

ORDERS FROM JUNE 6 THROUGH  
JUNE 20, 1983

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JUNE 6, 1983

*Appeals Dismissed*

No. 82-1212. GULLO *v.* MCGILL ET UX. Appeal from Cir. Ct. Fairfax County, Va., dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied. THE CHIEF JUSTICE, JUSTICE REHNQUIST, and JUSTICE O'CONNOR would award appellees damages pursuant to this Court's Rule 49.2.

No. 82-1668. YOUNG *v.* TOWN OF ATLANTIC BEACH. Appeal from Sup. Ct. N. C. dismissed for want of substantial federal question. Reported below: 307 N. C. 422, 298 S. E. 2d 686.

*Certiorari Granted—Vacated and Remanded*

No. 81-1249. EIDE ET UX. *v.* SEGUIN. C. A. 9th Cir. Certiorari granted, judgment vacated, and case remanded for further consideration in light of *United States v. \$8,850*, 461 U. S. 555 (1983). Reported below: 645 F. 2d 804.

No. 82-452. UNITED STATES *v.* VON NEUMANN. C. A. 9th Cir. Certiorari granted, judgment vacated, and case remanded for further consideration in light of *United States v. \$8,850*, 461 U. S. 555 (1983). Reported below: 660 F. 2d 1319.

No. 82-1113. DUNCANSON-HARRELSON CO. ET AL. *v.* DIRECTOR, OFFICE OF WORKERS' COMPENSATION PROGRAMS, DEPARTMENT OF LABOR, ET AL. C. A. 9th Cir. Certiorari granted, judgment vacated, and case remanded for further consideration in light of *Morrison-Knudsen Construction Co. v. Director, OWCP*, 461 U. S. 624 (1983). Reported below: 686 F. 2d 1336.

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*Certiorari Granted—Reversed.* (See No. 82-1408, *ante*, p. 111.)

*Miscellaneous Orders*

No. A-910. *WASSALL v. RYAN*, JUDGE, CIRCUIT COURT OF THE CITY OF ST. LOUIS, ET AL. C. A. 8th Cir. Application for stay, addressed to JUSTICE STEVENS and referred to the Court, denied.

No. A-949. *CHRISTINO v. UNITED STATES*. D. C. C. D. Cal. Application for stay or bail, addressed to JUSTICE POWELL and referred to the Court, denied.

No. D-318. *IN RE DISBARMENT OF KOPS*. Disbarment entered. [For earlier order herein, see 460 U. S. 1008.]

No. D-321. *IN RE DISBARMENT OF FRIEDLAND*. Disbarment entered. [For earlier order herein, see 460 U. S. 1009.]

No. D-323. *IN RE DISBARMENT OF SHERMAN*. Disbarment entered. [For earlier order herein, see 460 U. S. 1009.]

No. D-331. *IN RE DISBARMENT OF BISHOP*. Disbarment entered. [For earlier order herein, see 460 U. S. 1065.]

No. D-351. *IN RE DISBARMENT OF HOFF*. It is ordered that Vera L. Hoff, of San Jose, Cal., be suspended from the practice of law in this Court and that a rule issue, returnable within 40 days, requiring her to show cause why she should not be disbarred from the practice of law in this Court.

No. D-352. *IN RE DISBARMENT OF ROSENBERG*. It is ordered that Theodore Rosenberg, of Brooklyn, 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.

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No. D-353. IN RE DISBARMENT OF GREENE. It is ordered that Raymond T. Greene, of Coconut Grove, Fla., 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-354. IN RE DISBARMENT OF CONNOLLY. It is ordered that Robert John Connolly, of East Meadow, 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-355. IN RE DISBARMENT OF GELB. It is ordered that Joseph Gelb, of Hewlett Bay Park, 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-356. IN RE DISBARMENT OF GORDON. It is ordered that James Allen Gordon, Jr., of Los Angeles, 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-357. IN RE DISBARMENT OF HARTHUN. It is ordered that Carl Louis Harthun, of Denver, Colo., 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-358. IN RE DISBARMENT OF SHEEHAN. It is ordered that John Vincent Sheehan, 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

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cause why he should not be disbarred from the practice of law in this Court.

No. D-359. *IN RE DISBARMENT OF MCCOMB*. It is ordered that Henry G. McComb, of Buffalo, 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. 81-2245. *NEVADA v. UNITED STATES ET AL.*;

No. 81-2276. *TRUCKEE-CARSON IRRIGATION DISTRICT v. UNITED STATES ET AL.*; and

No. 82-38. *PYRAMID LAKE PAIUTE TRIBE OF INDIANS v. TRUCKEE-CARSON IRRIGATION DISTRICT ET AL.* C. A. 9th Cir. [Certiorari granted, 459 U. S. 904.] Motion of petitioners in No. 82-38 for leave to file a supplemental memorandum after argument granted.

No. 82-898. *MINNESOTA STATE BOARD FOR COMMUNITY COLLEGES v. KNIGHT ET AL.*; and

No. 82-977. *MINNESOTA COMMUNITY COLLEGE FACULTY ASSN. ET AL. v. KNIGHT ET AL.* D. C. Minn. [Probable jurisdiction noted, 460 U. S. 1050.] Motion of appellants in No. 82-977 to expand the record and enlarge the questions presented for review granted.

No. 82-1256. *LYNCH, MAYOR OF PAWTUCKET, ET AL. v. DONNELLY ET AL.* C. A. 1st Cir. [Certiorari granted, 460 U. S. 1080.] Motion of Anne Neamon for leave to proceed *pro se* for the purpose of filing a brief as *amicus curiae* denied.

No. 82-1678. *FULTON ET AL. v. PLUMBERS & STEAMFITTERS, LOCAL 598, ET AL.* C. A. 9th Cir. The Solicitor General is invited to file a brief in this case expressing the views of the United States.

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No. 82-1669. IN RE WRIGHT. Petition for writ of prohibition denied.

*Probable Jurisdiction Noted*

No. 82-1684. DONOVAN, SECRETARY OF LABOR, ET AL. v. LONE STEER, INC. Appeal from D. C. N. D. Probable jurisdiction noted. Reported below: 565 F. Supp. 229.

*Certiorari Granted*

No. 82-206. FIREFIGHTERS LOCAL UNION No. 1784 v. STOTTS ET AL.; and

No. 82-229. MEMPHIS FIRE DEPARTMENT ET AL. v. STOTTS ET AL. C. A. 6th Cir. Certiorari granted, cases consolidated, and a total of one hour allotted for oral argument. Reported below: 679 F. 2d 541.

No. 82-1554. STRICKLAND, SUPERINTENDENT, FLORIDA STATE PRISON, ET AL. v. WASHINGTON. C. A. 11th Cir. Motion of respondent for leave to proceed *in forma pauperis* and certiorari granted. Reported below: 693 F. 2d 1243.

*Certiorari Denied.* (See also No. 82-1212, *supra*.)

No. 81-1637. ERNESTO ZARAGOZA Y. v. UNITED STATES ET AL. C. A. 6th Cir. Certiorari denied. Reported below: 667 F. 2d 502.

No. 82-583. HETTLEMAN, SECRETARY, DEPARTMENT OF HUMAN RESOURCES, ET AL. v. BLOCK, SECRETARY OF AGRICULTURE, ET AL. C. A. 4th Cir. Certiorari denied. Reported below: 685 F. 2d 430.

No. 82-1231. BROOKS ET AL. v. WALKER COUNTY HOSPITAL DISTRICT ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 688 F. 2d 334.

No. 82-1413. WOLKENSTEIN ET AL. v. REVILLE ET AL. C. A. 2d Cir. Certiorari denied. Reported below: 694 F. 2d 35.

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No. 82-1428. *DAIRYMEN, INC. v. FEDERAL TRADE COMMISSION ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 684 F. 2d 376.

No. 82-1431. *CLARKE v. SOUTH CAROLINA.* Sup. Ct. S. C. Certiorari denied.

No. 82-1434. *NEW YORK v. KNAPP.* Ct. App. N. Y. Certiorari denied. Reported below: 57 N. Y. 2d 161, 441 N. E. 2d 1057.

No. 82-1442. *WILLIAMS v. UNITED STATES.* C. A. 6th Cir. Certiorari denied. Reported below: 708 F. 2d 730.

No. 82-1446. *LIFETIME COMMUNITIES, INC. v. ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS.* C. A. 2d Cir. Certiorari denied. Reported below: 690 F. 2d 35.

No. 82-1461. *JONES v. UNITED STATES.* C. A. 7th Cir. Certiorari denied. Reported below: 696 F. 2d 479.

No. 82-1508. *AMERICAN DENTAL ASSN. ET AL. v. MYERS.* C. A. 3d Cir. Certiorari denied. Reported below: 695 F. 2d 716.

No. 82-1524. *BROUNTAS ET UX. v. COMMISSIONER OF INTERNAL REVENUE.* C. A. 1st Cir. Certiorari denied. Reported below: 692 F. 2d 152.

No. 82-1525. *CRC CORP. v. COMMISSIONER OF INTERNAL REVENUE.* C. A. 3d Cir. Certiorari denied. Reported below: 693 F. 2d 281.

No. 82-1528. *TISDALE v. DIRECTOR, OFFICE OF WORKERS' COMPENSATION PROGRAMS, U. S. DEPARTMENT OF LABOR, ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 698 F. 2d 1233.

No. 82-1536. *LITTON SYSTEMS, INC. v. CHASTAIN, ADMINISTRATOR OF THE ESTATE OF CHASTAIN.* C. A. 4th Cir. Certiorari denied. Reported below: 694 F. 2d 957.

No. 82-1656. *MCKENDRICK v. PENNSYLVANIA.* Sup. Ct. Pa. Certiorari denied. Reported below: 499 Pa. 320, 453 A. 2d 328.

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No. 82-1658. PUBLIC SERVICE COMMISSION OF THE DISTRICT OF COLUMBIA *v.* WASHINGTON GAS LIGHT CO. ET AL. Ct. App. D. C. Certiorari denied. Reported below: 452 A. 2d 375.

No. 82-1660. BEAVER *v.* GRIGGS, WARDEN. C. A. 9th Cir. Certiorari denied. Reported below: 698 F. 2d 1228.

No. 82-1661. WARD *v.* WARD. Ct. App. Okla. Certiorari denied.

