

ORDERS FROM OCTOBER 6, 1986, THROUGH
FEBRUARY 23, 1987

OCTOBER 6, 1986*

Affirmed on Appeal

No. 85-1890. GARLAND INDEPENDENT SCHOOL DISTRICT ET AL. *v.* TEXAS STATE TEACHERS ASSN. ET AL. Affirmed on appeal from C. A. 5th Cir. THE CHIEF JUSTICE and JUSTICE WHITE would note probable jurisdiction and set case for argument. Reported below: 777 F. 2d 1046.

No. 85-1979. BOWSHER, COMPTROLLER GENERAL OF THE UNITED STATES, ET AL. *v.* AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES, AFL-CIO, ET AL. Affirmed on appeal from D. C. D. C. Reported below: 634 F. Supp. 336.

Appeals Dismissed

No. 85-1953. KANSAS CITY POWER & LIGHT CO. *v.* STATE CORPORATION COMMISSION OF KANSAS ET AL. Appeal from Sup. Ct. Kan. dismissed for want of substantial federal question. Reported below: 238 Kan. 842, 715 P. 2d 19.

No. 85-2033. NINTH STREET COMMUNITY PAVING PROJECT COMMITTEE ET AL. *v.* CITY OF IRONTON, OHIO, ET AL. Appeal from Sup. Ct. Ohio dismissed for want of substantial federal question. Reported below: 22 Ohio St. 3d 25, 488 N. E. 2d 204.

No. 85-2057. CONSOLIDATED EDISON COMPANY OF NEW YORK, INC. *v.* STATE BOARD OF EQUALIZATION AND ASSESSMENT ET AL. Appeal from Ct. App. N. Y. dismissed for want of substantial federal question. Reported below: 67 N. Y. 2d 783, 492 N. E. 2d 130.

No. 85-2112. LODI TRUCK SERVICE, INC. *v.* DIVISION OF LABOR STANDARDS ENFORCEMENT, DEPARTMENT OF INDUSTRIAL RELATIONS OF CALIFORNIA. Appeal from App. Dept.,

*JUSTICE SCALIA took no part in the consideration or decision of the orders announced on this date except for the order making allotment of Justices among the Circuits, see *ante*, p. v.

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Super. Ct. Cal., County of San Joaquin, dismissed for want of substantial federal question.

No. 85-2161. *PETROWSKI v. NORWICH FREE ACADEMY ET AL.* Appeal from Sup. Ct. Conn. dismissed for want of substantial federal question.

No. 85-2170. *DROCIAK v. SUPREME COURT OF NEW HAMPSHIRE.* Appeal from Sup. Ct. N. H. dismissed for want of substantial federal question.

No. 85-6767. *CHICCO v. STARECHESKI ET AL.* Appeal from Sup. Jud. Ct. Mass. dismissed for want of substantial federal question. Reported below: 396 Mass. 1105, 488 N. E. 2d 1179.

No. 86-14. *BUCKLEY v. PENNSYLVANIA.* Appeal from Sup. Ct. Pa. dismissed for want of substantial federal question. Reported below: 510 Pa. 326, 508 A. 2d 281.

No. 86-122. *THOMPSON v. THOMPSON.* Appeal from Ct. App. Cal., 1st App. Dist., dismissed for want of substantial federal question.

No. 86-168. *D. R. MERTENS, INC. v. FLORIDA DEPARTMENT OF INSURANCE.* Appeal from Dist. Ct. App. Fla., 1st Dist., dismissed for want of substantial federal question. Reported below: 478 So. 2d 1132.

No. 86-201. *ZUCKERMAN PROPERTY ENTERPRISES, LTD., ET AL., DBA PINECREST COUNTRY CLUB v. HUSTI ET AL.* Appeal from Sup. Ct. Conn. dismissed for want of substantial federal question. Reported below: 199 Conn. 575, 508 A. 2d 735.

No. 85-1980. *NOFFSINGER ET AL. v. BANK OF CENTRAL FLORIDA.* Appeal from C. A. 11th Cir. dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied. Reported below: 786 F. 2d 1179.

No. 85-1990. *STERNER v. ANDRE ET AL.* Appeal from Sup. Ct. Va. dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied.

No. 85-2005. *LEWIS ET AL. v. MCMASTERS ET AL.* Appeal from C. A. 9th Cir. dismissed for want of jurisdiction. Treating

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the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied. Reported below: 776 F. 2d 1053.

No. 85-2046. *HORWITZ v. STATE BOARD OF MEDICAL EXAMINERS OF COLORADO ET AL.* Appeal from Ct. App. Colo. dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied. Reported below: 716 P. 2d 131.

No. 85-2074. *BRACY v. LABOR AND INDUSTRY REVIEW COMMISSION.* Appeal from Ct. App. Wis. dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied.

No. 85-2083. *JUDGE v. VIRGINIA ET AL.* Appeal from Cir. Ct. Accomack County, Va., dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied.

No. 85-2129. *BERGEN v. MARTINDALE-HUBBELL, INC.* Appeal from Ct. App. Ga. dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied. Reported below: 176 Ga. App. 745, 337 S. E. 2d 770.

No. 85-6844. *PULLEY v. SCOTT ET AL.* Appeal from Sup. Ct. Tenn. dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied.

No. 85-7142. *STARADUMSKY v. TOMLINSON TRANSPORTATION, INC., ET AL.* Appeal from Sup. Ct. R. I. dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied.

No. 86-35. *POLYAK v. HULEN ET AL.* (two cases). Appeals from C. A. 6th Cir. dismissed for want of jurisdiction. Treating the papers whereon the appeals were taken as a petition for writ of certiorari, certiorari denied. Reported below: 782 F. 2d 1042 (first case); 782 F. 2d 1043 (second case).

No. 86-109. *DELUCCHI ET UX. v. COUNTY OF SANTA CRUZ ET AL.* Appeal from Ct. App. Cal., 6th App. Dist., dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied. Reported below: 179 Cal. App. 3d 814, 225 Cal. Rptr. 43.

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No. 86-136. *ISLAMIC REPUBLIC OF IRAN ET AL. v. PAHLAVI*. Appeal from Ct. App. Cal., 2d App. Dist., dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied.

No. 86-150. *FENENDAEL ET UX. v. ZOBEL, BY HANCOX ET AL., GUARDIANS*. Appeal from Ct. App. Wis. dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied. Reported below: 127 Wis. 2d 382, 379 N. W. 2d 887.

No. 86-182. *POLYAK v. BUFORD EVANS & SONS*. Appeal from C. A. 6th Cir. dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied. Reported below: 787 F. 2d 588.

No. 86-213. *FIELDS ET AL. v. LEWIS ET AL.* Appeal from Ct. App. Ky. dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied.

No. 86-5025. *DAWN ET AL. v. GREENE ET AL.* Appeal from Ct. App. Cal., 2d App. Dist., dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied.

No. 86-5061. *PERKINS v. HARTIGAN, ATTORNEY GENERAL OF ILLINOIS*. Appeal from C. A. 7th Cir. dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied. Reported below: 787 F. 2d 596.

No. 86-5181. *IN RE NUEY*. Appeal from C. A. 3d Cir. dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied. Reported below: 791 F. 2d 919.

No. 86-5224. *VIOLA v. ARIZONA*. Appeal from Ct. App. Ariz. dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied.

No. 85-7190. *BETKA v. BOWEN, SECRETARY OF HEALTH AND HUMAN SERVICES*. Appeal from D. C. Ore. dismissed for want of jurisdiction.

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No. 86-56. *SHOECRAFT v. CATHOLIC SOCIAL SERVICES BUREAU, INC., ET AL.* Appeal from Sup. Ct. Neb. dismissed as moot. Reported below: 222 Neb. 574, 385 N. W. 2d 448.

Certiorari Granted—Vacated and Remanded

No. 85-1959. *UNITED STATES v. MCAFEE ET AL.* C. A. 1st Cir. Certiorari granted, judgment vacated, and case remanded for further consideration in light of *Henderson v. United States*, 476 U. S. 321 (1986). Reported below: 780 F. 2d 143.

Certiorari Dismissed

No. 85-2110. *KELLY, SUPERINTENDENT, ATTICA CORRECTIONAL FACILITY, ET AL. v. MATUSIAK.* C. A. 2d Cir. Certiorari dismissed in light of the suggestion of death of respondent. Reported below: 786 F. 2d 536.

No. 85-2128. *FLORIDA v. CROSS.* Sup. Ct. Fla. Certiorari dismissed in light of the suggestion of death of respondent. Reported below: 487 So. 2d 1056.

No. 86-5500. *ROOK v. RICE, WARDEN.* C. A. 4th Cir. Certiorari dismissed as moot. Reported below: 813 F. 2d 402.

*Miscellaneous Orders**

No. — — —. *CARTER v. WOODRUFF ET AL.*; and

No. — — —. *GALIN v. DOW CHEMICAL PACIFIC LTD. ET AL.* Motions to direct the Clerk to file the petitions for writs of certiorari out of time denied.

No. A-136 (86-173). *HARRIS v. ATTORNEY GENERAL OF VIRGINIA ET AL.* C. A. 4th Cir. Application for bail, addressed to JUSTICE BLACKMUN and referred to the Court, denied.

No. A-212. *KOWALIK v. UNITED STATES.* C. A. 10th Cir. Application for stay, addressed to JUSTICE BLACKMUN and referred to the Court, denied.

No. D-556. *IN RE DISBARMENT OF SODOWICK.* Michael Samuel Sodowick, of West Caldwell, N. J., having requested to resign as a member of the Bar of this Court, it is ordered that his name be stricken from the roll of attorneys admitted to practice before the Bar of this Court. The rule to show cause, heretofore issued on May 5, 1986 [476 U. S. 1102], is hereby discharged.

*For Court's order making allotment of Justices, see *ante*, p. II.

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No. 35, Orig. UNITED STATES *v.* MAINE ET AL. Accounting of the Special Master for the Massachusetts Boundary case is received and ordered filed. [For earlier decision herein, see, *e. g.*, 475 U. S. 89.]

No. 65, Orig. TEXAS *v.* NEW MEXICO. Report of the Special Master is received and ordered filed. Exceptions to the Report, with supporting briefs, may be filed by the parties within 45 days. Replies thereto, if any, may be filed within 30 days. Motion of the Special Master for award of interim fee allowance granted. [For earlier order herein, see, *e. g.*, 475 U. S. 1004.]

No. 84-6811. MCCLESKEY *v.* KEMP, SUPERINTENDENT, GEORGIA DIAGNOSTIC AND CLASSIFICATION CENTER. C. A. 11th Cir. [Certiorari granted, 478 U. S. 1019.] Motions of Congressional Black Caucus et al., International Human Rights Law Group, and Franklin M. Fisher et al. for leave to file briefs as *amici curiae* granted.

No. 85-129. WIMBERLY *v.* LABOR AND INDUSTRIAL RELATIONS COMMISSION OF MISSOURI ET AL. Sup. Ct. Mo. [Certiorari granted, 475 U. S. 1118.] Motion of the Solicitor General for leave to participate in oral argument as *amicus curiae* and for divided argument granted.

No. 85-1433. RICHARDSON, WARDEN *v.* MARSH. C. A. 6th Cir. [Certiorari granted, 476 U. S. 1168.] Motion of the Solicitor General for leave to participate in oral argument as *amicus curiae* and for divided argument granted.

No. 85-1630. HEWITT ET AL. *v.* HELMS. C. A. 3d Cir. [Certiorari granted, 476 U. S. 1181.] Motion of the Solicitor General for leave to participate in oral argument as *amicus curiae* and for divided argument granted.

No. 85-1695. SOCIÉTÉ NATIONALE INDUSTRIELLE AÉROSPATIALE ET AL. *v.* UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF IOWA. C. A. 8th Cir. [Certiorari granted, 476 U. S. 1168.] Motion of the Solicitor General for leave to participate in oral argument as *amicus curiae* and for divided argument granted.

No. 85-1043. PILOT LIFE INSURANCE CO. *v.* DEDEAUX. C. A. 5th Cir. [Certiorari granted, 478 U. S. 1004.] Motion of

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American Council of Life Insurance et al. for leave to file a brief as *amici curiae* granted.

No. 85-1199. FIRST ENGLISH EVANGELICAL LUTHERAN CHURCH OF GLENDALE *v.* COUNTY OF LOS ANGELES, CALIFORNIA. Ct. App. Cal., 2d App. Dist. [Probable jurisdiction noted, 478 U. S. 1003.] Further consideration of the motion of appellee to dismiss the appeal is deferred to the hearing of the case on the merits.

No. 85-1200. CALIFORNIA COASTAL COMMISSION ET AL. *v.* GRANITE ROCK CO. C. A. 9th Cir. [Probable jurisdiction postponed, 475 U. S. 1094.] Further consideration of the motion of appellee to strike portions of the brief and appendix of the Big Sur Foundation et al. as *amici curiae* is deferred to the hearing of the case on the merits. Motion of the Solicitor General for leave to participate in oral argument as *amicus curiae* and for divided argument granted.

No. 85-1206. ROSE *v.* ROSE ET AL. Ct. App. Tenn. [Probable jurisdiction noted, 478 U. S. 1003.] Motion of the Solicitor General for leave to participate in oral argument as *amicus curiae* and for divided argument granted. Motion of appellees for divided argument granted.

No. 85-1239. AMOCO PRODUCTION CO. ET AL. *v.* VILLAGE OF GAMBELL ET AL.; and

No. 85-1406. HODEL, SECRETARY OF THE INTERIOR, ET AL. *v.* VILLAGE OF GAMBELL ET AL. C. A. 9th Cir. [Certiorari granted, 476 U. S. 1157.] Motion of the Solicitor General for divided argument granted.

No. 85-1358. LUKHARD, COMMISSIONER, VIRGINIA DEPARTMENT OF SOCIAL SERVICES *v.* REED ET AL. C. A. 4th Cir. [Certiorari granted, 477 U. S. 903.] Motion of the Solicitor General for divided argument granted.

No. 85-1329. YOUNG ET AL. *v.* UNITED STATES EX REL. VUITTON ET FILS S. A. ET AL. C. A. 2d Cir. [Certiorari granted, 477 U. S. 903.] Motion of petitioner Sol N. Klaymine to proceed further herein *in forma pauperis* granted.

No. 85-1347. PENNSYLVANIA *v.* RITCHIE. Sup. Ct. Pa. [Certiorari granted, 476 U. S. 1139.] Motion of Sunny von Bulow

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National Victim Advocacy Center, Inc., et al. for leave to file a brief as *amici curiae* granted.

No. 85-1384. TURNER ET AL. *v.* SAFLEY ET AL. C. A. 8th Cir. [Certiorari granted, 476 U. S. 1139.] Motion of the Solicitor General for leave to participate in oral argument as *amicus curiae* and for divided argument denied.

No. 85-1520. ANDERSON *v.* CREIGHTON ET AL. C. A. 8th Cir. [Certiorari granted, 478 U. S. 1003.] Motion of Ronald I. Meshbesh, Esquire, to permit John P. Sheehy, Esquire, to present oral argument *pro hac vice* granted.

No. 85-1656. MCCOTTER, DIRECTOR, TEXAS DEPARTMENT OF CORRECTIONS *v.* PETTY. C. A. 5th Cir. [Certiorari granted, 478 U. S. 1003.] Motion of respondent for leave to proceed further herein *in forma pauperis* granted. Motion for appointment of counsel granted, and it is ordered that John R. Breihan, Esquire, of Austin, Tex., be appointed to serve as counsel for respondent in this case.

No. 85-1740. KANANEN ET UX. *v.* SUN BANK OKEECHOBEE, FKA COMMERCIAL BANK OKEECHOBEE, FLORIDA, ET AL., 476 U. S. 1182. Motion of respondent for damages denied.

No. 85-1877. AZL RESOURCES, INC. *v.* MARGARET HALL FOUNDATION, INC., ET AL. C. A. 1st Cir.;

No. 85-1910. BUSINESS ELECTRONICS CORP. *v.* SHARP ELECTRONICS CORP. C. A. 5th Cir.;

No. 85-2094. SHARP ELECTRONICS CORP. *v.* BUSINESS ELECTRONICS CORP. C. A. 5th Cir.;

No. 85-2079. LABORERS HEALTH AND WELFARE TRUST FUND FOR NORTHERN CALIFORNIA ET AL. *v.* ADVANCED LIGHT-WEIGHT CONCRETE CO., INC. C. A. 9th Cir.;

No. 86-49. AMERICAN ELECTRIC POWER CO., INC., ET AL. *v.* KENTUCKY PUBLIC SERVICE COMMISSION ET AL. C. A. 6th Cir.; and

No. 86-61. COMMONWEALTH ELECTRIC CO. *v.* DEPARTMENT OF PUBLIC UTILITIES OF THE COMMONWEALTH OF MASSACHUSETTS. Sup. Jud. Ct. Mass. The Solicitor General is invited to file briefs in these cases expressing the views of the United States.

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No. 86-21. IMMIGRATION AND NATURALIZATION SERVICE *v.* HECTOR. C. A. 3d Cir. Motion of respondent for leave to proceed *in forma pauperis* granted.

No. 86-5082. WRENN *v.* OHIO DEPARTMENT OF MENTAL HEALTH ET AL. C. A. 6th Cir. Motion of petitioner for leave to proceed *in forma pauperis* denied. Petitioner is allowed until October 27, 1986, 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.

JUSTICE BRENNAN and JUSTICE MARSHALL, dissenting.

For the reasons expressed in *Brown v. Herald Co.*, 464 U. S. 928 (1983), we would deny the petition for writ of certiorari without reaching the merits of the motion to proceed *in forma pauperis*.

No. 86-5271. BROWN *v.* SCHWEITZER ET AL. C. A. 7th Cir. Motion of petitioner for leave to proceed *in forma pauperis* denied. Petitioner is allowed until October 27, 1986, 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.

JUSTICE BRENNAN, JUSTICE MARSHALL, and JUSTICE STEVENS, dissenting.

For the reasons expressed in *Brown v. Herald Co.*, 464 U. S. 928 (1983), we would deny the petition for writ of certiorari without reaching the merits of the motion to proceed *in forma pauperis*.

No. 85-2082. IN RE GRACE. C. A. 8th Cir. Petition for writ of common-law certiorari denied. Reported below: 794 F. 2d 679.

No. 85-7191. IN RE PLUMMER ET UX. C. A. 3d Cir. Petition for writ of common-law certiorari denied.

No. 85-6982. IN RE BEACH;

No. 85-7027. IN RE WEYGANDT;

No. 85-7060. IN RE SIZEMORE;

No. 85-7225. IN RE McDONALD;

No. 86-5075. IN RE BAILEY;

No. 86-5351. IN RE BRYANT; and

No. 86-5401. IN RE MANDEVILLE. Petitions for writs of habeas corpus denied.

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No. 85-1891. IN RE PHINNEY;
No. 85-1991. IN RE POLYAK;
No. 85-2081. IN RE GRACE;
No. 85-2171. IN RE BARTSCH ET AL.;
No. 85-6723. IN RE JAMES;
No. 85-6983. IN RE DAWSON;
No. 85-6986. IN RE CLARK;
No. 85-7077. IN RE WALDEN;
No. 85-7079. IN RE CUZICK;
No. 86-217. IN RE SMITH ET AL.;
No. 86-5032. IN RE WILSON;
No. 86-5042. IN RE SINGLETON;
No. 86-5139. IN RE RUBIN;
No. 86-5217. IN RE MEADOWS; and
No. 86-5267. IN RE COOK. Petitions for writs of mandamus denied.

No. 85-6938. IN RE STARGELL;
No. 85-6952. IN RE ZURKOWSKY;
No. 85-7098. IN RE NELSON;
No. 85-7117. IN RE NOLL; and
No. 86-162. IN RE BAKER, SECRETARY OF THE TREASURY, ET AL. Petitions for writs of mandamus and/or prohibition denied.

No. 85-6935. IN RE WRIGHT ET UX.; and
No. 85-7215. IN RE WENDT. Petitions for writs of prohibition denied.

Probable Jurisdiction Noted

No. 85-1963. TYLER PIPE INDUSTRIES, INC. *v.* WASHINGTON STATE DEPARTMENT OF REVENUE; and

No. 85-2006. NATIONAL CAN CORP. ET AL. *v.* WASHINGTON STATE DEPARTMENT OF REVENUE. Appeals from Sup. Ct. Wash. Probable jurisdiction noted, cases consolidated, and a total of one hour allotted for oral argument. JUSTICE POWELL took no part in the consideration or decision of these cases.* Reported below: No. 85-1963, 105 Wash. 2d 318, 715 P. 2d 123; No. 85-2006, 105 Wash. 2d 327, 732 P. 2d 134.

No. 86-71. CTS CORP. *v.* DYNAMICS CORPORATION OF AMERICA; and

*See also note, p. 801.

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No. 86-97. *INDIANA v. DYNAMICS CORPORATION OF AMERICA*. Appeals from C. A. 7th Cir. Probable jurisdiction noted, cases consolidated, and a total of one hour allotted for oral argument. Reported below: 794 F. 2d 250.

No. 86-243. *CITY OF HOUSTON, TEXAS v. HILL*. Appeal from C. A. 5th Cir. Motion of appellee for leave to proceed *in forma pauperis* granted. Probable jurisdiction noted. Reported below: 789 F. 2d 1103.

Certiorari Granted

No. 85-1716. *WELCH v. TEXAS DEPARTMENT OF HIGHWAYS AND PUBLIC TRANSPORTATION ET AL.* C. A. 5th Cir. Certiorari granted. Reported below: 780 F. 2d 1268.

No. 85-1735. *THOMAS, ADMINISTRATOR, ENVIRONMENTAL PROTECTION AGENCY, ET AL. v. OUTBOARD MARINE CORP.* C. A. 7th Cir. Certiorari granted. Reported below: 773 F. 2d 883.

No. 85-1924. *NATIONAL LABOR RELATIONS BOARD v. INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS, LOCAL 340*. C. A. 9th Cir. Certiorari granted. Reported below: 780 F. 2d 1489.

No. 85-1940. *UNITED STATES v. CHEROKEE NATION OF OKLAHOMA*. C. A. 10th Cir. Certiorari granted. Reported below: 782 F. 2d 871.

No. 85-1987. *SEE ET AL. v. UNITED STATES*. C. A. 8th Cir. Certiorari granted. Reported below: 784 F. 2d 857.

No. 85-2039. *UNITED STATES v. JOHNSON, PERSONAL REPRESENTATIVE OF THE ESTATE OF JOHNSON*. C. A. 11th Cir. Certiorari granted. Reported below: 779 F. 2d 1492.

No. 85-2067. *UNITED STATES v. MENDOZA-LOPEZ ET AL.* C. A. 8th Cir. Certiorari granted. Reported below: 781 F. 2d 111.

No. 85-2116. *PUERTO RICO v. BRANSTAD, GOVERNOR OF IOWA, ET AL.* C. A. 8th Cir. Certiorari granted. Reported below: 787 F. 2d 423.

No. 85-2121. *ARIZONA v. MAURO*. Sup. Ct. Ariz. Certiorari granted. Reported below: 149 Ariz. 24, 716 P. 2d 393.

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No. 86-39. BURLINGTON NORTHERN RAILROAD CO. ET AL. *v.* BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES ET AL. C. A. 7th Cir. Certiorari granted. Reported below: 793 F. 2d 795.

No. 86-44. SHEARSON/AMERICAN EXPRESS INC. ET AL. *v.* MCMAHON ET AL. C. A. 2d Cir. Certiorari granted. Reported below: 788 F. 2d 94.

No. 86-80. NEW YORK *v.* BURGER. Ct. App. N. Y. Certiorari granted. Reported below: 67 N. Y. 2d 338, 493 N. E. 2d 926.

No. 86-104. BOARD OF AIRPORT COMMISSIONERS OF THE CITY OF LOS ANGELES ET AL. *v.* JEWS FOR JESUS, INC., ET AL. C. A. 9th Cir. Certiorari granted. Reported below: 785 F. 2d 791.

No. 85-1973. POPE ET AL. *v.* ILLINOIS. App. Ct. Ill., 2d Dist. Certiorari granted limited to Question 2 presented by the petition. Reported below: 138 Ill. App. 3d 726, 486 N. E. 2d 350.

No. 85-2099. PENNSYLVANIA *v.* FINLEY. Super. Ct. Pa. Motion of respondent for leave to proceed *in forma pauperis* and certiorari granted. Reported below: 330 Pa. Super. 313, 479 A. 2d 568.

No. 86-6. RICKETTS, DIRECTOR, ARIZONA DEPARTMENT OF CORRECTIONS, ET AL. *v.* ADAMSON. C. A. 9th Cir. Motion of respondent for leave to proceed *in forma pauperis* and certiorari granted. Reported below: 789 F. 2d 722.

No. 85-2156. SHAARE TEFILEA CONGREGATION ET AL. *v.* COBB ET AL. C. A. 4th Cir. Motion of Anti-Defamation League of B'nai B'rith et al. for leave to file a brief as *amici curiae* granted. Motion of respondent Michael David Remer for leave to proceed *in forma pauperis* granted. Certiorari granted and case set for oral argument in tandem with No. 85-2169, *St. Francis College v. Al-Khazraji*, immediately *infra*. Reported below: 785 F. 2d 523.

No. 85-2169. SAINT FRANCIS COLLEGE ET AL. *v.* AL-KHAZRAJI, AKA ALLAN. C. A. 3d Cir. Certiorari granted limited to Questions 1 and 2 presented by the petition and case set for oral argument in tandem with No. 85-2156, *Shaare Tefila Congregation v. Cobb*, immediately *supra*. Reported below: 784 F. 2d 505.

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No. 85-6790. GRANBERRY *v.* GREER, WARDEN. C. A. 7th Cir. Motion of petitioner for leave to proceed *in forma pauperis* and certiorari granted. Reported below: 780 F. 2d 14.

Certiorari Denied. (See also Nos. 85-1980, 85-1990, 85-2005, 85-2046, 85-2074, 85-2083, 85-2129, 85-6844, 85-7142, 86-35, 86-109, 86-136, 86-150, 86-182, 86-213, 86-5025, 86-5061, 86-5181, 86-5224, 85-2082, and 85-7191, *supra.*)

No. 85-1535. VEREZ ET AL. *v.* VIRGINIA. Sup. Ct. Va. Certiorari denied. Reported below: 230 Va. 405, 337 S. E. 2d 749.

No. 85-1565. VAUGHT *v.* SOUTH CAROLINA. Sup. Ct. S. C. Certiorari denied.

No. 85-1568. ARTIS *v.* UNITED STATES. Ct. Mil. App. Certiorari denied. Reported below: 22 M. J. 15.

No. 85-1571. MACDONALD *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 779 F. 2d 962.

No. 85-1588. GERMANN *v.* CITY OF KANSAS CITY, MISSOURI, ET AL. C. A. 8th Cir. Certiorari denied. Reported below: 776 F. 2d 761.

No. 85-1604. UTAH *v.* PACHECO. Sup. Ct. Utah. Certiorari denied. Reported below: 712 P. 2d 192.

No. 85-1620. HOEFT *v.* ILLINOIS. App. Ct. Ill., 5th Dist. Certiorari denied. Reported below: 137 Ill. App. 3d 1169, 499 N. E. 2d 183.

No. 85-1654. MYERS *v.* MISSISSIPPI STATE BAR. Sup. Ct. Miss. Certiorari denied. Reported below: 480 So. 2d 1080.

No. 85-1668. UNDERHILL, DBA EASTSIDE MOTORS, ET AL. *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 781 F. 2d 64.

No. 85-1678. CARNEY, DIRECTOR OF EMPLOYEE RELATIONS FOR THE CITY OF GARLAND, ET AL. *v.* WHITAKER. C. A. 5th Cir. Certiorari denied. Reported below: 778 F. 2d 216.

No. 85-1696. WHITNEY ET AL. *v.* BOWEN, SECRETARY OF HEALTH AND HUMAN SERVICES. C. A. 11th Cir. Certiorari denied. Reported below: 780 F. 2d 963.

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No. 85-1704. *WOOL v. UNITED STATES DISTRICT COURT FOR THE DISTRICT OF VERMONT*. C. A. 2d Cir. Certiorari denied. Reported below: 788 F. 2d 3.

No. 85-1707. *MOODY ET AL. v. UNITED STATES ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 774 F. 2d 150.

No. 85-1721. *SCHAUT v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 772 F. 2d 915.

No. 85-1727. *SHERROD ET AL., CO-EXECUTORS OF THE ESTATE OF SHERROD v. COMMISSIONER OF INTERNAL REVENUE*. C. A. 11th Cir. Certiorari denied. Reported below: 774 F. 2d 1057.

No. 85-1728. *GARCIA v. BOARD OF EDUCATION OF THE SOCORRO CONSOLIDATED SCHOOL DISTRICT ET AL.* C. A. 10th Cir. Certiorari denied. Reported below: 777 F. 2d 1403.

No. 85-1730. *NEW JERSEY v. HACKETT*. Super. Ct. N. J., App. Div. Certiorari denied.

No. 85-1737. *LOVE v. SUMMIT COUNTY ET AL.* C. A. 10th Cir. Certiorari denied. Reported below: 776 F. 2d 908.

No. 85-1741. *AMERICAN MINING CONGRESS ET AL. v. THOMAS, ADMINISTRATOR, ENVIRONMENTAL PROTECTION AGENCY; and*

No. 85-1748. *SECONDARY LEAD SMELTERS ASSN., INC., ET AL. v. THOMAS, ADMINISTRATOR, ENVIRONMENTAL PROTECTION AGENCY*. C. A. 4th Cir. Certiorari denied. Reported below: 780 F. 2d 445.

No. 85-1742. *RAWL, ADMINISTRATOR OF THE ESTATE OF RAWL v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 778 F. 2d 1009.

No. 85-1743. *TEAMSTER'S LOCAL 317 v. CLINTON'S DITCH CO-OPERATIVE CO., INC., ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 778 F. 2d 132.

No. 85-1745. *PERRY v. FEDERAL BUREAU OF INVESTIGATION ET AL.* C. A. 7th Cir. Certiorari denied. Reported below: 781 F. 2d 1294.

No. 85-1751. *OTTOMAN CUSTOM PROCESSORS, INC., ET AL. v. BROCK, SECRETARY OF LABOR*. C. A. 1st Cir. Certiorari denied. Reported below: 783 F. 2d 8.

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No. 85-1759. *TEXAS v. ADLEY*. Ct. Crim. App. Tex. Certiorari denied. Reported below: 718 S. W. 2d 682.

No. 85-1762. *MARYLAND CUP CORP. v. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION*. C. A. 4th Cir. Certiorari denied. Reported below: 785 F. 2d 471.

No. 85-1763. *FLORENCE NIGHTINGALE NURSING HOME v. PERALES, COMMISSIONER OF NEW YORK STATE DEPARTMENT OF SOCIAL SERVICES, ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 782 F. 2d 26.

No. 85-1778. *UNITED FOOD & COMMERCIAL WORKERS, LOCAL 626 v. KROGER Co.* C. A. 6th Cir. Certiorari denied. Reported below: 778 F. 2d 1171.

No. 85-1779. *SYNANON CHURCH v. BERNSTEIN ET AL.* Ct. App. D. C. Certiorari denied. Reported below: 503 A. 2d 1254.

No. 85-1782. *DEPAUW v. UNITED STATES INTERNATIONAL TRADE COMMISSION*. C. A. Fed. Cir. Certiorari denied. Reported below: 782 F. 2d 1564.

No. 85-1788. *MCCLENDON ET UX. v. SHELBY COUNTY, ALABAMA, ET AL.* Ct. Civ. App. Ala. Certiorari denied. Reported below: 484 So. 2d 459.

No. 85-1789. *WINICKI ET AL. v. MALLARD, PROPERTY APPRAISER OF DUVAL COUNTY, FLORIDA, ET AL.* C. A. 11th Cir. Certiorari denied. Reported below: 783 F. 2d 1567.

No. 85-1790. *COOPER UNION FOR THE ADVANCEMENT OF SCIENCE AND ART v. NATIONAL LABOR RELATIONS BOARD ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 783 F. 2d 29.

No. 85-1791. *THOMAS v. WILLIS ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 786 F. 2d 1148.

No. 85-1796. *HICKERSON v. VELISCOL CHEMICAL CORP. ET AL.* C. A. 7th Cir. Certiorari denied. Reported below: 778 F. 2d 365.

No. 85-1797. *MACK ET AL. v. WEINBERGER, SECRETARY OF DEFENSE, ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 784 F. 2d 438.

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No. 85-1802. *EASTON ET AL. v. CITY OF BOULDER, COLORADO, ET AL.* C. A. 10th Cir. Certiorari denied. Reported below: 776 F. 2d 1441.

