which in important respects is more akin to a criminal prosecution than are most civil cases. The State is a party to the Court of Common Pleas proceeding, and the proceeding is both in aid of and closely related to criminal statutes . . . ." 420 U. S., at 604.

Accordingly, subsequent extensions of *Younger* in the civil context have occurred only when the State was directly involved in a pending state proceeding.<sup>2</sup> The Fourth Circuit's invocation of *Younger* in this case, a "civil litigation involving private parties," represents a substantial broadening of the doctrine.

Second, the Court of Appeals held that deference was justified despite the fact that there were no ongoing or pending state proceedings in the usual sense. Dismissal of the federal action was deemed appropriate because child custody orders in Virginia are subject to modification at any time and petitioner could follow that avenue in order to raise his constitutional claims. It is clear that, under the Court of Appeals' reasoning, custody proceedings would never be final and petitioner would be forced to attempt to reopen state proceedings before receiving a hearing in federal court on any constitutional grounds. None of our *Younger* decisions contemplates this result, which, in effect, imposes an exhaus-

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<sup>2</sup> See *Judice v. Vail*, 430 U. S. 327 (1977) (civil contempt proceedings); *Trainor v. Hernandez*, 431 U. S. 434 (1977) (state civil enforcement action brought by state officials seeking return of fraudulently obtained welfare benefits); *Moore v. Sims*, 442 U. S. 415 (1979) (civil proceeding brought by state officials to seize custody of abused children); *Middlesex County Ethics Committee v. Garden State Bar Assn.*, 457 U. S. 423 (1982) (attorney disciplinary proceedings).

458 U. S.

June 28, 1982

tion requirement upon petitioner before he may bring a §1983 suit in federal court. Assertion of a federal claim under §1983, as a general matter, need not be preceded by an attempt to vindicate that claim in state court. *McNeese v. Board of Education*, 373 U. S. 668, 672 (1963). Although there are recognized exceptions when "strands of local law are woven into the case" whose resolution should precede consideration by a federal court, *id.*, at 673, this is not suggested to be such a case. Moreover, if it were, the District Court should refrain temporarily from exercising its jurisdiction, but should not dismiss the case outright. See *Railroad Comm'n v. Pullman Co.*, 312 U. S. 496 (1941).

A case of this type has not previously been thought to fall within the reach of the *Younger* doctrine. Obviously, the extension of *Younger* to pending civil suits between private litigants where the State is not a party is an issue requiring ultimate resolution by this Court. Indeed, the applicability of *Younger* to all civil litigation is a question that has expressly been reserved for another day on no less than four occasions. *Moore v. Sims*, 442 U. S. 415, 423, n. 8 (1979); *Trainor v. Hernandez*, 431 U. S. 434, 445, n. 8 (1977); *Juidice v. Vail*, 430 U. S. 327, 336, n. 13 (1977); *Huffman v. Pursue, Ltd.*, *supra*, at 607. Now that the day has arrived with the decision of the Fourth Circuit, I would grant certiorari.

No. 81-6657. *BAKER v. ZANT*. Super. Ct. Ga., Butts County. Certiorari denied.

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.

June 28, 1982

458 U. S.

*Rehearing Denied*

- No. 79-6584. *IN RE TRAPP ET AL.*, 456 U. S. 967;
- No. 81-155. *BOARD OF TRUSTEES OF INSTITUTIONS OF HIGHER EDUCATION ET AL. v. MISSISSIPPI COUNCIL ON HUMAN RELATIONS ET AL.*, 456 U. S. 971;
- No. 81-1796. *COWARD v. UNITED STATES*, 456 U. S. 946;
- No. 81-1814. *LAKE CARRIERS' ASSN. ET AL. v. KELLEY, ATTORNEY GENERAL OF MICHIGAN, ET AL.*, 456 U. S. 985;
- No. 81-5379. *SIRECI v. FLORIDA*, 456 U. S. 984;
- No. 81-5562. *GILREATH v. GEORGIA*, 456 U. S. 984;
- No. 81-5944. *MESSER v. FLORIDA*, 456 U. S. 984;
- No. 81-6285. *MATHIS v. UNITED STATES*, 456 U. S. 992;
- No. 81-6371. *WADE v. UNITED STATES*, 456 U. S. 934;
- No. 81-6393. *AHMED v. EIKERENKOETTER*, 456 U. S. 979;
- No. 81-6440. *PASCHAL v. FLORIDA DEPARTMENT OF LABOR AND EMPLOYMENT SECURITY, DIVISION OF EMPLOYMENT SECURITY, ET AL.*, 456 U. S. 981;
- No. 81-6466. *WRIGHT v. LEIGHTON, JUDGE, UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF INDIANA*, 456 U. S. 992;
- No. 81-6482. *CHANNEY v. WARDEN, MARYLAND PENITENTIARY*, 456 U. S. 993;
- No. 81-6495. *THOMPSON v. MORROW ET AL.*, 456 U. S. 993;
- No. 81-6564. *COOK v. UNITED STATES*, 456 U. S. 982;
- No. 81-6599. *MONTGOMERY v. UNITED STATES*, 456 U. S. 994; and
- No. 81-6667. *CAMPBELL v. CIVILETTI ET AL.*, 457 U. S. 1110. Petitions for rehearing denied.
- No. 80-1765. *AMERICAN SOCIETY OF MECHANICAL ENGINEERS, INC. v. HYDROLEVEL CORP.*, 456 U. S. 556. Motion of American Association of Engineering Societies, Inc., for leave to file a brief as *amicus curiae* denied. Petition for rehearing denied.