No. 82-1662. WOOLRIDGE *v.* REVELL. C. A. 6th Cir. Certiorari denied. Reported below: 708 F. 2d 731.

No. 82-1672. USM CORP. *v.* SPS TECHNOLOGIES, INC. C. A. 7th Cir. Certiorari denied. Reported below: 694 F. 2d 505.

No. 82-1673. BRODIE ET AL. *v.* BOARD OF MEDICAL EXAMINERS FOR THE STATE OF NEW JERSEY. C. A. 3d Cir. Certiorari denied. Reported below: 707 F. 2d 1389.

No. 82-1677. DROLET *v.* VAN LINDT, CHAIRMAN, NEW YORK STATE RACING AND WAGERING BOARD, DIVISION OF HARNESS RACING, ET AL. App. Div., Sup. Ct. N. Y., 1st Jud. Dept. Certiorari denied. Reported below: 92 App. Div. 2d 751, 459 N. Y. S. 2d 341.

No. 82-1681. BIO/BASICS INTERNATIONAL CORP. *v.* ORTHO PHARMACEUTICAL CORP. C. A. 2d Cir. Certiorari denied. Reported below: 718 F. 2d 1084.

No. 82-1709. WAGSHAL *v.* MASSACHUSETTS ET AL. C. A. D. C. Cir. Certiorari denied. Reported below: 225 U. S. App. D. C. 51, 696 F. 2d 133.

No. 82-1716. GROSSMAN *v.* FOLEY, JUDGE, UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF NEVADA. C. A. 9th Cir. Certiorari denied.

No. 82-1730. VOGEL *v.* ALABAMA. Sup. Ct. Ala. Certiorari denied. Reported below: 426 So. 2d 882.

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No. 82-1743. *MOONEY v. LOUISIANA*. Sup. Ct. La. Certiorari denied. Reported below: 426 So. 2d 188.

No. 82-1753. *HUSTLER MAGAZINE, INC., ET AL. v. EASTMAN KODAK CO.* C. A. 9th Cir. Certiorari denied. Reported below: 692 F. 2d 763.

No. 82-1791. *MONT v. UNITED STATES*; and

No. 82-6696. *THOMAS v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 702 F. 2d 351.

No. 82-1796. *SIMPSON v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 709 F. 2d 17.

No. 82-1801. *PEREZ v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 702 F. 2d 33.

No. 82-1813. *IMPROTO v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 707 F. 2d 1396.

No. 82-1819. *ARDT v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 698 F. 2d 1226.

No. 82-5683. *WILLIAMS v. TEXAS*. Ct. Crim. App. Tex. Certiorari denied. Reported below: 637 S. W. 2d 943.

No. 82-6052. *MADDICKS v. NEW YORK*. Ct. App. N. Y. Certiorari denied. Reported below: 57 N. Y. 2d 960, 443 N. E. 2d 958.

No. 82-6163. *ADAMS v. WAINWRIGHT, SECRETARY, DEPARTMENT OF CORRECTIONS*. Sup. Ct. Fla. Certiorari denied. Reported below: 426 So. 2d 25.

No. 82-6241. *SHUMAN v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 692 F. 2d 766.

No. 82-6250. *MEDINA-MARTINEZ v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 698 F. 2d 1234.

No. 82-6321. *ALEXANDER v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 695 F. 2d 398.

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No. 82-6525. *MCAFEE v. CALIFORNIA*. Ct. App. Cal., 1st App. Dist. Certiorari denied.

No. 82-6534. *DUVALLON v. FLORIDA*. C. A. 11th Cir. Certiorari denied. Reported below: 694 F. 2d 725.

No. 82-6535. *MAHO v. UNITED STATES*; and  
No. 82-6536. *YELLOWMAN v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 698 F. 2d 1234.

No. 82-6539. *SCHARNHORST v. INDEPENDENT SCHOOL DISTRICT #710*. C. A. 8th Cir. Certiorari denied. Reported below: 686 F. 2d 637.

No. 82-6541. *LARSON v. WASHINGTON ET AL.* C. A. 9th Cir. Certiorari denied.

No. 82-6543. *ATKINS v. INDIANA*. Ct. App. Ind. Certiorari denied. Reported below: 437 N. E. 2d 114.

No. 82-6546. *LINDSEY v. BUFORD, JUDGE, CIRCUIT COURT, CARTER COUNTY, ET AL.* Sup. Ct. Mo. Certiorari denied.

No. 82-6551. *WILLIAMS v. COLAVITO, WARDEN*. C. A. 2d Cir. Certiorari denied.

No. 82-6553. *KIBERT v. BLANKENSHIP, WARDEN, BLAND CORRECTIONAL CENTER*. C. A. 4th Cir. Certiorari denied. Reported below: 701 F. 2d 165.

No. 82-6554. *LIN v. NEW YORK CITY DEPARTMENT OF CULTURAL AFFAIRS ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 714 F. 2d 114.

No. 82-6557. *KOURKENE v. TAVLIAN ET AL.* Sup. Ct. Cal. Certiorari denied.

No. 82-6559. *MINTZ v. PITCHESS, SHERIFF OF LOS ANGELES COUNTY, ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 701 F. 2d 185.

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No. 82-6568. *DENBY v. TEXAS*. Ct. Crim. App. Tex. Certiorari denied.

No. 82-6573. *WASKO v. PULLEY, WARDEN*. C. A. 9th Cir. Certiorari denied.

No. 82-6576. *MEZHBEIN v. CALIFORNIA*. Ct. App. Cal., 1st App. Dist. Certiorari denied.

No. 82-6581. *EVANS v. ALABAMA*. Sup. Ct. Ala. Certiorari denied. Reported below: 432 So. 2d 463.

No. 82-6588. *FORD v. KENTUCKY*. Sup. Ct. Ky. Certiorari denied.

No. 82-6659. *HARDING v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 705 F. 2d 446.

No. 82-6674. *MURPHY v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 703 F. 2d 572.

No. 82-6679. *JONES v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 703 F. 2d 580.

No. 82-6688. *BERGER v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 709 F. 2d 1511.

No. 82-6689. *SPELLMAN v. RIDLEY, ADMINISTRATOR, LORTON YOUTH CENTER*. Ct. App. D. C. Certiorari denied.

No. 82-6691. *PAYTON v. U. S. PATENT AND TRADEMARK OFFICE*. C. A. D. C. Cir. Certiorari denied.

No. 82-6693. *BRIGGS v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 700 F. 2d 408.

No. 82-6694. *COX v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 709 F. 2d 1510.

No. 82-1369. *WESTERN COAL TRAFFIC LEAGUE ET AL. v. UNITED STATES ET AL.* C. A. 3d Cir. Motion of Consumer Owned Power Coalition for leave to file a brief as *ami-*

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*cus curiae* granted. Certiorari denied. JUSTICE POWELL took no part in the consideration or decision of this motion and this petition. Reported below: 691 F. 2d 1104.

No. 82-1527. ASSOCIATED PRESS *v.* BUFALINO. C. A. 2d Cir. Motion of New York Times Co. et al. for leave to file a brief as *amici curiae* granted. Certiorari denied. JUSTICE BRENNAN and JUSTICE WHITE would grant certiorari. Reported below: 692 F. 2d 266.

No. 82-1593. WARDEN, MARYLAND PENITENTIARY *v.* ANDERSON. C. A. 4th Cir. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 696 F. 2d 296.

No. 82-1680. MICHIGAN *v.* ANTHONY. Ct. App. Mich. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 120 Mich. App. 207, 327 N. W. 2d 441.

No. 82-1657. CITY OF ALLEN PARK *v.* ECORSE POLLUTION ABATEMENT DRAIN NO. 2 DRAINAGE DISTRICT ET AL. C. A. 6th Cir. Motion of Greenfield Construction Co., Inc., et al. for leave to file a brief as *amici curiae* granted. Certiorari denied. Reported below: 708 F. 2d 722.

No. 82-1700. CASH ET AL. *v.* CITY OF LITTLE ROCK, ARKANSAS. Sup. Ct. Ark. Motion of Pulaski County Tax Payers Council, Inc., for leave to file a brief as *amicus curiae* granted. Certiorari denied. JUSTICE BLACKMUN took no part in the consideration or decision of this motion and this petition. Reported below: 277 Ark. 494, 644 S. W. 2d 229.

No. 82-6208. GREEN *v.* WHITE, SUPERINTENDENT, MISSOURI TRAINING CENTER FOR MEN. C. A. 8th Cir. The order heretofore entered on April 4, 1983 [460 U. S. 1067], is vacated and leave to proceed *in forma pauperis* is granted. Certiorari denied. Reported below: 693 F. 2d 45.

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No. 82-6424. *GARCIA v. NEW MEXICO*. Sup. Ct. N. M.;  
No. 82-6466. *RUIZ v. ILLINOIS*. Sup. Ct. Ill.; and  
No. 82-6579. *TURNER v. MORRIS, SUPERINTENDENT,  
MECKLENBURG CORRECTIONAL CENTER*. Sup. Ct. Va.  
Certiorari denied. Reported below: No. 82-6424, 99 N. M.  
771, 664 P. 2d 969; No. 82-6466, 94 Ill. 2d 245, 447 N. E. 2d  
148.

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. 82-6686 (A-955). *CHANEY v. OKLAHOMA*. Ct. Crim. App. Okla. Application for stay of execution of sentence of death, presented to JUSTICE WHITE, and by him referred to the Court, denied. JUSTICE BRENNAN would grant the application. 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.

#### *Rehearing Denied*

No. 81-1120. *UNITED STATES ET AL. v. RYLANDER ET AL.*, 460 U. S. 752;

No. 82-1429. *TROUT v. LEHMAN, SECRETARY OF THE NAVY, ET AL.*, 460 U. S. 1085;

No. 82-1467. *FROST v. UNITED STATES*, 460 U. S. 1070;

No. 82-1550. *MASON ET AL. v. PANAMA CANAL CO. ET AL.*, 460 U. S. 1086; and

No. 82-6210. *BURDEN v. GEORGIA*, 460 U. S. 1103. Petitions for rehearing denied.