No. 85-1806. *FRANZEN, DIRECTOR, ILLINOIS DEPARTMENT OF CORRECTIONS, ET AL. v. DUCKWORTH ET AL.*; and

No. 85-1820. *DUCKWORTH ET AL. v. FRANZEN, DIRECTOR, ILLINOIS DEPARTMENT OF CORRECTIONS, ET AL.* C. A. 7th Cir. Certiorari denied. Reported below: 780 F. 2d 645.

No. 85-1815. *BUNDRICK ET AL. v. UNITED STATES*; and

No. 85-1938. *ALDER ET AL. v. UNITED STATES.* C. A. Fed. Cir. Certiorari denied. Reported below: No. 85-1815, 785 F. 2d 1009; No. 85-1938, 785 F. 2d 1004.

No. 85-1819. *CESTARO v. CORCORAN, SUPERINTENDENT OF INSURANCE OF THE STATE OF NEW YORK.* App. Div., Sup. Ct. N. Y., 1st Jud. Dept. Certiorari denied. Reported below: 115 App. Div. 2d 1015, 496 N. Y. S. 2d 595.

No. 85-1826. *ALINOVI v. WORCESTER SCHOOL COMMITTEE ET AL.* C. A. 1st Cir. Certiorari denied. Reported below: 777 F. 2d 776.

No. 85-1829. *ACRI ET AL. v. INTERNATIONAL ASSOCIATION OF MACHINISTS & AEROSPACE WORKERS ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 781 F. 2d 1393.

No. 85-1842. *COVERT v. KENTUCKY.* Sup. Ct. Ky. Certiorari denied.

No. 85-1849. *WALKER ET AL. v. IOWA ET AL.* C. A. 8th Cir. Certiorari denied. Reported below: 780 F. 2d 720.

No. 85-1854. *BANKS v. FINLEY-SELIGMAN & LATZ, INC.* C. A. 7th Cir. Certiorari denied. Reported below: 776 F. 2d 1049.

No. 85-1856. *JAYCO SYSTEMS, INC. v. SAVIN BUSINESS MACHINES CORP.* C. A. 5th Cir. Certiorari denied. Reported below: 777 F. 2d 306.

No. 85-1860. *COWLES ET AL. v. DOW KEITH OIL & GAS, INC., ET AL.* C. A. 10th Cir. Certiorari denied. Reported below: 752 F. 2d 508.

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No. 85-1861. *SHOKRIAN v. CARROLL, CHIEF OF CORRECTIONS*. C. A. 9th Cir. Certiorari denied. Reported below: 774 F. 2d 1175.

No. 85-1866. *CSEA LOCAL UNION 1000, AMERICAN FEDERATION OF STATE, COUNTY & MUNICIPAL EMPLOYEES, AFL-CIO v. BROCK, SECRETARY OF LABOR, ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 784 F. 2d 98.

No. 85-1867. *GREAT AMERICAN AIRWAYS v. NEVADA STATE TAX COMMISSION*. Sup. Ct. Nev. Certiorari denied. Reported below: 101 Nev. 422, 705 P. 2d 654.

No. 85-1868. *ATLANTIC RICHFIELD CO. v. INTERSTATE OIL TRANSPORT CO.* C. A. 2d Cir. Certiorari denied. Reported below: 784 F. 2d 106.

No. 85-1870. *ROLLESTON v. ROSE HALL (DEVELOPMENTS) LTD. ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 786 F. 2d 1148.

No. 85-1871. *MITCHELL v. CODY, ATTORNEY GENERAL OF TENNESSEE, ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 783 F. 2d 669.

No. 85-1873. *JONES ET AL. v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 782 F. 2d 1038.

No. 85-1878. *BOARD OF TRUSTEES OF ALABAMA STATE UNIVERSITY ET AL. v. AUBURN UNIVERSITY ET AL.* C. A. 11th Cir. Certiorari denied.

No. 85-1881. *STANTON v. DISTRICT OF COLUMBIA COURT OF APPEALS*. C. A. D. C. Cir. Certiorari denied. Reported below: 251 U. S. App. D. C. 196, 782 F. 2d 278.

No. 85-1882. *SCINTO v. STAMM ET AL.* C. A. 2d Cir. Certiorari denied.

No. 85-1885. *GOOD'S FURNITURE HOUSE, INC. v. IOWA STATE BOARD OF TAX REVIEW*. Sup. Ct. Iowa. Certiorari denied. Reported below: 382 N. W. 2d 145.

No. 85-1887. *FENNELL v. WARNER LAMBERT CO.* C. A. 2d Cir. Certiorari denied. Reported below: 788 F. 2d 3.

No. 85-1888. *OWENS ET AL. v. FRENCH ET AL.* C. A. 7th Cir. Certiorari denied. Reported below: 777 F. 2d 1250.

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No. 85-1889. *ZACHARY ET AL. v. WILK ET AL.* Ct. App. Cal., 4th App. Dist. Certiorari denied. Reported below: 173 Cal. App. 3d 754, 219 Cal. Rptr. 122.

No. 85-1893. *EISENBERGER v. GEORGIA.* Ct. App. Ga. Certiorari denied. Reported below: 177 Ga. App. 673, 340 S. E. 2d 232.

No. 85-1896. *DELUSIGNAN v. GOULD, RECEIVER-TRUSTEE.* C. A. 9th Cir. Certiorari denied. Reported below: 783 F. 2d 829.

No. 85-1904. *KINNEY v. KINNEY.* App. Ct. Conn. Certiorari denied. Reported below: 5 Conn. App. 484, 500 A. 2d 569.

No. 85-1905. *YONG BING-NAM, AKA PIAN-NAM v. UNITED STATES.* C. A. 2d Cir. Certiorari denied. Reported below: 788 F. 2d 4.

No. 85-1906. *ALANIZ v. MCCOTTER, DIRECTOR, TEXAS DEPARTMENT OF CORRECTIONS.* C. A. 5th Cir. Certiorari denied. Reported below: 784 F. 2d 1111.

No. 85-1907. *RICE v. UNITED STATES.* C. A. 2d Cir. Certiorari denied. Reported below: 757 F. 2d 1359.

No. 85-1908. *WESLEY v. ARKANSAS.* Ct. App. Ark. Certiorari denied. Reported below: 17 Ark. App. xxi.

No. 85-1913. *BAUER ET AL. v. COASTSIDE PUBLISHERS & PRINTERS ET AL.* Ct. App. Cal., 1st App. Dist. Certiorari denied.

No. 85-1914. *LAROCHE v. NATIONAL BROADCASTING CO., INC., ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 780 F. 2d 1134.

No. 85-1916. *ALONSO v. GRAND NATIONAL BANK ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 786 F. 2d 1173.

No. 85-1918. *L. B. G. PROPERTIES, INC. v. CHISHOLM REALTY CO., LTD.* C. A. 11th Cir. Certiorari denied.

No. 85-1921. *MAURIELLO v. UNIVERSITY OF MEDICINE AND DENTISTRY OF NEW JERSEY ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 781 F. 2d 46.

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No. 85-1923. *KAMER v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 781 F. 2d 1380.

No. 85-1925. *CEMENTCRAFT, INC. v. CONCRETE UNLIMITED, INC., ET AL.* C. A. Fed. Cir. Certiorari denied. Reported below: 776 F. 2d 1537.

No. 85-1927. *PECK, INDIVIDUALLY AND AS ADMINISTRATRIX OF THE ESTATE OF RATLIFF, ET AL. v. M/V MORRIS HARVEY ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 786 F. 2d 1156.

No. 85-1929. *RAJARAM v. A. S. ABELL PUBLISHING CO. ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 782 F. 2d 1036.

No. 85-1930. *HUMBLE EXPLORATION CO., INC. v. PHILLIPS PETROLEUM, INC.* C. A. 5th Cir. Certiorari denied. Reported below: 782 F. 2d 1039.

No. 85-1932. *LAFOUNTAIN v. TOWN OF SARATOGA, WYOMING, ET AL.* C. A. 10th Cir. Certiorari denied.

No. 85-1933. *BOUND BROOK ASSN. ET AL. v. CITY OF NORWALK ET AL.* Sup. Ct. Conn. Certiorari denied. Reported below: 198 Conn. 660, 504 A. 2d 1047.

No. 85-1934. *DIGICOURSE, INC. v. AMA DISTRIBUTORS, INC., ET AL.* C. A. Fed. Cir. Certiorari denied. Reported below: 790 F. 2d 93.

No. 85-1935. *JOHNSON v. OHIO*. Ct. App. Ohio, Cuyahoga County. Certiorari denied.

No. 85-1936. *LORD ELECTRIC CO., INC. v. UNITED STATES*;

No. 85-1942. *W. V. PANGBORNE & CO., INC., ET AL. v. UNITED STATES*; and

No. 85-1950. *SARGENT ELECTRIC CO. v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 785 F. 2d 1123.

No. 85-1937. *GIOFFRE v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 787 F. 2d 584.

No. 85-1941. *MISSISSIPPI v. NEALY*. C. A. 5th Cir. Certiorari denied. Reported below: 782 F. 2d 1362.

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No. 85-1944. *MARABLE v. UNITED STATES*. Ct. Mil. App. Certiorari denied. Reported below: 22 M. J. 179.

No. 85-1945. *BOWIE v. UNITED STATES*. Ct. Mil. App. Certiorari denied. Reported below: 21 M. J. 453.

No. 85-1947. *KAUFMAN v. MCCRORY STORES DIVISION OF MCCRORY CORP. ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 792 F. 2d 138.

No. 85-1951. *INDIUM CORPORATION OF AMERICA v. SEMI-ALLOYS, INC.* C. A. Fed. Cir. Certiorari denied. Reported below: 781 F. 2d 879.

No. 85-1954. *ARRIOLA ET AL. v. HARVILLE ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 781 F. 2d 506.

No. 85-1958. *NOLAN ET AL. v. OTIS ELEVATOR CO. ET AL.* Sup. Ct. N. J. Certiorari denied. Reported below: 102 N. J. 30, 505 A. 2d 580.

No. 85-1960. *DURDEN v. OFFICE OF PERSONNEL MANAGEMENT*. C. A. Fed. Cir. Certiorari denied. Reported below: 785 F. 2d 320.

No. 85-1964. *AMERICAN HOSPITAL ASSN. ET AL. v. HEYDINGER, DIRECTOR OF THE WEST VIRGINIA DEPARTMENT OF HEALTH*. C. A. 4th Cir. Certiorari denied. Reported below: 783 F. 2d 1184.

No. 85-1966. *8.41 ACRES OF LAND, MORE OR LESS, SITUATED IN ORANGE COUNTY, TEXAS, ET AL. v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 783 F. 2d 1256.

No. 85-1967. *HOLLINGSWORTH OIL CO. ET AL. v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 782 F. 2d 1044.

No. 85-1968. *CAMBRIDGE WIRE CLOTH CO. v. LAITRAM CORP. ET AL.* C. A. Fed. Cir. Certiorari denied. Reported below: 785 F. 2d 292.

No. 85-1970. *EHAT v. TANNER ET AL., DBA MODERN MICROFILM Co.* C. A. 10th Cir. Certiorari denied. Reported below: 780 F. 2d 876.

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No. 85-1971. *MOUSSEAU v. DEPARTMENT OF THE ARMY*. C. A. Fed. Cir. Certiorari denied. Reported below: 790 F. 2d 94.

No. 85-1975. *POLYAK v. HULEN ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 782 F. 2d 1042.

No. 85-1977. *OIL INSURANCE LTD. v. SUPERIOR COURT OF CALIFORNIA, SAN MATEO COUNTY (A. I. U. INSURANCE CO. ET AL., REAL PARTIES IN INTEREST)*. Ct. App. Cal., 1st App. Dist. Certiorari denied. Reported below: 177 Cal. App. 3d 281, 222 Cal. Rptr. 880.

No. 85-1981. *GREGORY MARKETING CORP. ET AL. v. WAKEFERN FOOD CORP. ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 787 F. 2d 92.

No. 85-1983. *CARRION v. CALIFORNIA*. Ct. App. Cal., 4th App. Dist. Certiorari denied.

No. 85-1988. *FONDO v. MISODI ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 788 F. 2d 5.

No. 85-1989. *CROWN ZELLERBACH CORP. v. INGRAM INDUSTRIES, INC., ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 783 F. 2d 1296.

No. 85-1992. *BRIGGS v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 781 F. 2d 1008.

No. 85-1993. *JACKSON v. KANSAS*. Sup. Ct. Kan. Certiorari denied. Reported below: 238 Kan. 793, 714 P. 2d 1368.

No. 85-1994. *TUCKER v. MARCUS, JUSTICE, SUPREME COURT OF LOUISIANA, ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 784 F. 2d 654.

No. 85-1996. *FORSYTHE v. JONES & LAUGHLIN STEEL CORP. ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 787 F. 2d 581.

No. 85-1997. *LOCAL 134, INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS, AFL-CIO v. HARVSTONE MANUFACTURING CORP. ET AL.* C. A. 7th Cir. Certiorari denied. Reported below: 785 F. 2d 570.

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No. 85-1998. *TABLER ET AL. v. WALLACE, ADMINISTRATRIX OF THE ESTATE OF WALLACE, ET AL.* Sup. Ct. Ky. Certiorari denied. Reported below: 704 S. W. 2d 179.

No. 85-1999. *CITY OF COLLEGE STATION ET AL. v. SHELTON ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 780 F. 2d 475.

No. 85-2000. *GRIJALVA ET AL. v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. Reported below: 781 F. 2d 472.

No. 85-2003. *INGRAM v. UNITED STATES;* and

No. 85-2150. *BRANTLEY v. UNITED STATES.* C. A. 4th Cir. Certiorari denied. Reported below: 777 F. 2d 159.

No. 85-2004. *GELTMAN INDUSTRIES, INC. v. TRUSTEES OF THE AMALGAMATED INSURANCE FUND.* C. A. 9th Cir. Certiorari denied. Reported below: 784 F. 2d 926.

No. 85-2007. *SUMNER v. YODER TOWNSHIP ET AL.* Ct. App. Kan. Certiorari denied. Reported below: 10 Kan. App. 2d xlvii, 710 P. 2d 32.

No. 85-2008. *BROWN v. ROGERS ET AL.* C. A. 4th Cir. Certiorari denied.

No. 85-2011. *KLIPPERT v. DEPARTMENT OF DEFENSE.* C. A. Fed. Cir. Certiorari denied. Reported below: 790 F. 2d 92.

No. 85-2012. *CONNICK v. TEACHERS INSURANCE AND ANNUITY ASSOCIATION OF AMERICA ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 784 F. 2d 1018.

No. 85-2013. *CARRAS v. HULL & SMITH HORSE VANS, INC.* Ct. App. Mich. Certiorari denied. Reported below: 144 Mich. App. 712, 376 N. W. 2d 392.

No. 85-2016. *OWENS v. BALTIMORE & OHIO RAILROAD CO.* Ct. Sp. App. Md. Certiorari denied. Reported below: 65 Md. App. 779.

No. 85-2017. *GIOVANIELLO v. BOARD OF DIRECTORS OF CENTENNIAL INDUSTRIES, INC.* C. A. 2d Cir. Certiorari denied. Reported below: 788 F. 2d 5.

No. 85-2018. *KUNGLE v. ST. JOHN'S COLLEGE ET AL.* Ct. Sp. App. Md. Certiorari denied. Reported below: 65 Md. App. 776.

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No. 85-2020. *EMBURY v. SUPREME COURT OF COLORADO ET AL.* C. A. 10th Cir. Certiorari denied.

No. 85-2021. *GREER v. UNITED STATES.* Ct. Mil. App. Certiorari denied. Reported below: 21 M. J. 338.

No. 85-2022. *INTERSTATE NATURAL GAS ASSOCIATION OF AMERICA ET AL. v. FEDERAL ENERGY REGULATORY COMMISSION.* C. A. 10th Cir. Certiorari denied. Reported below: 786 F. 2d 370.

No. 85-2024. *BAIE v. SECRETARY OF DEFENSE.* C. A. 9th Cir. Certiorari denied. Reported below: 784 F. 2d 1375.

No. 85-2025. *PERNA v. UNITED STATES.* C. A. 11th Cir. Certiorari denied. Reported below: 785 F. 2d 1506.

No. 85-2026. *MICHIGAN v. JOHNSON.* Ct. App. Mich. Certiorari denied. Reported below: 147 Mich. App. 542, 382 N. W. 2d 816.

No. 85-2029. *PADIN v. UNITED STATES.* C. A. 6th Cir. Certiorari denied. Reported below: 787 F. 2d 1071.

No. 85-2030. *ROLAND ET AL. v. KLINGENBERG.* Ct. App. Ky. Certiorari denied.

No. 85-2032. *KUPAU v. UNITED STATES.* C. A. 9th Cir. Certiorari denied. Reported below: 781 F. 2d 740.

No. 85-2035. *SIEGER v. UNITED STATES.* C. A. 2d Cir. Certiorari denied.

No. 85-2036. *UNION ELECTRIC Co. v. HARRIS ET AL.* C. A. 8th Cir. Certiorari denied. Reported below: 787 F. 2d 355.

No. 85-2037. *BRADY v. COURT OF APPEAL OF CALIFORNIA, FOURTH APPELLATE DISTRICT, ET AL.* Sup. Ct. Cal. Certiorari denied.

No. 85-2038. *KISER v. SOUTH CAROLINA.* Sup. Ct. S. C. Certiorari denied. Reported below: 288 S. C. 441, 343 S. E. 2d 292.

No. 85-2040. *MURFF, ADMINISTRATOR OF THE ESTATE OF MURFF, ET AL. v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. Reported below: 785 F. 2d 552.

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No. 85-2041. *COLONY SQUARE CO. v. PRUDENTIAL INSURANCE COMPANY OF AMERICA* (two cases). C. A. 11th Cir. Certiorari denied. Reported below: 788 F. 2d 739 (first case); 779 F. 2d 653 (second case).

No. 85-2042. *CARBONE v. NEW YORK*. App. Div., Sup. Ct. N. Y., 2d Jud. Dept. Certiorari denied. Reported below: 117 App. Div. 2d 612, 498 N. Y. S. 2d 74.

No. 85-2043. *HOFFART v. TEXAS*. Ct. App. Tex., 14th Sup. Jud. Dist. Certiorari denied. Reported below: 686 S. W. 2d 259.

No. 85-2044. *USTRAK v. FAIRMAN*. C. A. 7th Cir. Certiorari denied. Reported below: 781 F. 2d 573.

No. 85-2045. *COSME NIEVES ET AL. v. DESHLER ET AL.* C. A. 1st Cir. Certiorari denied. Reported below: 786 F. 2d 445.

No. 85-2048. *PELLERIN v. TUDOR CONSTRUCTION CO. ET AL.* Ct. App. La., 1st Cir. Certiorari denied. Reported below: 479 So. 2d 498.

No. 85-2050. *JOHNSON & JOHNSON PRODUCTS, INC. v. WEST*. Ct. App. Cal., 6th App. Dist. Certiorari denied. Reported below: 174 Cal. App. 3d 831, 220 Cal. Rptr. 437.

No. 85-2051. *JENSEN v. SATRAN, WARDEN*. C. A. 8th Cir. Certiorari denied.

No. 85-2052. *WOOD v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 780 F. 2d 929.

No. 85-2053. *SCHNEIDER ET AL. v. CITY OF EAST ORANGE ET AL.* Sup. Ct. N. J. Certiorari denied. Reported below: 103 N. J. 115, 510 A. 2d 1118.

No. 85-2054. *DEAN v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 752 F. 2d 535.

No. 85-2055. *BROWN ET AL. v. SHELL OIL CO.* Ct. App. Mich. Certiorari denied. Reported below: 128 Mich. App. 111, 339 N. W. 2d 709.

No. 85-2056. *YANOPOULOS v. DEPARTMENT OF THE NAVY ET AL.* C. A. Fed. Cir. Certiorari denied. Reported below: 796 F. 2d 468.

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No. 85-2058. *ELIZEY v. OHIO*. Ct. App. Ohio, Cuyahoga County. Certiorari denied.

No. 85-2059. *WINSLOW v. BOARD OF MORGAN COUNTY COMMISSIONERS*. Ct. App. Colo. Certiorari denied. Reported below: 717 P. 2d 1003.

No. 85-2061. *GAMBINO ET AL. v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 788 F. 2d 938.

No. 85-2063. *RIGGS v. ORR, SECRETARY OF THE AIR FORCE, ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 786 F. 2d 1175.

No. 85-2066. *DOYLE ET AL. v. SUFFOLK COUNTY ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 786 F. 2d 523.

No. 85-2069. *WEXLER ET UX., INDIVIDUALLY AND ON BEHALF OF THEIR CHILD, WEXLER v. WESTFIELD BOARD OF EDUCATION*. C. A. 3d Cir. Certiorari denied. Reported below: 784 F. 2d 176.

No. 85-2070. *O'CONNOR v. PRINS ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 785 F. 2d 309.

No. 85-2072. *SANDS v. CUNNINGHAM, WARDEN*. C. A. 1st Cir. Certiorari denied.

No. 85-2075. *PATZER ET AL. v. NORTH DAKOTA*. Sup. Ct. N. D. Certiorari denied. Reported below: 382 N. W. 2d 631.

No. 85-2076. *RODRIGUEZ v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 782 F. 2d 178.

No. 85-2078. *THUNA v. UNITED STATES*. C. A. 1st Cir. Certiorari denied. Reported below: 786 F. 2d 437.

No. 85-2080. *GRACE v. HEARTLAND TRANSPORTATION, INC.* C. A. 8th Cir. Certiorari denied. Reported below: 782 F. 2d 1048.

No. 85-2084. *COFFEY ET AL. v. PIERSON ET UX.* Ct. App. Ky. Certiorari denied. Reported below: 706 S. W. 2d 409.

No. 85-2085. *BEAUDRY MOTOR CO. v. ABKO PROPERTIES, INC., ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 780 F. 2d 751.

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No. 85-2086. *PIETSCH v. UNITED STATES ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 788 F. 2d 6.

No. 85-2087. *LAWRENCE ET UX. v. ADVANCED PATENT TECHNOLOGY, INC., ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 787 F. 2d 597.

No. 85-2088. *ROGER'S TERMINAL & SHIPPING CORP. v. DIRECTOR, OFFICE OF WORKERS' COMPENSATION PROGRAMS, ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 784 F. 2d 687.

No. 85-2090. *DICUPE v. UNITED STATES.* Ct. Mil. App. Certiorari denied. Reported below: 21 M. J. 440.

No. 85-2091. *UNION OIL COMPANY OF CALIFORNIA v. SUPERIOR COURT OF CALIFORNIA, ORANGE COUNTY (BUCHANAN, REAL PARTY IN INTEREST).* Ct. App. Cal., 4th App. Dist. Certiorari denied.

No. 85-2092. *BRADFORD, AS EXECUTRIX OF THE ESTATE OF BRADFORD, ET AL. v. BLUE PEARL MUSIC CORP.* C. A. 3d Cir. Certiorari denied. Reported below: 787 F. 2d 580.

No. 85-2093. *MOTE ET AL. v. BISHOP AND DIOCESE OF COLORADO ET AL.* Sup. Ct. Colo. Certiorari denied. Reported below: 716 P. 2d 85.

No. 85-2095. *RODOLITZ v. UNITED STATES.* C. A. 2d Cir. Certiorari denied. Reported below: 786 F. 2d 77.

No. 85-2096. *KRUEGER v. UNITED STATES.* Ct. Mil. App. Certiorari denied. Reported below: 22 M. J. 210.

No. 85-2097. *WEISSER OPTICAL CO. v. NATIONAL LABOR RELATIONS BOARD.* C. A. 7th Cir. Certiorari denied. Reported below: 787 F. 2d 596.

No. 85-2098. *RUSSELL v. MILLSAP ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 781 F. 2d 381.

No. 85-2100. *GORDON v. VETERANS ADMINISTRATION.* C. A. Fed. Cir. Certiorari denied. Reported below: 790 F. 2d 92.

No. 85-2101. *SERRA v. PICARDO ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 786 F. 2d 237.

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No. 85-2103. *UTILITY CONTRACTORS, INC. v. UNITED STATES*. C. A. Fed. Cir. Certiorari denied. Reported below: 790 F. 2d 90.

No. 85-2104. *WINTRISS v. WINTRISS*. Ct. App. Cal., 4th App. Dist. Certiorari denied.

No. 85-2105. *DELAPLANE ET AL. v. UNITED STATES*. C. A. 10th Cir. Certiorari denied. Reported below: 778 F. 2d 570.

No. 85-2106. *OHIO v. PI KAPPA ALPHA FRATERNITY*. Sup. Ct. Ohio. Certiorari denied. Reported below: 23 Ohio St. 3d 141, 491 N. E. 2d 1129.

No. 85-2108. *BIASUCCI v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 786 F. 2d 504.

No. 85-2109. *LERAKOLI, INC., ET AL. v. PAN AMERICAN WORLD AIRWAYS, INC.* C. A. 2d Cir. Certiorari denied. Reported below: 783 F. 2d 33.

No. 85-2111. *TEEPLE v. PATTON ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 792 F. 2d 141.

No. 85-2113. *A. H. ROBINS CO., INC. v. ELI LILLY & CO.* C. A. Fed. Cir. Certiorari denied. Reported below: 790 F. 2d 95.

No. 85-2114. *BELL ET AL. v. DEPARTMENT OF HEALTH AND HUMAN RESOURCES ET AL.* Sup. Ct. La. Certiorari denied. Reported below: 483 So. 2d 945.

No. 85-2117. *ROBINSON v. DAUGHERTY ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 785 F. 2d 310.

No. 85-2118. *PUGLISI ET AL. v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 790 F. 2d 240.

No. 85-2119. *BLOCK DRUG CO., INC., ET AL. v. HODOSH ET AL.* C. A. Fed. Cir. Certiorari denied. Reported below: 786 F. 2d 1136.

No. 85-2120. *WHEELER v. UNITED STATES*. Ct. Mil. App. Certiorari denied. Reported below: 22 M. J. 76.

No. 85-2124. *CAPO v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 786 F. 2d 504.

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No. 85-2125. *MAGIDOW v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 785 F. 2d 318.

No. 85-2126. *MALACHOWSKI ET UX. v. CITY OF KEENE ET AL.* C. A. 1st Cir. Certiorari denied. Reported below: 787 F. 2d 704.

No. 85-2127. *MCDANIEL v. JOHNSON ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 780 F. 2d 386.

No. 85-2130. *AKERS ET AL. v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 785 F. 2d 814.

No. 85-2131. *LEVY AUTO PARTS OF CANADA ET AL. v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 787 F. 2d 946.

No. 85-2132. *KEHOE v. HOFMANN*. C. A. 3d Cir. Certiorari denied. Reported below: 787 F. 2d 582.

No. 85-2135. *HARDIN v. GILBERT & COLVIN* (two cases). C. A. 5th Cir. Certiorari denied. Reported below: 784 F. 2d 1111 (first case); 786 F. 2d 1160 (second case).

No. 85-2136. *CITY CAB COMPANY OF ORLANDO, INC., ET AL. v. NATIONAL LABOR RELATIONS BOARD*. C. A. 11th Cir. Certiorari denied. Reported below: 787 F. 2d 1475.

No. 85-2138. *TOWNSHIP OF WOODBRIDGE v. TOWNSHIP OF FRANKLIN SEWERAGE AUTHORITY ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 787 F. 2d 117.

No. 85-2139. *CHEMICAL ENGINEERING CORP. ET AL. v. PATTERSON ET AL.* Ct. App. Mich. Certiorari denied.

No. 85-2140. *DiNOLA v. AMERICAN CYANAMID ET AL.* C. A. 3d Cir. Certiorari denied.

No. 85-2142. *SOUTHWEST SUNSITES, INC., ET AL. v. FEDERAL TRADE COMMISSION*. C. A. 9th Cir. Certiorari denied. Reported below: 785 F. 2d 1431.

No. 85-2143. *JOHNSON v. PATTESON*. C. A. 8th Cir. Certiorari denied. Reported below: 787 F. 2d 1245.

No. 85-2144. *CITY OF NEW YORK v. SMOSS ENTERPRISES CORP.* C. A. 2d Cir. Certiorari denied.

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No. 85-2145. *MARICLE v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 786 F. 2d 1179.

No. 85-2146. *QUEMENER ET AL. v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 789 F. 2d 145.

No. 85-2148. *HALE v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 784 F. 2d 1465.

No. 85-2149. *CRAFT ET AL. v. BOARD OF TRUSTEES OF THE UNIVERSITY OF ILLINOIS ET AL.* C. A. 7th Cir. Certiorari denied. Reported below: 793 F. 2d 140.

No. 85-2151. *NISIOTAKIS ET AL. v. COLUMBUS AIRCRAFT DIVISION OF ROCKWELL INTERNATIONAL CORP. ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 786 F. 2d 1155.

No. 85-2152. *BAGGIANO, COMMISSIONER, ALABAMA MEDICAID AGENCY, ET AL. v. ALACARE, INC.-NORTH*. C. A. 11th Cir. Certiorari denied. Reported below: 785 F. 2d 963.

No. 85-2153. *BROTHERHOOD OF LOCOMOTIVE ENGINEERS v. BOSTON & MAINE CORP.*; and

No. 86-160. *BOSTON & MAINE CORP. v. BROTHERHOOD OF LOCOMOTIVE ENGINEERS*. C. A. 1st Cir. Certiorari denied. Reported below: 788 F. 2d 794.

No. 85-2154. *ARMSTRONG RUBBER CO. ET AL. v. UNITED STATES ET AL.* C. A. Fed. Cir. Certiorari denied.

No. 85-2158. *BOWER ET AL. v. LYNCH, SECRETARY OF AGRICULTURE, ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 785 F. 2d 556.

No. 85-2159. *THOMPSON v. HOUSING AUTHORITY OF THE CITY OF LOS ANGELES ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 782 F. 2d 829.

No. 85-2160. *TOWN OF NORWOOD v. UNCOMPAHGRE VALLEY WATER USERS ASSN. ET AL.* C. A. 10th Cir. Certiorari denied. Reported below: 785 F. 2d 269.

No. 85-2162. *SANDHU v. VIRGINIA STATE WATER CONTROL BOARD*. C. A. 4th Cir. Certiorari denied. Reported below: 786 F. 2d 1156.

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No. 85-2163. JOHNSON, ADMINISTRATOR OF THE ESTATE OF JOHNSON *v.* COLLEY ET AL. Sup. Ct. Ill. Certiorari denied. Reported below: 111 Ill. 2d 468, 490 N. E. 2d 685.

No. 85-2165. DAMASCUS *v.* PACIFIC BELL CO. ET AL. Ct. App. Cal., 6th App. Dist. Certiorari denied.

No. 85-2166. MIDDLETON ET AL. *v.* CALIFORNIA ET AL. Ct. App. Cal., 3d App. Dist. Certiorari denied.

No. 85-2167. BABAD ET AL., A CO-PARTNERSHIP DBA J. R. R. REALTY CO. *v.* NATIONAL LABOR RELATIONS BOARD. C. A. 2d Cir. Certiorari denied. Reported below: 785 F. 2d 46.

No. 85-6467. CONLEY *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 779 F. 2d 970.

No. 85-6514. VERTZ *v.* TEXAS. Ct. App. Tex., 13th Sup. Jud. Dist. Certiorari denied. Reported below: 686 S. W. 2d 696.

No. 85-6546. DIAZ *v.* SCULLY, SUPERINTENDENT, GREEN HAVEN CORRECTIONAL FACILITY, ET AL. C. A. 2d Cir. Certiorari denied.

No. 85-6572. BOUDREAUX *v.* BLACKBURN, WARDEN. C. A. 5th Cir. Certiorari denied.

No. 85-6575. GUTHRIE *v.* SOWDERS, WARDEN. C. A. 6th Cir. Certiorari denied. Reported below: 779 F. 2d 50.

No. 85-6603. AZZOUKA *v.* SAVA, DISTRICT DIRECTOR OF THE NEW YORK DISTRICT, UNITED STATES IMMIGRATION AND NATURALIZATION SERVICE, ET AL. C. A. 2d Cir. Certiorari denied. Reported below: 777 F. 2d 68.

No. 85-6604. JONAS *v.* WAINWRIGHT, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS, ET AL. C. A. 11th Cir. Certiorari denied. Reported below: 779 F. 2d 1576.

No. 85-6612. THOMPSON *v.* OKLAHOMA. Ct. Crim. App. Okla. Certiorari denied. Reported below: 711 P. 2d 936.

No. 85-6622. DUKES *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 779 F. 2d 53.

No. 85-6627. BROWN *v.* WESLEY QUAKER MAID, INC. C. A. 6th Cir. Certiorari denied. Reported below: 771 F. 2d 952.