458 U. S.

June 28, July 2, 1982

No. 79-5932. DOE ET AL. *v.* DELAWARE, 450 U. S. 382 and 451 U. S. 964. Motion for leave to file second petition for rehearing denied.

*Assignment Order*

An order of THE CHIEF JUSTICE designating and assigning Justice Stewart (retired) to perform judicial duties in the United States Court of Appeals for the Ninth Circuit for the period September 13, 1982, to September 17, 1982, and for such further time as may be required to complete unfinished business, pursuant to 28 U. S. C. § 294(a), is ordered entered on the minutes of this Court, pursuant to 28 U. S. C. § 295.

JULY 2, 1982

*Vacated and Remanded on Appeal*

No. 81-922. PAN AMERICAN SAVINGS & LOAN ASSN. ET AL. *v.* PANKO ET AL. Appeal from Ct. App. Cal., 1st App. Dist. Judgment vacated and case remanded for further consideration in light of *Fidelity Federal Savings & Loan Assn. v. De la Cuesta*, ante, p. 141. Reported below: 119 Cal. App. 3d 916, 174 Cal. Rptr. 240.

No. 81-992. GLENDALE FEDERAL SAVINGS & LOAN ASSN. ET AL. *v.* HEHIR ET UX.; and

No. 81-993. CALIFORNIA FEDERAL SAVINGS & LOAN ASSN. *v.* TAN ET AL.; and CALIFORNIA FEDERAL SAVINGS & LOAN ASSN. *v.* ROMAGNOLI ET AL. Appeals from Ct. App. Cal., 4th App. Dist. Judgments vacated and cases remanded for further consideration in light of *Fidelity Federal Savings & Loan Assn. v. De la Cuesta*, ante, p. 141.

No. 81-1139. GLENDALE FEDERAL SAVINGS & LOAN ASSN. ET AL. *v.* GROSS ET AL. Appeal from Ct. App. Cal., 4th App. Dist. Judgment vacated and case remanded for further consideration in light of *Fidelity Federal Savings & Loan Assn. v. De la Cuesta*, ante, p. 141.

July 2, 1982

458 U. S.

*Certiorari Granted—Vacated and Remanded*

No. 80-1888. CHASTAIN ET AL. *v.* DAVIS. C. A. 5th Cir. Certiorari granted, judgment vacated, and case remanded for further consideration in light of *Lehman v. Lycoming County Children's Services Agency*, ante, p. 502. Reported below: 640 F. 2d 599.

No. 81-471. UNITED STATES *v.* MARQUEZ-AMAYA. 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 *United States v. Valenzuela-Bernal*, ante, p. 858. Reported below: 647 F. 2d 173.

No. 81-596. SPRINGDALE SCHOOL DISTRICT NO. 50 OF WASHINGTON COUNTY *v.* GRACE ET AL. C. A. 8th Cir. Certiorari granted, judgment vacated, and case remanded for further consideration in light of *Board of Education of Hendrick Hudson Central School District v. Rowley*, ante, p. 176. Reported below: 656 F. 2d 300.

No. 81-774. MOORE *v.* BLACK PANTHER PARTY ET AL.; and

No. 81-1511. SMITH, ATTORNEY GENERAL, ET AL. *v.* BLACK PANTHER PARTY ET AL. C. A. D. C. Cir. Certiorari granted, judgment vacated, and cases remanded to the Court of Appeals with directions that it instruct the United States District Court for the District of Columbia to dismiss the complaint with prejudice. JUSTICE MARSHALL would deny the petitions for writs of certiorari. JUSTICE POWELL and JUSTICE STEVENS took no part in the consideration or decision of these cases. Reported below: 213 U. S. App. D. C. 67, 661 F. 2d 1243.