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No. 82-6232. *HEREFORD v. BRITAIN*, 460 U. S. 1089;  
No. 82-6249. *VELILLA v. UTC/HAMILTON STANDARD  
DIVISION ET AL.*, 460 U. S. 1076;

No. 82-6314. *THOMPSON v. WOODS ET AL.*, 461 U. S. 907;  
No. 82-6431. *WHAM v. UNITED STATES*, 460 U. S. 1093;  
and

No. 82-6438. *WADE v. UNITED STATES*, 461 U. S. 909.  
Petitions for rehearing denied.

No. 82-277. *SCHWIMMER, DBA SUPERSONIC ELECTRONICS  
CO. v. SONY CORPORATION OF AMERICA*, 459 U. S. 1007  
and 1189. Motion for leave to file second petition for rehear-  
ing denied.

No. 82-1419. *HAYES v. SUPREME COURT JUSTICES OF  
NEVADA*, 460 U. S. 1085. Petition for rehearing and for  
other relief denied.

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*Appeals Dismissed*

No. 82-1701. *SCHULZ v. ROCKWELL MANUFACTURING  
CO.* Appeal from App. Ct. Ill., 2d Dist., dismissed for want  
of jurisdiction. Treating the papers whereon the appeal was  
taken as a petition for writ of certiorari, certiorari denied.  
Reported below: 108 Ill. App. 3d 113, 438 N. E. 2d 1230.

No. 82-6587. *BOYDEN v. CALIFORNIA.* Appeal from Ct.  
App. Cal., 2d App. Dist., dismissed for want of jurisdiction.  
Treating the papers whereon the appeal was taken as a peti-  
tion for writ of certiorari, certiorari denied.

No. 82-1708. *JOHNSON v. TEXAS.* Appeal from Ct. App.  
Tex., 2d Sup. Jud. Dist., dismissed for want of substantial  
federal question.

No. 82-1714. *ANGEL ET AL. v. RENN ET AL.* Appeal  
from Ct. App. Cal., 4th App. Dist., dismissed for want of  
substantial federal question.

No. 82-1727. *RICKMAN v. GEORGIA.* Appeal from Ct.  
App. Ga. dismissed for want of substantial federal question.  
Reported below: 164 Ga. App. 366, 296 S. E. 2d 726.

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*Certiorari Granted—Vacated and Remanded*

No. 82-56. *SIMMONS ET AL. v. SEA-LAND SERVICES, INC., ET AL.* C. A. 4th Cir. Petition for rehearing granted. The order entered October 12, 1982 [459 U. S. 931], denying the petition for writ of certiorari is vacated. Certiorari is granted, the judgment is vacated, and the case is remanded for further consideration in light of *Pallas Shipping Agency, Ltd. v. Duris*, 461 U. S. 529 (1983).

*Miscellaneous Orders*

No. D-360. *IN RE DISBARMENT OF TABENKEN.* It is ordered that Harry A. Tabenken, of Bangor, Me., 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-361. *IN RE DISBARMENT OF MOORE.* It is ordered that John Wright Moore III, of Houston, 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-362. *IN RE DISBARMENT OF CRANE.* It is ordered that Arnold Herman Crane, 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. 94, Orig. *SOUTH CAROLINA v. REGAN, SECRETARY OF THE TREASURY.* Motion for preliminary injunction denied. Motion for leave to file a bill of complaint set for oral argument in due course.

No. 81-469. *BUSH v. LUCAS.* C. A. 5th Cir. [Certiorari granted, 458 U. S. 1104.] Motion of respondent for leave to file a supplemental brief after argument granted.

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No. 81-2110. UNITED BUILDING & CONSTRUCTION TRADES COUNCIL OF CAMDEN COUNTY AND VICINITY *v.* MAYOR AND COUNCIL OF THE CITY OF CAMDEN ET AL. Sup. Ct. N. J. [Probable jurisdiction noted, 460 U. S. 1021.] Motion of New England Legal Foundation for leave to file a brief as *amicus curiae* granted.

No. 81-2332. NORFOLK REDEVELOPMENT AND HOUSING AUTHORITY *v.* CHESAPEAKE & POTOMAC TELEPHONE COMPANY OF VIRGINIA ET AL. C. A. 4th Cir. [Certiorari granted, 459 U. S. 1145.] Motion of the Solicitor General for divided argument granted. JUSTICE POWELL took no part in the consideration or decision of this motion.

No. 82-585. ALOHA AIRLINES, INC. *v.* DIRECTOR OF TAXATION OF HAWAII; and

No. 82-586. HAWAIIAN AIRLINES, INC. *v.* DIRECTOR OF TAXATION OF HAWAII. Sup. Ct. Haw. [Probable jurisdiction noted, 459 U. S. 1101.] Motion of Multistate Tax Commission et al. for leave to file a brief as *amici curiae* granted.

No. 82-818. NATIONAL LABOR RELATIONS BOARD *v.* BILDISCO & BILDISCO, DEBTOR-IN-POSSESSION, ET AL.; and

No. 82-852. LOCAL 408, INTERNATIONAL BROTHERHOOD OF TEAMSTERS, CHAUFFEURS, WAREHOUSEMEN & HELPERS OF AMERICA *v.* NATIONAL LABOR RELATIONS BOARD ET AL. C. A. 3d Cir. [Certiorari granted, 459 U. S. 1145.] Motion of American Federation of Labor and Congress of Industrial Organizations for leave to file a brief as *amicus curiae* granted. Motion of the Solicitor General for divided argument granted, and a total of 15 minutes allotted for oral argument. Motion of petitioner in No. 82-852 for divided argument granted, and a total of 15 minutes allotted for oral argument. Request of petitioner in No. 82-852 for additional time for oral argument denied.

No. 82-862. CONSOLIDATED RAIL CORPORATION *v.* DAR-RONE, ADMINISTRATRIX OF THE ESTATE OF LESTRANGE.

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C. A. 3d Cir. [Certiorari granted *sub nom. Consolidated Rail Corp. v. LeStrange*, 459 U. S. 1199.] Motion of the Solicitor General for leave to participate in oral argument as *amicus curiae* and for divided argument granted.

No. 82-940. HISHON *v.* KING & SPALDING. C. A. 11th Cir. [Certiorari granted, 459 U. S. 1169.] Motion of the Solicitor General for leave to participate in oral argument as *amicus curiae* and for divided argument granted.

No. 82-1031. JEFFERSON PARISH HOSPITAL DISTRICT NO. 2 ET AL. *v.* HYDE. C. A. 5th Cir. [Certiorari granted, 460 U. S. 1021.] Motion of the Solicitor General for leave to participate in oral argument as *amicus curiae* and for divided argument granted.

No. 82-914. MONSANTO CO. *v.* SPRAY-RITE SERVICE CORP. C. A. 7th Cir. [Certiorari granted, 460 U. S. 1010.] Motion of the Solicitor General for leave to participate in oral argument as *amicus curiae* and for divided argument granted to be divided as follows: Counsel for petitioner, 20 minutes; the Solicitor General, 10 minutes. JUSTICE WHITE took no part in the consideration or decision of this motion.

No. 82-1041. DICKMAN ET AL. *v.* COMMISSIONER OF INTERNAL REVENUE. C. A. 11th Cir. [Certiorari granted, 459 U. S. 1199.] Motion of petitioners for divided argument denied.

No. 82-1608. SOUTH-CENTRAL TIMBER DEVELOPMENT, INC. *v.* LERESCHE, COMMISSIONER, DEPARTMENT OF NATURAL RESOURCES OF ALASKA, ET AL. C. A. 9th Cir. The Solicitor General is invited to file a brief in this case expressing the views of the United States.

No. 82-5934. GARCIA *v.* UNITED STATES. C. A. 5th Cir. Motion of petitioner for leave to proceed *in forma pauperis* denied. Petitioner is allowed until July 5, 1983, within which to pay the docketing fee required by Rule 45(a) and to

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submit a petition in compliance with Rule 33 of the Rules of this Court. THE CHIEF JUSTICE, JUSTICE REHNQUIST, and JUSTICE O'CONNOR would award respondent damages pursuant to Rule 49.2.

No. 82-6145. TATUM *v.* REGENTS OF THE UNIVERSITY OF NEBRASKA-LINCOLN ET AL., 460 U. S. 1048. Motion of respondents for damages granted, and damages are awarded to respondents in the amount of \$500 pursuant to this Court's Rule 49.2. In all other respects, the motion is denied. JUSTICE BRENNAN, JUSTICE MARSHALL, and JUSTICE STEVENS would deny the motion. JUSTICE BLACKMUN took no part in the consideration or decision of this motion.

No. 82-6193. ESCOFIL *v.* PENNSYLVANIA. Sup. Ct. Pa. Motion of appellant for leave to proceed *in forma pauperis* denied. Appellant is allowed until July 5, 1983, within which to pay the docketing fee required by Rule 45(a) and to submit a jurisdictional statement in compliance with Rule 33 of the Rules of this Court. JUSTICE REHNQUIST and JUSTICE O'CONNOR would award appellee damages pursuant to Rule 49.2.

No. 82-6502. IN RE RUSH. Motion of petitioner for leave to proceed *in forma pauperis* denied. Petitioner is allowed until July 5, 1983, within which to pay the docketing fee required by Rule 45(a) and to submit a petition in compliance with Rule 33 of the Rules of this Court. THE CHIEF JUSTICE, JUSTICE REHNQUIST, and JUSTICE O'CONNOR would award respondents damages pursuant to Rule 49.2.

No. 82-6728. IN RE GREEN. Petition for writ of habeas corpus denied.

No. 82-6584. IN RE WEIGANG;

No. 82-6598. IN RE GREEN; and

No. 82-6662. IN RE KAGELER ET AL. Petitions for writs of mandamus denied.

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*Certiorari Granted*

No. 82-1186. TRANS WORLD AIRLINES, INC. *v.* FRANKLIN MINT CORP. ET AL.; and

No. 82-1465. FRANKLIN MINT CORP. ET AL. *v.* TRANS WORLD AIRLINES, INC. C. A. 2d Cir. Motion of International Air Transport Association et al. for leave to intervene in No. 82-1186 denied. Alternative request to treat the brief as a brief *amici curiae* granted. Certiorari granted, cases consolidated, and a total of one hour allotted for oral argument. Reported below: 690 F. 2d 303.