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No. 85-6637. *LEAL v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 781 F. 2d 1108.

No. 85-6646. *JACKSON v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 782 F. 2d 1032.

No. 85-6653. *RUSSO v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 786 F. 2d 1149.

No. 85-6654. *MARRA v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 778 F. 2d 985.

No. 85-6680. *CLARK v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 784 F. 2d 402.

No. 85-6693. *COVINGTON v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 783 F. 2d 1052.

No. 85-6704. *WEICHERT v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 783 F. 2d 23.

No. 85-6715. *HELMY v. PENNSYLVANIA ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 787 F. 2d 582.

No. 85-6732. *HANKINS v. WICKER*. C. A. 3d Cir. Certiorari denied. Reported below: 782 F. 2d 1028.

No. 85-6752. *BREWER v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 783 F. 2d 841.

No. 85-6762. *BROWN v. ANDERSON ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 782 F. 2d 1034.

No. 85-6768. *RAMIREZ v. UNITED STATES*. Ct. Mil. App. Certiorari denied. Reported below: 21 M. J. 353.

No. 85-6769. *MCNEAIR v. GEORGETOWN UNIVERSITY HOSPITAL*. C. A. D. C. Cir. Certiorari denied. Reported below: 251 U. S. App. D. C. 196, 782 F. 2d 278.

No. 85-6777. *HAYES v. FLORIDA*. Dist. Ct. App. Fla., 2d Dist. Certiorari denied. Reported below: 488 So. 2d 77.

No. 85-6778. *PORTER v. FOLTZ, WARDEN*. C. A. 6th Cir. Certiorari denied. Reported below: 791 F. 2d 934.

No. 85-6781. *AHMAD v. REDMAN, WARDEN, ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 782 F. 2d 409.

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No. 85-6791. *HEMPHILL v. LYLES, WARDEN, ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 779 F. 2d 45.

No. 85-6793. *GOUDY v. UNITED STATES.* Ct. App. D. C. Certiorari denied. Reported below: 495 A. 2d 744 and 505 A. 2d 461.

No. 85-6796. *SHAFFER v. UNITED STATES.* C. A. 3d Cir. Certiorari denied. Reported below: 786 F. 2d 1149.

No. 85-6797. *CRADDOCK v. NEW JERSEY.* Super. Ct. N. J., App. Div. Certiorari denied.

No. 85-6815. *LOCKETT v. MONTEMANGO, WARDEN.* C. A. 2d Cir. Certiorari denied. Reported below: 784 F. 2d 78.

No. 85-6816. *CODINACH v. UNITED STATES.* C. A. 11th Cir. Certiorari denied. Reported below: 778 F. 2d 791.

No. 85-6817. *DUNN v. KENTUCKY.* Sup. Ct. Ky. Certiorari denied. Reported below: 703 S. W. 2d 874.

No. 85-6821. *STRANGE v. LOCAL UNION NO. 79 OF THE INTERNATIONAL ASSOCIATION OF BRIDGE, STRUCTURAL & ORNAMENTAL IRON WORKERS ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 779 F. 2d 47.

No. 85-6832. *HUSKEY v. UNITED STATES.* C. A. 10th Cir. Certiorari denied.

No. 85-6835. *MADDOX v. WELDON, WARDEN.* C. A. 11th Cir. Certiorari denied. Reported below: 785 F. 2d 1035.

No. 85-6837. *KEATON v. ARREDONDO.* C. A. 5th Cir. Certiorari denied. Reported below: 782 F. 2d 1038.

No. 85-6842. *JONES v. CALIFORNIA.* Ct. App. Cal., 3d App. Dist. Certiorari denied.

No. 85-6847. *CASEY v. UNITED STATES.* C. A. 11th Cir. Certiorari denied. Reported below: 776 F. 2d 1056.

No. 85-6873. *WILLIAMS v. SOUTH CAROLINA DEPARTMENT OF CORRECTIONS ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 786 F. 2d 1159.

No. 85-6878. *WILSON v. UNITED STATES.* C. A. Fed. Cir. Certiorari denied. Reported below: 779 F. 2d 656.

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No. 85-6882. *VETETO v. UNITED STATES*. C. A. 11th Cir. Certiorari denied.

No. 85-6883. *BUCKMORE v. UNITED STATES ET AL.* C. A. Fed. Cir. Certiorari denied. Reported below: 785 F. 2d 321.

No. 85-6892. *IBEMESI v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 786 F. 2d 1157.

No. 85-6893. *BABICH v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 785 F. 2d 415.

No. 85-6897. *CLARK v. MARSHALL, SUPERINTENDENT, SOUTHERN OHIO CORRECTIONAL FACILITY*. C. A. 6th Cir. Certiorari denied. Reported below: 780 F. 2d 1020.

No. 85-6901. *THOMAS v. CITY OF DALLAS POLICE DEPARTMENT ET AL.* C. A. 5th Cir. Certiorari denied.

No. 85-6903. *BARBOUR v. HOLLAND, WARDEN, ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 782 F. 2d 1034.

No. 85-6904. *STRICKLER v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 775 F. 2d 1166.

No. 85-6906. *GAUGER v. UNITED STATES*. C. A. 10th Cir. Certiorari denied.

No. 85-6909. *KLAVER v. FLORIDA*. Dist. Ct. App. Fla., 2d Dist. Certiorari denied. Reported below: 487 So. 2d 1117.

No. 85-6915. *LAFIURA v. DEROBERTIS, WARDEN, ET AL.* C. A. 7th Cir. Certiorari denied.

No. 85-6916. *WILLIAMS v. NELLO L. TEER CO. ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 786 F. 2d 1159.

No. 85-6919. *JOHNSON v. COSTA*. C. A. 5th Cir. Certiorari denied. Reported below: 786 F. 2d 1160.

No. 85-6920. *CURREY v. NEW YORK*. App. Div., Sup. Ct. N. Y., 2d Jud. Dept. Certiorari denied. Reported below: 115 App. Div. 2d 552, 496 N. Y. S. 2d 695.

No. 85-6921. *BLAKEWOOD v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 786 F. 2d 1160.

No. 85-6926. *BECKER v. GOVERNMENT OF BRAZIL ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 779 F. 2d 37.

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No. 85-6928. *CLARK v. BRUCE, SHERIFF, ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 782 F. 2d 1034.

No. 85-6929. *MUZA v. MUZA ET AL.* C. A. 8th Cir. Certiorari denied. Reported below: 786 F. 2d 1172.

No. 85-6934. *SALMAN v. ONE THIRTY-THREE, INC., DBA ONSLOW HOTEL/CASINO, ET AL.* Sup. Ct. Nev. Certiorari denied. Reported below: 102 Nev. 748.

No. 85-6937. *MAY v. INTERNATIONAL BUSINESS ASSOCIATES, INC., ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 791 F. 2d 934.

No. 85-6939. *RANKIN v. RICE, WARDEN, ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 782 F. 2d 1036.

No. 85-6940. *LEE v. UNITED STATES.* Ct. App. D. C. Certiorari denied.

No. 85-6941. *BASALYGA v. PENNSYLVANIA.* C. A. 3d Cir. Certiorari denied. Reported below: 787 F. 2d 580.

No. 85-6942. *GAMBRELL v. FORD MOTOR CO. ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 787 F. 2d 581.

No. 85-6944. *CLARK v. MAGGIO, WARDEN, ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 779 F. 2d 680.

No. 85-6945. *ESPEY v. WAINWRIGHT, SECRETARY, FLORIDIA DEPARTMENT OF CORRECTIONS.* C. A. 11th Cir. Certiorari denied. Reported below: 788 F. 2d 1569.

No. 85-6946. *DANIELS v. MARYLAND.* Ct. Sp. App. Md. Certiorari denied. Reported below: 66 Md. App. 814.

No. 85-6949. *DOSS v. REID ET AL.* C. A. 3d Cir. Certiorari denied.

No. 85-6951. *WELLER v. UNITED STATES.* C. A. 4th Cir. Certiorari denied. Reported below: 786 F. 2d 1158.

No. 85-6953. *THOMAS v. UNITED STATES MARSHAL, LEXINGTON, KENTUCKY, ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 786 F. 2d 1166.

No. 85-6955. *TERRELL v. UNITED STATES.* C. A. Fed. Cir. Certiorari denied. Reported below: 785 F. 2d 323.

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No. 85-6957. *FLOWERS v. COUGHLIN*, COMMISSIONER, NEW YORK STATE DEPARTMENT OF CORRECTIONS, ET AL. C. A. 2d Cir. Certiorari denied.

No. 85-6959. *HALLINGSTAD v. HARVEY ET AL.* C. A. 7th Cir. Certiorari denied. Reported below: 787 F. 2d 596.

No. 85-6960. *MAXHAM v. DEPARTMENT OF THE NAVY.* C. A. 4th Cir. Certiorari denied.

No. 85-6965. *SMITH v. SCULLY*, SUPERINTENDENT, GREEN HAVEN CORRECTIONAL FACILITY, ET AL. C. A. 2d Cir. Certiorari denied. Reported below: 788 F. 2d 5.

No. 85-6966. *CROCKETT v. UNITED STATES.* Ct. Mil. App. Certiorari denied. Reported below: 21 M. J. 423.

No. 85-6968. *KOHR v. FULCOMER*, SUPERINTENDENT, STATE CORRECTIONAL INSTITUTION AT HUNTINGDON. C. A. 3d Cir. Certiorari denied. Reported below: 782 F. 2d 1029.

No. 85-6969. *AZZOLINO ET AL. v. DINGFELDER ET AL.* Sup. Ct. N. C. Certiorari denied. Reported below: 315 N. C. 103, 337 S. E. 2d 528.

No. 85-6972. *READ v. UNITED STATES.* C. A. 9th Cir. Certiorari denied. Reported below: 778 F. 2d 1437.

No. 85-6976. *PENDLETON v. NEW YORK STATE DEPARTMENT OF CORRECTIONAL SERVICES.* C. A. 2d Cir. Certiorari denied. Reported below: 788 F. 2d 6.

No. 85-6980. *HART v. UNITED STATES.* C. A. 6th Cir. Certiorari denied. Reported below: 791 F. 2d 933.

No. 85-6981. *GOLDSBY v. CALIFORNIA.* Ct. App. Cal., 2d App. Dist. Certiorari denied.

No. 85-6987. *BLAIR v. UNITED STATES.* C. A. 4th Cir. Certiorari denied. Reported below: 785 F. 2d 306.

No. 85-6988. *BOSHEARS v. WAINWRIGHT*, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS, ET AL. C. A. 11th Cir. Certiorari denied.

No. 85-6990. *MALQUIST v. UNITED STATES.* C. A. 9th Cir. Certiorari denied.

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No. 85-6991. THOMPSON *v.* MCCOTTER, DIRECTOR, TEXAS DEPARTMENT OF CORRECTIONS. C. A. 5th Cir. Certiorari denied.

No. 85-6993. PENNINGTON *v.* UNITED STATES. Ct. App. D. C. Certiorari denied.

No. 85-6994. MINICK *v.* UNITED STATES. Ct. App. D. C. Certiorari denied. Reported below: 506 A. 2d 1115.

No. 85-6997. YINGLING *v.* BOYCE ET AL. Ct. App. Cal., 2d App. Dist. Certiorari denied.

No. 85-6998. TORAIN *v.* NORTH CAROLINA. Sup. Ct. N. C. Certiorari denied. Reported below: 316 N. C. 111, 340 S. E. 2d 465.

No. 85-7000. DAVIDSON *v.* MCCOTTER, DIRECTOR, TEXAS DEPARTMENT OF CORRECTIONS. C. A. 5th Cir. Certiorari denied. Reported below: 785 F. 2d 1033.

No. 85-7001. FROST *v.* UNITED STATES. Ct. App. D. C. Certiorari denied. Reported below: 502 A. 2d 462.

No. 85-7002. DAWSON *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied. Reported below: 780 F. 2d 1016.

No. 85-7003. KOENIG *v.* HURON REGIONAL CORRECTIONAL CENTER ET AL. C. A. 8th Cir. Certiorari denied. Reported below: 782 F. 2d 1049.

No. 85-7004. SNYDER *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. Reported below: 787 F. 2d 1429.

No. 85-7005. CROWELL *v.* MURRAY, DIRECTOR, VIRGINIA DEPARTMENT OF CORRECTIONS. C. A. 4th Cir. Certiorari denied. Reported below: 788 F. 2d 1560.

No. 85-7007. FINNAN *v.* FINNAN ET AL. C. A. 2d Cir. Certiorari denied.

No. 85-7009. GUTIERREZ *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 784 F. 2d 402.

No. 85-7011. MCCUTCHEON *v.* ILLINOIS. Sup. Ct. Ill. Certiorari denied. Reported below: 111 Ill. 2d 487, 490 N. E. 2d 662.

No. 85-7012. ROBERTS *v.* MACKEY ET AL. C. A. 1st Cir. Certiorari denied.

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No. 85-7014. *MEADOWS v. MCCOTTER*, DIRECTOR, TEXAS DEPARTMENT OF CORRECTIONS. C. A. 5th Cir. Certiorari denied. Reported below: 782 F. 2d 489.

No. 85-7015. *REEVES v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 782 F. 2d 1323.

No. 85-7018. *HAINES v. KANSAS*. Sup. Ct. Kan. Certiorari denied. Reported below: 238 Kan. 478, 712 P. 2d 1211.

No. 85-7021. *BRECKENRIDGE v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 782 F. 2d 1317.

No. 85-7022. *BRAGG v. MCCOTTER*, DIRECTOR, TEXAS DEPARTMENT OF CORRECTIONS. C. A. 5th Cir. Certiorari denied. Reported below: 784 F. 2d 1112.

No. 85-7023. *CHAVEZ v. SULLIVAN*, WARDEN, ET AL. C. A. 10th Cir. Certiorari denied.

No. 85-7024. *DENSON v. ILLINOIS*. App. Ct. Ill., 2d Dist. Certiorari denied. Reported below: 139 Ill. App. 3d 914, 487 N. E. 2d 777.

No. 85-7025. *HOLLINS v. HENKEL*. Dist. Ct. App. Fla., 4th Dist. Certiorari denied. Reported below: 486 So. 2d 605.

No. 85-7028. *BROWN v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 787 F. 2d 929.

No. 85-7029. *LINTHICUM v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 788 F. 2d 1568.

No. 85-7030. *ROGERS v. WAINWRIGHT*, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS. C. A. 11th Cir. Certiorari denied. Reported below: 784 F. 2d 403.

No. 85-7033. *VIOLA v. UNITED STATES*. C. A. 9th Cir. Certiorari denied.

No. 85-7034. *JERMOSEN v. COUGHLIN*, COMMISSIONER, NEW YORK DEPARTMENT OF CORRECTIONS, ET AL. C. A. 2d Cir. Certiorari denied.

No. 85-7035. *TRAUNIG v. VETERANS ADMINISTRATION*. C. A. Fed. Cir. Certiorari denied. Reported below: 785 F. 2d 325.

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No. 85-7036. *PIRROTTA v. MASSACHUSETTS*. App. Ct. Mass. Certiorari denied. Reported below: 21 Mass. App. 456, 488 N. E. 2d 780.

No. 85-7037. *TURNER v. CALIFORNIA*. Sup. Ct. Cal. Certiorari denied.

No. 85-7038. *LEWIS v. LEHMAN, SECRETARY OF THE NAVY* (two cases). C. A. 4th Cir. Certiorari denied. Reported below: 758 F. 2d 648 (first case).

No. 85-7039. *GAYLE v. SCULLY, SUPERINTENDENT, GREEN HAVEN CORRECTIONAL FACILITY*. C. A. 2d Cir. Certiorari denied. Reported below: 779 F. 2d 802.

No. 85-7040. *JOHNS v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 789 F. 2d 919.

No. 85-7041. *BONAPARTE v. HAHN, WARDEN, ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 786 F. 2d 1145.

No. 85-7042. *EITEL v. BALDWIN*. Sup. Ct. Alaska. Certiorari denied.

No. 85-7043. *HARRIS v. J. G. W. ASSOCIATES ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 782 F. 2d 1028.

No. 85-7044. *GARAUX v. VASQUEZ, WARDEN, ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 788 F. 2d 9.

No. 85-7045. *MUMFORD v. MARYLAND*. Ct. App. Md. Certiorari denied. Reported below: 305 Md. 621, 505 A. 2d 1342.

No. 85-7047. *COLBERT v. OKLAHOMA*. Ct. Crim. App. Okla. Certiorari denied. Reported below: 714 P. 2d 209.

No. 85-7048. *BRYNER v. PENNSYLVANIA*. Sup. Ct. Pa. Certiorari denied.

No. 85-7049. *PROVENS v. NEY*. C. A. 6th Cir. Certiorari denied. Reported below: 791 F. 2d 934.

No. 85-7051. *CAPPS v. N. L. BAROID-NL INDUSTRIES, INC.* C. A. 5th Cir. Certiorari denied. Reported below: 784 F. 2d 615.

No. 85-7053. *MAZZONE v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 782 F. 2d 757.

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No. 85-7054. *HOLT v. CONTINENTAL GROUP, INC., ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 788 F. 2d 3.

No. 85-7056. *COLLEY v. SUMNER ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 784 F. 2d 984.

No. 85-7057. *ROBERTS v. UNITED STATES.* C. A. 9th Cir. Certiorari denied. Reported below: 779 F. 2d 565.

No. 85-7058. *MILLER v. UNITED STATES.* C. A. 9th Cir. Certiorari denied. Reported below: 780 F. 2d 1461.

No. 85-7059. *MURPHREE v. UNITED STATES.* C. A. 6th Cir. Certiorari denied. Reported below: 783 F. 2d 605.

No. 85-7061. *ROBERTS v. MARYLAND.* Ct. Sp. App. Md. Certiorari denied. Reported below: 66 Md. App. 814.

No. 85-7062. *POLES v. PENNSYLVANIA.* C. A. 3d Cir. Certiorari denied. Reported below: 786 F. 2d 1148.

No. 85-7064. *COMSIA v. BURKHART ET UX.* Ct. App. Ohio, Mahoning County. Certiorari denied.

No. 85-7065. *JACKSON v. DISTRICT OF COLUMBIA DEPARTMENT OF EMPLOYMENT SERVICES.* Ct. App. D. C. Certiorari denied.

No. 85-7066. *WILSON v. UNITED STATES.* C. A. 2d Cir. Certiorari denied. Reported below: 750 F. 2d 7.

No. 85-7067. *ALLEN v. LEFEVRE, SUPERINTENDENT, CLINTON CORRECTIONAL FACILITY.* C. A. 2d Cir. Certiorari denied.

No. 85-7069. *DAVIS v. WADE ET AL.* C. A. 5th Cir. Certiorari denied.

No. 85-7072. *CHINN v. FEDERAL COMMUNICATIONS COMMISSION.* C. A. 9th Cir. Certiorari denied. Reported below: 786 F. 2d 1173.

No. 85-7073. *JOHNSON v. UNITED STATES.* C. A. 9th Cir. Certiorari denied. Reported below: 782 F. 2d 1054.

No. 85-7074. *O'DELL v. SMITH ET AL.* C. A. 8th Cir. Certiorari denied.

No. 85-7075. *PERKINS v. ELLIS, JUDGE, ET AL.* C. A. 5th Cir. Certiorari denied.

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No. 85-7076. *CARDALL v. UNITED STATES*. C. A. 10th Cir. Certiorari denied.

No. 85-7081. *ROCQUE v. LEE*. C. A. 4th Cir. Certiorari denied. Reported below: 788 F. 2d 8.

No. 85-7082. *NICHOLS v. WAINWRIGHT, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS*. C. A. 11th Cir. Certiorari denied. Reported below: 783 F. 2d 1540.

No. 85-7083. *ARMSTRONG v. SUPERIOR COURT OF CALIFORNIA, ORANGE COUNTY (ARMSTRONG, REAL PARTY IN INTEREST)*. Ct. App. Cal., 4th App. Dist. Certiorari denied.

No. 85-7084. *OWENS v. LOUISIANA*. Sup. Ct. La. Certiorari denied. Reported below: 486 So. 2d 748.

No. 85-7085. *DUCKETT v. UNITED STATES*. Ct. App. D. C. Certiorari denied.

No. 85-7086. *LAWRENCE v. UNITED STATES*. C. A. Fed. Cir. Certiorari denied. Reported below: 795 F. 2d 1017.

No. 85-7090. *FILIPAS v. AKRON GENERAL HOSPITAL ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 785 F. 2d 307.

No. 85-7091. *LOPEZ v. KINCHELOE, SUPERINTENDENT, WASHINGTON STATE PENITENTIARY, ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 782 F. 2d 1053.

No. 85-7092. *ROCHON v. BLACKBURN, WARDEN*. C. A. 5th Cir. Certiorari denied. Reported below: 787 F. 2d 586.

No. 85-7093. *NOVAK v. ILLINOIS DEPARTMENT OF CORRECTIONS ET AL.* C. A. 7th Cir. Certiorari denied. Reported below: 789 F. 2d 919.

No. 85-7095. *SHABAZZ v. CALIFORNIA*. Sup. Ct. Cal. Certiorari denied. Reported below: 175 Cal. App. 3d 468, 221 Cal. Rptr. 15.

No. 85-7096. *RANSON v. TEXAS*. Ct. Crim. App. Tex. Certiorari denied. Reported below: 707 S. W. 2d 96.

No. 85-7097. *STOCKTON v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 788 F. 2d 210.

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No. 85-7099. *VORTIS v. UNITED STATES*. C. A. D. C. Cir. Certiorari denied. Reported below: 251 U. S. App. D. C. 329, 785 F. 2d 327.

No. 85-7101. *OSIPOVA v. HOME ENERGY ASSISTANCE PROGRAM, CITY OF NEW YORK DEPARTMENT FOR AGING, ET AL.* C. A. 2d Cir. Certiorari denied.

No. 85-7102. *ANGLIAN v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 784 F. 2d 765.

No. 85-7103. *COQUILLIAN v. JONES, SUPERINTENDENT, STONE MOUNTAIN CORRECTIONAL INSTITUTION*. C. A. 11th Cir. Certiorari denied.

No. 85-7104. *MCCROSSEN v. WISCONSIN*. Sup. Ct. Wis. Certiorari denied. Reported below: 129 Wis. 2d 277, 385 N. W. 2d 161.

No. 85-7105. *WIGGINS v. PENNSYLVANIA*. Super. Ct. Pa. Certiorari denied. Reported below: 346 Pa. Super. 238, 499 A. 2d 585.

No. 85-7106. *WALK v. IOWA*. Sup. Ct. Iowa. Certiorari denied. Reported below: 384 N. W. 2d 1.

No. 85-7108. *RADVAN-ZIEMNOWICZ v. COMMISSION ON MEDICAL DISCIPLINE OF MARYLAND*. Ct. App. Md. Certiorari denied. Reported below: 305 Md. 106, 501 A. 2d 845.

No. 85-7109. *SIMMONS v. DEPARTMENT OF THE NAVY*. C. A. Fed. Cir. Certiorari denied. Reported below: 795 F. 2d 1016.

No. 85-7110. *CORDLE v. HOLCOMB ET AL.* Sup. Ct. Ky. Certiorari denied.

No. 85-7112. *WASHINGTON v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 791 F. 2d 923.

No. 85-7113. *SNYDER v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 790 F. 2d 87.

No. 85-7114. *RIPP v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 788 F. 2d 761.

No. 85-7115. *VESAY v. UNITED STATES*. C. A. 6th Cir. Certiorari denied.

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No. 85-7116. *STAWICKI v. ISRAEL, SUPERINTENDENT, WAUPUN CORRECTIONAL INSTITUTION, ET AL.* C. A. 7th Cir. Certiorari denied. Reported below: 778 F. 2d 380.

No. 85-7118. *TRIPATI v. UNITED STATES.* C. A. 10th Cir. Certiorari denied.

No. 85-7119. *RANKEL v. SMITH, SUPERINTENDENT, ATTICA CORRECTIONAL FACILITY.* C. A. 2d Cir. Certiorari denied.

No. 85-7120. *PELAES v. UNITED STATES; and*

No. 86-59. *OSORNO v. UNITED STATES.* C. A. 2d Cir. Certiorari denied. Reported below: 790 F. 2d 254.

No. 85-7121. *DAVIS v. COOMBE ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 792 F. 2d 136.

No. 85-7123. *BROWN v. BOWEN, SECRETARY OF HEALTH AND HUMAN SERVICES.* C. A. 7th Cir. Certiorari denied. Reported below: 787 F. 2d 595.

No. 85-7126. *TUCKER v. WILLIS, WARDEN, ET AL.* C. A. 11th Cir. Certiorari denied.

No. 85-7127. *THACKER v. MCCOTTER, DIRECTOR, TEXAS DEPARTMENT OF CORRECTIONS.* C. A. 5th Cir. Certiorari denied.

No. 85-7130. *VALERIANO v. LOPES, COMMISSIONER, CONNECTICUT DEPARTMENT OF CORRECTIONS.* C. A. 2d Cir. Certiorari denied. Reported below: 792 F. 2d 137.

No. 85-7131. *BREEST v. CUNNINGHAM, WARDEN.* C. A. 1st Cir. Certiorari denied. Reported below: 784 F. 2d 435.

No. 85-7132. *LOGGINS v. FREY, SUPERINTENDENT, MISSOURI EASTERN CORRECTIONAL CENTER.* C. A. 8th Cir. Certiorari denied. Reported below: 786 F. 2d 364.

No. 85-7133. *JONES v. UNITED STATES.* C. A. 10th Cir. Certiorari denied.

No. 85-7134. *BARKER v. UNITED STATES.* C. A. 10th Cir. Certiorari denied.

No. 85-7135. *COLLIER v. NEWSOME, SUPERINTENDENT, GEORGIA STATE PRISON.* C. A. 11th Cir. Certiorari denied.

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No. 85-7136. *KIMBLE v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 786 F. 2d 1160.

No. 85-7137. *CUVREAU ET AL. v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 786 F. 2d 1176.

No. 85-7138. *ABNEY v. UNITED STATES*. Ct. App. D. C. Certiorari denied.

No. 85-7139. *PETERSEN v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 777 F. 2d 482.

No. 85-7140. *TAYLOR v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 786 F. 2d 1178.

No. 85-7143. *SHAW v. JOHNSON, WARDEN*. C. A. 10th Cir. Certiorari denied. Reported below: 786 F. 2d 993.

No. 85-7144. *THOMPSON v. OWEN ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 784 F. 2d 1112.

No. 85-7145. *MORKE v. MURRAY, DIRECTOR, VIRGINIA DEPARTMENT OF CORRECTIONS, ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 786 F. 2d 1155.

No. 85-7146. *YOUNGS-SETTLE v. ANDERSON*. C. A. 5th Cir. Certiorari denied. Reported below: 783 F. 2d 1061.

No. 85-7147. *RODERICK v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 791 F. 2d 923.

No. 85-7148. *MCKOY v. UNITED STATES*. C. A. D. C. Cir. Certiorari denied. Reported below: 252 U. S. App. D. C. 19, 786 F. 2d 432.

No. 85-7149. *LANE v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 791 F. 2d 935.

No. 85-7151. *HARTMAN v. LOUISIANA*. Sup. Ct. La. Certiorari denied. Reported below: 486 So. 2d 748.

No. 85-7153. *FRIEL v. MAINE*. Sup. Jud. Ct. Me. Certiorari denied. Reported below: 508 A. 2d 123.

No. 85-7155. *KOENIG v. JONES ET AL.* C. A. 8th Cir. Certiorari denied. Reported below: 786 F. 2d 1170.

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No. 85-7157. *GRIMES v. DEPARTMENT OF THE ARMY ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 787 F. 2d 590.

No. 85-7158. *HATTON v. SCROGGY, WARDEN.* C. A. 6th Cir. Certiorari denied. Reported below: 791 F. 2d 933.

No. 85-7159. *GRACE v. UNITED STATES.* C. A. D. C. Cir. Certiorari denied. Reported below: 250 U. S. App. D. C. 197, 778 F. 2d 818.

No. 85-7160. *JONES v. JOHNSON, SUPERINTENDENT, MICHIGAN DEPARTMENT OF CORRECTIONS.* C. A. 6th Cir. Certiorari denied. Reported below: 787 F. 2d 590.

No. 85-7164. *KNAPP v. NEW YORK.* App. Div., Sup. Ct. N. Y., 3d Jud. Dept. Certiorari denied. Reported below: 113 App. Div. 2d 154, 495 N. Y. S. 2d 985.

No. 85-7166. *CAMERON v. PENNINGTON COUNTY ET AL.* C. A. 8th Cir. Certiorari denied. Reported below: 786 F. 2d 1168.

No. 85-7167. *DAMIANI v. TOMASKY ET AL.* C. A. 4th Cir. Certiorari denied.

No. 85-7168. *FRAZIN v. UNITED STATES.* C. A. 9th Cir. Certiorari denied. Reported below: 780 F. 2d 1461.

No. 85-7170. *WALKER v. GROVES ET AL.* C. A. 7th Cir. Certiorari denied.

No. 85-7172. *SKINNER v. UNITED STATES.* C. A. 11th Cir. Certiorari denied. Reported below: 785 F. 2d 1035.

No. 85-7173. *PROVENS v. MARSHALL ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 786 F. 2d 1166.

No. 85-7174. *SAMPSON v. LOVE, WARDEN.* C. A. 6th Cir. Certiorari denied. Reported below: 782 F. 2d 53.

No. 85-7175. *POULOS v. UNITED STATES.* C. A. 10th Cir. Certiorari denied.

No. 85-7176. *HAYNES v. WAINWRIGHT, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS, ET AL.* C. A. 11th Cir. Certiorari denied. Reported below: 791 F. 2d 939.

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No. 85-7177. *BOOKER v. ISRAEL, SUPERINTENDENT, WAUPUN CORRECTIONAL INSTITUTION*. C. A. 7th Cir. Certiorari denied. Reported below: 792 F. 2d 142.

No. 85-7178. *JENKINS v. UNITED STATES*. Ct. App. D. C. Certiorari denied. Reported below: 506 A. 2d 1120.

No. 85-7180. *GRANDISON v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 783 F. 2d 1152.

No. 85-7181. *LEE v. HARDAGE ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 782 F. 2d 1035.

No. 85-7185. *CRUZ v. UNITED STATES*. Ct. Mil. App. Certiorari denied. Reported below: 22 M. J. 9.

No. 85-7186. *KIBBE v. CITY OF PORT HURON*. C. A. 6th Cir. Certiorari denied. Reported below: 787 F. 2d 590.

No. 85-7187. *DELLOSSO v. NEW YORK*. Ct. App. N. Y. Certiorari denied. Reported below: 67 N. Y. 2d 882, 492 N. E. 2d 1240.

No. 85-7192. *GOODRICH v. BANK OF AMERICA ET AL.* C. A. 9th Cir. Certiorari denied.

No. 85-7193. *BERIK v. UNITED STATES*; and

No. 85-7218. *BAKAK v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 789 F. 2d 917.

No. 85-7194. *HOWARD v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 791 F. 2d 933.

No. 85-7196. *WROBLEWSKI v. NEW YORK*. Ct. App. N. Y. Certiorari denied. Reported below: 67 N. Y. 2d 933, 493 N. E. 2d 943.

No. 85-7197. *WILLIAMSON v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 791 F. 2d 923.

No. 85-7199. *WALKER v. BOARD OF EDUCATION OF THE CITY OF NEW YORK*. C. A. 2d Cir. Certiorari denied. Reported below: 795 F. 2d 80.

No. 85-7200. *SMITH v. HAMBY, WARDEN*. C. A. 6th Cir. Certiorari denied. Reported below: 787 F. 2d 593.

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No. 85-7201. *ZARAGOZA v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 788 F. 2d 761.

No. 85-7202. *MEST v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 789 F. 2d 1069.

No. 85-7205. *HERRON v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 787 F. 2d 584.

No. 85-7207. *FRONTELA v. UNITED STATES*; and

No. 86-5128. *DIAZ v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 791 F. 2d 170.

No. 85-7208. *CONKLIN v. TARD ET AL.* C. A. 3d Cir. Certiorari denied.

No. 85-7209. *BREAZEALE v. KANSAS*. Sup. Ct. Kan. Certiorari denied. Reported below: 238 Kan. 714, 714 P. 2d 1356.

No. 85-7210. *ALLEN v. UNITED STATES*. C. A. 1st Cir. Certiorari denied. Reported below: 789 F. 2d 90.

No. 85-7211. *BROWN v. NORWOOD ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 786 F. 2d 1151.

No. 85-7212. *GOINS v. LANE, DIRECTOR, ILLINOIS DEPARTMENT OF CORRECTIONS*. C. A. 7th Cir. Certiorari denied. Reported below: 787 F. 2d 248.