No. 81-1860. J. P. STEVENS & CO., INC. *v.* NATIONAL LABOR RELATIONS BOARD ET AL. C. A. 4th Cir. Certiorari granted, judgment vacated, and case remanded for further consideration in light of *Summit Valley Industries, Inc. v. Carpenters*, 456 U. S. 717 (1982). Reported below: 668 F. 2d 767.

458 U. S.

July 2, 1982

No. 81-5534. *RENNIE ET AL. v. KLEIN, COMMISSIONER, DEPARTMENT OF HUMAN SERVICES, ET AL.* C. A. 3d Cir. Motion of petitioners for leave to proceed *in forma pauperis* and certiorari granted. Judgment vacated and case remanded for further consideration in light of *Youngberg v. Romeo*, 457 U. S. 307 (1982). Reported below: 653 F. 2d 836.

*Certiorari Granted—Reversed.* (See No. 81-1577, *ante*, p. 966.)

#### *Miscellaneous Orders*

No. 88, Orig. *CALIFORNIA v. TEXAS ET AL.* Motion for issuance of a restraining order denied without prejudice. JUSTICE BRENNAN took no part in the consideration or decision of this motion. [For earlier decision herein, see 457 U. S. 164.]

No. 92, Orig. *ARKANSAS v. MISSISSIPPI.* It is ordered that Justice Paul C. Reardon (retired) of Boston, Mass., be appointed Special Master in this case with authority to fix the time and conditions for the filing of additional pleadings and to direct subsequent proceedings, and with authority to summon witnesses, issue subpoenas, and take such evidence as may be introduced and such as he may deem necessary to call for. The Special Master is directed to submit such reports as he may deem appropriate.

The compensation of the Special Master, the allowances to him, the compensation paid to his technical, stenographic, clerical, and legal assistants, the cost of printing his report, and all other proper expenses shall be charged against and be borne by the parties in such proportion as the Court may hereafter direct.

It is further ordered that if the position of Special Master in this case becomes vacant during a recess of the Court, THE CHIEF JUSTICE shall have authority to make a new designation which shall have the same effect as if originally made by the Court herein. [For earlier order herein, see 456 U. S. 912.]

July 2, 1982

458 U. S.

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

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

No. 80-2171. UNITED STATES SENATE *v.* IMMIGRATION AND NATURALIZATION SERVICE ET AL. C. A. 9th Cir. [Certiorari granted, 454 U. S. 812.] Cases restored to calendar for reargument. JUSTICE BRENNAN and JUSTICE BLACKMUN dissent.

No. 81-1774. ESTELLE, DIRECTOR, TEXAS DEPARTMENT OF CORRECTIONS *v.* BULLARD. C. A. 5th Cir. [Certiorari granted, 457 U. S. 1116.] Motion for appointment of counsel granted, and it is ordered that Kenneth E. Houp, Jr., Esquire, of Austin, Tex., be appointed to serve as counsel for respondent in this case. JUSTICE BRENNAN took no part in the consideration or decision of this motion.

*Certiorari Granted*

No. 81-1675. KUSH ET AL. *v.* RUTLEDGE. C. A. 9th Cir. Certiorari granted limited to Question 2 presented by the petition. Reported below: 660 F. 2d 1345.

No. 81-2150. JIM MCNEFF, INC. *v.* TODD ET AL. C. A. 9th Cir. Certiorari granted. The Solicitor General is invited to file a brief in this case expressing the views of the United States. Reported below: 667 F. 2d 800.

*Certiorari Denied*

No. 80-1906. ALLIED INTERNATIONAL, INC. *v.* INTERNATIONAL LONGSHOREMEN'S ASSN., AFL-CIO, ET AL. C. A. 1st Cir. Certiorari denied. Reported below: 640 F. 2d 1368.

458 U. S.

July 2, 1982

No. 81-1192. GLENDALE FEDERAL SAVINGS & LOAN ASSN. ET AL. *v.* FOX ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 663 F. 2d 1078.

No. 81-1290. SCANLON, SECRETARY OF EDUCATION OF PENNSYLVANIA, ET AL. *v.* TOKARCIC ET AL. C. A. 3d Cir. Certiorari denied. Reported below: 665 F. 2d 443.

No. 81-1503. CALIFORNIA *v.* GLENDALE FEDERAL SAVINGS & LOAN ASSN. ET AL. Ct. App. Cal., 2d App. Dist. Certiorari denied.

No. 81-1744. FEDERAL HOME LOAN BANK BOARD *v.* GULF FEDERAL SAVINGS & LOAN ASSOCIATION OF JEFFERSON PARISH. C. A. 11th Cir. Certiorari denied. Reported below: 651 F. 2d 259.