*Certiorari Denied.* (See also Nos. 82-1701 and 82-6587, *supra.*)

No. 82-1217. MATANKY ET AL. *v.* UNITED STATES ET AL. Ct. Cl. Certiorari denied. Reported below: 231 Ct. Cl. 1000.

No. 82-1282. EDDY ET AL. *v.* HESS, ADMINISTRATRIX OF THE ESTATE OF MILANO, ET AL.; and

No. 82-1423. BRITTON, COMMISSIONER OF BOARD OF CORRECTIONS OF ALABAMA *v.* HESS, ADMINISTRATRIX OF THE ESTATE OF MILANO, ET AL. C. A. 11th Cir. Certiorari denied. Reported below: 689 F. 2d 977.

No. 82-1377. MCKAY *v.* UNITED STATES. C. A. Fed. Cir. Certiorari denied. Reported below: 703 F. 2d 584.

No. 82-1427. ADAMS ET AL. *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 694 F. 2d 200.

No. 82-1443. LOMBARD ET AL. *v.* UNITED STATES ET AL. C. A. D. C. Cir. Certiorari denied. Reported below: 223 U. S. App. D. C. 102, 690 F. 2d 215.

No. 82-1455. ELLISON *v.* KANE COUNTY SHERIFF'S OFFICE MERIT COMMISSION ET AL. App. Ct. Ill., 2d Dist. Certiorari denied. Reported below: 108 Ill. App. 3d 1065, 440 N. E. 2d 331.

No. 82-1464. NOBEL *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied. Reported below: 696 F. 2d 231.

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No. 82-1472. *KENT v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 691 F. 2d 1376.

No. 82-1482. *MYRON v. TRUST COMPANY BANK LONG-TERM DISABILITY BENEFIT PLAN ET AL.* C. A. 11th Cir. Certiorari denied. Reported below: 691 F. 2d 510.

No. 82-1531. *BANK OF NOVA SCOTIA v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 691 F. 2d 1384.

No. 82-1595. *PECORA v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 693 F. 2d 421.

No. 82-1597. *ELLIS v. GEORGIA*. Ct. App. Ga. Certiorari denied. Reported below: 164 Ga. App. 366, 296 S. E. 2d 726.

No. 82-1614. *BLAZER CORP. v. NEW JERSEY SPORTS AND EXPOSITION AUTHORITY ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 707 F. 2d 1388.

No. 82-1654. *MARSHALL ET AL. v. DOE, ON BEHALF OF DOE, A MINOR*. C. A. 5th Cir. Certiorari denied. Reported below: 694 F. 2d 1038.

No. 82-1671. *ITT CONTINENTAL BAKING Co., INC., HOSTESS CAKE DIVISION v. BAKERY SALESMEN, DRIVERS, WAREHOUSEMEN & HELPERS, LOCAL UNION No. 51*. C. A. 6th Cir. Certiorari denied. Reported below: 692 F. 2d 29.

No. 82-1686. *KALARIS, ADMINISTRATIVE APPEALS JUDGE, ET AL. v. DONOVAN, SECRETARY OF LABOR, ET AL.* C. A. D. C. Cir. Certiorari denied. Reported below: 225 U. S. App. D. C. 134, 697 F. 2d 376.

No. 82-1694. *COLLIS v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 699 F. 2d 832.

No. 82-1696. *RASKY v. CITY OF CHICAGO ET AL.* C. A. 7th Cir. Certiorari denied. Reported below: 696 F. 2d 997.

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No. 82-1697. BOARD OF TRUSTEES OF CARPENTERS PENSION TRUST FUND FOR NORTHERN CALIFORNIA *v.* REYES ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 688 F. 2d 671.

No. 82-1703. RUSH ET AL., TRUSTEES *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 694 F. 2d 1072.

No. 82-1706. CEPPI, EXECUTOR OF THE ESTATE OF CEPPI *v.* COMMISSIONER OF INTERNAL REVENUE. C. A. 1st Cir. Certiorari denied. Reported below: 698 F. 2d 17.

No. 82-1719. FORUM INTERNATIONAL, LTD., ET AL. *v.* CHER; and

No. 82-1740. CHER *v.* NEWS GROUP PUBLICATIONS, INC., ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 692 F. 2d 634.

No. 82-1720. BUCCI *v.* GRIFFIN ET AL. C. A. 1st Cir. Certiorari denied.

No. 82-1722. COUNTY OF MONROE ET AL. *v.* CONSOLIDATED RAIL CORPORATION. Sp. Ct. R. R. R. A. Certiorari denied. Reported below: 558 F. Supp. 1387.

No. 82-1735. ROKOWSKY *v.* GORDON ET AL. C. A. 1st Cir. Certiorari denied. Reported below: 705 F. 2d 439.

No. 82-1752. DESRIS ET AL. *v.* CITY OF KENOSHA, WISCONSIN, ET AL. C. A. 7th Cir. Certiorari denied. Reported below: 687 F. 2d 1117.

No. 82-1809. BONACCURSO *v.* PENNSYLVANIA. Sup. Ct. Pa. Certiorari denied. Reported below: 500 Pa. 247, 455 A. 2d 1175.

No. 82-1831. FIERROS ET AL. *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 692 F. 2d 1291.

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No. 82-1834. SCALISE ET AL. *v.* ATTORNEY GENERAL OF THE UNITED STATES ET AL. C. A. 7th Cir. Certiorari denied. Reported below: 698 F. 2d 1226.

No. 82-1853. LEE, AKA VALENTE *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied. Reported below: 696 F. 2d 997.

No. 82-6188. MARKS *v.* ESTELLE, DIRECTOR, TEXAS DEPARTMENT OF CORRECTIONS. C. A. 5th Cir. Certiorari denied. Reported below: 691 F. 2d 730.

No. 82-6544. BORMEY *v.* HECKLER, SECRETARY OF HEALTH AND HUMAN SERVICES. C. A. 5th Cir. Certiorari denied. Reported below: 695 F. 2d 164.

No. 82-6549. DEL PRADO *v.* INDIANA. Ct. App. Ind. Certiorari denied.

No. 82-6561. HINTON *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. Reported below: 703 F. 2d 672.

No. 82-6563. SAUNDERS *v.* VETERANS ADMINISTRATION ET AL. C. A. 3d Cir. Certiorari denied. Reported below: 707 F. 2d 1403.

No. 82-6567. JOHNSON *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 708 F. 2d 724.

No. 82-6571. SMITH *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 703 F. 2d 578.

No. 82-6586. BRANTNER *v.* ZIMMERMAN ET AL. C. A. 3d Cir. Certiorari denied. Reported below: 696 F. 2d 980.

No. 82-6590. RITTER *v.* RITTER. C. A. 9th Cir. Certiorari denied. Reported below: 698 F. 2d 1232.

No. 82-6594. CONWAY ET AL. *v.* ANDERSON, WARDEN. C. A. 6th Cir. Certiorari denied. Reported below: 698 F. 2d 282.

No. 82-6595. SYNESAEL, DECEASED, BY HER GUARDIAN, DROOK, ET AL. *v.* LING, DIRECTOR OF THE DEPARTMENT OF

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PUBLIC WELFARE OF TIPPECANOE COUNTY, ET AL. C. A. 7th Cir. Certiorari denied. Reported below: 691 F. 2d 1213.

No. 82-6606. ANTONELLI *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied. Reported below: 703 F. 2d 570.

No. 82-6616. FORD *v.* O'BRIEN. C. A. 6th Cir. Certiorari denied. Reported below: 709 F. 2d 1502.

No. 82-6625. STRAND *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 703 F. 2d 578.

No. 82-6627. LITTLEJOHN *v.* CLELAND ET AL. C. A. 11th Cir. Certiorari denied.

No. 82-6628. PHILLIPS *v.* ORNDORF ET AL. C. A. 3d Cir. Certiorari denied.

No. 82-6704. CELESTINE *v.* ESTELLE, DIRECTOR, TEXAS DEPARTMENT OF CORRECTIONS. Ct. Crim. App. Tex. Certiorari denied.

No. 82-6708. COOK *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 707 F. 2d 511.

No. 82-6711. HARDMAN *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 705 F. 2d 446.

No. 82-6713. LEE *v.* UNITED STATES; and

No. 82-6753. WELLS *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. Reported below: 700 F. 2d 424.

No. 82-6715. HILL *v.* EVANS, SHERIFF, TARRANT COUNTY, TEXAS. C. A. 5th Cir. Certiorari denied. Reported below: 701 F. 2d 946.

No. 82-6717. WAITERS *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 709 F. 2d 1511.

No. 82-6724. STERN *v.* DEPARTMENT OF THE ARMY. C. A. Fed. Cir. Certiorari denied. Reported below: 699 F. 2d 1312.

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No. 82-6725. *TIPPINS v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 703 F. 2d 580.

No. 82-6740. *FULLER v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 709 F. 2d 1512.

No. 82-6743. *MEDINA v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 701 F. 2d 946.

No. 82-6745. *TAYLOR ET AL. v. COURT OF COMMON PLEAS OF DELAWARE COUNTY ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 696 F. 2d 987.

No. 82-6752. *NOLAN v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 700 F. 2d 479.

No. 82-6762. *CHICO v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 709 F. 2d 1510.

No. 82-6773. *LESANE v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 705 F. 2d 468.

No. 82-1490. *CARTHAN v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. JUSTICE MARSHALL would grant certiorari. Reported below: 696 F. 2d 994.

No. 82-1602. *PHOENIX BAPTIST HOSPITAL & MEDICAL CENTER, INC. v. SHS HOSPITAL CORP. ET AL.* C. A. 9th Cir. Certiorari denied. JUSTICE O'CONNOR took no part in the consideration or decision of this petition. Reported below: 688 F. 2d 847.

No. 82-1610. *MIAMI CONSERVANCY DISTRICT v. MARSH, SECRETARY OF THE ARMY, ET AL.* C. A. 6th Cir. Certiorari denied. JUSTICE O'CONNOR would grant certiorari. Reported below: 692 F. 2d 447.

No. 82-1738. *GRENADA BANK, DBA COAHOMA BANK v. WILLEY ET AL.* C. A. 5th Cir. Motion of petitioner to defer consideration of the petition for writ of certiorari denied. Certiorari denied. Reported below: 694 F. 2d 85.