No. 85-7213. *CULBRETH v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 791 F. 2d 926.

No. 85-7214. *HAMILTON v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 788 F. 2d 1567.

No. 85-7219. *LAMPORT v. UNITED STATES*. C. A. 10th Cir. Certiorari denied. Reported below: 787 F. 2d 474.

No. 85-7220. *DARE v. SECRETARY OF THE AIR FORCE ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 787 F. 2d 581.

No. 85-7222. *COLLIER v. NEWSOME, SUPERINTENDENT, GEORGIA STATE PRISON, ET AL.* C. A. 11th Cir. Certiorari denied.

No. 85-7223. *MCWILSON v. FOLTZ, WARDEN, ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 793 F. 2d 1292.

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No. 85-7224. *PICCIANDRA v. UNITED STATES*. C. A. 1st Cir. Certiorari denied. Reported below: 788 F. 2d 39.

No. 85-7226. *WEINBERGER v. RISLEY, WARDEN, ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 787 F. 2d 598.

No. 85-7227. *LOWE v. MASSACHUSETTS*. C. A. 1st Cir. Certiorari denied.

No. 85-7228. *BRADBURN v. MCCOTTER, DIRECTOR, TEXAS DEPARTMENT OF CORRECTIONS*. C. A. 5th Cir. Certiorari denied. Reported below: 786 F. 2d 627.

No. 85-7229. *KOSTER v. UNION CARBIDE CORP.* C. A. 2d Cir. Certiorari denied. Reported below: 795 F. 2d 1004.

No. 85-7231. *REIGH ET AL. v. SCHLEIGH ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 784 F. 2d 1191.

No. 85-7233. *JONES v. NEWCOMER*. C. A. 3d Cir. Certiorari denied.

No. 85-7234. *HALL v. WHITE, WARDEN*. C. A. 11th Cir. Certiorari denied. Reported below: 784 F. 2d 403.

No. 85-7235. *FLUKE v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 787 F. 2d 593.

No. 85-7237. *ODONER v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 791 F. 2d 1270.

No. 85-7238. *ABRAHAM v. MYERS*. C. A. 2d Cir. Certiorari denied. Reported below: 788 F. 2d 4.

No. 85-7239. *BROWN v. COLORADO*. Sup. Ct. Colo. Certiorari denied.

No. 86-1. *SUBURBAN O'HARE COMMISSION ET AL. v. DOLE, SECRETARY OF TRANSPORTATION, ET AL.* (two cases). C. A. 7th Cir. Certiorari denied. Reported below: 787 F. 2d 186 (first case).

No. 86-4. *CANTU ET AL. v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 774 F. 2d 1305.

No. 86-5. *ALLUSTIARTE ET AL. v. COOPER, TRUSTEE*. C. A. 9th Cir. Certiorari denied. Reported below: 786 F. 2d 910.

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No. 86-10. UNITED TRANSPORTATION UNION ET AL. *v.* MAINE CENTRAL RAILROAD CO. ET AL. C. A. 1st Cir. Certiorari denied. Reported below: 787 F. 2d 780.

No. 86-12. ESPOSITO ET UX. *v.* COMMISSIONER OF INTERNAL REVENUE. C. A. 4th Cir. Certiorari denied. Reported below: 788 F. 2d 7.

No. 86-13. O'MALEY ET UX. *v.* COUNTY OF BACA ET AL. C. A. 10th Cir. Certiorari denied.

No. 86-15. DEVINE *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied. Reported below: 787 F. 2d 1086.

No. 86-16. EASTERLING *v.* TEXAS. Ct. Crim. App. Tex. Certiorari denied. Reported below: 710 S. W. 2d 569.

No. 86-17. CITY OF CORONA ET AL. *v.* SUPERIOR COURT OF CALIFORNIA FOR THE COUNTY OF RIVERSIDE ET AL. Sup. Ct. Cal. Certiorari denied.

No. 86-18. STANG *v.* UNITED STATES DISTRICT COURT FOR THE CENTRAL DISTRICT OF CALIFORNIA (UNITED STATES, REAL PARTY IN INTEREST). C. A. 9th Cir. Certiorari denied.

No. 86-19. BIERMANN *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 788 F. 2d 1569.

No. 86-20. ACME REFRIGERATION OF BATON ROUGE, INC. *v.* WHIRLPOOL CORP. ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 785 F. 2d 1240.

No. 86-26. UNITED KINGDOM MUTUAL STEAMSHIP ASSURANCE ASSN. (BERMUDA) LTD. *v.* STATE ESTABLISHMENT FOR AGRICULTURAL PRODUCT TRADING. C. A. 11th Cir. Certiorari denied. Reported below: 785 F. 2d 1035.

No. 86-27. BENSON *v.* ALLPHIN ET AL.; and

No. 86-29. ALLPHIN ET AL. *v.* BENSON. C. A. 7th Cir. Certiorari denied. Reported below: 786 F. 2d 268.

No. 86-30. MANN ET AL. *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 786 F. 2d 1179.

No. 86-31. TATE *v.* OVERSEAS BULKTANK CORP. C. A. 5th Cir. Certiorari denied. Reported below: 786 F. 2d 1160.

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No. 86-32. *WIDMER v. WIDMER, EXECUTOR OF THE ESTATE OF WIDMER*. Ct. App. Ark. Certiorari denied. Reported below: 17 Ark. App. xxi.

No. 86-33. *CSX CORP. v. OGLEBAY NORTON CO.* C. A. 6th Cir. Certiorari denied. Reported below: 788 F. 2d 361.

No. 86-34. *GANCI ET UX. v. COMMISSIONER OF INTERNAL REVENUE*. C. A. 6th Cir. Certiorari denied. Reported below: 786 F. 2d 1164.

No. 86-36. *SISEMORE v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 785 F. 2d 310.

No. 86-37. *HECHENBERGER v. WESTERN ELECTRIC CO., INC., ET AL.* C. A. 8th Cir. Certiorari denied. Reported below: 786 F. 2d 347.

No. 86-43. *DROTT MANUFACTURING CORP. v. DAVIDSON ET UX.* C. A. 9th Cir. Certiorari denied. Reported below: 785 F. 2d 315.

No. 86-46. *WEIL v. MCCLOUGH ET AL.* C. A. 2d Cir. Certiorari denied.

No. 86-52. *KUNGLER v. ST. JOHN'S COLLEGE ET AL.* Ct. Sp. App. Md. Certiorari denied. Reported below: 65 Md. App. 776.

No. 86-53. *AMODEO ET AL. v. DEPARTMENT OF TRANSPORTATION, FEDERAL AVIATION ADMINISTRATION*. C. A. Fed. Cir. Certiorari denied. Reported below: 788 F. 2d 1549.

No. 86-54. *AL-KHAFAJI v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 787 F. 2d 593.

No. 86-60. *POOLER ET AL. v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 787 F. 2d 868.

No. 86-62. *PREVATTE v. SECURITIES AND EXCHANGE COMMISSION ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 791 F. 2d 934.

No. 86-63. *B. P. NORTH AMERICA PETROLEUM, INC. v. WAY WISER NAVIGATION CORP.* C. A. 9th Cir. Certiorari denied. Reported below: 784 F. 2d 975.

No. 86-64. *MARVIN v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 794 F. 2d 679.

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No. 86-65. *MCDONALD v. EGGER, COMMISSIONER OF THE DEPARTMENT OF INTERNAL REVENUE, ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 786 F. 2d 1174.

No. 86-66. *KREEGER FARMS HOME DAIRY, INC., ET AL. v. BLOCK, SECRETARY OF AGRICULTURE.* C. A. D. C. Cir. Certiorari denied. Reported below: 252 U. S. App. D. C. 136, 788 F. 2d 38.

No. 86-68. *HAWKINS ET AL. v. UNITED STATES.* C. A. 4th Cir. Certiorari denied. Reported below: 788 F. 2d 200.

No. 86-70. *SAMMONS v. UNITED STATES.* C. A. 11th Cir. Certiorari denied.

No. 86-73. *BOOKER v. MOBLEY.* C. A. 6th Cir. Certiorari denied. Reported below: 785 F. 2d 307.

No. 86-77. *NORDGREN v. HAFTER, CHAIRMAN, MISSISSIPPI BOARD OF BAR ADMISSIONS, ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 789 F. 2d 334.

No. 86-79. *PINE STREET BAPTIST CHURCH ET AL. v. SECURITIES INVESTOR PROTECTION CORP. ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 788 F. 2d 1208.

No. 86-81. *LOCKETT v. ALABAMA.* Ct. Crim. App. Ala. Certiorari denied. Reported below: 489 So. 2d 653.

No. 86-82. *RECKMEYER v. UNITED STATES.* C. A. 4th Cir. Certiorari denied. Reported below: 786 F. 2d 1216.

No. 86-83. *HANSEN v. PRENTICE-HALL, INC.* C. A. 2d Cir. Certiorari denied. Reported below: 788 F. 2d 892.

No. 86-89. *MILLER v. MILLER.* Ct. App. Cal., 4th App. Dist. Certiorari denied. Reported below: 176 Cal. App. 3d 1183, 222 Cal. Rptr. 652.

No. 86-92. *ALLEN v. ALLEN.* Ct. App. La., 3d Cir. Certiorari denied. Reported below: 484 So. 2d 269.

No. 86-95. *RUNYAN v. NCR CORP.* C. A. 6th Cir. Certiorari denied. Reported below: 787 F. 2d 1039.

No. 86-96. *EASTMAN KODAK CO. v. POLAROID CORP.* C. A. Fed. Cir. Certiorari denied. Reported below: 789 F. 2d 1556.

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No. 86-99. *HARDIE v. HARDIE*. C. A. 9th Cir. Certiorari denied. Reported below: 785 F. 2d 315.

No. 86-101. *HARRIS ET AL. v. COURT OF APPEALS OF MISSOURI, WESTERN DISTRICT, ET AL.* C. A. 8th Cir. Certiorari denied. Reported below: 787 F. 2d 427.

No. 86-110. *VRETTA v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 790 F. 2d 651.

No. 86-112. *MAURIELLO v. UNIVERSITY OF MEDICINE AND DENTISTRY OF NEW JERSEY ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 791 F. 2d 919.

No. 86-115. *O'BRIEN v. SHC CORP. ET AL.* C. A. 4th Cir. Certiorari denied.

No. 86-116. *RICKARDS ET AL. v. CANINE EYE REGISTRATION FOUNDATION, INC.* C. A. 9th Cir. Certiorari denied. Reported below: 783 F. 2d 1329.

No. 86-118. *KHUBANI v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 791 F. 2d 260.

No. 86-119. *SCHEINBLUM v. SULLIVAN*. Ct. App. Cal., 4th App. Dist. Certiorari denied.

No. 86-125. *ANDERSON v. UNITED STATES DEPARTMENT OF AGRICULTURE*. C. A. Fed. Cir. Certiorari denied. Reported below: 790 F. 2d 93.

No. 86-126. *BORSCH v. BOWEN, SECRETARY OF HEALTH AND HUMAN SERVICES*. C. A. 11th Cir. Certiorari denied. Reported below: 791 F. 2d 170.

No. 86-128. *FLORENCE ET UX. v. COMMISSIONER OF INTERNAL REVENUE*. C. A. 9th Cir. Certiorari denied. Reported below: 782 F. 2d 1052.

No. 86-131. *THORNTON v. WAHL, SHERIFF, LASALLE COUNTY, ILLINOIS, ET AL.* C. A. 7th Cir. Certiorari denied. Reported below: 787 F. 2d 1151.

No. 86-132. *NEUMANN ET AL. v. REINFORCED EARTH CO.* C. A. D. C. Cir. Certiorari denied. Reported below: 252 U. S. App. D. C. 11, 786 F. 2d 424.

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No. 86-135. *JARVIS v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 792 F. 2d 767.

No. 86-138. *NATIONAL COMMUNICATION SYSTEMS, INC., ET AL. v. MICHIGAN PUBLIC SERVICE COMMISSION ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 789 F. 2d 370.

No. 86-140. *CELOTEX CORP. ET AL. v. SCHOOL DISTRICT OF LANCASTER ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 789 F. 2d 996.

No. 86-141. *PETROZZIELLO v. MASSACHUSETTS*. App. Ct. Mass. Certiorari denied. Reported below: 22 Mass. App. 71, 491 N. E. 2d 627.

No. 86-145. *DURA CORP. ET AL. v. TWM MANUFACTURING CO., INC., ET AL.* C. A. Fed. Cir. Certiorari denied. Reported below: 789 F. 2d 895.

No. 86-146. *IRVIN v. UNITED STATES*. Ct. Mil. App. Certiorari denied. Reported below: 22 M. J. 342.

No. 86-147. *HOME WARRANTY CORP. ET AL. v. CALDWELL, INSURANCE COMMISSIONER OF THE STATE OF GEORGIA*. C. A. 11th Cir. Certiorari denied. Reported below: 777 F. 2d 1455.

No. 86-155. *RIGGS v. CONNECTICUT*. App. Ct. Conn. Certiorari denied. Reported below: 7 Conn. App. 180, 508 A. 2d 67.

No. 86-156. *LOWE v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 787 F. 2d 1501.

No. 86-157. *BAKER, SECRETARY OF THE TREASURY, ET AL. v. ABORTION RIGHTS MOBILIZATION, INC., ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 788 F. 2d 3.

No. 86-159. *GRAVER v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 786 F. 2d 1146.

No. 86-161. *BLACK CLOUD BUILDING CORP. v. HARMAN, DIRECTOR, MARICOPA COUNTY DEPARTMENT OF HEALTH SERVICES, ET AL.* Ct. App. Ariz. Certiorari denied.

No. 86-164. *CRABTREE v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 786 F. 2d 1178.

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No. 86-165. *BROOKS ET AL. v. CHRYSLER CORP.* C. A. D. C. Cir. Certiorari denied. Reported below: 252 U. S. App. D. C. 29, 786 F. 2d 1191.

No. 86-169. *DES VIGNES v. DEPARTMENT OF TRANSPORTATION, FEDERAL AVIATION ADMINISTRATION.* C. A. Fed. Cir. Certiorari denied. Reported below: 791 F. 2d 142.

No. 86-171. *DOTY v. PENNSYLVANIA.* Super. Ct. Pa. Certiorari denied. Reported below: 345 Pa. Super. 374, 498 A. 2d 870.

No. 86-174. *MAHAN & ROWSEY, INC. v. OKLAHOMA NATURAL GAS.* C. A. 10th Cir. Certiorari denied. Reported below: 786 F. 2d 1004.

No. 86-176. *KAKAVAS v. FLOTA OCEANICA BRASILEIRA, S. A.* C. A. 2d Cir. Certiorari denied. Reported below: 789 F. 2d 112.

No. 86-178. *FORMA v. COMMODITY FUTURES TRADING COMMISSION.* C. A. 2d Cir. Certiorari denied. Reported below: 788 F. 2d 92.

No. 86-183. *ABALKHAIL v. CLAREMONT UNIVERSITY CENTER ET AL.* Ct. App. Cal., 2d App. Dist. Certiorari denied.

No. 86-184. *E. I. DU PONT DE NEMOURS & CO. v. GRASSELLI EMPLOYEES INDEPENDENT ASSOCIATION OF EAST CHICAGO, INC.* C. A. 7th Cir. Certiorari denied. Reported below: 790 F. 2d 611.

No. 86-185. *HEGHMANN v. CONNECTICUT.* C. A. 2d Cir. Certiorari denied. Reported below: 788 F. 2d 5.

No. 86-188. *SIMMONS ET AL. v. COMBS ET AL.* C. A. 11th Cir. Certiorari denied. Reported below: 785 F. 2d 970.

No. 86-191. *THOMAS v. UNITED STATES.* C. A. 7th Cir. Certiorari denied. Reported below: 788 F. 2d 1250.

No. 86-192. *TATE v. FISCHER STEEL CORP.* C. A. 6th Cir. Certiorari denied. Reported below: 791 F. 2d 935.

No. 86-193. *WRONKE v. MARSH, SECRETARY OF THE ARMY, ET AL.* C. A. Fed. Cir. Certiorari denied. Reported below: 787 F. 2d 1569.

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No. 86-194. *MALACHOWSKI ET UX., ON BEHALF OF THE JUVENILE, AMY M. v. NEW HAMPSHIRE*. Sup. Ct. N. H. Certiorari denied.

No. 86-197. *SORENSEN ET AL. v. CAREY ET AL.* Sup. Ct. Nev. Certiorari denied. Reported below: 101 Nev. 966.

No. 86-198. *HAFFER v. ACTION MANUFACTURING, INC., ET AL.* C. A. 1st Cir. Certiorari denied. Reported below: 790 F. 2d 164.

No. 86-199. *HELMICK v. LAUNDERS ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 790 F. 2d 85.

No. 86-200. *COHEN v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 796 F. 2d 20.

No. 86-204. *ADVANCE BUILDING MAINTENANCE CO. v. UNITED STATES*. C. A. Fed. Cir. Certiorari denied. Reported below: 790 F. 2d 94.

No. 86-206. *MARTIN ET AL. v. ROBINSON, TRUSTEE IN BANKRUPTCY*. C. A. 9th Cir. Certiorari denied. Reported below: 784 F. 2d 1377.

No. 86-207. *MARK C. BLOOME CO. v. SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES (SHEPHERD ET AL., REAL PARTIES IN INTEREST)*. Ct. App. Cal., 2d App. Dist. Certiorari denied.

No. 86-214. *KESTER ET AL. v. HORNER, DIRECTOR, OFFICE OF PERSONNEL MANAGEMENT*. C. A. Fed. Cir. Certiorari denied. Reported below: 778 F. 2d 1565.

No. 86-235. *BELL v. NEW YORK ET AL.* C. A. 2d Cir. Certiorari denied.

No. 86-240. *MAY v. TRANSWORLD DRILLING CO. ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 786 F. 2d 1261.

No. 86-242. *SMITH v. DEPARTMENT OF THE AIR FORCE*. C. A. Fed. Cir. Certiorari denied. Reported below: 785 F. 2d 324.

No. 86-244. *VAN HORN ET AL. v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 789 F. 2d 1492.

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No. 86-248. JACKSON *v.* UNITED STATES POSTAL SERVICE. C. A. Fed. Cir. Certiorari denied. Reported below: 795 F. 2d 1016.

No. 86-258. WINSLOW MANUFACTURING, INC., ET AL. *v.* KAIN, DBA BROCK-KAIN. C. A. 10th Cir. Certiorari denied.

No. 86-266. LOUISIANA SCHOOL OF PROFESSIONS, INC. *v.* BENNETT, SECRETARY OF EDUCATION, ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 791 F. 2d 929.

No. 86-290. KONSTANTINOV *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied. Reported below: 793 F. 2d 1296.

No. 86-293. REYES *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 792 F. 2d 536.

No. 86-316. HARVEY *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 789 F. 2d 1492.

No. 86-320. PROCK *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 785 F. 2d 1387.

No. 86-323. LUMUMBA *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. Reported below: 794 F. 2d 806.

No. 86-325. WATLINGTON *v.* UNITED STATES. C. A. D. C. Cir. Certiorari denied. Reported below: 253 U. S. App. D. C. 393, 793 F. 2d 1379.

No. 86-331. AMPLO *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. Reported below: 795 F. 2d 1005.

No. 86-350. MARTINDALE *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 790 F. 2d 1129.

No. 86-363. FREEDMAN *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 784 F. 2d 1093.

No. 86-366. BROOKS *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 786 F. 2d 638.

No. 86-5002. BUCHANAN *v.* ATTORNEY GENERAL OF MICHIGAN ET AL. C. A. 6th Cir. Certiorari denied. Reported below: 791 F. 2d 931.

No. 86-5003. GAMBRELL *v.* ACKERMAN, JUDGE. C. A. 3d Cir. Certiorari denied. Reported below: 800 F. 2d 1133.

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No. 86-5004. *KING v. DOLE*, SECRETARY OF TRANSPORTATION, ET AL. C. A. D. C. Cir. Certiorari denied. Reported below: 251 U. S. App. D. C. 192, 782 F. 2d 274.

No. 86-5005. *BOGLE v. BOWEN*, SECRETARY OF HEALTH AND HUMAN SERVICES. C. A. 6th Cir. Certiorari denied. Reported below: 791 F. 2d 931.

No. 86-5006. *JACKSON v. CALIFORNIA*. Ct. App. Cal., 2d App. Dist. Certiorari denied.

No. 86-5008. *MCCALL v. ALABAMA*. Ct. Crim. App. Ala. Certiorari denied. Reported below: 487 So. 2d 1375.

No. 86-5010. *ROJAS v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 783 F. 2d 105.

No. 86-5011. *COKELEY v. ARKANSAS*. Sup. Ct. Ark. Certiorari denied. Reported below: 288 Ark. 349, 705 S. W. 2d 425.

No. 86-5012. *WOLFE v. HUNTERDON COUNTY NATIONAL BANK OF FLEMINGTON*. Sup. Ct. Pa. Certiorari denied. Reported below: 510 Pa. 285, 507 A. 2d 812.

No. 86-5014. *DERUGGIERO v. SCULLY*, SUPERINTENDENT, GREEN HAVEN CORRECTIONAL FACILITY. C. A. 2d Cir. Certiorari denied.

No. 86-5015. *GREEN v. CALIFORNIA*. Ct. App. Cal., 1st App. Dist. Certiorari denied.

No. 86-5016. *KRAHN v. MCGILL ET AL.* C. A. 5th Cir. Certiorari denied.

No. 86-5018. *ALLEN v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 797 F. 2d 1395.

No. 86-5019. *DELAND v. UNITED STATES*. Ct. Mil. App. Certiorari denied. Reported below: 22 M. J. 70.

No. 86-5022. *ELLIS v. UNITED STATES PAROLE COMMISSION*. C. A. 3d Cir. Certiorari denied.

No. 86-5023. *HOOKS v. GRAHAM*, GOVERNOR OF FLORIDA. C. A. 11th Cir. Certiorari denied. Reported below: 786 F. 2d 1177.

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No. 86-5027. *SILVESTRI v. UNITED STATES*. C. A. 1st Cir. Certiorari denied. Reported below: 790 F. 2d 186.

No. 86-5028. *PHENSOOT v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 785 F. 2d 318.

No. 86-5030. *WILSON v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 787 F. 2d 375.

No. 86-5031. *STONER v. REES, WARDEN*. C. A. 6th Cir. Certiorari denied. Reported below: 791 F. 2d 935.

No. 86-5034. *CABAL v. METROMEDIA, INC., ET AL.* C. A. 2d Cir. Certiorari denied.

No. 86-5035. *HAYNES v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 789 F. 2d 917.

No. 86-5036. *HAWKINS v. ALLSBROOK, SUPERINTENDENT, ODOM CORRECTIONAL COMPLEX, ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 786 F. 2d 1153.

No. 86-5037. *CROWELL v. WARDEN, VIRGINIA STATE PENITENTIARY*. Sup. Ct. Va. Certiorari denied.

No. 86-5038. *REID v. WASHTENAW CIRCUIT COURT ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 791 F. 2d 934.

No. 86-5040. *WILLOUGHBY v. MAINE*. Sup. Jud. Ct. Me. Certiorari denied. Reported below: 507 A. 2d 1060.

No. 86-5041. *VALWAY ET UX. v. KEARNS ET AL.* C. A. 1st Cir. Certiorari denied.

No. 86-5043. *RICCIO v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 786 F. 2d 1178.

No. 86-5044. *WILLIAMS v. WAINWRIGHT, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS*. C. A. 11th Cir. Certiorari denied. Reported below: 786 F. 2d 1180.

No. 86-5045. *SMITH v. MCCOTTER, DIRECTOR, TEXAS DEPARTMENT OF CORRECTIONS*. C. A. 5th Cir. Certiorari denied. Reported below: 793 F. 2d 1288.

No. 86-5046. *FARKAS v. UNITED STATES*. Ct. Mil. App. Certiorari denied. Reported below: 21 M. J. 458.

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No. 86-5048. *COLE v. UNITED STATES*. C. A. 10th Cir. Certiorari denied.

No. 86-5049. *EISENBERG v. SMITH ET AL.* C. A. 1st Cir. Certiorari denied. Reported below: 787 F. 2d 578.

No. 86-5050. *LANDRUM v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 791 F. 2d 935.

No. 86-5051. *PHELPS v. MURRAY, DIRECTOR, VIRGINIA DEPARTMENT OF CORRECTIONS*. C. A. 4th Cir. Certiorari denied. Reported below: 789 F. 2d 917.

No. 86-5052. *WILKINS v. KANE ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 792 F. 2d 140.

No. 86-5053. *PENA-PEREZ v. LOUISIANA STATE BAR ASSN.* Sup. Ct. La. Certiorari denied. Reported below: 489 So. 2d 240.

No. 86-5055. *ECK v. HAWAII*. Sup. Ct. Haw. Certiorari denied.

No. 86-5056. *JOHL v. JOHL ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 788 F. 2d 75.

No. 86-5057. *DELEON v. TEXAS*. Ct. Crim. App. Tex. Certiorari denied.

No. 86-5058. *BINDER v. OKLAHOMA*. Ct. Crim. App. Okla. Certiorari denied. Reported below: 717 P. 2d 1143.

No. 86-5059. *MALLOY v. GWALTNEY*. C. A. 11th Cir. Certiorari denied.

No. 86-5060. *JENNINGS v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 785 F. 2d 917.

No. 86-5062. *BENNETT v. CHARLES ET AL.* C. A. 1st Cir. Certiorari denied.

No. 86-5063. *CLAUSEN v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 792 F. 2d 102.

No. 86-5064. *CHEEVES v. MONTGOMERY*. C. A. 11th Cir. Certiorari denied.

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No. 86-5065. *GIBBS v. PHELPS, SECRETARY, LOUISIANA DEPARTMENT OF CORRECTIONS, ET AL.* C. A. 5th Cir. Certiorari denied.

No. 86-5066. *ANDERSON v. NEW YORK.* App. Div., Sup. Ct. N. Y., 2d Jud. Dept. Certiorari denied. Reported below: 118 App. Div. 2d 788, 500 N. Y. S. 2d 296.

No. 86-5067. *CUEVAS-MORALES v. UNITED STATES.* C. A. 1st Cir. Certiorari denied. Reported below: 787 F. 2d 579.

No. 86-5069. *FORD v. SALTZMAN ET AL.* C. A. 8th Cir. Certiorari denied. Reported below: 782 F. 2d 1048.

No. 86-5070. *BIRDEN v. ORLANDO ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 788 F. 2d 4.

No. 86-5071. *WHITE v. UNITED STATES.* Ct. App. D. C. Certiorari denied.

No. 86-5072. *THOMAS v. UNITED STATES.* C. A. 6th Cir. Certiorari denied. Reported below: 786 F. 2d 1167.

No. 86-5074. *CREEL v. MCCOTTER, DIRECTOR, TEXAS DEPARTMENT OF CORRECTIONS.* C. A. 5th Cir. Certiorari denied.

No. 86-5078. *STREETER v. JEFFERSON COUNTY, ALABAMA, ET AL.* C. A. 11th Cir. Certiorari denied. Reported below: 791 F. 2d 940.

No. 86-5079. *MCINTYRE v. DEPARTMENT OF TRANSPORTATION, FEDERAL AVIATION ADMINISTRATION.* C. A. Fed. Cir. Certiorari denied. Reported below: 795 F. 2d 1013.

No. 86-5080. *SCHATZ v. RISLEY, WARDEN, ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 790 F. 2d 85.

No. 86-5083. *WRIGHT v. YACKLEY.* C. A. 8th Cir. Certiorari denied. Reported below: 794 F. 2d 679.

No. 86-5084. *BARBER v. MASSACHUSETTS.* Sup. Jud. Ct. Mass. Certiorari denied. Reported below: 397 Mass. 1101, 490 N. E. 2d 803.

No. 86-5085. *OLIVER v. DUGGER, SUPERINTENDENT, FLORIDA STATE PRISON, ET AL.* C. A. 11th Cir. Certiorari denied. Reported below: 785 F. 2d 949.

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No. 86-5086. *PETRIC v. MARYLAND*. Ct. Sp. App. Md. Certiorari denied. Reported below: 66 Md. App. 470, 504 A. 2d 1168.

No. 86-5087. *MILLER v. BOLGER, POSTMASTER GENERAL OF THE UNITED STATES, ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 785 F. 2d 1033.

No. 86-5088. *MILLER v. WEBSTER, DIRECTOR, FEDERAL BUREAU OF INVESTIGATION, ET AL.* C. A. 11th Cir. Certiorari denied.

No. 86-5089. *WRIGHT v. FIRESTONE TIRE & RUBBER CO.* C. A. 11th Cir. Certiorari denied. Reported below: 791 F. 2d 939.

No. 86-5091. *KNOX v. NATIONAL BANK OF COMMERCE OF KERRVILLE*. Sup. Ct. Tex. Certiorari denied.

No. 86-5092. *HERNANDEZ v. TEXAS*. Ct. App. Tex., 3d Sup. Jud. Dist. Certiorari denied. Reported below: 692 S. W. 2d 190.

No. 86-5093. *TSCHETTER ET UX. v. MITCHELL-HURON PRODUCTION CREDIT ASSN.* Sup. Ct. S. D. Certiorari denied. Reported below: 384 N. W. 2d 323.

No. 86-5097. *JENSON v. McDOUGALD*. C. A. 11th Cir. Certiorari denied. Reported below: 786 F. 2d 1465.

No. 86-5099. *ALI v. BUFFALO FORD STAMPING DIVISION OF THE FORD MOTOR CO. ET AL.* C. A. 2d Cir. Certiorari denied.

No. 86-5101. *TATE v. BOWEN, SECRETARY OF HEALTH AND HUMAN SERVICES*. C. A. 9th Cir. Certiorari denied. Reported below: 786 F. 2d 1175.

No. 86-5102. *SMITH v. OHIO*. Ct. App. Ohio, Summit County. Certiorari denied. Reported below: 30 Ohio App. 3d 138, 506 N. E. 2d 1205.

No. 86-5103. *WARNER v. OHIO*. Ct. App. Ohio, Cuyahoga County. Certiorari denied.

No. 86-5104. *MITCHELL v. UNITED STATES*. C. A. 10th Cir. Certiorari denied. Reported below: 783 F. 2d 971.

No. 86-5105. *NOLL v. PETROVSKY, WARDEN*. C. A. 8th Cir. Certiorari denied.

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No. 86-5106. *OSLEY v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 791 F. 2d 938.

No. 86-5107. *WILLIAMS v. ROSE, WARDEN, ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 793 F. 2d 1294.

No. 86-5110. *RICHMOND v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 785 F. 2d 771.

No. 86-5111. *LINNE v. UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES ET AL.* C. A. D. C. Cir. Certiorari denied. Reported below: 252 U. S. App. D. C. 136, 788 F. 2d 38.

No. 86-5112. *FRY v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 787 F. 2d 903.

No. 86-5113. *CHERRY v. ALABAMA*. Sup. Ct. Ala. Certiorari denied. Reported below: 491 So. 2d 1003.

No. 86-5115. *DOFFIN ET AL. v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 791 F. 2d 118.

No. 86-5116. *JAMES v. UNITED STATES*. Ct. App. D. C. Certiorari denied.

No. 86-5117. *LANGLEY v. IDAHO*. Sup. Ct. Idaho. Certiorari denied. Reported below: 110 Idaho 895, 719 P. 2d 1155.

No. 86-5119. *GLASGOW v. CALIFORNIA*. Ct. App. Cal., 6th App. Dist. Certiorari denied.

No. 86-5122. *WEST, AKA HELLERMAN v. SMITH, SUPERINTENDENT, ATTICA CORRECTIONAL FACILITY*. C. A. 2d Cir. Certiorari denied.

No. 86-5123. *CARSON v. MARTIN, WARDEN*. C. A. 11th Cir. Certiorari denied. Reported below: 791 F. 2d 939.

No. 86-5125. *ROBINSON v. UNITED STATES*. C. A. 10th Cir. Certiorari denied.

No. 86-5126. *SHRADER ET AL. v. NEVADA ET AL.* Sup. Ct. Nev. Certiorari denied. Reported below: 102 Nev. 749.

No. 86-5129. *LYUBARSKY v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 790 F. 2d 1015.

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No. 86-5132. *HAMPTON v. K MART CORP.* C. A. 5th Cir. Certiorari denied. Reported below: 786 F. 2d 1161.

No. 86-5133. *HENAGER v. OKLAHOMA.* C. A. 10th Cir. Certiorari denied.

No. 86-5136. *MISSIRLIAN v. HUNTINGTON MEMORIAL HOSPITAL.* C. A. 9th Cir. Certiorari denied. Reported below: 786 F. 2d 1174.