No. 81-361. BRAMKAMP ET AL. *v.* PUERTO RICO EX REL. BAREZ, SECRETARY OF LABOR AND HUMAN RESOURCES. C. A. 2d Cir. Certiorari denied. JUSTICE BRENNAN took no part in the consideration or decision of this petition. Reported below: 654 F. 2d 212.

No. 81-465. PORTER ET AL. *v.* PENNSYLVANIA ET AL. C. A. 3d Cir. Certiorari denied. JUSTICE BRENNAN took no part in the consideration or decision of this petition. Reported below: 659 F. 2d 306.

No. 81-1047. UNITED STATES *v.* SHER. C. A. 3d Cir. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 657 F. 2d 28 and 661 F. 2d 34.

No. 81-1692. ESTELLE, DIRECTOR, TEXAS DEPARTMENT OF CORRECTIONS *v.* VON BURLESON. C. A. 5th Cir. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 666 F. 2d 231.

July 2, 6, August 5, 1982

458 U. S.

No. 81-1548. *VASQUEZ v. MCALLEN BAG & SUPPLY CO.* C. A. 5th Cir. Certiorari denied. JUSTICE MARSHALL would grant certiorari. Reported below: 660 F. 2d 686.

No. 81-1895. *BRONZE SHIELDS, INC., ET AL. v. NEW JERSEY DEPARTMENT OF CIVIL SERVICE ET AL.*; and *HOWARD ET AL. v. NEW JERSEY DEPARTMENT OF CIVIL SERVICE ET AL.* C. A. 3d Cir. Certiorari denied. JUSTICE MARSHALL would grant certiorari. Reported below: 667 F. 2d 1074 (first case); 667 F. 2d 1099 (second case).

No. 81-5578. *BREWER v. INDIANA.* Sup. Ct. Ind.;

No. 81-5731. *HYMAN v. SOUTH CAROLINA.* Sup. Ct. S. C.; and

No. 81-6606. *FRANCOIS v. FLORIDA.* Sup. Ct. Fla. Certiorari denied. Reported below: No. 81-5578, — Ind. —, 417 N. E. 2d 889; No. 81-5731, 276 S. C. 559, 281 S. E. 2d 209; No. 81-6606, 407 So. 2d 885.

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.

JULY 6, 1982

*Miscellaneous Order*

No. 92, Orig. *ARKANSAS v. MISSISSIPPI.* Motion for leave to file a counterclaim referred to the Special Master. [For earlier order herein, see, *e. g.*, *ante*, p. 1119.]

AUGUST 5, 1982

*Dismissal Under Rule 53*

No. 81-1888. *MORGAN DRIVE AWAY, INC., ET AL. v. SAMFORD ET AL.* C. A. 5th Cir. Certiorari dismissed under this Court's Rule 53. Reported below: 665 F. 2d 598.

458 U. S.

August 10, 12, 19, 1982

AUGUST 10, 1982

*Miscellaneous Order*

No. A-147. MITCHELL, WARDEN, ET AL. *v.* LAWRENCE, NEXT FRIEND ACTING ON BEHALF OF COPPOLA. This matter came on before THE CHIEF JUSTICE as Circuit Justice for the Fourth Circuit on the application of James P. Mitchell, Warden, and Gerald L. Baliles, Attorney General of Virginia, and was referred by him to the Court. There being only four Members of the Court available in Washington, a conference call was arranged to include those outside Washington except JUSTICE O'CONNOR who was outside the United States. After consideration of the matters presented by the application, the application is granted and the stay entered by Circuit Judge John D. Butzner, Jr., of the United States Court of Appeals for the Fourth Circuit is hereby vacated. JUSTICE BRENNAN and JUSTICE MARSHALL would deny the application. JUSTICE STEVENS would call for a response from J. Gray Lawrence, Jr., the respondent above named. JUSTICE O'CONNOR took no part in the consideration or decision of this application.

AUGUST 12, 1982

*Dismissal Under Rule 53*

No. 81-2333. ANDERSON ET AL. *v.* FLATEAU ET AL. Appeal from D. C. S. D. N. Y. dismissed under this Court's Rule 53. Reported below: 537 F. Supp. 257.

AUGUST 19, 1982

*Dismissal Under Rule 53*

No. 81-1810. NARANJO ET AL. *v.* CORRIZ. C. A. 10th Cir. [Certiorari granted, 456 U. S. 971.] Stipulation to dismiss the writ of certiorari was filed, and the case was dismissed pursuant to this Court's Rule 53.