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- No. 82-6560. *MAGWOOD v. ALABAMA*. Sup. Ct. Ala.;  
No. 82-6577. *WILLIAMS v. GEORGIA*. Sup. Ct. Ga.;  
No. 82-6597. *ZARAGOZA v. ARIZONA*. Sup. Ct. Ariz.;  
and  
No. 82-6611. *YATES v. SOUTH CAROLINA*. Sup. Ct. S. C. Certiorari denied. Reported below: No. 82-6560, 426 So. 2d 929; No. 82-6577, 250 Ga. 553, 300 S. E. 2d 301; No. 82-6597, 135 Ariz. 63, 659 P. 2d 22; No. 82-6611, 280 S. C. 29, 310 S. E. 2d 805.

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 Granted.* (See No. 82-56, *supra.*)

*Rehearing Denied*

- No. 82-1344. *CELE v. KINNEY ET AL.*, 460 U. S. 1070;  
No. 82-1376. *FREEMAN v. UNITED STATES*, 460 U. S. 1084;  
No. 82-6172. *GRAY v. LUCAS, WARDEN, ET AL.*, 461 U. S. 910;  
No. 82-6187. *STEWART v. FLORIDA*, 460 U. S. 1103;  
No. 82-6194. *COPELAND v. SOUTH CAROLINA*, 460 U. S. 1103;  
No. 82-6324. *CYNTJE v. GOVERNMENT OF THE VIRGIN ISLANDS ET AL.*, 461 U. S. 908;  
No. 82-6343. *SMITH v. BORDENKIRCHER, WARDEN, WEST VIRGINIA STATE PENITENTIARY*, 461 U. S. 908;  
No. 82-6363. *THOMPSON v. MEDICAL OFFICER AT HAMILTON COUNTY JAIL*, 461 U. S. 917; and  
No. 82-6436. *IN RE BEHRENS ET AL.*, 461 U. S. 925. Petitions for rehearing denied.

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*Dismissal Under Rule 53*

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. [Certiorari granted, 456 U. S. 981.] Writs of certiorari dismissed under this Court's Rule 53.

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*Appeals Dismissed*

No. 81-1782. CITY OF VIRGINIA ET AL. *v.* NYBERG ET AL. Appeal from C. A. 8th Cir. Motion of Legal Defense Fund for Unborn Children for leave to file a brief as *amicus curiae* denied. Motion of Alan Ernest to represent children unborn and born alive denied. Appeal dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied. JUSTICE WHITE and JUSTICE REHNQUIST would postpone further consideration of the question of jurisdiction to a hearing of the case on the merits. JUSTICE O'CONNOR would dismiss the appeal for want of a properly presented federal question. Reported below: 667 F. 2d 754.

No. 82-1729. MILLER *v.* MUNICIPAL COURT FOR THE COUNTY OF LOS ANGELES, PASADENA JUDICIAL DISTRICT (CALIFORNIA, REAL PARTY IN INTEREST). 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.

No. 82-6705. BETKA *v.* SMITH ET AL. Appeal from C. A. 9th Cir. dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied.

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No. 82-1747. HAMILTON, ADMINISTRATRIX, ET AL. *v.* STOVER. Appeal from Ct. App. Ohio, Richland County, dismissed for want of substantial federal question.

No. 82-1751. MAYNARD *v.* MCGUINNESS ET AL. Appeal from Sup. Ct. Mont. dismissed for want of substantial federal question. Reported below: — Mont. —, 658 P. 2d 1104.

No. 82-1776. S. J. GROVES & SONS CO. *v.* ILLINOIS, ACTING THROUGH ITS DIVISION OF HIGHWAYS OF THE DEPARTMENT OF TRANSPORTATION. Appeal from Sup. Ct. Ill. dismissed for want of substantial federal question. Reported below: 93 Ill. 2d 397, 444 N. E. 2d 131.

No. 82-6644. LORTZ *v.* CALIFORNIA. Appeal from Ct. App. Cal., 2d App. Dist., dismissed for want of substantial federal question. Reported below: 137 Cal. App. 3d 363, 187 Cal. Rptr. 89.

No. 82-6614. SARDOZ ET AL., AS CO-PERSONAL REPRESENTATIVES OF THE ESTATE OF TALAMANTES *v.* KENT NOWLIN CONSTRUCTION Co. Appeal from Sup. Ct. N. M. dismissed for want of properly presented federal question. Reported below: 99 N. M. 389, 658 P. 2d 1116.

*Vacated and Remanded on Appeal*

No. 82-1188. KERREY, GOVERNOR OF NEBRASKA, ET AL. *v.* WOMEN'S SERVICES, P. C., ET AL. Appeal from C. A. 8th Cir. Motion of Alan Ernest to represent children unborn and born alive denied. Motion of Legal Defense Fund for Unborn Children for leave to file a brief as *amicus curiae* denied. Judgment vacated and case remanded for further consideration in light of *Akron v. Akron Center for Reproductive Health, Inc.*, ante, p. 416, 442-449. JUSTICE STEVENS would affirm the judgment. Reported below: 690 F. 2d 667.

*Certiorari Granted—Vacated and Remanded*

No. 82-438. NATIONAL LABOR RELATIONS BOARD *v.* BEHRING INTERNATIONAL, INC. C. A. 3d Cir. Certiorari

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granted, judgment vacated, and case remanded for further consideration in light of *NLRB v. Transportation Management Corp.*, ante, p. 393. Reported below: 675 F. 2d 83.

No. 82-736. NATIONAL LABOR RELATIONS BOARD *v.* HEARTLAND FOOD WAREHOUSE, A DIVISION OF PURITY SUPREME SUPERMARKETS. C. A. 1st Cir. Certiorari granted, judgment vacated, and case remanded for further consideration in light of *NLRB v. Transportation Management Corp.*, ante, p. 393. Reported below: 685 F. 2d 421.

No. 82-1054. INTERNATIONAL BROTHERHOOD OF TEAMSTERS, CHAUFFEURS, WAREHOUSEMEN & HELPERS, LOCAL No. 988 *v.* EDWARDS ET AL. C. A. 5th Cir. Certiorari granted, judgment vacated, and case remanded for further consideration in light of *DelCostello v. Teamsters*, ante, p. 151. Reported below: 678 F. 2d 1276.

No. 82-1105. NATIONAL LABOR RELATIONS BOARD *v.* BLACKSTONE Co., INC. C. A. 3d Cir. Certiorari granted, judgment vacated, and case remanded for further consideration in light of *NLRB v. Transportation Management Corp.*, ante, p. 393. Reported below: 685 F. 2d 102.

No. 82-1481. ASTEMBORSKI *v.* SUSMARSKI. Sup. Ct. Pa. Certiorari granted, judgment vacated, and case remanded for further consideration in light of *Pickett v. Brown*, ante, p. 1. Reported below: 499 Pa. 99, 451 A. 2d 1012.

No. 82-1549. UNITED STATES *v.* GARCIA ET AL. C. A. 5th Cir. Certiorari granted, judgment vacated, and case remanded for further consideration in light of *United States v. Ross*, 456 U. S. 798 (1982). Reported below: 676 F. 2d 1086.

JUSTICE STEVENS, dissenting.

After the Court of Appeals denied the Government's petition for rehearing in this case, the Government voluntarily moved to dismiss the indictments. On January 12, 1983, the District Court granted that motion. No one has ever challenged the effectiveness of the District Court's order of dis-

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missal, or sought to set it aside, either by a request for rehearing in that court or by direct review on appeal. It is, therefore, perfectly clear that this litigation terminated a long time ago. Nothing remains to be decided on the merits with regard to *United States v. Ross* or any other issue.

#### *Miscellaneous Orders*

No. D-363. *IN RE DISBARMENT OF GIGLIOTTI*. It is ordered that Francesco Gigliotti, of New Castle, 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. 81-2332. *NORFOLK REDEVELOPMENT AND HOUSING AUTHORITY v. CHESAPEAKE & POTOMAC TELEPHONE COMPANY OF VIRGINIA ET AL.* C. A. 4th Cir. [Certiorari granted, 459 U. S. 1145.] Motion of American Gas Association for leave to file a brief as *amicus curiae* granted. JUSTICE POWELL took no part in the consideration or decision of this motion.

No. 82-15. *OLIVER v. UNITED STATES*. C. A. 6th Cir. [Certiorari granted, 459 U. S. 1168]; and

No. 82-1273. *MAINE v. THORNTON*. Sup. Jud. Ct. Me. [Certiorari granted, 460 U. S. 1068.] Motion of petitioner in No. 82-15 for divided argument granted. Motion of petitioner in No. 82-1273 for divided argument granted.

No. 82-660. *UNITED STATES v. CRONIC*. C. A. 10th Cir. [Certiorari granted, 459 U. S. 1199.] Motion of respondent for substitution of counsel granted, and it is ordered that Steven B. Duke, Esquire, of New Haven, Conn., be appointed to serve as counsel for respondent in this case in place of David W. Duncan, Esquire, of Durango, Colo., who is hereby discharged.

No. 82-708. *SUMMA CORP. v. CALIFORNIA EX REL. STATE LANDS COMMISSION ET AL.* Sup. Ct. Cal. [Certio-

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rari granted, 460 U. S. 1036.] Motions of Pacific Legal Foundation and California Land Title Association for leave to file briefs as *amici curiae* granted. Motion of the Solicitor General for leave to participate in oral argument as *amicus curiae* and for divided argument granted.

No. 82-940. HISHON *v.* KING & SPALDING. C. A. 11th Cir. [Certiorari granted, 459 U. S. 1169.] Motion of New England Legal Foundation for leave to file a brief as *amicus curiae* granted.

No. 82-1143. MILLER ELECTRIC CO. ET AL. *v.* NATIONAL CONSTRUCTORS ASSN. ET AL.;

No. 82-1146. NATIONAL ELECTRICAL CONTRACTORS ASSN., INC., ET AL. *v.* NATIONAL CONSTRUCTORS ASSN. ET AL.; and

No. 82-1147. INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS (AFL-CIO) ET AL. *v.* NATIONAL CONSTRUCTORS ASSN. ET AL. C. A. 4th Cir. Motion of the parties to defer consideration of the petitions for writs of certiorari granted. JUSTICE BLACKMUN took no part in the consideration or decision of this motion.