No. 86-5138. *VIOLA v. KUBITZA ET AL.* C. A. 9th Cir. Certiorari denied.

No. 86-5140. *MOBLEY v. UNITED STATES.* Ct. App. D. C. Certiorari denied.

No. 86-5141. *RODRIGUEZ v. TEXAS.* Ct. App. Tex., 3d Sup. Jud. Dist. Certiorari denied.

No. 86-5142. *RAINES v. BOUTWELL, ACTING WARDEN, ET AL.* C. A. 11th Cir. Certiorari denied. Reported below: 791 F. 2d 939.

No. 86-5144. *MILLER v. MERIT SYSTEMS PROTECTION BOARD.* C. A. Fed. Cir. Certiorari denied. Reported below: 795 F. 2d 1018.

No. 86-5145. *THOMAS v. DEUKMEJIAN, GOVERNOR OF CALIFORNIA, ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 782 F. 2d 1054.

No. 86-5146. *MANN v. DEPARTMENT OF THE NAVY.* C. A. Fed. Cir. Certiorari denied. Reported below: 785 F. 2d 323.

No. 86-5148. *VESTER v. WILSON COUNTY SUPERIOR COURT ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 790 F. 2d 889.

No. 86-5149. *MIHAL ET AL. v. SARGIS ET AL.* Sup. Ct. Ohio. Certiorari denied.

No. 86-5150. *DURHAM v. UNITED STATES.* C. A. 6th Cir. Certiorari denied. Reported below: 791 F. 2d 932.

No. 86-5151. *MCLAMB v. THIGPEN ET AL.* C. A. 5th Cir. Certiorari denied.

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No. 86-5152. *SYKES v. MURRAY, DIRECTOR, VIRGINIA DEPARTMENT OF CORRECTIONS*. C. A. 4th Cir. Certiorari denied. Reported below: 796 F. 2d 475.

No. 86-5153. *INGLE v. CALIFORNIA*. Ct. App. Cal., 5th App. Dist. Certiorari denied. Reported below: 178 Cal. App. 3d 505, 223 Cal. Rptr. 723.

No. 86-5155. *WOLLSCHLAGER v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 782 F. 2d 1045.

No. 86-5156. *MAY v. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 791 F. 2d 934.

No. 86-5157. *HARVARD v. FLORIDA*. Sup. Ct. Fla. Certiorari denied. Reported below: 486 So. 2d 537.

No. 86-5160. *FEWELL v. FEWELL*. Sup. Ct. S. C. Certiorari denied.

No. 86-5161. *BRUMBAUGH v. BRUMBAUGH*. Sup. Ct. Fla. Certiorari denied. Reported below: 491 So. 2d 278.

No. 86-5162. *CLARK v. UNITED STATES*. C. A. 10th Cir. Certiorari denied.

No. 86-5163. *ANSARI v. UNITED STATES*. C. A. 10th Cir. Certiorari denied.

No. 86-5164. *HAYNES v. VERDEYEN ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 790 F. 2d 888.

No. 86-5165. *SPIOTTO v. LANE, DIRECTOR, ILLINOIS DEPARTMENT OF CORRECTIONS, ET AL.* C. A. 7th Cir. Certiorari denied. Reported below: 792 F. 2d 143.

No. 86-5166. *LIRA v. UNITED STATES*. C. A. 10th Cir. Certiorari denied.

No. 86-5167. *PEREA v. WINANS, WARDEN, ET AL.* C. A. 10th Cir. Certiorari denied.

No. 86-5168. *STIVALE v. DEPARTMENT OF THE NAVY*. C. A. Fed. Cir. Certiorari denied. Reported below: 795 F. 2d 1017.

No. 86-5169. *TOLIVER v. COMMUNITY ACTION COMMISSION TO HELP THE ECONOMY, INC. (CACHE)*. C. A. 2d Cir. Certiorari denied. Reported below: 800 F. 2d 1128.

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No. 86-5170. *DIAZ v. ILLINOIS*. App. Ct. Ill., 2d Dist. Certiorari denied. Reported below: 139 Ill. App. 3d 1163, 503 N. E. 2d 610.

No. 86-5171. *BALES v. IOWA*. Sup. Ct. Iowa. Certiorari denied.

No. 86-5172. *PERRY v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 788 F. 2d 100.

No. 86-5174. *SKAGGS v. UNITED STATES*. C. A. 11th Cir. Certiorari denied.

No. 86-5175. *PETERSON v. DEPARTMENT OF PUBLIC WELFARE ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 791 F. 2d 920.

No. 86-5176. *OMAR, AKA SNEED v. SIMPSON ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 784 F. 2d 1112.

No. 86-5177. *WELLS v. CITY OF HOUSTON, TEXAS, ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 788 F. 2d 1563.

No. 86-5178. *MALLOY v. UNITED STATES*. C. A. 11th Cir. Certiorari denied.

No. 86-5179. *OLIVA v. UNITED STATES*. C. A. 2d Cir. Certiorari denied.

No. 86-5180. *DUKE v. DUKE*. Sup. Ct. R. I. Certiorari denied. Reported below: 510 A. 2d 430.

No. 86-5185. *AVEDISIAN v. HUBBARD ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 790 F. 2d 888.

No. 86-5186. *VILT v. ILLINOIS*. App. Ct. Ill., 3d Dist. Certiorari denied. Reported below: 139 Ill. App. 3d 868, 488 N. E. 2d 580.

No. 86-5189. *BUMGARNER v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 794 F. 2d 679.

No. 86-5190. *SAUNDERS v. CHAPA ET AL.* C. A. 5th Cir. Certiorari denied.

No. 86-5191. *SIMMONS v. TENNESSEE ET AL.* C. A. 6th Cir. Certiorari denied.

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No. 86-5194. *FOSTER v. BLACK ET AL.* C. A. 8th Cir. Certiorari denied. Reported below: 794 F. 2d 678.

No. 86-5195. *PATTERSON v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. Reported below: 792 F. 2d 531.

No. 86-5196. *CALKINS v. SECRETARY OF HEALTH AND HUMAN SERVICES.* C. A. 6th Cir. Certiorari denied. Reported below: 793 F. 2d 1290.

No. 86-5197. *CABRERA v. UNITED STATES.* C. A. 2d Cir. Certiorari denied. Reported below: 795 F. 2d 1005.

No. 86-5199. *TURNER v. UNITED STATES.* C. A. 2d Cir. Certiorari denied. Reported below: 779 F. 2d 36.

No. 86-5200. *MABERY v. HOLLOWAY ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 791 F. 2d 926.

No. 86-5203. *COMICZ v. UNITED STATES.* C. A. 2d Cir. Certiorari denied. Reported below: 795 F. 2d 1005.

No. 86-5204. *FARMER v. DILLION.* C. A. 6th Cir. Certiorari denied. Reported below: 795 F. 2d 85.

No. 86-5205. *JOHNSON v. KENTUCKY.* Ct. App. Ky. Certiorari denied. Reported below: 709 S. W. 2d 838.

No. 86-5208. *COATS v. ARMSTRONG.* Ct. App. Cal., 4th App. Dist. Certiorari denied.

No. 86-5212. *BECKER v. NEW YORK ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 788 F. 2d 6.

No. 86-5213. *GAHAN v. AMERICAN RED CROSS ET AL.* Sup. Ct. Va. Certiorari denied.

No. 86-5214. *ENRIQUEZ v. UNITED STATES.* C. A. 8th Cir. Certiorari denied. Reported below: 787 F. 2d 375.

No. 86-5215. *KANUSE v. CALIFORNIA.* Ct. App. Cal., 1st App. Dist. Certiorari denied.

No. 86-5216. *ADOLPH v. LEHMAN BROTHERS KUHN LOEB, INC., ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 785 F. 2d 314.

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No. 86-5219. *WOODS v. ILLINOIS*. Sup. Ct. Ill. Certiorari denied. Reported below: 112 Ill. 2d 568.

No. 86-5220. *MASLANKA v. WASHINGTON*. Ct. App. Wash. Certiorari denied. Reported below: 42 Wash. App. 1053.

No. 86-5221. *MONTGOMERY v. ILLINOIS*. App. Ct. Ill., 4th Dist. Certiorari denied. Reported below: 141 Ill. App. 3d 428, 490 N. E. 2d 206.

No. 86-5222. *SARGENT v. ILLINOIS*. App. Ct. Ill., 1st Dist. Certiorari denied. Reported below: 139 Ill. App. 3d 488, 487 N. E. 2d 1002.

No. 86-5223. *TALLEY v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 790 F. 2d 1468.

No. 86-5225. *DAVIS v. CHILDREN'S HOSPITAL OF NORTHERN CALIFORNIA ET AL.* C. A. 9th Cir. Certiorari denied.

No. 86-5227. *RIVERO v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 795 F. 2d 88.

No. 86-5228. *RANDOLPH v. ILLINOIS*. App. Ct. Ill., 1st Dist. Certiorari denied. Reported below: 139 Ill. App. 3d 1162, 503 N. E. 2d 609.

No. 86-5231. *LANING v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 787 F. 2d 593.

No. 86-5232. *GEORGE v. TEXAS ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 788 F. 2d 1099.

No. 86-5233. *DUVALLON v. FLORIDA*. C. A. 11th Cir. Certiorari denied.

No. 86-5237. *CRIM v. COMMISSIONER OF INTERNAL REVENUE*. C. A. 2d Cir. Certiorari denied.

No. 86-5238. *COMBS v. CUPP, SUPERINTENDENT, OREGON STATE PENITENTIARY*. C. A. 9th Cir. Certiorari denied. Reported below: 791 F. 2d 937.

No. 86-5239. *ALBRITTON v. C. H. MASLAND & SONS*. C. A. 11th Cir. Certiorari denied. Reported below: 790 F. 2d 88.

No. 86-5240. *SHOWS v. ALABAMA POWER CO.* C. A. 11th Cir. Certiorari denied.

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No. 86-5244. *SHIFFLETT v. SULLIVAN, WARDEN*. C. A. 10th Cir. Certiorari denied.

No. 86-5246. *JANKOWSKI v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 800 F. 2d 1141.

No. 86-5247. *BURTON v. SCROGGY, WARDEN*. C. A. 6th Cir. Certiorari denied. Reported below: 793 F. 2d 1290.

No. 86-5248. *DACE v. SOUTH DAKOTA ET AL.* C. A. 8th Cir. Certiorari denied.

No. 86-5249. *BECKER v. RECORD WORLD*. C. A. 2d Cir. Certiorari denied. Reported below: 788 F. 2d 4.

No. 86-5250. *GARCIA v. MONDRAGON, WARDEN, ET AL.* C. A. 10th Cir. Certiorari denied.

No. 86-5251. *BARNES v. UNITED STATES*. C. A. 10th Cir. Certiorari denied.

No. 86-5252. *JONES v. LOUISIANA*. Ct. App. La., 1st Cir. Certiorari denied. Reported below: 482 So. 2d 1100.

No. 86-5253. *KNAUBERT v. GOLDSMITH, WARDEN, ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 791 F. 2d 722.

No. 86-5254. *HARMON v. OREGON*. Ct. App. Ore. Certiorari denied. Reported below: 77 Ore. App. 705, 714 P. 2d 271.

No. 86-5258. *ISHIHARA v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 792 F. 2d 1123.

No. 86-5259. *COLEMAN v. PERDUE, INC.* C. A. 3d Cir. Certiorari denied.

No. 86-5260. *MOSIMAN v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 786 F. 2d 1167.

No. 86-5262. *RICHARDSON v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 787 F. 2d 586.

No. 86-5263. *VIRGIL v. COLE ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 789 F. 2d 918.

No. 86-5264. *SHOWS v. CARROLL*. C. A. 11th Cir. Certiorari denied.

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No. 86-5265. *GUILLEN-SILVA v. UNITED STATES IMMIGRATION AND NATURALIZATION SERVICE*. C. A. 7th Cir. Certiorari denied.

No. 86-5270. *CREWE v. UNITED STATES*. C. A. 8th Cir. Certiorari denied.

No. 86-5278. *SAMM v. PLAZA WEST COOPERATIVE ASSN., INC.* Ct. App. D. C. Certiorari denied.

No. 86-5279. *WILDER v. CITY OF RICHMOND, VIRGINIA*. C. A. 4th Cir. Certiorari denied. Reported below: 788 F. 2d 8.

No. 86-5286. *FISHER v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 782 F. 2d 1032.

No. 86-5288. *STATON v. LUKHARD, COMMISSIONER OF THE VIRGINIA DEPARTMENT OF SOCIAL SERVICES, ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 788 F. 2d 973.

No. 86-5293. *MARTIN v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 790 F. 2d 1215.

No. 86-5313. *SAIKALI v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 800 F. 2d 1129.

No. 86-5315. *BURNS v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 793 F. 2d 1294.

No. 86-5322. *BERRY v. BOARD OF SUPERVISORS OF LOUISIANA STATE UNIVERSITY ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 783 F. 2d 1270.

No. 86-5325. *BENAVIDES v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 793 F. 2d 612.

No. 86-5331. *LEHMAN v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 792 F. 2d 899.

No. 86-5332. *SPEAR v. UNITED STATES*. C. A. Fed. Cir. Certiorari denied.

No. 86-5335. *BARKSDALE v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 790 F. 2d 891.

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No. 86-5336. SEARS *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 791 F. 2d 1383.

No. 86-5339. ENGESSER *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 788 F. 2d 1401.

No. 86-5342. FERRI *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied. Reported below: 800 F. 2d 1140.

No. 86-5343. PRICE *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied. Reported below: 794 F. 2d 1305.

No. 86-5349. CELANI *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied. Reported below: 794 F. 2d 1195.

No. 86-5353. HUGHES *v.* BOWEN ET AL. C. A. 11th Cir. Certiorari denied. Reported below: 791 F. 2d 939.

No. 86-5360. RIVERO *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 795 F. 2d 88.

No. 86-5366. MITCHELL *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 795 F. 2d 88.

No. 86-5372. MIKELS *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 791 F. 2d 1462.

No. 86-5382. SIMMONS *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 796 F. 2d 475.

No. 85-1694. WAINWRIGHT, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS *v.* HORACE. C. A. 11th Cir. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 781 F. 2d 1558.

No. 85-1895. CHILDRESS *v.* THOMAS S. C. A. 4th Cir. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 781 F. 2d 367.

No. 85-1928. DELAWARE *v.* WAINWRIGHT. Sup. Ct. Del. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 504 A. 2d 1096.

No. 85-1978. FLORIDA *v.* TORRES. Dist. Ct. App. Fla., 3d Dist. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 485 So. 2d 469.

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No. 85-1982. RIVELAND, EXECUTIVE DIRECTOR, COLORADO DEPARTMENT OF CORRECTIONS *v.* BALL. C. A. 10th Cir. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 779 F. 2d 578.

No. 85-2065. FLORIDA *v.* PINA. Dist. Ct. App. Fla., 4th Dist. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 473 So. 2d 736.

No. 86-123. ILLINOIS *v.* STACK. Sup. Ct. Ill. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 112 Ill. 2d 301, 493 N. E. 2d 339.

No. 86-196. SCULLY, WARDEN, ET AL. *v.* HOLLAND. C. A. 2d Cir. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 797 F. 2d 57.

No. 85-1844. F. D. *v.* ASSOCIATED CATHOLIC CHARITIES OF NEW ORLEANS, INC., ET AL. Ct. App. La., 4th Cir. Certiorari denied. JUSTICE BRENNAN would grant certiorari. Reported below: 480 So. 2d 380.

No. 85-1862. GRAALMAN *v.* DEPARTMENT OF HEALTH AND HUMAN SERVICES. C. A. Fed. Cir. Certiorari denied. JUSTICE WHITE would grant certiorari. Reported below: 790 F. 2d 92.

No. 85-1884. HUNT INTERNATIONAL RESOURCES CORP. ET AL. *v.* W. C. & KENNETH STREY. C. A. 10th Cir. Certiorari denied. JUSTICE BLACKMUN took no part in the consideration or decision of this petition.* Reported below: 749 F. 2d 1437.

No. 85-1972. RONWIN *v.* HOLOHAN ET AL., JUDGES, SUPREME COURT OF ARIZONA. C. A. 9th Cir. Certiorari denied. JUSTICE O'CONNOR took no part in the consideration or decision of this petition.* Reported below: 782 F. 2d 1053.

No. 85-2014. MCDUGALL *v.* NORTH CAROLINA. Gen. Ct. Justice, Super. Ct. Div., Mecklenburg County, N. C.;

No. 85-2027. MILLIGAN *v.* NEVADA. Sup. Ct. Nev.;

No. 85-6424. ANDERSON *v.* TEXAS. Ct. Crim. App. Tex.;

No. 85-6755. FETTERLY *v.* IDAHO. Sup. Ct. Idaho;

*See also note, p. 801.

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- No. 85-6831. *McKAY v. TEXAS*. Ct. Crim. App. Tex.;
No. 85-6868. *JOHNSON v. TEXAS*. Ct. Crim. App. Tex.;
No. 85-6890. *BUELL v. OHIO*. Sup. Ct. Ohio;
No. 85-6933. *RILEY v. WAINWRIGHT, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS*. C. A. 11th Cir.;
No. 85-6950. *GREEN v. OKLAHOMA*. Ct. Crim. App. Okla.;
No. 85-6958. *ECHOLS v. FLORIDA*. Sup. Ct. Fla.;
No. 85-6970. *GLADDEN v. NORTH CAROLINA*. Sup. Ct. N. C.;
No. 85-7017. *COOK v. GEORGIA*. Sup. Ct. Ga.;
No. 85-7026. *LANDRY v. TEXAS*. Ct. Crim. App. Tex.;
No. 85-7050. *BECK v. GEORGIA*. Sup. Ct. Ga.;
No. 85-7063. *CRUMP v. NEVADA*. Sup. Ct. Nev.;
No. 85-7070. *BYRNE v. LOUISIANA*. Sup. Ct. La.;
No. 85-7088. *ZEITVOGEL v. MISSOURI*. Sup. Ct. Mo.;
No. 85-7089. *DAVIS v. GEORGIA*. Sup. Ct. Ga.;
No. 85-7141. *WARD v. LOUISIANA*. Sup. Ct. La.;
No. 85-7236. *O'GUINN v. TENNESSEE*. Sup. Ct. Tenn.;
No. 86-106. *KELLEY v. FLORIDA*. Sup. Ct. Fla.;
No. 86-5007. *BREWER v. OKLAHOMA*. Ct. Crim. App. Okla.;
No. 86-5109. *MATTHEWS v. KENTUCKY*. Sup. Ct. Ky.;
No. 86-5127. *DAVIS v. GEORGIA*. Sup. Ct. Ga.;
No. 86-5206. *FREE v. ILLINOIS*. Sup. Ct. Ill.;
No. 86-5280. *LAWS v. MISSOURI*. Sup. Ct. Mo.; and
No. 86-5300. *GALLEGO v. NEVADA*. Sup. Ct. Nev. Certiorari denied. Reported below: No. 85-2027, 101 Nev. 627, 708 P. 2d 289; No. 85-6424, 701 S. W. 2d 868; No. 85-6755, 109 Idaho 766, 710 P. 2d 1202; No. 85-6831, 707 S. W. 2d 23; No. 85-6868, 698 S. W. 2d 154; No. 85-6890, 22 Ohio St. 3d 124, 489 N. E. 2d 795; No. 85-6933, 778 F. 2d 1544; No. 85-6950, 713 P. 2d 1032; No. 85-6958, 484 So. 2d 568; No. 85-6970, 315 N. C. 398, 340 S. E. 2d 673; No. 85-7017, 255 Ga. 565, 340 S. E. 2d 843; No. 85-7026, 706 S. W. 2d 105; No. 85-7050, 255 Ga. 483, 340 S. E. 2d 9; No. 85-7063, 102 Nev. 158, 716 P. 2d 1387; No. 85-7070, 483 So. 2d 564; No. 85-7088, 707 S. W. 2d 365; No. 85-7089, 255 Ga. 588, 340 S. E. 2d 862; No. 85-7141, 483 So. 2d 578; No. 85-7236, 709 S. W. 2d 561; No. 86-106, 486 So. 2d 578; No. 86-5007, 718 P. 2d 354; No. 86-5109, 709 S. W. 2d 414; No. 86-5127, 255 Ga. 598,

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340 S. E. 2d 869; No. 86-5206, 112 Ill. 2d 154, 492 N. E. 2d 1269; No. 86-5300, 101 Nev. 782, 711 P. 2d 856.

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. 85-2023. ZAPATA OFFSHORE CO. ET AL. *v.* TIMCO, INC., ET AL. C. A. 5th Cir. Motion of Amoco Production Co. et al. for leave to file a brief as *amici curiae* out of time denied. Certiorari denied. Reported below: 784 F. 2d 628.

No. 85-2089. KIOWA TRIBE OF OKLAHOMA *v.* LEWIS ET UX.; and

No. 86-51. LEWIS ET UX. *v.* KIOWA TRIBE OF OKLAHOMA. C. A. 10th Cir. Motion of Cherokee Nation et al. for leave to file a brief as *amici curiae* in No. 85-2089 granted. Certiorari denied. Reported below: 777 F. 2d 587.

No. 85-2102. MONTAUK-CARIBBEAN AIRWAYS, INC., DBA LONG ISLAND AIRLINES *v.* HOPE ET AL. C. A. 2d Cir. Motion of Regional Airline Association for leave to file a brief as *amicus curiae* granted. Certiorari denied. Reported below: 784 F. 2d 91.

No. 85-2141. FLORIDA LITERARY DISTRIBUTING CORP. *v.* CITY OF MIAMI. Sup. Ct. Fla. Certiorari denied. JUSTICE BRENNAN and JUSTICE MARSHALL would grant the petition for writ of certiorari and reverse the judgment. Reported below: 486 So. 2d 569.

No. 85-2164. AMES ET AL. *v.* STANDARD OIL CO. C. A. D. C. Cir. Motion of respondent for award of double costs and attorney's fees denied. Certiorari denied.

No. 85-7010. KING *v.* ILLINOIS. Sup. Ct. Ill. Motion of petitioner to consolidate the petition for writ of certiorari with No. 84-6075, *Tison v. Arizona* [certiorari granted, 475 U. S. 1010], denied. Certiorari denied. Reported below: 109 Ill. 2d 514, 488 N. E. 2d 949.

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

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and Fourteenth Amendments, *Gregg v. Georgia*, 428 U. S. 153, 227, 231 (1976), we would grant certiorari and vacate the death sentence in this case.

No. 85-7125. *PHILLIPS v. LANE*, DIRECTOR, ILLINOIS DEPARTMENT OF CORRECTIONS, ET AL. C. A. 7th Cir. Certiorari denied. JUSTICE MARSHALL would grant certiorari. Reported below: 787 F. 2d 208.

No. 85-7152. *FOSTER v. OKLAHOMA*. Ct. Crim. App. Okla. Certiorari denied. JUSTICE MARSHALL would grant the petition for writ of certiorari and set the case for oral argument. Reported below: 714 P. 2d 1031.

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.

No. 85-7165. *GRANDISON v. MARYLAND*. Ct. App. Md. Certiorari denied. Reported below: 305 Md. 685, 506 A. 2d 580.

JUSTICE MARSHALL, with whom JUSTICE BRENNAN joins, dissenting.

Petitioner Anthony Grandison was sentenced to death by an improperly instructed jury and did not have the benefit of representation at his sentencing hearing. Because I believe that the jury's instructions under the Maryland statute improperly shifted to petitioner the burden of disproving the appropriateness of his death sentence, and that the denial of a request for legal representation in the sentencing phase of a bifurcated capital proceeding constitutes a violation of the Sixth Amendment right to counsel, I dissent.

I

Petitioner was tried for murder, conspiracy to commit murder, and use of a handgun in the commission of a crime of violence, for hiring someone to kill two witnesses scheduled to testify against him in his trial on federal drug charges. The jury found petitioner guilty on all charges and sentenced him to death. Petitioner claims that the Maryland capital sentencing statute and the verdict sheet provided to the jury improperly imposed upon

him the burden of proof at the sentencing phase. I continue to believe that this issue is worthy of review. See *Huffington v. Maryland*, 478 U. S. 1023 (1986) (MARSHALL, J., dissenting from denial of certiorari); *Stebbing v. Maryland*, 469 U. S. 900 (1984) (MARSHALL, J., dissenting from denial of certiorari).

The State argues that petitioner's claim is foreclosed by a state-court construction of the statute holding that the prosecution bears the burden of persuasion. See *Foster v. State*, 304 Md. 439, 476-480, 499 A. 2d 1236, 1256-1257 (1985). In this case, however, the jury was provided with a verdict sheet that unambiguously directed the jurors to return a sentence of death *unless* mitigating circumstances outweighed aggravating circumstances. The Maryland Court of Appeals may construe the statute to avoid any constitutional difficulty. But the trial court's instructions and the verdict form submitted to the jury must reflect that construction. Here, the verdict form did not; the constitutional infirmity therefore remains undiminished.

II

At his arraignment, petitioner asserted the right to represent himself under *Faretta v. California*, 422 U. S. 806 (1975). Petitioner was informed of his right to counsel, the dangers of self-representation, and the advantages of having counsel to assist at trial and sentencing. Petitioner nonetheless chose to proceed *pro se*. He was granted the right to have "standby" counsel, but conducted his own defense. The jury returned a verdict of guilty on all counts.

At the first scheduled sentencing proceeding, petitioner asked the court to appoint the lawyer who had served as standby counsel to represent him in the sentencing proceeding. He also sought a continuance, since neither he nor his counsel was prepared to go forward. The court refused to terminate petitioner's self-representation, stating:

"Once the decision is made regarding self-representation, if it is properly made prior to trial, the request to change rests solely within the discretion of the trial court. The right must be timely asserted. It must be asserted before the trial starts. Of course, this is not timely asserted. Whether we continue with it or not, what I am inclined to do about self-representation is leave it just like it is, and let [standby counsel] take over and handle the proceeding as standby counsel

with Mr. Grandison's permission. Grandison will still be the attorney." Pet. for Cert. 8-9.

Moreover, the court instructed standby counsel: "Keep in mind, Mr. Crawford, you are not the attorney in this. Mr. Grandison is his own attorney. You are just kind of a law clerk." *Id.*, at 9. The court granted an 8-day continuance; at the reconvened sentencing hearing, it again made clear that Grandison was representing himself, albeit with the assistance of standby counsel.

Assuming for the sake of argument that in a *nonbifurcated* criminal proceeding a trial judge could in some circumstances deny a defendant who initially asserted his right to represent himself the right to later change his mind and proceed with counsel, such a rule would not imply that a waiver of counsel in the guilt phase of a capital proceeding requires a defendant to proceed *pro se*, against his will, in the sentencing phase. The Maryland Court of Appeals cursorily dismissed petitioner's claim that, because capital sentencing constituted a separate trial, he was entitled to make a new decision about whether he wanted counsel or not. 305 Md. 685, 752, 506 A.2d 580, 613 (1986). I find this claim worthy of considerably more attention than the Maryland court gave it.

In *Bullington v. Missouri*, 451 U.S. 430 (1981), this Court held that the Double Jeopardy Clause applied to the sentencing phase of a bifurcated trial. It did so because it found that a sentencing hearing was like a separate trial. "The presentence hearing resembled and, indeed, in all relevant respects was like the immediately preceding trial on the issue of guilt or innocence. It was itself a trial on the issue of punishment." *Id.*, at 438. Under the Maryland statute, Md. Ann. Code, Art. 27, § 413 (1982 and Supp. 1986), sentencing is similarly a separate adversarial proceeding, see § 413(a). It may require selection of a new jury, see §§ 413(b)(2)(i)-(iv). Evidence is offered, § 413(c)(1); the parties may present argument, § 413(c)(2); the jury is instructed, § 413(c)(3); and the jury deliberates and determines sentence. The Maryland proceeding is in all respects a separate trial on the issue of punishment. The waiver of the right to counsel at the first "trial" on guilt or innocence should therefore have no more bearing on a defendant's right to counsel in the sentencing phase than it would on that defendant's right to counsel in a separate trial on related crimes. It should under no circumstances irrevocably bind a defendant in the sentencing phase.

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The trial court articulated no basis for refusing petitioner's request to appoint counsel. Even at midtrial in a nonbifurcated proceeding, a trial court's unexplained refusal to permit a defendant to revoke his assertion of the right to self-representation would surely constitute an abuse of discretion. A trial court cannot insist that a defendant continue representing himself out of some punitive notion that that defendant, having made his bed, should be compelled to lie in it. Yet in this case, where petitioner's right to counsel was triggered anew by the start of a new trial on the issue of punishment, the trial court refused, entirely without justification, to permit him to assert that right to counsel. This refusal deprived petitioner of his constitutional right to be represented during his sentencing hearing. Accordingly, I dissent.*

No. 85-7195. *PLUMMER ET UX. v. PENNSYLVANIA DEPARTMENT OF PUBLIC WELFARE*. C. A. 3d Cir. Certiorari before judgment denied.

No. 86-3. *DALY v. DALY*. Sup. Ct. Nev. Motion of Women Lawyer's Association of Los Angeles for leave to file a brief as *amicus curiae* granted. Certiorari denied. Reported below: 102 Nev. 66, 715 P. 2d 56.

No. 86-25. *BURGGRAF CORP. ET AL. v. GOODYEAR TIRE & RUBBER CO. ET AL.* C. A. 10th Cir. Petition for writ of certiorari and/or mandamus denied.

No. 86-127. *SHERLOCK v. MERCED UNION HIGH SCHOOL DISTRICT*. C. A. 9th Cir. Certiorari denied. JUSTICE POWELL would grant certiorari. Reported below: 788 F. 2d 1566.

No. 86-149. *PATROFF v. ILLINOIS*. App. Ct. Ill., 2d Dist. Certiorari denied. JUSTICE BRENNAN and JUSTICE MARSHALL would grant the petition for writ of certiorari and reverse the conviction. Reported below: 141 Ill. App. 3d 483, 490 N. E. 2d 148.

No. 86-211. *PICCININ v. A. H. ROBINS CO., INC., ET AL.*; and No. 86-216. *COMMITTEE OF REPRESENTATIVES OF DALKON SHIELD CLAIMANTS v. A. H. ROBINS CO., INC.* C. A. 4th Cir.

*I note in addition that petitioner raises issues related to those that will be before the Court in *California v. Brown*, No. 85-1563, to be argued later this Term. I would at the very least delay disposition of this petition until that case is decided.

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Certiorari denied. JUSTICE POWELL took no part in the consideration or decision of these petitions.* Reported below: 788 F. 2d 994.

Rehearing Denied

No. 85-1584. NIEDZWIECKI *v.* CIRCUIT PROTECTIVE DEVICES, DIVISION OF WESTINGHOUSE ELECTRIC CORP., 476 U. S. 1110;

No. 85-5432. GOLDBLATT *v.* VOGEL ET AL., 474 U. S. 952; and

No. 85-6676. NEAL *v.* ILLINOIS, 476 U. S. 1165. Petitions for rehearing denied.

No. 85-5942. COTTON *v.* FEDERAL LAND BANK OF COLUMBIA, 474 U. S. 1104; and

No. 85-6527. GRAY *v.* CODY, ATTORNEY GENERAL OF TENNESSEE, ET AL., 476 U. S. 1184. Motions for leave to file petitions for rehearing denied.

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Dismissal Under Rule 53

No. 85-2137. BUHLER-MAIG, INC. *v.* DEMPSTER ET AL. C. A. 5th Cir. Certiorari dismissed under this Court's Rule 53. Reported below: 786 F. 2d 1161.

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Dismissal Under Rule 53

No. 86-55. WITCO CHEMICAL CORP. *v.* PEACHTREE DOORS, INC., ET AL. C. A. Fed. Cir. Certiorari dismissed under this Court's Rule 53. Reported below: 787 F. 2d 1545.

Miscellaneous Order

No. A-269. DELUNA *v.* TEXAS. Application for stay of execution of sentence of death, presented to JUSTICE WHITE, and by him referred to the Court, 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,

*See also note, p. 801.

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227, 231 (1976), we would grant the application for stay in order to give the applicant time to file a petition for writ of certiorari and would grant the petition and vacate the death sentence in this case.

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Affirmed on Appeal

No. 85-1886. NATIONAL ASSOCIATION OF RETIRED FEDERAL EMPLOYEES ET AL. *v.* HORNER, DIRECTOR, OFFICE OF PERSONNEL MANAGEMENT, ET AL. Affirmed on appeal from D. C. D. C. Reported below: 633 F. Supp. 511.