August 19, 24, September 7, 9, 1982

458 U. S.

*Miscellaneous Order*

No. A-169. *KALLENBERGER v. BUCHANAN, SECRETARY OF STATE OF COLORADO*. Application for injunction, addressed to JUSTICE BRENNAN and referred to the Court, denied. JUSTICE BLACKMUN would grant the application. JUSTICE MARSHALL would defer consideration of the application pending the filing of a response by the respondent. JUSTICE O'CONNOR took no part in the consideration or decision of this application.

AUGUST 24, 1982

*Dismissal Under Rule 53*

No. 82-75. *HORIZONS APARTMENTS ASSOCIATES, LTD., ET AL. v. LEE COUNTY, FLORIDA*. Dist. Ct. App. Fla., 2d Dist. Certiorari dismissed under this Court's Rule 53. Reported below: 415 So. 2d 1373.

SEPTEMBER 7, 1982

*Dismissal Under Rule 53*

No. 81-1685. *LIMMER ET AL. v. FERNANDES, AKA SANTANI*. C. A. 5th Cir. Certiorari dismissed under this Court's Rule 53. Reported below: 663 F. 2d 619.

SEPTEMBER 9, 1982

*Miscellaneous Orders*

No. A-958. *MCDONALD v. ALEXANDER, GOVERNOR OF TENNESSEE, ET AL.* Application for injunction, addressed to THE CHIEF JUSTICE and referred to the Court, denied.

No. A-1138. *PFISTER v. DELTA AIR LINES, INC., ET AL.* C. A. D. C. Cir. Application for stay, addressed to JUSTICE WHITE and referred to the Court, denied.

No. A-22. *HALE v. UNITED STATES*. C. A. 10th Cir. Application for stay, addressed to JUSTICE BRENNAN and referred to the Court, denied.

458 U. S.

September 9, 1982

No. A-45 (82-78). CALIFORNIA *v.* SHIRLEY. Application for stay of enforcement of the judgment of the Supreme Court of California, addressed to THE CHIEF JUSTICE and referred to the Court, denied.

No. A-102 (82-157). SMITH *v.* OLSON, REGISTRAR OF VOTERS, ORANGE COUNTY, CALIFORNIA, ET AL. Application for injunction, addressed to JUSTICE BRENNAN and referred to the Court, denied.

No. A-103 (82-274). PENNSYLVANIA ET AL. *v.* DELAWARE VALLEY CITIZENS' COUNCIL FOR CLEAN AIR ET AL. C. A. 3d Cir. Application for stay, addressed to JUSTICE REHNQUIST and referred to the Court, denied.

No. D-266. IN RE DISBARMENT OF FELDMAN. Disbarment entered. [For earlier order herein, see 456 U. S. 956.]

No. D-271. IN RE DISBARMENT OF WAJERT. Disbarment entered. [For earlier order herein, see 456 U. S. 957.]

No. D-272. IN RE DISBARMENT OF LANGKAM. Disbarment entered. [For earlier order herein, see 456 U. S. 957.]

No. D-277. IN RE DISBARMENT OF BOEHM. Disbarment entered. [For earlier order herein, see 457 U. S. 1103.]

No. D-278. IN RE DISBARMENT OF PAGLIANITE. It is ordered that Frank A. Paglianite, of Pittston, 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-279. IN RE DISBARMENT OF RESNICK. It is ordered that David Resnick, of New York, N. Y., be suspended from the practice of law in this Court and that a rule issue, returnable within 40 days, requiring him to show cause why he should not be disbarred from the practice of law in this Court.

September 9, 1982

458 U. S.

No. D-261. IN RE DISBARMENT OF HAMMERSMITH. Disbarment entered. [For earlier order herein, see 456 U. S. 902.]

No. D-280. IN RE DISBARMENT OF STERN. It is ordered that Julius Stern, of New York, N. Y., be suspended from the practice of law in this Court and that a rule issue, returnable within 40 days, requiring him to show cause why he should not be disbarred from the practice of law in this Court.

No. D-281. IN RE DISBARMENT OF SANDS. It is ordered that Ira Jay Sands, of New York, N. Y., be suspended from the practice of law in this Court and that a rule issue, returnable within 40 days, requiring him to show cause why he should not be disbarred from the practice of law in this Court.

No. D-282. IN RE DISBARMENT OF LEVINE. It is ordered that Michael Levine, of New York, N. Y., be suspended from the practice of law in this Court and that a rule issue, returnable within 40 days, requiring him to show cause why he should not be disbarred from the practice of law in this Court.

No. D-283. IN RE DISBARMENT OF NADEL. It is ordered that Arthur G. Nadel, of New York, N. Y., be suspended from the practice of law in this Court and that a rule issue, returnable within 40 days, requiring him to show cause why he should not be disbarred from the practice of law in this Court.