No. 82-1432. PULLIAM, MAGISTRATE FOR THE COUNTY OF CULPEPER, VIRGINIA *v.* ALLEN ET AL. C. A. 4th Cir. [Certiorari granted, 461 U. S. 904.] Motion of American Bar Association for leave to file a brief as *amicus curiae* granted.

No. 82-1633. HOSPITAL BUILDING CO. *v.* TRUSTEES OF REX HOSPITAL ET AL.; and

No. 82-1762. TRUSTEES OF REX HOSPITAL ET AL. *v.* HOSPITAL BUILDING CO. C. A. 4th Cir. The Solicitor General is invited to file a brief in these cases expressing the views of the United States.

No. 82-1651. NIX, WARDEN OF THE IOWA STATE PENITENTIARY *v.* WILLIAMS. C. A. 8th Cir. [Certiorari granted, 461 U. S. 956.] Motion for appointment of counsel

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granted, and it is ordered that Robert Bartels, Esquire, of Tempe, Ariz., be appointed to serve as counsel for respondent in this case.

No. 82-6640. *IN RE DAMIANO*. C. A. 11th Cir. Petition for writ of common-law certiorari denied.

No. 82-6609. *IN RE GIFFORD*; and  
No. 82-6719. *IN RE CYNTJE*. Petitions for writs of mandamus denied.

No. 82-1742. *IN RE FORNEY*. Petition for writ of prohibition denied.

*Probable Jurisdiction Noted*

No. 82-282. *MCCAIN ET AL. v. LYBRAND ET AL.* Appeal from D. C. S. C. Probable jurisdiction noted.

No. 82-1565. *BACCHUS IMPORTS, LTD., ET AL. v. FREITAS, DIRECTOR OF TAXATION OF HAWAII, ET AL.* Appeal from Sup. Ct. Haw. Probable jurisdiction noted. Reported below: 65 Haw. 566, 656 P. 2d 724.

*Certiorari Granted*

No. 82-958. *MCDONOUGH POWER EQUIPMENT, INC. v. GREENWOOD ET AL.* C. A. 10th Cir. Certiorari granted. Reported below: 687 F. 2d 338.

No. 82-1643. *INTERSTATE COMMERCE COMMISSION ET AL. v. AMERICAN TRUCKING ASSNS., INC., ET AL.* C. A. 11th Cir. Certiorari granted. Reported below: 688 F. 2d 1337.

No. 81-757. *ALLEN v. WRIGHT ET AL.*; and  
No. 81-970. *REGAN, SECRETARY OF THE TREASURY, ET AL. v. WRIGHT ET AL.* C. A. D. C. Cir. Certiorari granted, cases consolidated, and a total of one hour allotted for oral argument. Reported below: 211 U. S. App. D. C. 231, 656 F. 2d 820.

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No. 82-1260. *COPPERWELD CORP. ET AL. v. INDEPENDENCE TUBE CORP.* C. A. 7th Cir. Certiorari granted limited to Question 1 presented by the petition. JUSTICE WHITE took no part in the consideration or decision of this petition. Reported below: 691 F. 2d 310.

*Certiorari Denied.* (See also Nos. 81-1782, 82-1729, 82-6705, and 82-6640, *supra.*)

No. 81-1010. *PURTILL v. HECKLER, SECRETARY OF HEALTH AND HUMAN SERVICES, ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 658 F. 2d 134.

No. 82-777. *GENERAL DYNAMICS CORP. v. GARY AIRCRAFT CORP.* C. A. 5th Cir. Certiorari denied. Reported below: 681 F. 2d 365.

No. 82-1166. *ZURN INDUSTRIES, INC. v. NATIONAL LABOR RELATIONS BOARD.* C. A. 9th Cir. Certiorari denied. Reported below: 680 F. 2d 683.

No. 82-1305. *BLACKSTONE CO. v. NATIONAL LABOR RELATIONS BOARD.* C. A. 3d Cir. Certiorari denied. Reported below: 685 F. 2d 102.

No. 82-1389. *MUNDT v. NL INDUSTRIES, INC.; and*  
No. 82-1489. *NL INDUSTRIES, INC. v. MUNDT.* C. A. 6th Cir. Certiorari denied. Reported below: 705 F. 2d 456.

No. 82-1391. *SPERLING v. UNITED STATES.* C. A. 2d Cir. Certiorari denied. Reported below: 692 F. 2d 223.

No. 82-1449. *CATTELL v. BARRETT ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 689 F. 2d 324.

No. 82-1458. *RAPAPORT v. UNITED STATES; and*  
No. 82-1526. *INGREDIENT TECHNOLOGY CORP., FORMERLY KNOWN AS SUCREST CORP. v. UNITED STATES.* C. A. 2d Cir. Certiorari denied. Reported below: 698 F. 2d 88.

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No. 82-1517. *MISSION INSURANCE CO. v. UNITED STATES*; and

No. 82-1541. *M/V BIG SAM ET AL. v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 681 F. 2d 432 and 693 F. 2d 451.

No. 82-1615. *DIAZ-SALAZAR v. IMMIGRATION AND NATURALIZATION SERVICE*. C. A. 7th Cir. Certiorari denied. Reported below: 700 F. 2d 1156.

No. 82-1621. *PRING v. PENTHOUSE INTERNATIONAL, LTD., ET AL.* C. A. 10th Cir. Certiorari denied. Reported below: 695 F. 2d 438.

No. 82-1639. *MARCELLO v. IMMIGRATION AND NATURALIZATION SERVICE*. C. A. 5th Cir. Certiorari denied. Reported below: 694 F. 2d 1033.

No. 82-1652. *GOLDSTEIN v. UNITED STATES*. C. A. 10th Cir. Certiorari denied. Reported below: 695 F. 2d 1228.

No. 82-1655. *HEAD v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 697 F. 2d 1200.

No. 82-1674. *LEVINE ET UX. v. COMMISSIONER OF INTERNAL REVENUE*. C. A. 2d Cir. Certiorari denied. Reported below: 695 F. 2d 57.

No. 82-1675. *CALIFORNIA v. UNITED STATES ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 698 F. 2d 1234.

No. 82-1702. *STEVENS ET AL. v. MAISLIN TRANSPORT OF DELAWARE, INC., ET AL.* C. A. 7th Cir. Certiorari denied. Reported below: 696 F. 2d 500.

No. 82-1726. *TEXAS v. SAMUDIO*. Ct. Crim. App. Tex. Certiorari denied. Reported below: 648 S. W. 2d 312.

No. 82-1733. *RASNAKE v. GEORGIA*. Ct. App. Ga. Certiorari denied. Reported below: 164 Ga. App. 765, 298 S. E. 2d 42.

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No. 82-1744. ERZINGER ET AL. *v.* REGENTS OF THE UNIVERSITY OF CALIFORNIA ET AL. Ct. App. Cal., 4th App. Dist. Certiorari denied. Reported below: 137 Cal. App. 3d 389, 187 Cal. Rptr. 164.

No. 82-1750. BIGGS *v.* TERMINAL RAILROAD ASSOCIATION OF ST. LOUIS. App. Ct. Ill., 5th Dist. Certiorari denied. Reported below: 110 Ill. App. 3d 709, 442 N. E. 2d 1353.

No. 82-1757. BUDGET RENT-A-CAR OF WASHINGTON-OREGON, INC. *v.* HERTZ CORP. ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 693 F. 2d 84.

No. 82-1759. T-1740 TRUSTS, MERCANTILE BANK & TRUST Co., LTD., TRUSTEE, TRANSFERREE *v.* COMMISSIONER OF INTERNAL REVENUE. C. A. D. C. Cir. Certiorari denied. Reported below: 226 U. S. App. D. C. 211, 701 F. 2d 222.

No. 82-1763. MERIDA *v.* TEXAS. Ct. Crim. App. Tex. Certiorari denied.

No. 82-1764. GULF & SOUTHERN TERMINAL CORP. *v.* SS PRESIDENT ROXAS. C. A. 4th Cir. Certiorari denied. Reported below: 701 F. 2d 1110.

No. 82-1765. KERNS BAKERY, INC. *v.* KENTUCKY COMMISSION ON HUMAN RIGHTS ET AL. Ct. App. Ky. Certiorari denied. Reported below: 644 S. W. 2d 350.

No. 82-1773. OREGON PHYSICIANS' SERVICE ET AL. *v.* HAHN ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 689 F. 2d 840.

No. 82-1775. CHAMBERS ET AL. *v.* MCLEAN TRUCKING CO. ET AL. C. A. 4th Cir. Certiorari denied. Reported below: 701 F. 2d 163.

No. 82-1792. DALLAS COUNTY, TEXAS *v.* WILLIAMS. C. A. 5th Cir. Certiorari denied. Reported below: 692 F. 2d 1032.

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No. 82-1818. RANK, ACTING DIRECTOR OF THE CALIFORNIA STATE DEPARTMENT OF HEALTH SERVICES, ET AL. *v.* BELTRAN. C. A. 9th Cir. Certiorari denied. Reported below: 701 F. 2d 91.

No. 82-1838. MICHIGAN *v.* ALEXANDER. Sup. Ct. Mich. Certiorari denied. Reported below: 416 Mich. 581, 331 N. W. 2d 707.

No. 82-1863. SILANO *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. Reported below: 722 F. 2d 729.

No. 82-1865. HAWKINS *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied. Reported below: 707 F. 2d 1404.

No. 82-1866. FAKTER ET AL. *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied. Reported below: 705 F. 2d 461.

No. 82-1902. DOLENZ *v.* ALL SAINTS EPISCOPAL HOSPITAL. Sup. Ct. Tex. Certiorari denied.

No. 82-5201. BROWN *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied. Reported below: 679 F. 2d 1042.

No. 82-5550. SHOELS *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. Reported below: 685 F. 2d 379.

No. 82-5845. BILOTTI ET AL. *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied. Reported below: 692 F. 2d 750.

No. 82-6308. PERRY *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied. Reported below: 694 F. 2d 1104.

No. 82-6337. HENDERSON *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied.

No. 82-6372. STEVENSON *v.* OKLAHOMA. Ct. Crim. App. Okla. Certiorari denied.

No. 82-6375. GRIMSLEY *v.* DODSON, SHERIFF, ET AL. C. A. 4th Cir. Certiorari denied. Reported below: 696 F. 2d 303.