Appeals Dismissed

No. 86-236. MARENO *v.* ROBERTS, COMMISSIONER OF LABOR OF THE STATE OF NEW YORK. Appeal from App. Div., Sup. Ct. N. Y., 3d Jud. Dept., dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied. Reported below: 113 App. Div. 2d 987, 493 N. Y. S. 2d 660.

No. 86-257. POINTON, DBA SIERRA POINTON FUND, INC. *v.* FIDELITY NATIONAL BANK, N. A. Appeal from Ct. App. Okla. dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied.

No. 86-302. CHISUM *v.* RAVINE ET AL. Appeal from Sup. Ct. Alaska dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied.

No. 86-5358. PERKINS *v.* HARTIGAN, ATTORNEY GENERAL OF ILLINOIS, ET AL. Appeal from C. A. 7th Cir. dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied.

No. 86-265. G & M RICHMOND *v.* CITY OF RICHMOND HEIGHTS, OHIO. Appeal from Ct. App. Ohio, Cuyahoga County, dismissed for want of substantial federal question.

No. 86-5329. SAADIQ *v.* IOWA. Appeal from Sup. Ct. Iowa dismissed for want of substantial federal question. Reported below: 387 N. W. 2d 315.

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No. 86-287. CROWN OIL CORP. ET AL. *v.* LAPIDUS POPCORN, INC. Appeal from Ct. App. Cal., 1st App. Dist. Motion of Atlantic Richfield Co. et al. for leave to file a brief as *amici curiae* granted. Appeal dismissed for want of jurisdiction. Reported below: 177 Cal. App. 3d 604, 223 Cal. Rptr. 164.

Certiorari Granted—Vacated and Remanded

No. 86-288. RHODE ISLAND *v.* MATTATALL. Sup. Ct. R. I. Motion of respondent for leave to proceed *in forma pauperis* and certiorari granted. Judgment vacated and case remanded for further consideration in light of *Kuhlmann v. Wilson*, 477 U. S. 436 (1986). Reported below: 510 A. 2d 947.

Miscellaneous Orders

No. A-202. KHABIRI ET AL. *v.* TOLL ET AL. Application for injunction and other relief, addressed to JUSTICE STEVENS and referred to the Court, denied.

No. A-262 (86-567). CURRY ET AL. *v.* BAKER ET AL. C. A. 11th Cir. Application for stay, addressed to THE CHIEF JUSTICE and referred to the Court, denied. Motion of petitioners to expedite consideration of the petition for writ of certiorari denied.

No. 106, Orig. ILLINOIS *v.* KENTUCKY. Motion for leave to file bill of complaint granted. Defendant is allowed 60 days within which to file an answer.

No. 85-781. BURKE, ACTING ARCHIVIST OF THE UNITED STATES, ET AL. *v.* BARNES ET AL. C. A. D. C. Cir. [Certiorari granted, 475 U. S. 1044.] Motion of respondents for divided argument denied. JUSTICE SCALIA took no part in the consideration or decision of this motion.

No. 85-1329. YOUNG ET AL. *v.* UNITED STATES EX REL. VUITTON ET FILS S. A. ET AL.; and

No. 85-6207. KLAYMINE *v.* UNITED STATES EX REL. VUITTON ET FILS S. A. ET AL. C. A. 2d Cir. [Certiorari granted, 477 U. S. 903.] Motion of the Solicitor General for leave to participate in oral argument as *amicus curiae* and for divided argument granted.

No. 85-5939. CRUZ *v.* NEW YORK. Ct. App. N. Y. [Certiorari granted, 476 U. S. 1168.] Motion of the Solicitor General

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

No. 85-1384. *TURNER ET AL. v. SAFLEY ET AL.* C. A. 8th Cir. [Certiorari granted, 476 U. S. 1139.] Motions of The Correctional Association of New York, Prisoners' Legal Services of New York, Inc., et al., and Guadalupe Guajardo, Jr., et al. for leave to file briefs as *amici curiae* granted.

No. 85-1589. *IOWA MUTUAL INSURANCE CO. v. LAPLANTE ET AL.* C. A. 9th Cir. [Certiorari granted, 476 U. S. 1139.] Motion of the Solicitor General for leave to participate in oral argument as *amicus curiae* and for divided argument denied.

No. 86-279. *BASIC INC. ET AL. v. LEVINSON ET AL.* C. A. 6th Cir. The Solicitor General is invited to file a brief in this case expressing the views of the United States. THE CHIEF JUSTICE took no part in the consideration or decision of this order.

No. 86-569. *GRADDICK, ATTORNEY GENERAL OF ALABAMA v. HENDERSON ET AL.* Appeal from D. C. M. D. Ala. Motion of appellant to expedite consideration of the statement as to jurisdiction denied.

No. 86-5306. *WILLIS v. LANE, JUDGE, ET AL.* C. A. Fed. Cir. Motion of petitioner for leave to proceed *in forma pauperis* denied. Petitioner is allowed until November 4, 1986, 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.

JUSTICE BRENNAN, JUSTICE MARSHALL, and JUSTICE STEVENS, dissenting.

For the reasons expressed in *Brown v. Herald Co.*, 464 U. S. 928 (1983), we would deny the petition for writ of certiorari without reaching the merits of the motion to proceed *in forma pauperis*.

No. 86-5290. *IN RE PLUMMER ET UX.* C. A. 3d Cir. Petition for writ of common-law certiorari denied. Reported below: 800 F. 2d 1137.

No. 86-5363. *IN RE JOHNSON*;

No. 86-5502. *IN RE MORROW*; and

No. 86-5531. *IN RE JACOBS.* Petitions for writs of habeas corpus denied.

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No. 86-5284. IN RE HENKEL; and

No. 86-5357. IN RE OWENS. Petitions for writs of mandamus denied.

Probable Jurisdiction Postponed

No. 85-673. HARTIGAN, ATTORNEY GENERAL OF THE STATE OF ILLINOIS, ET AL. *v.* ZBARAZ ET AL. Appeal from C. A. 7th Cir. Further consideration of question of jurisdiction postponed to hearing of case on the merits, which is limited to Question 1 presented by the jurisdictional statement. Reported below: 763 F. 2d 1532.

Certiorari Granted

No. 85-1772. UTAH DIVISION OF STATE LANDS *v.* UNITED STATES ET AL. C. A. 10th Cir. Certiorari granted. Reported below: 780 F. 2d 1515.

No. 85-1835. CALIFORNIA *v.* ROONEY. Ct. App. Cal., 2d App. Dist. Certiorari granted. Reported below: 175 Cal. App. 3d 634, 221 Cal. Rptr. 49.

No. 85-1722. O'LONE, ADMINISTRATOR, LEESBURG PRISON COMPLEX, ET AL. *v.* ESTATE OF SHABAZZ ET AL. C. A. 3d Cir. Motion of respondents for leave to proceed *in forma pauperis* and certiorari granted. Reported below: 782 F. 2d 416.

No. 86-108. HILTON, SUPERINTENDENT, NEW JERSEY STATE PRISON, ET AL. *v.* BRAUNSKILL. C. A. 3d Cir. Motion of respondent for leave to proceed *in forma pauperis* and certiorari granted.

No. 85-6725. BOURJAILY *v.* UNITED STATES. C. A. 6th Cir. Motion of petitioner for leave to proceed *in forma pauperis* granted and certiorari granted limited to the following questions:

"1. Whether, in order to admit an alleged co-conspirator's declarations against a defendant under Federal Rule of Evidence 801(d)(2)(E), the court must determine by independent evidence a) that a conspiracy existed, and b) that the declarant and the defendant were members of this conspiracy?

"2. Assuming that the court must make these determinations, upon what quantum of independent proof must they be based?

"3. Whether, as a requirement for the admission of a co-conspirator's statement against a defendant, the court must assess the circumstances of the case to determine whether the statement

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carries with it sufficient indicia of reliability?" Reported below: 781 F. 2d 539.

No. 86-5020. *BOOTH v. MARYLAND*. Ct. App. Md. Motion of petitioner for leave to proceed *in forma pauperis* granted and certiorari granted limited to Question 3 presented by the petition. Reported below: 306 Md. 172, 507 A. 2d 1098.

Certiorari Denied. (See also Nos. 86-236, 86-257, 86-302, 86-5358, and 86-5290, *supra*.)

No. 85-1869. *HOOK v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 781 F. 2d 1166.

No. 85-1883. *MAROTTA v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 782 F. 2d 386.

No. 85-1974. *WHITTINGTON ET AL. v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 783 F. 2d 1210 and 786 F. 2d 644.

No. 85-2134. *ESTATE OF GILMORE, BY GILMORE, EXECUTOR v. BUCKLEY ET AL.* C. A. 1st Cir. Certiorari denied. Reported below: 787 F. 2d 714.

No. 85-2157. *ALUMINUM ASSN., INC., ET AL. v. NORFOLK & WESTERN RAILWAY CO. ET AL.* C. A. D. C. Cir. Certiorari denied. Reported below: 247 U. S. App. D. C. 256, 768 F. 2d 373.

No. 85-6884. *RAHMAN ET AL. v. GREY ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 780 F. 2d 1027.

No. 85-7124. *CAREY v. WYOMING*. Sup. Ct. Wyo. Certiorari denied. Reported below: 715 P. 2d 244.

No. 85-7128. *TAYLOR v. MARQUEZ*. C. A. 9th Cir. Certiorari denied.

No. 86-8. *MASI v. UNITED STATES*. C. A. 2d Cir. Certiorari denied.

No. 86-9. *QUINN v. ROBINSON, UNITED STATES MARSHAL FOR NORTHERN DISTRICT OF CALIFORNIA*. C. A. 9th Cir. Certiorari denied. Reported below: 783 F. 2d 776.

No. 86-24. *EGGLESTON ET AL. v. COMMISSIONER OF INTERNAL REVENUE*. C. A. 4th Cir. Certiorari denied. Reported below: 787 F. 2d 939.

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No. 86-28. *NORFOLK DREDGING CO. v. SECRETARY OF LABOR*. C. A. 11th Cir. Certiorari denied. Reported below: 783 F. 2d 1526.

No. 86-38. *NEAL v. COMMISSIONER OF INTERNAL REVENUE*. C. A. 2d Cir. Certiorari denied.

No. 86-41. *LACHANCE ET AL. v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 788 F. 2d 856.

No. 86-42. *G. D. SEARLE & CO. v. COHN ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 784 F. 2d 460.

No. 86-47. *UNIGLASS INDUSTRIES, A DIVISION OF UNITED MERCHANTS & MANUFACTURERS, INC. v. NATIONAL LABOR RELATIONS BOARD*. C. A. 2d Cir. Certiorari denied. Reported below: 800 F. 2d 1128.

No. 86-50. *JANKLOW v. NEWSWEEK, INC.* C. A. 8th Cir. Certiorari denied. Reported below: 788 F. 2d 1300.

No. 86-74. *GULF OIL CORP. v. DANOS & CUROLE MARINE CONTRACTORS, INC.* C. A. 5th Cir. Certiorari denied. Reported below: 783 F. 2d 518.

No. 86-91. *JERSAWITZ v. NOONAN, WARDEN, ET AL.* C. A. 11th Cir. Certiorari denied. Reported below: 783 F. 2d 1532.

No. 86-93. *MENOKEN v. DEPARTMENT OF HEALTH AND HUMAN SERVICES*. C. A. Fed. Cir. Certiorari denied. Reported below: 784 F. 2d 365.

No. 86-102. *SINGER v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 785 F. 2d 228.

No. 86-105. *FOSTER v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 789 F. 2d 457.

No. 86-148. *BENZVI ET AL. v. COMMISSIONER OF INTERNAL REVENUE*. C. A. 11th Cir. Certiorari denied. Reported below: 787 F. 2d 1541.

No. 86-166. *SYLVIA v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 791 F. 2d 926.

No. 86-167. *AMERICAN CAST IRON PIPE CO. v. COX ET AL.* C. A. 11th Cir. Certiorari denied. Reported below: 784 F. 2d 1546.

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No. 86-186. *DAY & ZIMMERMAN, INC. v. INTERNATIONAL CHEMICAL WORKERS UNION ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 791 F. 2d 366.

No. 86-210. *SPECTOR ET AL. v. COMMISSIONER OF INTERNAL REVENUE.* C. A. 8th Cir. Certiorari denied. Reported below: 790 F. 2d 51.

No. 86-215. *J. A. LAPORTE, INC. v. NORFOLK DREDGING CO.* C. A. Fed. Cir. Certiorari denied. Reported below: 787 F. 2d 1577.

No. 86-220. *WALDRON ET AL. v. COLLINS.* C. A. 11th Cir. Certiorari denied. Reported below: 788 F. 2d 736.

No. 86-221. *TOWNSHIP OF CLAY v. SEAWAY DRIVE-IN, INC.* C. A. 6th Cir. Certiorari denied. Reported below: 791 F. 2d 447.

No. 86-229. *BROOKS v. EBONY OIL CORP.* C. A. 2d Cir. Certiorari denied. Reported below: 792 F. 2d 136.

No. 86-230. *NICHOLSON ET AL. v. KING.* Ct. App. La., 4th Cir. Certiorari denied. Reported below: 485 So. 2d 578.

No. 86-232. *BEHREND ET AL. v. ZIEGLER ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 792 F. 2d 138.

No. 86-233. *CITY OF LAWTON, OKLAHOMA, ET AL. v. LUSBY ET AL.* C. A. 10th Cir. Certiorari denied. Reported below: 796 F. 2d 1307.

No. 86-237. *KOEHNKE v. WISCONSIN.* Ct. App. Wis. Certiorari denied. Reported below: 128 Wis. 2d 557, 381 N. W. 2d 621.

No. 86-245. *HUMBOLDT BAY MUNICIPAL WATER DISTRICT v. LOUISIANA-PACIFIC CORP. ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 787 F. 2d 597.

No. 86-247. *GENERAL SIGNAL CORP. v. ALLIED TUBE & CONDUIT CORP.* C. A. Fed. Cir. Certiorari denied. Reported below: 790 F. 2d 95.

No. 86-249. *ATRAQCHI ET AL. v. FOUR UNKNOWN AGENTS OF THE FEDERAL BUREAU OF INVESTIGATION ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 791 F. 2d 167.

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No. 86-255. *KUZMAK v. KUZMAK*. Ct. App. Cal., 2d App. Dist. Certiorari denied. Reported below: 176 Cal. App. 3d 1152, 222 Cal. Rptr. 644.

No. 86-269. *WHITE v. OFFICE OF PERSONNEL MANAGEMENT ET AL.* C. A. D. C. Cir. Certiorari denied. Reported below: 252 U. S. App. D. C. 104, 787 F. 2d 660.

No. 86-273. *TEXAS v. DANIELS, AKA AUSTIN*. Ct. Crim. App. Tex. Certiorari denied. Reported below: 718 S. W. 2d 702.

No. 86-274. *SARKISIAN ET AL. v. TRAVELERS INDEMNITY CO.* C. A. 2d Cir. Certiorari denied. Reported below: 794 F. 2d 754.

No. 86-292. *DONLEY v. COMMISSIONER OF INTERNAL REVENUE*. C. A. 5th Cir. Certiorari denied. Reported below: 791 F. 2d 383.

No. 86-297. *RUSSELL v. TEXAS*. Ct. App. Tex., 4th Sup. Jud. Dist. Certiorari denied. Reported below: 685 S. W. 2d 413.

No. 86-299. *HUTCHISON v. THOMAS ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 789 F. 2d 392.

No. 86-301. *LIEDTKE v. BUJOLD ET AL.* C. A. 8th Cir. Certiorari denied. Reported below: 786 F. 2d 1171.

No. 86-305. *REYNOLDS v. INGALLS SHIPBUILDING DIVISION, LITTON SYSTEMS, INC.* C. A. 5th Cir. Certiorari denied. Reported below: 788 F. 2d 264.

No. 86-309. *WALKER ET AL. v. HURON VALLEY HOSPITAL, INC., ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 792 F. 2d 563.

No. 86-317. *ROSENE v. UNITED STATES*. C. A. Fed. Cir. Certiorari denied. Reported below: 790 F. 2d 94.

No. 86-324. *AMADOR v. DEPARTMENT OF TRANSPORTATION, FEDERAL AVIATION ADMINISTRATION*. C. A. Fed. Cir. Certiorari denied. Reported below: 795 F. 2d 1013.

No. 86-333. *BARBER ET AL. v. AMERICAN AIRLINES, INC.* C. A. 8th Cir. Certiorari denied. Reported below: 791 F. 2d 658.

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No. 86-346. KAUFMAN *v.* BERKMAN, RUSLANDER, POHL, LIEBER & ENGEL ET AL. C. A. 3d Cir. Certiorari denied. Reported below: 800 F. 2d 1134.

No. 86-383. PACIFICO CREATIVE SERVICE, INC., DBA JALPAK, ET AL. *v.* HENNEGAN ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 787 F. 2d 1299.

No. 86-398. GEBRAYEL *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 788 F. 2d 1567.

No. 86-413. SIKES ET AL. *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 789 F. 2d 1492.

No. 86-429. BLOCH *v.* MOUNTAIN MISSION SCHOOL, INC., ET AL. C. A. 4th Cir. Certiorari denied. Reported below: 789 F. 2d 915.

No. 86-432. MILLER *v.* MERIT SYSTEMS PROTECTION BOARD. C. A. Fed. Cir. Certiorari denied. Reported below: 794 F. 2d 660.

No. 86-5009. SPENCE *v.* TOOLE. C. A. 11th Cir. Certiorari denied. Reported below: 781 F. 2d 904.

No. 86-5068. DAVIS *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 791 F. 2d 939.

No. 86-5094. CARTER *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 793 F. 2d 1294.

No. 86-5281. BURKS *v.* ALABAMA. Sup. Ct. Ala. Certiorari denied.

No. 86-5283. BENNETT *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 792 F. 2d 140.

No. 86-5285. HEMPHILL *v.* OHIO. C. A. 6th Cir. Certiorari denied. Reported below: 793 F. 2d 1291.

No. 86-5294. CLANTON *v.* DUTTON, WARDEN. C. A. 6th Cir. Certiorari denied. Reported below: 787 F. 2d 588.

No. 86-5295. RYDER *v.* JESSUP & BEECHER ET AL. Ct. App. Cal., 2d App. Dist. Certiorari denied.

No. 86-5298. JIMENEZ *v.* TEXAS DEPARTMENT OF CORRECTIONS ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 784 F. 2d 1111.

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No. 86-5301. *COLLIER v. NEWSOME, WARDEN*. C. A. 11th Cir. Certiorari denied.

No. 86-5302. *HOLMES v. TAYLOR ET AL.* Sup. Ct. S. C. Certiorari denied.

No. 86-5303. *BRENT v. MARYLAND*. C. A. 4th Cir. Certiorari denied. Reported below: 790 F. 2d 83.

No. 86-5304. *WATKINS v. OHIO*. Ct. App. Ohio, Montgomery County. Certiorari denied.

No. 86-5305. *WALTER v. TORRES*. C. A. 5th Cir. Certiorari denied. Reported below: 782 F. 2d 1039.

No. 86-5308. *ROGERS v. REDMAN, WARDEN*. C. A. 6th Cir. Certiorari denied. Reported below: 798 F. 2d 471.

No. 86-5311. *CISNEROS v. COLORADO*. Ct. App. Colo. Certiorari denied. Reported below: 720 P. 2d 982.

No. 86-5316. *VESAY v. UNITED STATES*. C. A. 6th Cir. Certiorari denied.

No. 86-5317. *THOMSEN v. LEVINE, COMMISSIONER, DEPARTMENT OF HUMAN SERVICES*. Ct. App. Minn. Certiorari denied. Reported below: 386 N. W. 2d 324.

No. 86-5318. *RODMAN v. McMACKIN ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 798 F. 2d 1415.

No. 86-5319. *GIBSON v. KIVETT ET AL.* C. A. 4th Cir. Certiorari denied.

No. 86-5323. *DILLARD v. IDAHO*. Ct. App. Idaho. Certiorari denied. Reported below: 110 Idaho 834, 718 P. 2d 1272.

No. 86-5326. *McCLURE v. McCOTTER, DIRECTOR, TEXAS DEPARTMENT OF CORRECTIONS*. Ct. Crim. App. Tex. Certiorari denied.

No. 86-5330. *OTWORTH v. SOUTHERN PACIFIC TRANSPORTATION CO.* C. A. 9th Cir. Certiorari denied. Reported below: 791 F. 2d 167.

No. 86-5333. *PRATT v. IGNACIO*. C. A. 9th Cir. Certiorari denied. Reported below: 787 F. 2d 597.

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No. 86-5334. *ROBERTS v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 783 F. 2d 891.

No. 86-5338. *LACY v. GARDINO, SUPERINTENDENT, NORTH-EASTERN CORRECTIONAL CENTER, CONCORD*. C. A. 1st Cir. Certiorari denied. Reported below: 791 F. 2d 980.

No. 86-5340. *PATTON v. THIERET, WARDEN*. C. A. 7th Cir. Certiorari denied. Reported below: 791 F. 2d 543.

No. 86-5346. *MIESBAUER v. KANSAS*. C. A. 10th Cir. Certiorari denied.

No. 86-5347. *KAY v. CITY OF OAKLAND, CALIFORNIA*. C. A. 9th Cir. Certiorari denied. Reported below: 792 F. 2d 1122.

No. 86-5348. *ANDERSON v. VANTAGE PRESS, INC.* C. A. 6th Cir. Certiorari denied. Reported below: 802 F. 2d 456.

No. 86-5350. *WANDLE v. OREGON*. Ct. App. Ore. Certiorari denied. Reported below: 75 Ore. App. 746, 707 P. 2d 1281.

No. 86-5352. *WEBER v. WILLARD ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 792 F. 2d 145.

No. 86-5354. *GEURIN v. UNITED STATES*. C. A. Fed. Cir. Certiorari denied.

No. 86-5355. *RUSSELL v. ILLINOIS*. Sup. Ct. Ill. Certiorari denied.

No. 86-5359. *DEDIC v. ILLINOIS HUMAN RIGHTS COMMISSION ET AL.* App. Ct. Ill., 1st Dist. Certiorari denied. Reported below: 137 Ill. App. 3d 1149, 499 N. E. 2d 173.

No. 86-5383. *BOITZ v. ARCO ALASKA INC. ET AL.* Sup. Ct. Alaska. Certiorari denied.

No. 86-5384. *BONIN v. T. L. JAMES & CO., INC., ET AL.* C. A. 5th Cir. Certiorari denied.

No. 86-5385. *WILLIAMS v. ALABAMA DEPARTMENT OF PEN-SIONS AND SECURITY ET AL.* C. A. 11th Cir. Certiorari denied.

No. 86-5398. *VOSS v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 787 F. 2d 393.

No. 86-5399. *BAUER v. UNITED STATES*. C. A. 6th Cir. Certiorari denied.

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No. 86-5400. *ZWICK v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 791 F. 2d 938.

No. 86-5402. *BENSON v. IMMIGRATION AND NATURALIZATION SERVICE*. C. A. 1st Cir. Certiorari denied.

No. 86-5406. *WEBER v. HOAGUE ET AL.* C. A. 11th Cir. Certiorari denied.

No. 86-5416. *TORRES v. UNITED STATES*. C. A. 1st Cir. Certiorari denied. Reported below: 793 F. 2d 436.

No. 86-5417. *JENKINS v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 792 F. 2d 1123.

No. 86-5423. *WHITE v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 785 F. 2d 1387.

No. 86-5427. *MAK v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 800 F. 2d 1129.

No. 86-5429. *KELLY v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 783 F. 2d 575.

No. 86-5441. *COOK v. UNITED STATES*. C. A. 10th Cir. Certiorari denied. Reported below: 794 F. 2d 561.

No. 86-5461. *FESSLER v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 798 F. 2d 1416.

No. 86-5462. *BOSCHETTI v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 794 F. 2d 416.

No. 86-5506. *WILLIAMS v. LEEKE, COMMISSIONER, SOUTH CAROLINA DEPARTMENT OF CORRECTIONS, ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 789 F. 2d 918.

No. 85-1731. *AUTOMOBILE CLUB OF MICHIGAN ET AL. v. ROBERTS ET AL.* Ct. App. Mich. Certiorari denied. JUSTICE BRENNAN and JUSTICE MARSHALL would grant certiorari. Reported below: 138 Mich. App. 488, 360 N. W. 2d 224.

No. 85-7230. *FERRER-MAZORRA ET AL. v. MEESE, ATTORNEY GENERAL OF THE UNITED STATES*. C. A. 11th Cir. Certiorari denied. JUSTICE BRENNAN and JUSTICE MARSHALL would grant certiorari. Reported below: 788 F. 2d 1446.

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No. 85-1915. CONSTRUCTION LABORERS PENSION TRUST FOR SOUTHERN CALIFORNIA *v.* PONCE ET AL. C. A. 9th Cir. Motion of respondents for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 774 F. 2d 1401.

No. 85-2031. UNITED STATES *v.* SCHWARTZ ET AL. C. A. 9th Cir. Motion of respondent Raymond F. Lane for leave to proceed *in forma pauperis* granted. Certiorari denied. THE CHIEF JUSTICE took no part in the consideration or decision of this motion and this petition. Reported below: 785 F. 2d 673.

No. 85-2071. OKLAHOMA *v.* POST. Ct. Crim. App. Okla. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 715 P. 2d 1105.

No. 86-315. RICKETTS, DIRECTOR, ARIZONA DEPARTMENT OF CORRECTIONS, ET AL. *v.* GREENAWALT. C. A. 9th Cir. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 784 F. 2d 1453.

No. 85-2133. CROUNSE CORP. ET AL. *v.* INTERSTATE COMMERCE COMMISSION ET AL.; and

No. 86-134. SIMMONS *v.* INTERSTATE COMMERCE COMMISSION ET AL. C. A. 6th Cir. Certiorari denied. JUSTICE SCALIA took no part in the consideration or decision of these petitions. Reported below: 781 F. 2d 1176.

No. 86-5269. CADAVID *v.* UNITED STATES. C. A. D. C. Cir. Certiorari denied. JUSTICE SCALIA took no part in the consideration or decision of this petition. Reported below: 251 U. S. App. D. C. 327, 784 F. 2d 1131.

No. 85-2168. FLEMING *v.* MOORE. Sup. Ct. Va. Motions of Philadelphia Inquirer et al. and National Association for the Advancement of Colored People for leave to file briefs as *amici curiae* granted. Certiorari denied.

No. 85-6753. COMPTON *v.* NEW MEXICO. Sup. Ct. N. M.;

No. 85-7122. KENNEDY *v.* WAINWRIGHT, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS, ET AL. Sup. Ct. Fla.;

No. 86-5021. BOWERS *v.* MARYLAND. Ct. App. Md.; and

No. 86-5327. GILREATH *v.* KEMP, WARDEN. Sup. Ct. Ga. Certiorari denied. Reported below: No. 85-6753, 104 N. M. 683,

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726 P. 2d 837; No. 85-7122, 483 So. 2d 424; No. 86-5021, 306 Md. 120, 507 A. 2d 1072.

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. 85-6889. DUFOUR v. MISSISSIPPI. Sup. Ct. Miss. Certiorari denied. Reported below: 483 So. 2d 307.

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 under all circumstances cruel and unusual punishment forbidden by the Eighth and Fourteenth Amendments, I would vacate the judgment of the Supreme Court of Mississippi insofar as it left undisturbed the death sentence imposed in this case. *Gregg v. Georgia*, 428 U. S. 153, 231 (1976) (MARSHALL, J., dissenting). However, even if I believed that the death penalty could be imposed constitutionally under certain circumstances, I nevertheless would grant certiorari because this petition presents an important issue concerning the application of this Court's decision in *Strickland v. Washington*, 466 U. S. 668 (1984).

I

Petitioner Donald Dufour was convicted of capital murder occurring in the course of a robbery. His appointed counsel presented no evidence in mitigation of sentence at the penalty phase of his trial. The jury found that the State had established two aggravating circumstances and recommended a sentence of death. The State Supreme Court affirmed petitioner's conviction and death sentence. *Dufour v. State*, 453 So. 2d 337 (1984). This Court denied certiorari. *Dufour v. Mississippi*, 469 U. S. 1230 (1985). Petitioner then instituted a postconviction proceeding to vacate judgment and sentence in the state trial court, contending that he

had received ineffective assistance of counsel in that his appointed trial counsel had failed to request appointment of a psychiatrist to assist the defense in developing psychological evidence to be submitted to the jury in mitigation of sentence. The trial court summarily denied this and petitioner's other claims, and the State Supreme Court affirmed. 483 So. 2d 307 (1986).

It appears that in his postconviction application, petitioner again requested appointment of a psychiatrist to assist counsel in showing that petitioner's defense at the penalty phase of his trial was prejudiced by the absence of psychological evidence. He submitted the affidavit of Dr. Stanley, the court-appointed psychiatrist who had previously examined him for the purpose of determining his competency to stand trial. Dr. Stanley stated that the limited examination he had conducted for purposes of determining competency bore no relation to the more extensive and qualitatively different investigation required to present useful assistance to trial counsel on the subject of mitigation. Pet. for Cert. 7. Both the trial court and State Supreme Court denied relief without ruling on petitioner's renewed request for the appointment of a psychiatrist; no evidentiary hearing was held on petitioner's claim of ineffective assistance. The State Supreme Court affirmed the denial of relief, stating:

"Petitioner claims that defense counsel failed to make application to the trial court for funds to conduct a psychological evaluation of petitioner for the purpose of determining whether mitigating circumstances existed. Further, that he had no expert assistance because counsel did not request it. However, petitioner was examined pursuant to a court order. The professionals were not people selected by the State, but by the trial court. Petitioner has failed to present facts which show there existed mitigating circumstances of a psychological nature, which could have been presented by Dr. Stanley. It is not shown that such an examination would have produced the claimed results, nor has prejudice been shown." 483 So. 2d, at 308.

II

In *Strickland*, *supra*, this Court established a two-part standard for evaluating claims of ineffective assistance of counsel. "First, the defendant must show that counsel's performance was deficient. This requires showing that counsel made errors so serious that counsel was not functioning as the 'counsel' guaranteed

the defendant by the Sixth Amendment. Second, the defendant must show that the deficient performance prejudiced the defense. This requires showing that counsel's errors were so serious as to deprive the defendant of a fair trial, a trial whose result is reliable." *Id.*, at 687. For the reasons I then stated in dissent, I continue to believe that "a showing that the performance of a defendant's lawyer departed from constitutionally prescribed standards requires a new trial regardless of whether the defendant suffered demonstrable prejudice thereby." *Id.*, at 712. The present case provides a graphic demonstration of the untenable nature of the prejudice standard announced in *Strickland*.

The State Supreme Court, in affirming the denial of post-conviction relief on this claim, relied entirely upon the prejudice portion of the *Strickland* standard. 483 So. 2d, at 308. Petitioner's claim was denied because he did not proffer the psychiatric evidence which he contended should have been introduced at trial. He did not do so precisely because, as an indigent, he could not afford to retain a psychiatrist to make an examination either in preparation for trial or upon his application for postconviction relief. In short, the prejudice standard in such a circumstance is insurmountable; prejudice cannot be shown because the alleged error of counsel was in failing to seek the appointment of an expert without whose assistance the evidence which would show prejudice cannot be brought to light. On a claim of this kind petitioner cannot submit affidavits of witnesses who were not investigated or who were not called, or in some other manner raise an inference as to prejudice. The essence of psychiatric evidence rests in the expert qualifications of the objective examiner; if the examiner will not volunteer his services, petitioner must content himself with only so much justice as he can pay for.

In *Ake v. Oklahoma*, 470 U. S. 68, 80 (1985), this Court recognized that under some circumstances "the assistance of a psychiatrist may well be crucial to the defendant's ability to marshal his defense," and that in these conditions the accused is entitled to the appointment of psychiatric assistance at public expense. That the failure to seek such appointment to assist counsel in the development of evidence in mitigation of sentence may in some cases rise to the level of constitutionally ineffective assistance I do not

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doubt.¹ “[C]ounsel’s general duty to investigate . . . takes on supreme importance to a defendant in the context of developing mitigating evidence to present to a judge or jury considering the sentence of death; claims of ineffective assistance in the performance of that duty should therefore be considered with commensurate care.” *Strickland*, 466 U. S., at 706 (BRENNAN, J., concurring in part and dissenting in part).² The prejudice prong of *Strickland*, as it was applied below, will have the effect of depriving all such defendants of their constitutional rights solely as a result of their indigence. Because I believe that such application of the *Strickland* standard is incompatible with the requirements of the Constitution, I would grant the petition for certiorari.

No. 85-6964. BUNDY v. FLORIDA. Sup. Ct. Fla. Certiorari denied. Reported below: 471 So. 2d 9.

JUSTICE BRENNAN, dissenting.

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

JUSTICE MARSHALL, dissenting.