No. D-284. IN RE DISBARMENT OF FISHMAN. It is ordered that Gregg Lewis Fishman, of Forest Hills, N. Y., be suspended from the practice of law in this Court and that a rule issue, returnable within 40 days, requiring him to show cause why he should not be disbarred from the practice of law in this Court.

458 U. S.

September 9, 1982

No. D-285. IN RE DISBARMENT OF GLOECKNER. It is ordered that George N. Gloeckner, 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-286. IN RE DISBARMENT OF NADLER. It is ordered that Floyd Norman Nadler, 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-287. IN RE DISBARMENT OF BONDS. It is ordered that Rodney S. Bonds, of Baltimore, Md., be suspended from the practice of law in this Court and that a rule issue, returnable within 40 days, requiring him to show cause why he should not be disbarred from the practice of law in this Court.

No. D-288. IN RE DISBARMENT OF LIEBERMAN. It is ordered that Sidney Z. Lieberman, of McLean, Va., 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-289. IN RE DISBARMENT OF BRISBOIS. It is ordered that James A. Brisbois, of Saginaw, 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.

No. 81-430. ILLINOIS *v.* GATES ET UX. Sup. Ct. Ill. [Certiorari granted, 454 U. S. 1140.] Motion of respondents for divided argument denied.

September 9, 1982

458 U. S.

No. D-290. *IN RE DISBARMENT OF SPIRO*. It is ordered that Demetri M. Spiro, 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-291. *IN RE DISBARMENT OF SUNDOCK*. It is ordered that Michael A. Sundock, of Opelika, Ala., 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-292. *IN RE DISBARMENT OF FENDLER*. It is ordered that Robert Harold Fendler, of Beverly Hills, Cal., be suspended from the practice of law in this Court and that a rule issue, returnable within 40 days, requiring him to show cause why he should not be disbarred from the practice of law in this Court.

No. 80-1640. *UNITED STATES NUCLEAR REGULATORY COMMISSION ET AL. v. SHOLLY ET AL.*; and

No. 80-1656. *METROPOLITAN EDISON CO. ET AL. v. PEOPLE AGAINST NUCLEAR ENERGY ET AL.* C. A. D. C. Cir. [Certiorari granted, 451 U. S. 1016.] Motion of respondents for further deferral of oral argument granted.

No. 81-185. *SIMOPOULOS v. VIRGINIA*. Sup. Ct. Va. [Probable jurisdiction noted, 456 U. S. 988.] Motions of National Organization for Women et al., Committee for Abortion Rights and Against Sterilization Abuse et al., and Certain Law Professors for leave to file briefs as *amici curiae* granted.

No. 81-334. *ASSOCIATED GENERAL CONTRACTORS OF CALIFORNIA, INC. v. CALIFORNIA STATE COUNCIL OF CARPENTERS ET AL.* C. A. 9th Cir. [Certiorari granted, 454 U. S. 1141.] Motion of American Federation of Labor and Congress of Industrial Organizations for leave to file a supplemental brief as *amicus curiae* granted.

458 U. S.

September 9, 1982

No. 81-523. CONTAINER CORPORATION OF AMERICA *v.* FRANCHISE TAX BOARD. Ct. App. Cal., 1st App. Dist. [Probable jurisdiction noted, 456 U. S. 960.] Motions of Union of Industries of the European Community and Committee on Unitary Tax for leave to file briefs as *amici curiae* granted. Motion of Committee on State Taxation of the Council of State Chambers of Commerce for leave to participate in oral argument as *amicus curiae* and for additional time for argument denied. JUSTICE STEVENS took no part in the consideration or decision of these motions.

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, 456 U. S. 914.] Motion of the Solicitor General for leave to participate in oral argument as *amicus curiae* and for divided argument granted.

No. 81-773. NORTH DAKOTA *v.* UNITED STATES. C. A. 8th Cir. [Probable jurisdiction noted, 455 U. S. 987.] Motion of National Wildlife Federation et al. for leave to file a brief as *amici curiae* granted.

No. 81-897. DIRECTOR, OFFICE OF WORKERS' COMPENSATION PROGRAMS, UNITED STATES DEPARTMENT OF LABOR *v.* PERINI NORTH RIVER ASSOCIATES ET AL. C. A. 2d Cir. [Certiorari granted, 455 U. S. 937.] Motion of the Solicitor General for divided argument denied. Motion of the Solicitor General to permit Richard G. Wilkins, Esquire, to present oral argument *pro hac vice* granted.

No. 81-1003. WHITE, MAYOR OF BOSTON, ET AL. *v.* MASSACHUSETTS COUNCIL OF CONSTRUCTION EMPLOYERS, INC., ET AL. Sup. Jud. Ct. Mass. [Certiorari granted, 455 U. S. 919.] Motion of American Federation of Labor and Congress of Industrial Organizations et al. for leave to file a brief as *amici curiae* granted.