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No. 82-6396. *SILCOX v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 701 F. 2d 182.

No. 82-6452. *WILLIAMS v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 661 F. 2d 929.

No. 82-6499. *WOODARD v. SOUTHEASTERN PENNSYLVANIA TRANSPORTATION AUTHORITY ET AL.* Sp. Ct. R. R. R. A. Certiorari denied. Reported below: 555 F. Supp. 1382.

No. 82-6582. *COFFIN v. OHIO*; and

No. 82-6706. *VETH v. OHIO*. Ct. App. Ohio, Hamilton County. Certiorari denied.

No. 82-6605. *ANTONELLI v. MUNCH ET AL.* C. A. 7th Cir. Certiorari denied.

No. 82-6607. *FUEYO-FANJUL v. IMMIGRATION AND NATURALIZATION SERVICE*. C. A. 1st Cir. Certiorari denied.

No. 82-6612. *MCCLELLAN v. MCCLELLAN*. Ct. Sp. App. Md. Certiorari denied. Reported below: 52 Md. App. 525, 451 A. 2d 334.

No. 82-6613. *STEWART v. OKLAHOMA*. Ct. Crim. App. Okla. Certiorari denied.

No. 82-6615. *BRANTLEY v. UNITED STATES*. C. A. 2d Cir. Certiorari denied.

No. 82-6617. *BASKIN v. MARSHALL*. C. A. 6th Cir. Certiorari denied. Reported below: 708 F. 2d 721.

No. 82-6622. *WILLIAMS-EL v. TINNEY, WARDEN*. C. A. 4th Cir. Certiorari denied. Reported below: 691 F. 2d 499.

No. 82-6626. *CAVALLARO v. WYRICK, WARDEN*. C. A. 8th Cir. Certiorari denied. Reported below: 701 F. 2d 1273.

No. 82-6629. *MITCHELL v. WYRICK, WARDEN*. C. A. 8th Cir. Certiorari denied. Reported below: 698 F. 2d 940.

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No. 82-6631. *POWELL v. GARRISON, WARDEN, ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 705 F. 2d 445.

No. 82-6632. *WOODYARD v. ALABAMA.* Sup. Ct. Ala. Certiorari denied. Reported below: 428 So. 2d 138.

No. 82-6633. *MCCLAIN v. ORR ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 707 F. 2d 1402.

No. 82-6634. *WARGO v. ATTORNEY GENERAL OF NEW MEXICO ET AL.* C. A. 10th Cir. Certiorari denied.

No. 82-6635. *SELDEN v. NEW CASTLE COUNTY BOARD OF EDUCATION.* Sup. Ct. Del. Certiorari denied. Reported below: 461 A. 2d 695.

No. 82-6638. *LANCASTER v. RODRIGUEZ ET AL.* C. A. 10th Cir. Certiorari denied. Reported below: 701 F. 2d 864.

No. 82-6641. *MEADOWS v. MCGINNIS, WARDEN, ET AL.* C. A. 7th Cir. Certiorari denied. Reported below: 698 F. 2d 1226.

No. 82-6646. *MULQUEEN v. MORRIS, WARDEN.* C. A. 9th Cir. Certiorari denied. Reported below: 701 F. 2d 185.

No. 82-6647. *BOOS v. KANSAS.* Sup. Ct. Kan. Certiorari denied. Reported below: 232 Kan. 864, 659 P. 2d 224.

No. 82-6648. *VAN POYCK v. WAINWRIGHT, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS, ET AL.* C. A. 11th Cir. Certiorari denied. Reported below: 704 F. 2d 1252.

No. 82-6650. *MILLER v. CONTINENTAL GRAIN CO. ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 701 F. 2d 166.

No. 82-6653. *BROWN v. GARLAND ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 691 F. 2d 493.

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No. 82-6656. *ROBINSON v. ALABAMA*. Ct. Crim. App. Ala. Certiorari denied. Reported below: 428 So. 2d 148.

No. 82-6657. *COOK v. JONES ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 718 F. 2d 1085.

No. 82-6661. *HUERTAS v. APELLANIS ET AL.* Sup. Ct. P. R. Certiorari denied.

No. 82-6681. *MCCLAIN v. MACK TRUCKS, INC., ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 707 F. 2d 1393.

No. 82-6750. *STANLEY v. ZIMMERMAN, SUPERINTENDENT, STATE CORRECTIONAL INSTITUTION, ET AL.* C. A. 3d Cir. Certiorari denied.

No. 82-6769. *BURNS v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 701 F. 2d 840.

No. 82-6788. *GASS v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 705 F. 2d 468.

No. 82-6795. *AGUILAR v. UNITED STATES*. C. A. 5th Cir. Certiorari denied.

No. 82-1300. *VIRGINIA STATE BAR ET AL. v. CONSUMERS UNION OF UNITED STATES, INC., ET AL.* C. A. 4th Cir. Certiorari denied. JUSTICE POWELL took no part in the consideration or decision of this petition. Reported below: 688 F. 2d 218.

No. 82-1301. *SUPREME COURT OF VIRGINIA ET AL. v. CONSUMERS UNION OF UNITED STATES, INC., ET AL.* C. A. 4th Cir. Certiorari denied. JUSTICE POWELL took no part in the consideration or decision of this petition. Reported below: 688 F. 2d 218.

CHIEF JUSTICE BURGER, with whom JUSTICE REHNQUIST joins, dissenting.

This petition marks the third occasion this case has been before us. The case arose in 1975 when respondents brought

a suit under 42 U. S. C. § 1983 alleging that particular provisions of the State Bar Code promulgated by the Virginia Supreme Court violated respondents' rights under the First and Fourteenth Amendments. Having prevailed in their § 1983 suit for declaratory and injunctive relief against the Virginia Supreme Court and its chief justice (together, the "Virginia Court"), the issue now is whether respondent Consumers Union is entitled to attorney's fees from that court<sup>1</sup> under the Civil Rights Attorney's Fees Awards Act of 1976, 90 Stat. 2641, 42 U. S. C. § 1988. This was also the issue we addressed the last time this case came before us, when we vacated an award of attorney's fees against the Virginia Court on the ground that it "was premised on acts or omissions for which [the Virginia Court] enjoyed absolute legislative immunity." *Supreme Court of Virginia v. Consumers Union of United States, Inc.*, 446 U. S. 719, 738 (1980) (*Consumers Union*).

On remand, a divided three-judge District Court reinstated the award of attorney's fees against the Virginia Court, *Consumers Union v. American Bar Assn.*, 505 F. Supp. 822 (ED Va. 1981), and a divided panel of the Court of Appeals affirmed. *Consumers Union v. Virginia State Bar*, 688 F. 2d 218 (CA4 1982). Because I believe that the District Court misinterpreted our opinion in *Consumers Union* and erred in reinstating the fee award, I would grant certiorari.

## I

It is unnecessary to review here at length the prior history of this case, which is set out in detail in *Consumers Union*. There, two basic issues faced the Court:

"[W]hether the Supreme Court of Virginia (Virginia Court) and its chief justice are officially immune from

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<sup>1</sup> Respondents sued the Supreme Court of Virginia, its chief justice, the Virginia State Bar, and others. Petitioners in this case are the Supreme Court of Virginia and its chief justice.

suit in an action brought under 42 U. S. C. § 1983 challenging the Virginia Court's disciplinary rules governing the conduct of attorneys and whether attorney's fees were properly awarded under the Civil Rights Attorney's Fees Awards Act of 1976, 42 U. S. C. § 1988, against the Virginia Court and its chief justice in his official capacity." 446 U. S., at 721.

With respect to the first issue, we held that the Virginia Court was not subject to suit under § 1983 for its legislative acts—such as promulgating disciplinary rules—any more than state legislators could be sued for their legislative acts: "[T]he Virginia Court and its members are immune from suit when acting in their legislative capacity." *Id.*, at 734. However, the Court went on to hold that the Virginia Court was a proper defendant in a coercive action brought under § 1983 because it possessed enforcement powers. "As already indicated, § 54-74 [of the Code of Virginia (1978)] gives the Virginia Court independent authority of its own to initiate proceedings against attorneys. For this reason the Virginia Court and its members were proper defendants in a suit for declaratory and injunctive relief, just as other enforcement officers and agencies were." *Id.*, at 736.

Turning to the second issue, we vacated the award of attorney's fees against the Virginia Court. The District Court had awarded fees against the Virginia Court because "it was the very authority that had propounded and failed to amend the challenged provisions of the Bar Code." *Id.*, at 738. This was error because the Virginia Court had legislative immunity for its acts in promulgating disciplinary rules:

"We are unable to agree that attorney's fees should have been awarded for the reasons relied on by the District Court. Although the Virginia Court and its chief justice were subject to suit in their direct enforcement role, they were immune in their legislative roles. Yet

the District Court's award of attorney's fees in this case was premised on acts or omissions for which [the Virginia Court] enjoyed absolute legislative immunity." *Ibid.*

We explained that nothing in the legislative history of § 1988 indicated that Congress "intended to permit an award of attorney's fees to be premised on acts for which defendants would enjoy absolute legislative immunity." *Ibid.*

We then vacated the award of attorney's fees and remanded, presumably to permit the District Court to determine whether the role of the Virginia State Bar—the Virginia Court's codefendant in the case—in enforcing the challenged rules justified an award of attorney's fees against it.

On remand, the District Court interpreted *Consumers Union* as holding that an award of attorney's fees against the Virginia Court would be appropriate on the existing record "based solely on the Virginia Court's enforcement role . . . ." 505 F. Supp., at 823. The District Court reasoned that because the Virginia Court's enforcement role rendered it liable to a coercive suit under § 1983, it was also liable for attorney's fees under § 1988:

"It seems clear that 'in the circumstances of this case, a sufficiently concrete dispute is . . . made out against the Virginia Court as an enforcer,' . . . not only for amenability to suit, but also for the purpose of a fee award to [respondent], the prevailing party." *Id.*, at 823–824, quoting *Consumers Union, supra*, at 736, n. 15.

The District Court quoted *Newman v. Piggie Park Enterprises, Inc.*, 390 U. S. 400, 402 (1968), in arguing that § 1988 ordinarily requires an award of attorney's fees against a party properly sued under § 1983 "unless special circumstances would render such an award unjust." 505 F. Supp., at 824. It concluded that no such circumstances existed here and so awarded fees against the Virginia Court.