Petitioner was convicted of first-degree murder and sentenced to death. His conviction was based on evidence the Florida Supreme Court found constitutionally suspect. The Florida Supreme Court nonetheless concluded that admission of the evidence was harmless constitutional error. I would grant certiorari to review the Florida Supreme Court’s application of *Schneble v. Florida*, 405 U. S. 427 (1972), and *Fahy v. Connecticut*, 375 U. S. 85 (1963).

¹ I would not reach the question whether counsel’s failure in this case to move for the appointment of a psychiatrist was constitutionally deficient representation under the first part of the test established by *Strickland v. Washington*, 466 U. S. 668 (1984). The correctness of the State Supreme Court’s determination on the question of prejudice is the sole issue posed by the petition.

² I note that petitioner’s trial counsel failed to present any evidence at all in mitigation of sentence. As I have previously stated, I believe that in all but the most extraordinary cases, such failure is, without more, a denial of effective assistance of counsel. See *Berry v. King*, 476 U. S. 1164 (1986) (MARSHALL, J., dissenting from denial of certiorari).

I

Petitioner became a suspect in the disappearance of Kimberly Leach after local authorities learned that he was suspected in a number of murders in the northwestern United States. Leach was reported missing from school on February 9, 1978, and her body was found two months later, after a highly publicized search. The only eyewitness to the abduction was Clarence Anderson. He came forward on July 18, after seeing petitioner on a television newscast. At that time, Anderson was unable to identify the date of his observation, although he thought it was "around April," and he could not provide a detailed description of the man or the girl he had observed. App. to Pet. for Cert. A17-A21. At the request of the Assistant State Attorney, Anderson underwent *two* hypnotic sessions designed to refresh his recollection.

Petitioner moved to suppress Anderson's testimony due to the lapse of time between Leach's disappearance and his initial statement, the massive publicity surrounding her disappearance and petitioner's arrest and indictment, and an alleged misuse of hypnosis by the persons conducting the sessions. He maintained that these factors rendered Anderson's identification unreliable under the rule established by this Court's decision in *Neil v. Biggers*, 409 U. S. 188 (1972). At the suppression hearing, several experts testified that a witness whose recollection has been hypnotically refreshed is unable to distinguish between what he recollected before hypnosis and any "details" added during hypnosis.

The trial court denied petitioner's motion to suppress. At trial, Anderson testified that he had observed a man leading a young girl into a white van near Leach's junior high school on February 9, 1978. He identified the man as petitioner and the girl as Kimberly Leach. Anderson's testimony was vital to the State's case; it supplied "the crucial link in the chain of circumstantial evidence of [petitioner's] guilt." 471 So. 2d 9, 23 (Fla. 1985) (Boyd, C. J., concurring specially).

On appeal, the Florida Supreme Court agreed with petitioner's arguments against the use of hypnotically refreshed testimony. *Id.*, at 18. The court noted that the highest courts of several other States have categorically excluded hypnotically refreshed testimony. *E. g.*, *People v. Shirley*, 31 Cal. 3d 18, 641 P. 2d 775, cert. denied, 458 U. S. 1125 (1982); *People v. Gonzales*, 415 Mich. 615, 329 N. W. 2d 743 (1982). The court discussed several of the problems associated with such testimony, not the least of which is

its effect on the defendant's right under the Confrontation Clause of the Sixth Amendment to cross-examine witnesses against him. The Florida court noted the "danger of distortion, delusion, or fantasy," as well as "the barriers which hypnosis raises to effective cross-examination." 471 So. 2d, at 18 (quoting *People v. Gonzales*, *supra*, at 627, 329 N. W. 2d, at 748). Furthermore, the court recognized the danger that, after undergoing hypnosis,

"the subject (1) will lose his critical judgment and begin to credit 'memories' that were formerly viewed as unreliable, (2) will confuse actual recall with confabulation and will be unable to distinguish between the two, and (3) will exhibit an unwarranted confidence in the validity of his ensuing recollection." 471 So. 2d, at 17 (quoting *People v. Shirley*, *supra*, at 39, 641 P. 2d, at 787).

The Florida Supreme Court concluded, in a holding to which it gave only prospective effect, that "hypnotically refreshed testimony is *per se* inadmissible in a criminal trial in this state, but hypnosis does not render a witness incompetent to testify to those facts demonstrably recalled prior to hypnosis." 471 So. 2d, at 18.

II

Since petitioner was convicted and sentenced to death after a trial in which the "crucial link" was supplied by a witness with extremely limited prehypnotic memory who had undergone *two* hypnotic sessions, the Florida Supreme Court should have overturned his conviction. Instead, the court somehow determined that Anderson's testimony was refreshed under hypnosis as to *only three details*: the color of the football jersey the girl was wearing, the numbers on the jersey, and the fact that the man was wearing a pullover sweater and a shirt. Then, purporting to apply the "harmless-constitutional-error rule" of *Schneble v. Florida*, 405 U. S. 427 (1972), and *Fahy v. Connecticut*, 375 U. S. 85 (1963), the court concluded: "[S]ufficient evidence does exist, absent the tainted testimony, upon which the jury could have based its conviction of Bundy. There is no reasonable possibility that the tainted testimony complained of might have contributed to the conviction." 471 So. 2d, at 19.

This review for harmless constitutional error is seriously flawed. First, the Florida court improperly based its enumeration of tainted testimony on *Anderson's own testimony at trial*.

App. to Pet. for Cert. A86-A87. Anderson's own assessment of the impact of hypnosis on his recollection was inherently unreliable and was not subject to effective cross-examination, for the very reasons the court relied upon in holding that such evidence would in the future be inadmissible. The hypnotically refreshed "recollection" of the precise date of his observation is the most glaring omission from Anderson's list.¹ Having identified constitutional error in the admission of hypnotically refreshed testimony, the Florida Supreme Court was not free to excise a fraction of that evidence and conclude that the rest could not have contributed to the conviction. Second, the Florida court evidently confused review for harmless constitutional error with review for sufficiency of the evidence, despite this Court's explanation of the difference in *Fahy*: "We are not concerned here with whether there was sufficient evidence on which the petitioner could have been convicted without the evidence complained of. The question is whether there is a reasonable possibility that the evidence complained of might have contributed to the conviction." 375 U. S., at 86-87. Cf. *Delaware v. Van Arsdall*, 475 U. S. 673, 684 (1986); *Chapman v. California*, 386 U. S. 18, 23 (1967). When the evidence admitted at petitioner's trial is reviewed in this light it becomes clear that the tainted testimony significantly bolstered the State's case against him, for the untainted evidence was far from overwhelming.

"We must recognize that harmless-error rules can work very unfair and mischievous results when, for example, highly important and persuasive evidence . . . though legally forbidden, finds its way into a trial in which the question of guilt or innocence is a close one." *Id.*, at 22. Because the Florida Supreme Court misapplied the harmless-constitutional-error rule in such a way as to

¹One of petitioner's experts testified at the pretrial suppression hearing that Anderson's testimony was "enhanced" by numerous details in addition to the date of the occurrence and the three items listed by Anderson. These enhancements included what Anderson was doing on that day, the man's weight, the fact that he was clean shaven, the description of the van, and the fact that he could see the man and the girl through its rear window. Pet. for Cert. 12. The court below evidently ignored this portion of the record in reaching its conclusion as to harmless error.

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place in doubt the reliability of a verdict in a capital case, I would grant the petition for certiorari.²

No. 85-6977. *PORTER v. ILLINOIS*. Sup. Ct. Ill. Certiorari denied. Reported below: 111 Ill. 2d 386, 489 N. E. 2d 1329.

JUSTICE MARSHALL, with whom JUSTICE BRENNAN joins, dissenting.

I would grant this petition for certiorari to consider the extent of the obligations our decision in *Smith v. Phillips*, 455 U. S. 209 (1982), imposes on a trial judge confronted with a claim of juror bias.

I

Petitioner Anthony Porter was convicted of two murders committed in the course of an armed robbery and was sentenced to death. During *voir dire*, the trial judge read a list of potential witnesses, including the mother of Marilyn Green, one of the victims. He did not ask whether any of the prospective jurors knew any of the persons on the list, and none of them volunteered that they did. After the jury returned a guilty verdict, petitioner waived his right to a jury at the penalty proceeding. Before the judge dismissed the jurors, however, he addressed them as follows:

"THE COURT: . . . It was brought to my attention before I actually formally dismissed you that one of the jurors stated that he knew that some other juror purportedly or allegedly went to church—to the same church as one of the decedent's mother. Is that right, was that you—please identify yourself.

"MRS. TRICKLET:[*] Yes, but that didn't make any difference to me about that.

"THE COURT: Thank you, ma'am. It didn't make any difference?

"MRS. TRICKLET: No.

²Since the Florida Supreme Court found constitutional error and the State has not cross-petitioned for certiorari on that question, this Court is not called upon to decide whether admission of hypnotically refreshed testimony in a criminal trial violates the Due Process Clause of the Fourteenth Amendment or the Confrontation Clause of the Sixth Amendment. Accordingly, I express no view on this question.

*The trial transcript incorrectly lists the juror's name as Tricklet, rather than Trigleth.

"THE COURT: Ma'am, your name again?

"MRS. TRICKLET: Lilly B. Tricklet.

"THE COURT: It didn't make any difference to you, you abided by your oath and did you recognize the fact when I had read you the name of all the witnesses in the beginning before we even started, you didn't recognize that?

"MRS. TRICKLET: No.

"THE COURT: When did you finally recognize—

"MRS. TRICKLET: After it had got started and everything was going on.

"THE COURT: But, it made no difference to you, is that right?

"MRS. TRICKLET: No, that is right.

"THE COURT: I will now formally dismiss you. You are all dismissed." 111 Ill. 2d 386, 397-398, 489 N. E. 2d 1329, 1333 (1986).

Defense counsel was not permitted to question Mrs. Trigleth. After he suggested that "the Court should have questioned this juror in detail as to her relationship to that family," *id.*, at 398, 489 N. E. 2d, at 1334, the judge made the following statement:

"This Court will state for the record that in an unusual proceeding, I think probably the most unusual I have ever engaged in in all my years as a lawyer and as a Judge, I did bring back the entire jury and I had not dismissed them and the lady that identified herself was under oath and said for the record that the facts that came to light after the case, sometime after the case had commenced, in earnest, didn't influence her whatsoever.

"Accordingly, this Court felt that going beyond that regarding that issue is not—*would not have been proper, would have invaded the sanctity of the jury and jury deliberation.* Mr. Porter talked to and did, in fact request and have his constitutional right to a jury. That lady was under oath. She was not on trial, Mr. Porter was." *Id.*, at 413-414, 489 N. E. 2d, at 1341 (emphasis supplied).

Petitioner moved for a new trial. He submitted the affidavit of Isaias Torres, the juror who had brought the matter to the court's attention. In his affidavit, Torres stated that "a fellow juror informed him that another juror sitting in judgment of the facts

with them . . . knew the deceased, Marilyn Green's mother and attended church with her." *Id.*, at 402, 489 N. E. 2d, at 1335. He further stated that "this same Black female juror, when the jury was given the case to deliberate on, entered the jury room and said *as far as she was concerned, they could vote guilty right then*, and she made this statement before any discussion was had on the evidence . . ." *Ibid.* (emphasis supplied). At the hearing on petitioner's motion for a new trial, which was held before the same judge, Mrs. Trigleth was not called as a witness. After a brief oral argument, the judge denied the motion.

The Illinois Supreme Court affirmed the trial court's denial of petitioner's motion for a new trial, with three justices dissenting. Although the State Supreme Court recognized that the trial court's inquiry "could have, and possibly should have, been more searching," it considered the ruling to be within the trial judge's "sound discretion." *Id.*, at 403, 489 N. E. 2d, at 1336. The State Supreme Court concluded: "The burden in this case was on the defendant to support the allegations of his post-trial motion. . . . Not only should the defendant have shown the nature of the relationship between the juror and the victim's mother, but he also had the burden of showing that he was prejudiced by this juror's service." *Id.*, at 404, 489 N. E. 2d, at 1336.

II

The right to a trial by an impartial jury lies at the heart of due process. See, e. g., *Irvin v. Dowd*, 366 U. S. 717, 721-722 (1961). This Court has held that due process requires both "a jury capable and willing to decide the case solely on the evidence before it, and a trial judge ever watchful to prevent prejudicial occurrences and to determine the effect of such occurrences when they happen." *Smith v. Phillips*, 455 U. S., at 217. When a substantial question of juror bias is presented to the trial court, as it was in this case, we have held that the defendant is entitled to a hearing "'with all interested parties permitted to participate.'" *Id.*, at 216 (quoting *Remmer v. United States*, 347 U. S. 227, 230 (1954)).

Under *Smith v. Phillips*, *supra*, the trial judge's inquiry into juror bias in this case fell far short of the minimum required by the Due Process Clause of the Fourteenth Amendment. The judge merely called on the juror to identify herself and then asked her "several times in a leading fashion to reaffirm that her ac-

quaintance with the mother did not influence her" in a colloquy that "could have lasted only seconds." 111 Ill. 2d, at 410, 489 N. E. 2d, at 1339 (Simon, J., dissenting). The trial judge failed to ascertain to any meaningful degree the extent and nature of her relationship with the victim's mother and the point at which she became aware that she was acquainted with the mother. The juror's vague statement that she realized it "[a]fter it had got started and everything was going on" suggests only that she was not aware of it at *voir dire*. She was never asked to explain why she had not brought the matter to the court's attention when she realized the connection; had she done so, one of the alternate jurors could have taken her place. Moreover, the trial court did not allow defense counsel to question her.

The State contends that petitioner had an opportunity to explore the issue of bias at the post-trial hearing on his motion for a new trial. That hearing, however, was woefully inadequate when measured by our decisions in *Phillips* and *Remmer*. At a minimum, due process requires that the defendant be allowed to question the juror on the issue of bias. See *Smith v. Phillips*, 455 U. S., at 217, n. 7 ("[D]eterminations made in *Remmer*-type hearings will frequently turn upon testimony of the juror in question"); see also *id.*, at 222 (O'CONNOR, J., concurring). The Illinois Supreme Court criticized defense counsel for failing to call Mrs. Trigleth or obtain an affidavit from her, 111 Ill. 2d, at 403, 489 N. E. 2d, at 1336. However, in light of the trial judge's insistence on the sanctity of the jury's deliberation and his refusal to allow defense counsel to question Mrs. Trigleth while she was under oath, counsel reasonably considered himself foreclosed from contacting her in connection with his motion for a new trial before the same judge. Thus, while petitioner had the burden of showing both bias and actual prejudice, the trial judge's admonitions appeared to deprive him of the only means of doing so.

I continue to believe that the defendant should not bear the burden of showing actual prejudice when the probability of bias is substantial, as it is in this case, see *Smith v. Phillips*, *supra*, at 224 (MARSHALL, J., dissenting). However, petitioner never even had the opportunity of demonstrating prejudice due to juror bias. This violated his right to due process and leaves in doubt the impartiality of the jury that convicted him in this capital case. Accordingly, I dissent from denial of the petition for certiorari.

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No. 85-7071. *BUTTRUM v. BLACK, WARDEN*. Sup. Ct. Ga. Certiorari denied.

JUSTICE BRENNAN, dissenting.

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

JUSTICE MARSHALL, dissenting.

Petitioner was convicted of murder and sentenced to death. Her conviction and sentence were affirmed on direct appeal, and this Court denied certiorari. *Buttrum v. State*, 249 Ga. 652, 293 S. E. 2d 334 (1982), cert. denied, 459 U. S. 1156 (1983). The present petition seeks review of a subsequent denial of state habeas corpus relief in state court. Adhering to my view that the death penalty is under all circumstances cruel and unusual punishment forbidden by the Eighth and Fourteenth Amendments, I would vacate the judgment of the Supreme Court of Georgia insofar as it left undisturbed the death sentence imposed in this case. *Gregg v. Georgia*, 428 U. S. 153, 231 (1976) (MARSHALL, J., dissenting). However, even if I believed that the death penalty could be imposed constitutionally under certain circumstances, I nevertheless would, at the very least, delay the disposition of this petition until *California v. Brown*, No. 85-1563, is decided.

In closing argument at the sentencing phase of petitioner's trial, the prosecutor incorporated statements from an 1873 decision of the Georgia Supreme Court that appear with some regularity in contemporary capital sentencing proceedings in that State. See *Eberhart v. State*, 47 Ga. 598, 609-610; *Ruffin v. State*, 243 Ga. 95, 105, 252 S. E. 2d 472, 479-480 (1979). The effect of these statements was to lead the jury to believe that mercy was not a permissible component of their sentencing determination:

"You took an oath at the beginning of the case. You said, 'I do', to 'You shall well and truly try the issue formed upon this Bill of Indictment . . . and a true verdict give according to evidence. So Help You God.' 'According to evidence'; not according to mercy, not according to sympathy, not according to feeling sorry for a Defendant. . . . Mercy? I submit to you that we should have no sympathy with that sentiment that springs into action whenever a criminal is about to suffer for a

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crime. Society demands that the crime be punished and criminals warned. The false humanity that starts and shudders when the axe of justice is about to fall is a dangerous element for the peace of society. We have had too much of this mercy. It is not true mercy. It only looks to the criminal. . . . A stern, unbending, unflinching administration of justice is the surest way to prevent the commission of other heinous and horrible acts like the one committed by that Defendant. We are a society of Laws, not of sentiment." App. to Pet. for Cert. A-4, pp. 17-18.

On more than one occasion, the Georgia Supreme Court has condemned use of the statements employed by the prosecutor in petitioner's sentencing hearing—at least where they are attributed to a justice of that court—though it has generally found their effect insufficiently prejudicial to warrant reversal of the death sentences imposed. See, *e. g.*, *Ruffin*, *supra*, at 105, 252 S. E. 2d, at 479-480; *Hawes v. State*, 240 Ga. 327, 335-336, 240 S. E. 2d 833, 840 (1977). The Court of Appeals for the Eleventh Circuit has rejected use of this same language, regardless of the spokesman, because its content does not relate to the particular circumstances of the defendant whose sentence is being determined, but rather implies that considerations of mercy can have no part in jury deliberations in capital sentencing proceedings. See, *e. g.*, *Wilson v. Kemp*, 777 F. 2d 621, 626-628 (1985), cert. denied, 476 U. S. 1153 (1986); *Drake v. Kemp*, 762 F. 2d 1449, 1458-1461 (1985), cert. denied, 478 U. S. 1020 (1986). These divergent opinions from the Eleventh Circuit and the Georgia Supreme Court raise serious questions as to the constitutionally permissible scope of prosecutorial comment on the role of mercy in the jury's sentencing decision. Because we granted certiorari in *California v. Brown*, *supra*, to decide a closely related issue, I dissent from the present denial of this petition.

No. 85-7087. *BOLIEK v. MISSOURI*. Sup. Ct. Mo. Certiorari denied. Reported below: 706 S. W. 2d 847.

JUSTICE MARSHALL, with whom JUSTICE BRENNAN joins, dissenting.

Adhering to my view that the death penalty is under all circumstances cruel and unusual punishment forbidden by the Eighth and Fourteenth Amendments, I would vacate the judgment of the Supreme Court of Missouri insofar as it left undisturbed the death

sentence imposed in this case. *Gregg v. Georgia*, 428 U. S. 153, 231 (1976) (MARSHALL, J., dissenting). However, even if I believed that the death penalty could be imposed constitutionally under certain circumstances, I nevertheless would grant certiorari because this petition presents an important issue concerning the application of the Confrontation Clause of the Sixth Amendment.

Petitioner William Theodore Boliek, Jr., was charged with the murder of Jody Harless. The State alleged that Boliek shot Harless twice, once in the stomach and once in the head, in order to prevent her from testifying about a robbery in which she had been an accomplice. Boliek admitted that he had fired the first, non-fatal shot, which he claimed was an accident; he contended that the second and fatal shot had been fired by Vernon Wait, another of the participants in the robbery. At petitioner's trial the State produced two witnesses to whom Jody Harless had said, in the days immediately preceding her death, that she was afraid petitioner was going to kill her. In his summation, the prosecutor told the jury: "Jody Harless, one of her last words was 'Ted Boliek's gonna blow my head off.' And he did it.'" Pet. for Cert. 5.

The Missouri Supreme Court rejected petitioner's contention that it was reversible error to admit this evidence. *State v. Boliek*, 706 S. W. 2d 847 (1986). The Court held the evidence admissible under the hearsay exception for statements of the declarant's present mental condition. *Id.*, at 850. One judge dissented from this holding, taking the position that the statements were not admissible because the victim's state of mind was not material to the State's case. Petitioner contends that the admission of this hearsay violated his rights under the Confrontation Clause.

In *Ohio v. Roberts*, 448 U. S. 56 (1980), this Court held that the statement of an unavailable declarant "is admissible only if it bears adequate 'indicia of reliability.' Reliability can be inferred without more in a case where the evidence falls within a firmly rooted hearsay exception. In other cases, the evidence must be excluded, at least absent a showing of particularized guarantees of trustworthiness." *Id.*, at 66. The State contends that the challenged evidence met this standard because the statements were admitted under a recognized hearsay exception. Missouri has not codified its law of evidence, and while it has been said that "[u]nder Missouri law the declarations of the decedent in a homicide case are admissible to prove the decedent's state of mind where that is relevant," *Lenza v. Wyrick*, 665 F. 2d 804, 810 (CA8 1981), the Mis-

souri courts have recognized: "[D]eclarations revealing a state of mind often contain recitals of circumstantial facts. They are not admissible to prove the truth of such recitals." *State v. Singh*, 586 S. W. 2d 410, 418 (Mo. App. 1979).

There can be no doubt, given the use made of the evidence by the State in summation, that the testimony as to the victim's statements was admitted to prove not her state of mind, but the truth of her belief that petitioner intended to kill her. Cf. Fed. Rule Evid. 803(3) (statements of memory and belief not admissible "to prove the fact remembered or believed"). It is precisely to avoid the possibility of such use of "state of mind" evidence that at least eight States and one Federal Court of Appeals have precluded or sharply limited the introduction of evidence of the victim's state of mind in homicide cases.* Under these circumstances, I do not believe that the evidence in this case was admitted under a "firmly rooted" hearsay exception. See *Ohio v. Roberts*, *supra*, at 66. I do not take *Ohio v. Roberts* to mean that any hearsay evidence which can be squeezed under the rubric of a state hearsay exception has met the reliability standard required by the Sixth Amendment. See *Dutton v. Evans*, 400 U. S. 74, 105 (1970) (MARSHALL, J., dissenting). When evidence nominally received under a particular hearsay exception is presented for purposes other than those the exception was designed to serve, the constitutional analysis should not end with the mere semantic invocation of the rule. The challenged evidence in this case was not accompanied by any independent indicia of reliability. As the dissent below rightly pointed out, it was completely immaterial to the jury's consideration of petitioner's defense of accident. The only function served by the evidence, and one which the prosecutor specifically emphasized in summation, was to raise an impermissible inference for the jury as to premeditation and intent on petitioner's part. Because I believe that the receipt of this evidence under these circumstances creates a serious Confrontation Clause issue, I would grant the petition for certiorari.

*See, e. g., *People v. Huber*, 131 Ill. App. 3d 163, 475 N. E. 2d 599 (1985); *Commonwealth v. Bond*, 17 Mass. App. 396, 458 N. E. 2d 1198 (1984); *People v. Madson*, 638 P. 2d 18 (Colo. 1981); *Kennedy v. State*, 385 So. 2d 1020 (Fla. App. 1980); *State v. Wauneka*, 560 P. 2d 1377 (Utah 1977); *State v. Goodrich*, 97 Idaho 472, 546 P. 2d 1180 (1976); *People v. Ireland*, 70 Cal. 2d 522, 450 P. 2d 580 (1969); *State v. Kump*, 76 Wyo. 273, 301 P. 2d 808 (1956). See *United States v. Brown*, 160 U. S. App. D. C. 190, 490 F. 2d 758 (1974).

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No. 85-7189. *WILEY v. MISSISSIPPI*. Sup. Ct. Miss. Certiorari denied. Reported below: 484 So. 2d 339.

JUSTICE MARSHALL, with whom JUSTICE BRENNAN joins, dissenting.

Petitioner was sentenced to death by a jury whose sentencing determination was biased impermissibly in favor of death. Because I believe that, under this Court's decisions in *Godfrey v. Georgia*, 446 U. S. 420 (1980), and *Zant v. Stephens*, 462 U. S. 862 (1983), the fact that a murder was committed during the course of a robbery cannot serve *both* as an element of the capital offense and as the factual predicate for *two* statutory aggravating circumstances, I would grant certiorari in this case.

Petitioner William Wiley was convicted of a murder committed during a robbery and was sentenced to death. The Mississippi Supreme Court affirmed the jury's determination of guilt, but remanded for resentencing due to the prosecutor's improper references to appellate review. *Wiley v. State*, 449 So. 2d 756 (1984). At the second sentencing proceeding, petitioner once again received a sentence of death. The jury found three statutory aggravating circumstances and insufficient mitigating circumstances to outweigh the aggravating circumstances. The Mississippi Supreme Court affirmed petitioner's conviction and death sentence, with three justices concurring in the judgment. 484 So. 2d 339 (1986).

Under Mississippi law, all murder is not capital murder. The death sentence may be imposed only where the murder falls into one of seven narrowly defined classes. Miss. Code Ann. §§ 97-3-19(2)(a)-(g) (Supp. 1985). Petitioner was convicted under a section of the statute that classifies murder committed by a person engaged in a robbery as capital murder. § 97-3-19(2)(e). Once the jury found him guilty of the capital offense, it then had to find at least one aggravating circumstance, in order to impose the death penalty. See §§ 99-19-101(5)(a)-(h) (Supp. 1985) (listing aggravating circumstances). In this case, the jury found three statutory aggravating circumstances: "[t]he capital offense was committed while the defendant was engaged . . . in the commission of, or an attempt to commit, any robbery," "[t]he capital offense was committed for pecuniary gain," and "[t]he capital offense was especially heinous, atrocious or cruel." §§ 99-19-101(5)(d), (e), and (h). Two of these circumstances—that the offense was committed while petitioner was engaged in a robbery, and that it was committed for pe-

cuniary gain—would automatically be present in any killing that took place during a robbery.

“Our cases indicate . . . that statutory aggravating circumstances play a constitutionally necessary function at the stage of legislative definition: they circumscribe the class of persons eligible for the death penalty.” *Zant v. Stephens*, *supra*, at 878. Aggravating circumstances provide a “meaningful basis for distinguishing the few cases in which [death] is imposed from the many cases in which it is not,” *Gregg v. Georgia*, 428 U. S. 153, 188 (1976) (opinion of Stewart, POWELL, and STEVENS, JJ.) (quoting *Furman v. Georgia*, 408 U. S. 238, 313 (1972) (WHITE, J., concurring)). In *Godfrey v. Georgia*, *supra*, this Court struck down an aggravating circumstance so vaguely worded that it failed to perform this narrowing function. In *Woodson v. North Carolina*, 428 U. S. 280 (1976), we also rejected mandatory death sentences for specified offenses as constitutionally unacceptable, stating: “[J]ustice generally requires consideration of more than the particular acts by which the crime was committed” [W]e believe that in capital cases the fundamental respect for humanity underlying the Eighth Amendment . . . requires consideration of the character and record of the individual offender and the circumstances of the particular offense as a constitutionally indispensable part of the process of inflicting the penalty of death.” *Id.*, at 304 (plurality opinion) (quoting *Pennsylvania ex rel. Sullivan v. Ashe*, 302 U. S. 51, 55 (1937)).

Under Mississippi’s sentencing scheme, as applied in this case, all persons convicted of robbery-murder enter the sentencing phase with *two* built-in aggravating circumstances, creating a strong presumption in favor of death. In cases where no mitigating or additional aggravating evidence is introduced, these aggravating circumstances have not narrowed the class of death-eligible persons at all. See *Roberts v. Louisiana*, 428 U. S. 325 (1976) (plurality opinion) (mandatory death sentences even for narrowly defined category of murders held unconstitutional). I believe that the use of aggravating factors which repeat an element of the underlying capital offense creates a substantial risk that death will be inflicted in an arbitrary and capricious manner.¹

¹ A grant of certiorari would enable the Court to resolve a conflict among the Circuits on this issue.

In *Gray v. Lucas*, 677 F. 2d 1086, 1105 (1982), cert. denied, 461 U. S. 910 (1983), decided before *Zant v. Stephens*, 462 U. S. 862 (1983), the Fifth Cir-

Not only do two of the three aggravating circumstances found by the jury repeat elements of the underlying capital offense, they both rest on the same underlying facts.² The Mississippi Supreme Court has not limited the aggravating circumstance of "committed for pecuniary gain" to murder for hire or any other narrow category of murders. Accordingly, any murder committed during the course of a robbery is *ipso facto* committed for pecuniary gain. The Mississippi Supreme Court rejected petitioner's arguments against double counting these aggravating circumstances, over the objection of a concurring justice who stated: "[T]he fallacy of our rule is its failure to recognize that murders are aggravated by a defendant's conduct, not by the statutory language. . . . A single, legally indivisible act of the defendant may rationally aggravate a murder but once." 484 So. 2d, at 358 (Robertson, J., concurring) (emphasis in original).

The State Supreme Court relied on the fact that the jury found, as a third aggravating factor, that the offense was "especially heinous, atrocious or cruel."³ *Ibid.* Since it needed only one aggravating circumstance to impose death, the state court held that "failure of one repetitious aggravating circumstance does not invalidate the two remaining aggravating factors to reverse the death sen-

cuit upheld this aspect of the Mississippi sentencing scheme against an equal protection challenge. See also *Adams v. Wainwright*, 709 F. 2d 1443, 1447 (CA11 1983) (rejecting similar challenge to Florida statute on the basis of *Proffitt v. Florida*, 428 U. S. 242 (1976)), cert. denied, 464 U. S. 1063 (1984). On the other hand, the Eighth Circuit invalidated Arkansas' use of an aggravating circumstance (committed for pecuniary gain) because it repeated an element of the underlying capital offense. *Collins v. Lockhart*, 754 F. 2d 258, 263-264, cert. denied, 474 U. S. 1013 (1985).

² A number of state courts have invalidated double counting of aggravating circumstances. See, e. g., *Cook v. State*, 369 So. 2d 1251, 1256 (Ala. 1979); *Provence v. State*, 337 So. 2d 783, 786 (Fla. 1976); *State v. Rust*, 197 Neb. 528, 537, 250 N. W. 2d 867, 873, cert. denied, 434 U. S. 912 (1977); *Glidewell v. State*, 663 P. 2d 738, 743 (Okla. Crim. App. 1983).

³ Petitioner also challenges the application of this aggravating circumstance as unconstitutionally vague under *Godfrey v. Georgia*, 446 U. S. 420 (1980). Petitioner's crime was similar to that in *Godfrey*: the victim was shot twice from close range, without warning, and died on the scene. 484 So. 2d, at 352-354. Although Mississippi has adopted a limiting construction of this aggravating circumstance, in light of the facts of this case, I "doubt that the trial judge's understanding and application of this aggravating circumstance conformed to that degree of certainty required by our decision in *Godfrey* . . ." *Eddings v. Oklahoma*, 455 U. S. 104, 109, n. 4 (1982).

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tence." *Id.*, at 351-352. But under the Mississippi capital sentencing statute, Miss. Code Ann. § 99-19-103 (Supp. 1985), the jury was instructed to balance aggravating against mitigating circumstances. While the jury might have returned a verdict of death even if there had been only one aggravating circumstance, we cannot be sure that it would have done so in view of the mitigating factors presented;⁴ the jury's verdict merely stated that "there are insufficient mitigating factors to outweigh the aggravating circumstances." 484 So. 2d, at 342 (emphasis supplied). Under the circumstances, I believe that the sentencer's "consideration of . . . improper aggravating circumstance[s] so infects the balancing process created by" the Mississippi statute "that it is constitutionally impermissible . . . to let the sentence stand." *Barclay v. Florida*, 463 U. S. 939, 956 (1983) (plurality opinion).⁵

A capital sentencing scheme that repeats an element of the underlying capital offense in two aggravating circumstances cannot properly perform the narrowing function envisioned in *Godfrey v. Georgia*, 446 U. S. 420 (1980), and *Zant v. Stephens*, 462 U. S. 862 (1983). Since petitioner was sentenced under a scheme that suffered from these deficiencies, I would grant the petition for certiorari.⁶

No. 85-7204. *MARTIN v. WAINWRIGHT, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS*. C. A. 11th Cir. Certiorari denied. JUSTICE BLACKMUN would grant the petition for writ of certiorari limited to Question 1 presented by the petition. Reported below: 770 F. 2d 918 and 781 F. 2d 185.