September 9, 1982

458 U. S.

No. 81-1251. CONNICK, DISTRICT ATTORNEY IN AND FOR THE PARISH OF ORLEANS, LOUISIANA *v.* MYERS. C. A. 5th Cir. [Certiorari granted, 455 U. S. 999.] Motions of National Education Association et al. and American Civil Liberties Union et al. for leave to file briefs as *amici curiae* granted.

No. 81-1489. XEROX CORP. *v.* COUNTY OF HARRIS, TEXAS, ET AL. Ct. App. Tex., 1st Sup. Jud. Dist. [Probable jurisdiction noted, 456 U. S. 913.] Motion of International Association of Assessing Officers for leave to file a brief as *amicus curiae* granted.

No. 81-1493. GILLETTE CO. *v.* MINER. Sup. Ct. Ill. [Certiorari granted, 456 U. S. 914.] Motions of Public Citizen and Consumer Coalition for leave to file briefs as *amici curiae* granted.

No. 81-1506. FEDERAL ELECTION COMMISSION ET AL. *v.* NATIONAL RIGHT TO WORK COMMITTEE ET AL. C. A. D. C. Cir. [Certiorari granted, 456 U. S. 914.] Motion of American Federation of Labor and Congress of Industrial Organizations for leave to file a brief as *amicus curiae* granted.

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. C. A. 2d Cir. [Probable jurisdiction noted, 456 U. S. 924.] Motion of American Federation of Labor and Congress of Industrial Organizations et al. for leave to file a brief as *amici curiae* granted. Motion of appellants Kramarsky et al. for divided argument and for leave to file separate brief and joint appendix denied.

458 U. S.

September 9, 1982

No. 81-1613. MEMPHIS BANK & TRUST CO. *v.* GARNER, SHELBY COUNTY TRUSTEE, ET AL. Sup. Ct. Tenn. [Probable jurisdiction noted, 456 U. S. 943.] Motions of Capital Preservation Fund, Inc., et al. and Farm Credit Banks for leave to file briefs as *amici curiae* granted.

No. 81-1627. SHEPARD *v.* NATIONAL LABOR RELATIONS BOARD ET AL. C. A. D. C. Cir. [Certiorari granted, 456 U. S. 970.] Motion of the Solicitor General for divided argument and for additional time for oral argument denied.

*Rehearing Denied*

No. 88, Orig. CALIFORNIA *v.* TEXAS ET AL., 457 U. S. 164;

No. 89, Orig. CALIFORNIA EX REL. STATE LANDS COMMISSION *v.* UNITED STATES, 457 U. S. 273;

No. 80-108. FIRST PENNSYLVANIA BANK N.A. *v.* ZEFFIRO ET AL., 456 U. S. 1005;

No. 80-1538. PLYLER, SUPERINTENDENT, TYLER INDEPENDENT SCHOOL DISTRICT, ET AL. *v.* DOE, GUARDIAN, ET AL., 457 U. S. 202;

No. 80-1934. TEXAS ET AL. *v.* CERTAIN NAMED AND UNNAMED UNDOCUMENTED ALIEN CHILDREN ET AL., 457 U. S. 202;

No. 80-1749. FEDERAL ENERGY REGULATORY COMMISSION ET AL. *v.* MISSISSIPPI ET AL., 456 U. S. 742;

No. 80-2138. CARTER *v.* DAYTON BOARD OF EDUCATION ET AL., 456 U. S. 989;

No. 80-6609. WILKERSON *v.* BLACKBURN, WARDEN, *ante*, p. 1105;

No. 81-451. HATHORN ET AL. *v.* LOVORN ET AL., 457 U. S. 255; and

No. 81-912. CLICK ET AL. *v.* IDAHO EX REL. EVANS, GOVERNOR OF IDAHO, ET AL., 457 U. S. 1116. Petitions for rehearing denied.

September 9, 1982

458 U. S.

No. 81-1478. HARVEY ET AL. *v.* FEDERAL ENERGY REGULATORY COMMISSION ET AL., 457 U. S. 1105.