One judge dissented, arguing that the Virginia Court's "enforcement role" was not established by the record and hence could not serve as the basis for an award of attorney's fees.

A divided Court of Appeals affirmed, holding that the award of attorney's fees against the Virginia Court was not an abuse of discretion. The Court of Appeals interpreted *Consumers Union* as holding that an award of attorney's fees would be justified on this record.<sup>2</sup>

## II

The immunity of judges from monetary judgments for their actions as judges is deeply embedded in our legal system. *E. g.*, *Stump v. Sparkman*, 435 U. S. 349 (1978); *Bradley v. Fisher*, 13 Wall. 335 (1872); *Johnston v. Moorman*, 80 Va. 131, 139-140 (1885). In *Pierson v. Ray*, 386 U. S. 547, 554-555 (1967), we refused, in the absence of specific statutory language, to presume that Congress intended by enacting § 1 of the Civil Rights Act of 1871, 42 U. S. C. § 1983, to displace the historic rule of judicial immunity; we held that the doctrine of judicial immunity was applicable in suits for damages under that section. The principles of *Pierson* apply with full force to suits for attorney's fees under § 1988.

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<sup>2</sup> In dissent, Judge Chapman trenchantly pointed out that the ostensible purpose of this suit—to force the Virginia Supreme Court and Virginia State Bar to permit respondent Consumers Union to publish a directory of lawyers—had long been submerged in the quest for attorney's fees:

"For the past three years this suit has been nothing but an effort by the plaintiff's attorneys to establish a theory upon which they could collect a fee. In the spring of 1979 the last possible impediment to gathering the information and publishing the Attorney's Directory for Arlington County was removed. However, when this case was argued in November 1981 the directory had not been printed or distributed. As a result of numerous questions by the court to the attorneys for Consumers Union, the information has been gathered and the directory published. A copy of the directory was forwarded to this court on June 15, 1982. It contains the names of 78 attorneys in Arlington, Virginia. This action has made three trips to the United States Supreme Court, and is presently on its way back to the Supreme Court, all to produce 78 names." 688 F. 2d 218, 224 (CA4 1982).

Nothing in the language or legislative history of the Civil Rights Attorney's Fees Awards Act of 1976 specifically indicates Congress' intent to sweep away the historic immunity of judges from monetary judgments. In *Pierson*, the Court explained that the purpose of judicial immunity

"is not for the protection or benefit of a malicious or corrupt judge, but for the benefit of the public, whose interest it is that the judges should be at liberty to exercise their functions with independence and without fear of consequences.' . . . Imposing such a burden on judges would contribute not to principled and fearless decision-making but to intimidation." 386 U. S., at 554 (citations omitted).

See also *Dennis v. Sparks*, 449 U. S. 24, 31 (1980). I fail to see how an award of attorney's fees is any less of a threat to judicial independence than an award of damages. An independent judiciary, uncowed by fears of financial liability for its official acts, is an integral aspect of state sovereignty and critical to the security of our freedoms. I would not presume that Congress cast this fundamental rule to the winds in the absence of specific statutory language rendering judges liable for attorney's fees. No such language is found in § 1988.

Although judges are immune from monetary damages under § 1983 for their official acts, see, e. g., *Stump v. Sparkman*, *supra*, they are nonetheless subject to suit for injunctive and declaratory relief in their administrative capacities. E. g., *Law Students Civil Rights Research Council, Inc. v. Wadmond*, 299 F. Supp. 117, 123-124 (SDNY 1969) (three-judge District Court) (Friendly, J.), *aff'd* on other grounds, 401 U. S. 154 (1971). However, it is beyond peradventure that the amenability of a judge to suit for equitable relief for his role in enforcing or administering a statute does not render him liable for damages for that same act. See, e. g., *Slavin v. Curry*, 574 F. 2d 1256, 1264 (CA5 1978); *Louis v. Supreme Court of Nevada*, 490 F. Supp. 1174, 1182 (Nev. 1980). I do not understand how it can be that a judge

should be liable for attorney's fees for performing the same act for which he would be immune from damages. Here, the Virginia Court was held subject to suit for injunctive and declaratory relief because it possessed the power to enforce or administer disciplinary rules against members of the State Bar. *Consumers Union*, 446 U. S., at 736. Such liability no more entails liability for attorney's fees than it does for damages.

The District Court and Court of Appeals purported to rely on dictum in *Consumers Union* stating that a fee award against the Virginia Court might be proper if made "because of its own direct enforcement role." *Id.*, at 739. Assuming, *arguendo*, that a fee award could be made against a judge for his acts in an administrative or enforcement capacity, the District Court still erred.

We held in *Consumers Union* that the Virginia Court was a proper defendant in a coercive § 1983 suit because it had the potential power to prosecute attorneys for disciplinary violations. However, there was no evidence in the record that it had ever exercised its enforcement powers. After vacating the award because it was premised on acts—the promulgation and failure to amend the challenged disciplinary rules—for which the Virginia Court was entitled to absolute legislative immunity, we remanded the case. If we had thought that the mere existence of enforcement authority would support the award, there would have been no need to remand as to the Virginia Court. Thus, we necessarily remanded for further findings on the Virginia Court's actual exercise of its enforcement powers, and for consideration of whether such acts justified a fee award against the court.

On remand, the District Court took no evidence as to the Virginia Court's actual role in enforcing the challenged rule; in reinstating the award, it relied solely on the mere existence of disciplinary authority. 505 F. Supp., at 823-824. In short, the fee award rests on the same basis now—the Virginia Court's promulgation of disciplinary rules—that it did

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before. The District Court's reliance on the Virginia Court's potential "disciplinary enforcement authority" cannot cover up the utter lack of proof in the record that the Virginia Court ever did anything to enforce the rule. Thus, the fee award cannot stand.

For all the foregoing reasons, I would grant certiorari to consider the important question of whether an award of attorney's fees against a judge may be premised solely on the existence of enforcement authority.

No. 82-1471. DEPARTMENT OF REVENUE OF MONTANA *v.* FIRST FEDERAL SAVINGS & LOAN ASSOCIATION OF MISSOULA ET AL. Sup. Ct. Mont. Motion of Multistate Tax Commission for leave to file a brief as *amicus curiae* granted. Certiorari denied. Reported below: 200 Mont. 358, 654 P. 2d 496.

No. 82-1631. POTAMKIN CADILLAC CORP. *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. THE CHIEF JUSTICE, JUSTICE REHNQUIST, and JUSTICE O'CONNOR would award respondent damages pursuant to this Court's Rule 49.2. Reported below: 697 F. 2d 491.

No. 82-1770. NATIONAL ENQUIRER, INC. *v.* SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES (JONES ET AL., REAL PARTIES IN INTEREST). Ct. App. Cal., 2d App. Dist. Certiorari denied. JUSTICE BRENNAN and JUSTICE MARSHALL would grant certiorari.

No. 82-6448. HERNANDEZ *v.* TEXAS. Ct. Crim. App. Tex. Certiorari denied. Reported below: 643 S. W. 2d 397.

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.

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No. 82-6474. SMITH v. FLORIDA. Sup. Ct. Fla. Certiorari denied. Reported below: 424 So. 2d 726.

JUSTICE BRENNAN, dissenting.

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

JUSTICE MARSHALL, dissenting.

Adhering to my view that the death penalty is in all circumstances cruel and unusual punishment prohibited by the Eighth and Fourteenth Amendments, I would grant certiorari and vacate petitioner's death sentence on this basis alone. However, even if I accepted the prevailing view that the death penalty can constitutionally be imposed under certain circumstances, I would grant certiorari and vacate the death sentence on the ground that neither the jury that convicted petitioner of murder nor the judge who sentenced him found that he "kill[ed], attempt[ed] to kill, or intend[ed] that a killing take place or that lethal force . . . be employed." *Enmund v. Florida*, 458 U. S. 782, 797 (1982). The jury was instructed that "liability for first degree murder extends to all co-felons who are personally present during the commission of the felony" and that "[u]nder the felony murder rule, [the] state of mind of the defendant is immaterial." Tr. 2678. In imposing sentence, the trial judge did not find that petitioner himself killed, attempted to kill, or intended to kill. Although the Supreme Court of Florida concluded that "there was sufficient evidence from which the jury *could have found* [petitioner] guilty of premeditated murder," 424 So. 2d 726, 733 (1982) (emphasis added), neither the jury nor the judge actually made such a finding. Under these circumstances our decision in *Enmund v. Florida* requires that petitioner's death sentence be vacated.

June 20, 1983

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*Rehearing Denied*

No. 82-1386. *FIELDS v. SUMMIT ENGINEERING*, 460 U. S. 1077;

No. 82-1500. *COLOKATHIS v. WENTWORTH-DOUGLASS HOSPITAL ET AL.*, 461 U. S. 915;

No. 82-1534. *NEUFELD v. BAMBROUGH ET AL.*, 461 U. S. 915;

No. 82-6141. *ADAMS v. OKLAHOMA*, 461 U. S. 932;

No. 82-6262. *WALLACE v. ZANT, WARDEN, GEORGIA DIAGNOSTIC AND CLASSIFICATION CENTER*, 460 U. S. 1103;

No. 82-6423. *BOLANDER v. FLORIDA*, 461 U. S. 939;

No. 82-6476. *PLYLER v. LEEKE, COMMISSIONER, SOUTH CAROLINA DEPARTMENT OF CORRECTIONS, ET AL.*, 461 U. S. 935; and

No. 82-6510. *SHAO FEN CHIN, INDIVIDUALLY, AND AS ADMINISTRATOR OF THE ESTATE OF KE-SIEN CHIN v. ST. LUKE'S HOSPITAL CENTER ET AL.*, 461 U. S. 959. Petitions for rehearing denied.

No. 8, Orig. *ARIZONA v. CALIFORNIA ET AL.*, 460 U. S. 605. Motion of the Quechan Indian Tribe for leave to file petition for rehearing denied. JUSTICE MARSHALL took no part in the consideration or decision of this motion.

No. 82-978. *TONUBBEE v. LOUISIANA*, 460 U. S. 1081. Motion of petitioner to proceed further herein *in forma pauperis* granted. Petition for rehearing denied.