No. 81-1525. THOMPSON *v.* WOLTENBERG, 456 U. S. 1006;

No. 81-1534. NIEVES *v.* UNITED STATES, 457 U. S. 1117;

No. 81-1577. BOARD OF EDUCATION OF ROGERS, ARKANSAS, ET AL. *v.* MCCLUSKEY, BY HIS NEXT FRIEND, MCCLUSKEY, *ante*, p. 966;

No. 81-1589. HUNT *v.* COLLINS, 457 U. S. 1127;

No. 81-1665. DYKEMA ET AL. *v.* UNITED STATES ET AL., 456 U. S. 983;

No. 81-1822. FIALA *v.* VILLAGE OF CARPENTERSVILLE, 456 U. S. 990;

No. 81-2009. YEO *v.* MICHIGAN, 457 U. S. 1134;

No. 81-2016. RUPPEL *v.* UNITED STATES, *ante*, p. 1107;

No. 81-2018. BERGER *v.* UNITED STATES ET AL., 457 U. S. 1120;

No. 81-2045. NIEMI *v.* NATIONAL BROADCASTING CO., INC., ET AL., *ante*, p. 1108;

No. 81-5578. BREWER *v.* INDIANA, *ante*, p. 1122;

No. 81-5731. HYMAN *v.* SOUTH CAROLINA, *ante*, p. 1122;

No. 81-6528. MASELLI *v.* STATE BOARD OF EQUALIZATION OF CALIFORNIA, 457 U. S. 1108;

No. 81-6546. PASCHAL *v.* FLORIDA PUBLIC EMPLOYEES RELATIONS COMMISSION ET AL., 457 U. S. 1109;

No. 81-6559. BLACK *v.* EAST OHIO GAS CO. ET AL., 457 U. S. 1109;

No. 81-6573. HARRINGTON *v.* TENNESSEE, 457 U. S. 1110;

No. 81-6630. HOOVER *v.* MISSISSIPPI, 457 U. S. 1137;

No. 81-6645. RITTER *v.* RITTER, 457 U. S. 1138;

No. 81-6652. NEUSTEIN *v.* UNITED STATES, 457 U. S. 1124; and

No. 81-6654. UNITED STATES EX REL. MILLER *v.* MCCARTHY, SUPERINTENDENT, CALIFORNIA MEN'S COLONY, ET AL., *ante*, p. 1109. Petitions for rehearing denied.

458 U. S.

September 9, 20, 1982

No. 81-6673. OCCHINO *v.* NORTHWESTERN BELL TELEPHONE CO. ET AL., 457 U. S. 1139;

No. 81-6685. WILLIAMS *v.* PEPSI-COLA BOTTLING COMPANY OF ST. LOUIS, MISSOURI, ET AL., 457 U. S. 1139;

No. 81-6691. SUTAIN ET AL. *v.* COMMISSIONER OF INTERNAL REVENUE, *ante*, p. 1110;

No. 81-6715. IN RE CAMPBELL, 457 U. S. 1116; and

No. 81-6771. IN RE KULWIEC, *ante*, p. 1104. Petitions for rehearing denied.

No. 80-1290. CLEMENTS, GOVERNOR OF TEXAS, ET AL. *v.* FASHING ET AL., 457 U. S. 957. Petition for rehearing and/or clarification denied.

No. 80-6045. KREMER *v.* CHEMICAL CONSTRUCTION CORP., 456 U. S. 461. Motion for leave to file petition for rehearing denied.

SEPTEMBER 20, 1982

*Dismissal Under Rule 53*

No. 81-2284. BUTCHER *v.* UNITED STATES. C. A. 9th Cir. Certiorari dismissed under this Court's Rule 53. Reported below: 676 F. 2d 713.



OPINIONS OF INDIVIDUAL JUSTICES IN  
CHAMBERS

WHITE v. FLORIDA

ON APPLICATION FOR STAY

No. A-190. Decided August 12, 1983

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REPORTER'S NOTE

The next page is purposely numbered 1301. The numbers between 1133 and 1301 were intentionally omitted, in order to make it possible to publish in-chambers opinions with *permanent* page numbers, thus making the official citations available upon publication of the preliminary prints of the United States Reports.

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William White has requested me as Circuit Justice to stay the judgment and mandate of the Supreme Court of Florida pending filing and disposition of his petition for a writ of certiorari. A state trial court convicted White of first-degree murder and sentenced him to death. The Florida Appellate Court upheld both the conviction and sentence. 41th So. 2d 719 (1982). It denied rehearing on July 5, 1983, and stayed the mandate until August 9, 1983, reserving White to seek any further stay from this Court.

In his application for a stay, filed by counsel, White requests that he intends to file a petition for a writ of certiorari because the judgment affirming the conviction and sentence is "in violation of [his] rights secured by the Constitution of the United States." His application does not suggest any legal specific basis for seeking the writ. The only recent ad-

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Reviser's Note

The next page is partially numbered 1301. The number between 1172 and 1301 was intentionally omitted, in order to make it possible to publish in certain opinions with paragraph page numbers, thus making the official citation available upon publication of the preliminary prints of the United States Reports.

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