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

⁴The jury was instructed to consider, among other factors, petitioner's lack of a prior criminal record. 484 So. 2d, at 350.

⁵In *Collins v. Lockhart*, *supra*, at 258-259, the Eighth Circuit invalidated an Arkansas death sentence after eliminating one of three aggravating circumstances found by the jury, since the jury had balanced aggravating and mitigating factors. The Court of Appeals distinguished the Arkansas sentencing statute from statutes that give the jury absolute discretion to impose death once it finds a single aggravating circumstance. But cf. *Zant v. Stephens*, *supra*, at 890.

⁶In addition, petitioner raises issues related to those that will be before the Court this Term in *California v. Brown*, No. 85-1563. I would at the very least delay disposition of this petition until that case is decided.

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and Fourteenth Amendments, *Gregg v. Georgia*, 428 U. S. 153, 227, 231 (1976), we would grant certiorari and vacate the death sentence in this case.

No. 86-67. *RATH PACKING COMPANY CREDITORS' TRUST v. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION*. C. A. 8th Cir. Certiorari denied. JUSTICE WHITE would grant certiorari. Reported below: 787 F. 2d 318.

No. 86-268. *SCHOLES v. ALLRED ET AL.* Ct. App. Cal., 1st App. Dist. Petition for writ of certiorari and/or prohibition denied.

No. 86-272. *MEDICAL INC. v. REGENTS OF THE UNIVERSITY OF MINNESOTA*. Ct. App. Minn. Certiorari denied. JUSTICE BLACKMUN took no part in the consideration or decision of this petition. Reported below: 382 N. W. 2d 201.

No. 86-5098. *JACKSON v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 778 F. 2d 933.

JUSTICE WHITE, dissenting.

In *Chimel v. California*, 395 U. S. 752 (1969), the Court held that the valid arrest of a person in a residence does not give the police an automatic right to search the remainder of the house without a warrant. Some Courts of Appeals permit a warrantless "protective sweep" of the remainder of the premises if the arresting officers reasonably believe that there are other persons on the premises who could pose a danger to the officers' safety. See *United States v. Hatcher*, 680 F. 2d 438, 444 (CA6 1982); *United States v. Kolodziej*, 706 F. 2d 590, 596-597 (CA5 1983). Other Courts of Appeals, including the Court of Appeals for the Second Circuit in this case, permit protective sweeps if there is a likelihood that another person may be on the premises who may destroy evidence. See also *United States v. Vasquez*, 638 F. 2d 507 (CA2 1980), cert. denied, 454 U. S. 975 (1981). Almost all of the Courts of Appeals have struggled to define the circumstances under which such searches are permissible. See *United States v. Gardner*, 627 F. 2d 906, 910, n. 3 (CA9 1980).

The Court of Appeals for the Second Circuit in this case expressly recognized that its approach, allowing a protective sweep when the police only suspect that another person on the premises

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may destroy evidence, conflicted with the more stringent safety-based approach adopted by other Courts of Appeals. 778 F. 2d 933, 937 (1985). In light of these differing approaches and in light of the decision in *Chimel v. California*, see *Vasquez v. United States*, 454 U. S., at 987 (BRENNAN, J., dissenting from denial of certiorari), certiorari should be granted to deal with this important and recurring issue of Fourth Amendment law.

No. 86-5291. *ARABI ET AL. v. PENNSYLVANIA ET AL.* Sup. Ct. Pa. Certiorari denied. JUSTICE BRENNAN would grant certiorari. Reported below: 509 Pa. 164, 501 A. 2d 617.

Rehearing Denied

No. 71-288. *LAIRD, FORMER SECRETARY OF DEFENSE, ET AL. v. TATUM ET AL.*, 408 U. S. 1 and 409 U. S. 901. Motion for leave to file second petition for rehearing denied.

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Appeals Dismissed

No. 85-7068. *BARNES v. DEPARTMENT OF REVENUE, DIVISION OF MOTOR VEHICLES.* Appeal from Sup. Ct. Kan. dismissed for want of substantial federal question. JUSTICE STEVENS would note probable jurisdiction and set case for oral argument. Reported below: 238 Kan. 820, 714 P. 2d 975.

No. 86-306. *GREEN ET UX. v. DEPARTMENT OF HUMAN SERVICES OF WEST VIRGINIA.* Appeal from Cir. Ct. W. Va., Jefferson County, dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied.

Miscellaneous Orders

No. A-195. *MIKUTAITIS v. UNITED STATES ET AL.* C. A. 7th Cir. Application for stay, presented to JUSTICE STEVENS, and by him referred to the Court, denied. The stay heretofore entered by JUSTICE STEVENS [478 U. S. 1306] is vacated.

No. A-296. *WAINWRIGHT, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS v. DARDEN.* Application of the Attorney General of Florida for an order to vacate the stay of execution of sentence of death entered by the United States Court of Appeals for the Eleventh Circuit, presented to JUSTICE POWELL, and by him referred to the Court, denied.

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No. D-559. IN RE DISBARMENT OF BURKE. Disbarment entered. [For earlier order herein, see 478 U. S. 1018.]

No. D-560. IN RE DISBARMENT OF HEYSER. Disbarment entered. [For earlier order herein, see 478 U. S. 1018.]

No. D-578. IN RE DISBARMENT OF ALKER. It is ordered that Edward C. Alker, of Folsom, La., 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-579. IN RE DISBARMENT OF BETZ. It is ordered that David Franklin Betz, of Ludington, 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. D-580. IN RE DISBARMENT OF SISK. It is ordered that Mary Neal Sisk, 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 her to show cause why she should not be disbarred from the practice of law in this Court.

No. 85-937. WEST VIRGINIA *v.* UNITED STATES. C. A. 4th Cir. [Certiorari granted, 475 U. S. 1009.] Motion of California for leave to file a brief as *amicus curiae* out of time denied.

No. 85-1129. JOHNSON *v.* TRANSPORTATION AGENCY, SANTA CLARA COUNTY, CALIFORNIA, ET AL. C. A. 9th Cir. [Certiorari granted, 478 U. S. 1019.] Motion of American Federation of Labor and Congress of Industrial Organizations for leave to file a brief as *amicus curiae* out of time granted.

No. 85-6790. GRANBERRY *v.* GREER, WARDEN. C. A. 7th Cir. [Certiorari granted, *ante*, p. 813.] Motion for appointment of counsel granted, and it is ordered that Howard B. Eisenberg, Esquire, of Carbondale, Ill., be appointed to serve as counsel for petitioner in this case.

No. 86-5430. BENVENUTI *v.* DEPARTMENT OF DEFENSE ET AL. C. A. Fed. Cir. Motion of petitioner for leave to proceed *in forma pauperis* denied. Petitioner is allowed until November 10, 1986, 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.

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JUSTICE BRENNAN, JUSTICE MARSHALL, and JUSTICE STEVENS, dissenting.

For the reasons expressed in *Brown v. Herald Co.*, 464 U. S. 928 (1983), we would deny the petition for writ of certiorari without reaching the merits of the motion to proceed *in forma pauperis*.

No. 86-5550. IN RE DIXON. Petition for writ of habeas corpus denied.

No. 86-5451. IN RE THAPER. Petition for writ of mandamus denied.

No. 86-356. IN RE TRACEY. Petition for writ of prohibition denied.

Probable Jurisdiction Noted

No. 86-133. NOLLAN ET UX. v. CALIFORNIA COASTAL COMMISSION. Appeal from Ct. App. Cal., 2d App. Dist. Probable jurisdiction noted. Reported below: 177 Cal. App. 3d 719, 223 Cal. Rptr. 28.

Certiorari Granted

No. 85-2068. RANKIN ET AL. v. MCPHERSON. C. A. 5th Cir. Certiorari granted. Reported below: 786 F. 2d 1233.

No. 86-270. SAN FRANCISCO ARTS & ATHLETICS, INC., ET AL. v. UNITED STATES OLYMPIC COMMITTEE ET AL. C. A. 9th Cir. Certiorari granted. Reported below: 781 F. 2d 733 and 789 F. 2d 1319.

No. 86-337. BURLINGTON NORTHERN RAILROAD CO. v. OKLAHOMA TAX COMMISSION ET AL. C. A. 10th Cir. Motion of Association of American Railroads for leave to file a brief as *amicus curiae* granted. Certiorari granted.

Certiorari Denied. (See also No. 86-306, *supra*.)

No. 85-6918. HOOKS ET AL. v. WAINWRIGHT, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS. C. A. 11th Cir. Certiorari denied. Reported below: 775 F. 2d 1433.

No. 85-7161. BRADLEY v. MASSEY, SUPERINTENDENT, UNION CORRECTIONAL INSTITUTION, ET AL. C. A. 11th Cir. Certiorari denied. Reported below: 788 F. 2d 1568.

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No. 85-7169. *OLIVER v. WAINWRIGHT, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS*. C. A. 11th Cir. Certiorari denied. Reported below: 782 F. 2d 1521.

No. 85-7183. *AMAZON v. FLORIDA*. Sup. Ct. Fla. Certiorari denied. Reported below: 487 So. 2d 8.

No. 86-23. *GARVIN ET AL. v. ALUMAX OF SOUTH CAROLINA, INC.* C. A. 4th Cir. Certiorari denied. Reported below: 787 F. 2d 910.

No. 86-45. *EPPINGA v. EDGAR, SECRETARY OF STATE OF ILLINOIS*. Sup. Ct. Ill. Certiorari denied. Reported below: 112 Ill. 2d 101, 492 N. E. 2d 187.

No. 86-103. *ARLINGTON HOTEL CO., INC. v. NATIONAL LABOR RELATIONS BOARD ET AL.* C. A. 8th Cir. Certiorari denied. Reported below: 785 F. 2d 249.

No. 86-113. *AMERICAN BAPTIST CHURCHES IN THE U. S. A. ET AL. v. REAGAN, PRESIDENT OF THE UNITED STATES, ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 786 F. 2d 194.

No. 86-114. *JOHNSON, AN INFANT, BY JOHNSON, HER MOTHER AND NATURAL GUARDIAN, ET AL. v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 788 F. 2d 845.

No. 86-117. *SACHDEV v. IMMIGRATION AND NATURALIZATION SERVICE*. C. A. 2d Cir. Certiorari denied. Reported below: 788 F. 2d 912.

No. 86-120. *BOWEN, SECRETARY OF HEALTH AND HUMAN SERVICES, ET AL. v. ELLENDER ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 800 F. 2d 1127.

No. 86-144. *CARSON v. UNITED STATES*. C. A. 10th Cir. Certiorari denied. Reported below: 793 F. 2d 1141.

No. 86-190. *TURZAI v. PENNSYLVANIA LIQUOR CONTROL BOARD*. Pa. Commw. Ct. Certiorari denied. Reported below: 90 Pa. Commw. 374, 495 A. 2d 639.

No. 86-222. *BATTERTON ET AL. v. TEXAS GENERAL LAND OFFICE ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 783 F. 2d 1220.

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No. 86-264. ALFARONE ET AL. *v.* BERNIE WOLFF CONSTRUCTION CORP. ET AL. C. A. 2d Cir. Certiorari denied. Reported below: 788 F. 2d 76.

No. 86-296. BALKO ET AL. *v.* NEW MEXICO. Ct. App. N. M. Certiorari denied.

No. 86-300. FROST *v.* UNITED STATES. Ct. Mil. App. Certiorari denied. Reported below: 22 M. J. 386.

No. 86-307. CITY OF PADUCAH ET AL. *v.* INVESTMENT ENTERTAINMENT, INC., ET AL. C. A. 6th Cir. Certiorari denied. Reported below: 791 F. 2d 463.

No. 86-313. GONZALEZ *v.* PUBLIC HEALTH TRUST, AKA JACKSON MEMORIAL HOSPITAL. C. A. 11th Cir. Certiorari denied. Reported below: 791 F. 2d 170.

No. 86-318. BAILEY *v.* FEDERAL INTERMEDIATE CREDIT BANK OF ST. LOUIS. C. A. 8th Cir. Certiorari denied. Reported below: 788 F. 2d 498.

No. 86-332. MOONEY, DBA BETHEL STEEL CO., ET AL. *v.* GREATER NEW CASTLE DEVELOPMENT CORP. Sup. Ct. Pa. Certiorari denied. Reported below: 510 Pa. 516, 510 A. 2d 344.

No. 86-335. BAUMGARTNER, EXECUTOR OF THE ESTATE OF BAUMGARTNER *v.* FIRST CHURCH OF CHRIST, SCIENTIST, ET AL. App. Ct. Ill., 1st Dist. Certiorari denied. Reported below: 141 Ill. App. 3d 898, 490 N. E. 2d 1319.

No. 86-338. BERRY ET AL. *v.* AETNA CASUALTY & SURETY CO. C. A. 5th Cir. Certiorari denied. Reported below: 787 F. 2d 586.

No. 86-339. NATIONAL GYPSUM CO. ET AL. *v.* SCHOOL DISTRICT OF LANCASTER ET AL. C. A. 3d Cir. Certiorari denied. Reported below: 789 F. 2d 996.

No. 86-343. YOUNG ET AL. *v.* SEABOARD SYSTEM RAILROAD CO. C. A. 5th Cir. Certiorari denied. Reported below: 786 F. 2d 1161.

No. 86-348. ASSIGNED CONTAINER SHIP CLAIMS, INC. *v.* AMERICAN PRESIDENT LINES, LTD., ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 784 F. 2d 1420.

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No. 86-349. *KUNTZ ET AL. v. REESE ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 785 F. 2d 1410.

No. 86-355. *PORZIG ET AL. v. NOLDEN.* C. A. 9th Cir. Certiorari denied. Reported below: 791 F. 2d 938.

No. 86-360. *FIRST TRUST & SAVINGS BANK OF KANKAKEE ET AL. v. COMMONWEALTH EDISON Co.* App. Ct. Ill., 3d Dist. Certiorari denied. Reported below: 141 Ill. App. 3d 668, 490 N. E. 2d 255.

No. 86-395. *HRONOPOULOS v. UNITED STATES.* C. A. 9th Cir. Certiorari denied. Reported below: 788 F. 2d 1567.

No. 86-402. *JOHNSON v. BOWEN, SECRETARY OF HEALTH AND HUMAN SERVICES.* C. A. 6th Cir. Certiorari denied. Reported below: 791 F. 2d 933.

No. 86-412. *COPLEY PRESS, INC., ET AL. v. SMITH.* App. Ct. Ill., 4th Dist. Certiorari denied. Reported below: 140 Ill. App. 3d 613, 488 N. E. 2d 1032.

No. 86-414. *ST. CYPRIAN'S CHAPEL, INC. v. FRATERNITY OF THE APOSTLES OF JESUS AND MARY.* C. A. 3d Cir. Certiorari denied. Reported below: 800 F. 2d 1138.

No. 86-418. *BRAKKE ET AL. v. DEPARTMENT OF TRANSPORTATION ET AL.* C. A. Fed. Cir. Certiorari denied. Reported below: 795 F. 2d 1014.

No. 86-423. *PORCARO v. UNITED STATES.* C. A. 1st Cir. Certiorari denied. Reported below: 784 F. 2d 38.

No. 86-427. *BUTLER v. DEPARTMENT OF AGRICULTURE.* C. A. Fed. Cir. Certiorari denied. Reported below: 795 F. 2d 1018.

No. 86-438. *ROBERTS v. DEPARTMENT OF TRANSPORTATION, FEDERAL AVIATION ADMINISTRATION.* C. A. Fed. Cir. Certiorari denied. Reported below: 795 F. 2d 1014.

No. 86-455. *MASY ET AL. v. NEW JERSEY TRANSIT RAIL OPERATIONS, INC., ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 790 F. 2d 322.

No. 86-458. *PARR ET UX. v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. Reported below: 793 F. 2d 1288.

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No. 86-5183. *SHAFFER v. STEWART ET AL.* C. A. 2d Cir. Certiorari denied.

No. 86-5226. *MARKS v. UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF ALABAMA.* C. A. 11th Cir. Certiorari denied.

No. 86-5236. *FIXEL v. UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEVADA ET AL.* C. A. 9th Cir. Certiorari denied.

No. 86-5367. *AQUI ET AL. v. NEW MEXICO.* Sup. Ct. N. M. Certiorari denied. Reported below: 104 N. M. 345, 721 P. 2d 771.

No. 86-5371. *KAY v. OAKLAND, CALIFORNIA.* C. A. 9th Cir. Certiorari denied. Reported below: 792 F. 2d 1122.

No. 86-5376. *RORRER v. BULLOCK, DISTRICT COURT JUDGE IN WAKE COUNTY, NORTH CAROLINA.* C. A. 4th Cir. Certiorari denied.

No. 86-5380. *DULCE v. GOLDSTEIN ET UX.* C. A. 2d Cir. Certiorari denied.

No. 86-5408. *BRENNAN v. GRAHAM, GOVERNOR OF FLORIDA, ET AL.* C. A. 11th Cir. Certiorari denied. Reported below: 794 F. 2d 686.

No. 86-5424. *PAREZ v. HOGAN ET AL.* Ct. App. Cal., 4th App. Dist. Certiorari denied.

No. 86-5435. *BARKSDALE v. THOMPSON, GOVERNOR OF ILLINOIS, ET AL.* C. A. 7th Cir. Certiorari denied.

No. 86-5450. *PAVELSKI v. UNITED STATES.* C. A. 7th Cir. Certiorari denied. Reported below: 789 F. 2d 485.

No. 86-5464. *DAY v. CITY OF LOS ANGELES ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 792 F. 2d 1122.

No. 86-5468. *MARTIN v. UNITED STATES.* Ct. Mil. App. Certiorari denied. Reported below: 20 M. J. 227.

No. 86-5471. *GILLIS v. UNITED STATES.* C. A. 9th Cir. Certiorari denied. Reported below: 794 F. 2d 683.

No. 86-5513. *IN RE LUCAS.* Sup. Ct. Ohio. Certiorari denied.

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No. 86-5520. ROSENTHAL *v.* ROSENTHAL. Ct. App. Wis. Certiorari denied.

No. 85-2034. KRAMER *v.* HORTON ET AL. Sup. Ct. Wis. Certiorari denied. Reported below: 128 Wis. 2d 404, 383 N. W. 2d 54.

JUSTICE WHITE, dissenting.

This case presents the issue whether exhaustion of state administrative remedies is a prerequisite to bringing an action in state court under 42 U. S. C. §1983. In this case, the Wisconsin Supreme Court held that state administrative remedies must be exhausted before bringing an action under §1983 in Wisconsin state courts. 128 Wis. 2d 404, 383 N. W. 2d 54 (1986). For the reasons stated in my previous dissent from denial of certiorari in *Caylor v. Red Bluff*, 474 U. S. 1037 (1985), I would grant certiorari.

No. 85-2115. WHITTAKER CORP. *v.* JENKINS. C. A. 9th Cir. Certiorari denied. Reported below: 785 F. 2d 720.

JUSTICE WHITE, with whom THE CHIEF JUSTICE joins, dissenting.

The respondents in this case first moved for prejudgment interest 30 days after the entry of judgment in their favor. The District Court treated the motion as one to alter or amend the judgment, and denied it as untimely because it was not filed within 10 days of the entry of judgment. See Fed. Rule Civ. Proc. 59(e). The United States Court of Appeals for the Ninth Circuit reversed, holding that a motion for prejudgment interest made for the first time after entry of judgment is not a Rule 59(e) motion but a general motion governed by Federal Rule of Civil Procedure 7. 785 F. 2d 720, 723 (1986). This holding conflicts with *Goodman v. Heublein, Inc.*, 682 F. 2d 44, 45-47 (CA2 1982). I would grant certiorari to resolve this conflict.

No. 85-6956. ALDRICH *v.* WAINWRIGHT, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS. C. A. 11th Cir. Certiorari denied. Reported below: 777 F. 2d 630.

JUSTICE MARSHALL, with whom JUSTICE BRENNAN joins, dissenting.

Adhering to my view that the death penalty is under all circumstances cruel and unusual punishment forbidden by the Eighth

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MARSHALL, J., dissenting

and Fourteenth Amendments, I would vacate the judgment of the Court of Appeals for the Eleventh Circuit insofar as it left undisturbed the death sentence imposed in this case. *Gregg v. Georgia*, 428 U. S. 153, 231 (1976) (MARSHALL, J., dissenting). However, even if I believed that the death penalty could be imposed constitutionally under certain circumstances, I nevertheless would grant certiorari because petitioner was denied effective assistance of counsel at his trial in violation of the Sixth and Fourteenth Amendments.

I

Petitioner Levis Leon Aldrich was charged with the murder of Robert Ward, the night manager at a restaurant where Aldrich had at one time been employed. Ward's body was discovered at 12:19 a.m. on September 3, 1974, by sheriff's deputies responding to the restaurant's burglar alarm. Ward had been shot in the head. The restaurant's safe had been emptied of the evening's receipts, estimated by the owner at between \$600 and \$900. At roughly 2 a.m., police stopped petitioner, who was driving his car slowly by the restaurant. Petitioner was carrying more than \$500 in cash. At their request, petitioner took the police officers to the hotel room in which he had been staying since his release from prison the week before. There he showed the officers his receipt for \$558.58 paid to him by the Department of Corrections at the time of his release.

The shotgun which had killed Ward was later discovered by the police, broken apart, in two ditches in the surrounding neighborhood. No physical evidence at the crime scene or on the shotgun linked petitioner to the killing. However, after further investigation, petitioner was arrested and indicted.

Aldrich was represented by appointed counsel from the Public Defender's office. The only member of that office who conducted any investigation or undertook any preparation for the trial until two weeks before the trial date was a legal intern in the office, who during the relevant period was not yet a member of the bar. Trial counsel did not exercise the right, under Florida law, to depose any of the State's 41 prospective witnesses. No one from the Public Defender's office examined any of the State's physical exhibits. Of the seven prospective witnesses identified by the defense before trial, petitioner's counsel had interviewed only two. Pet. for Cert. 12.

Four days before the opening of trial, petitioner's counsel moved for a continuance. The motion was heard on the scheduled trial date, at which time defense counsel told the court: "This case is not prepared. We are not in a position to provide competent legal representation." *Id.*, at 11. The trial court denied the motion and insisted that the trial begin immediately. Petitioner's trial counsel, who was fully experienced in the trial of capital cases, testified in the state postconviction hearing that he had never been as unprepared to try even a misdemeanor case as he was for petitioner's capital murder trial. *Ibid.*

The State's case hinged upon the testimony of Charles Strickland. Strickland owned the shotgun which had killed Ward; he told police that he had lent it to petitioner on the evening of the murder. Strickland claimed that petitioner called him the next day and told him that he had used the gun in a robbery and had killed a man. According to Strickland, petitioner asked him to help recover the gun from a parking lot near the scene of the murder. Strickland testified that he did so, after which he cleaned the gun, broke it down, and threw the parts into separate ditches. Although Strickland initially told police that he had lost the gun, he later changed his mind and led police to the evidence. James Norman Sapp, who along with Strickland had met petitioner in prison, testified that while in prison petitioner had told Sapp that he intended to rob the restaurant when released.

The sole defense witness was petitioner himself, who denied any involvement in the crime. He testified that he had been fishing until 10:30 or 11 p.m. on the night of the murder, and had then gone to a bar until 1:30 or 2 a.m. After leaving the bar, petitioner testified, he drove out to meet a woman who had a room to rent. On the way to her house, he passed the restaurant, and was stopped by the police.

The jury found petitioner guilty of capital murder. At petitioner's express request, counsel presented no evidence in mitigation of sentence. The jury returned an advisory verdict in favor of the death sentence, which the trial court then imposed. The Florida Supreme Court affirmed petitioner's conviction and death sentence. *Aldridge v. State*, 351 So. 2d 942 (1977).^{*} Postconviction relief was denied. *Aldridge v. State*, 425 So. 2d 1132

^{*}Petitioner's last name was apparently misspelled as "Aldridge" in the state-court proceedings.

(1982), cert. denied, 461 U. S. 939 (1983). In his first federal habeas petition, Aldrich claimed that he had been denied effective assistance of counsel at his trial. The District Court denied relief, and the Court of Appeals affirmed. 777 F. 2d 630 (CA11 1985).

II

The District Court found, and the Court of Appeals agreed, that petitioner's trial counsel was so handicapped by absence of preparation that he could not meet the objective standard of reasonably effective assistance of counsel required by this Court in *Strickland v. Washington*, 466 U. S. 668 (1984). The Court of Appeals held, however, that petitioner had failed to show that he was prejudiced by the inadequacy of his counsel, as required by *Strickland*, *supra*. The Court of Appeals found that further investigation before trial would not have disclosed helpful evidence: "On cross-examination at the post-conviction hearing, [counsel] who represented Aldrich at trial were unable to point to any fact learned at trial, or later, that might have been discovered by deposition." 777 F. 2d, at 637. In response to the statement of counsel that investigation would have shown that Strickland and Sapp had a motive to commit the robbery, and additionally had reasons to throw suspicion on petitioner, the Court of Appeals found this "insufficient to [create] 'a reasonable probability' of reasonable doubt respecting guilt." *Id.*, at 636.

III

I continue to believe that "a showing that the performance of a defendant's lawyer departed from constitutionally prescribed standards requires a new trial regardless of whether the defendant suffered demonstrable prejudice thereby." *Strickland*, 466 U. S., at 712 (MARSHALL, J., dissenting). Even under the prejudice standard, however, the facts disclosed by the record demonstrate that petitioner is entitled to relief. As the Court recognized in fashioning the prejudice standard, "a verdict or conclusion only weakly supported by the record is more likely to have been affected by errors than one with overwhelming record support." *Id.*, at 696. The dissent in the Court of Appeals correctly characterized this case:

"Petitioner was convicted on the basis of evidence that was far from strong. No physical evidence implicating Aldrich was

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recovered at the scene of the killing. While in custody, Aldrich made no statements resembling a confession. The only direct evidence implicating Aldrich was testimony from a convicted felon who had violated the terms of his parole and lied to police investigators, and who was the other most likely suspect in the crime." 777 F. 2d, at 642 (Johnson, J., dissenting).

Petitioner's life rested on the outcome of the jury's estimation of the relative credibility of petitioner and Charles Strickland. Yet because of the absence of preparation time, petitioner's counsel had not interviewed the witnesses whose testimony might bear on the credibility of Strickland's story. Even more importantly, counsel had not exercised his state-law right to take Strickland's deposition. "The benchmark for judging any claim of ineffectiveness must be whether counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied on as having produced a just result." *Strickland, supra*, at 686. In a case as closely balanced as this one, I believe we can have no confidence in the result where counsel's inadequate preparation precluded the vigorous testing of the evidence upon which the State proposed to forfeit a man's life.

I would grant the petition for certiorari.

No. 85-7013. *STRINGER v. MISSISSIPPI*. Sup. Ct. Miss.;

No. 86-5192. *EVANS v. MCCOTTER, DIRECTOR, TEXAS DEPARTMENT OF CORRECTIONS*. C. A. 5th Cir.;

No. 86-5297. *JEFFERSON v. ALABAMA*. Sup. Ct. Ala.;

No. 86-5362. *NUCKOLS v. OKLAHOMA ET AL.* Ct. Crim. App. Okla.;

No. 86-5369. *JEFFRIES v. WASHINGTON*. Sup. Ct. Wash.;

No. 86-5381. *HOGUE v. TEXAS*. Ct. Crim. App. Tex.; and

No. 86-5452. *DRISCOLL v. MISSOURI*. Sup. Ct. Mo. Certiorari denied. Reported below: No. 85-7013, 485 So. 2d 274; No. 86-5192, 790 F. 2d 1232; No. 86-5297, 473 So. 2d 1110; No. 86-5369, 105 Wash. 2d 398, 717 P. 2d 722; No. 86-5381, 711 S. W. 2d 9; No. 86-5452, 711 S. W. 2d 512.

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.

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No. 86-84. NATIONAL BANCARD CORP. *v.* VISA U. S. A., INC. C. A. 11th Cir. Certiorari denied. JUSTICE O'CONNOR took no part in the consideration or decision of this petition. Reported below: 779 F. 2d 592.

No. 86-85. RISKEN *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied. Reported below: 788 F. 2d 1361.

JUSTICE WHITE, with whom JUSTICE BRENNAN joins, dissenting.

This case presents the issue whether 18 U. S. C. § 1503 prohibits witness tampering. In this case, the Court of Appeals for the Eighth Circuit held that witness tampering is punishable under this provision. 788 F. 2d 1361 (1986). For the reasons stated in my previous dissent from denial of certiorari in *Cooper v. United States* and *Wesley v. United States*, 471 U. S. 1130 (1985), and consistent with my dissent from denial of certiorari in *Rovetuso v. United States*, 474 U. S. 1076 (1986), I would grant certiorari.

No. 86-90. SAN LUIS OBISPO MOTHERS FOR PEACE ET AL. *v.* UNITED STATES NUCLEAR REGULATORY COMMISSION ET AL. C. A. D. C. Cir. Certiorari denied. JUSTICE BLACKMUN and JUSTICE SCALIA took no part in the consideration or decision of this petition. Reported below: 252 U. S. App. D. C. 194, 789 F. 2d 26.

No. 86-158. COUNTY OF WAYNE ET AL. *v.* CARROLL. C. A. 6th Cir. Certiorari denied. Reported below: 782 F. 2d 44.

JUSTICE WHITE, dissenting.

This case presents the question of which state statute of limitations should be applied in a case brought under 42 U. S. C. § 1983 when more than one state statute arguably can be characterized as addressing "personal injury" claims. See *Wilson v. Garcia*, 471 U. S. 261 (1985). The lower courts continue to struggle with this question. In this case, for example, the Court of Appeals for the Sixth Circuit, 754 F. 2d 662 (1985), concluded that a 3-year, catchall statute should be applied which covers actions brought "to recover damages for the death of a person, or for injury to a person or property." Mich. Comp. Laws § 600.5805(8) (1979). The Sixth Circuit chose this section over other 2-year sections which specifically cover intentional torts. See, *e. g.*, Mich. Comp. Laws § 600.5805(2) (1979) ("The period of limitations is 2 years for an

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action charging assault, battery, or false imprisonment.") In so deciding, the Sixth Circuit has taken an approach directly contrary to its earlier decision in *Mulligan v. Hazard*, 777 F. 2d 340, 344 (1985), cert. denied, 476 U. S. 1174 (1986).

I dissented from the denial of certiorari in *Mulligan* because of the split among the Courts of Appeals in dealing with this question, and I dissent here because the confusion evidenced by this split is underscored by the Sixth Circuit's change in approach.

No. 86-172 (A-18). *ARANETA ET UX. v. UNITED STATES*. C. A. 4th Cir. Application for stay, presented to THE CHIEF JUSTICE, and by him referred to the Court, denied. The stay heretofore entered by Chief Justice Burger [478 U. S. 1301] is vacated. Certiorari denied. JUSTICE BRENNAN, JUSTICE WHITE, and JUSTICE MARSHALL would grant certiorari. Reported below: 794 F. 2d 920.

No. 86-278. *JENSEN v. UNITED STATES*. C. A. 4th Cir. Motion of petitioner for accounting denied. Certiorari denied. Reported below: 796 F. 2d 473.

No. 86-310. *WARDEN ET AL. v. NOLAN, JUDGE, CIRCUIT COURT OF DUPAGE COUNTY, ILLINOIS*. Sup. Ct. Ill. Certiorari denied. JUSTICE BRENNAN would grant certiorari.

No. 86-312. *WIGGINS v. UNITED STATES*. C. A. D. C. Cir. Certiorari denied. JUSTICE SCALIA took no part in the consideration or decision of this petition. Reported below: 253 U. S. App. D. C. 8, 791 F. 2d 179.

No. 86-329. *GARDINER ET AL. v. SEA-LAND SERVICE, INC., ET AL.* C. A. 9th Cir. Certiorari denied. JUSTICE WHITE would grant certiorari. Reported below: 786 F. 2d 943.

Rehearing Denied

No. 85-890. *HUBBY v. HISTORIC SAVANNAH FOUNDATION ET AL.*, 475 U. S. 1108. Petition for rehearing denied.

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No. A-290 (86-604). *TOWNLEY ET AL. v. CLARK*. C. A. 4th Cir. Application for stay, presented to THE CHIEF JUSTICE, and by him referred to the Court, denied.

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Dismissal Under Rule 53

No. 86-548. REMUS ET AL. *v.* AMOCO OIL Co. C. A. 7th Cir. Certiorari dismissed under this Court's Rule 53. Reported below: 794 F. 2d 1238.

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Affirmed on Appeal

No. 86-369. BABBITT, GOVERNOR OF ARIZONA, ET AL. *v.* PLANNED PARENTHOOD OF CENTRAL AND NORTHERN ARIZONA ET AL. Affirmed on appeal from C. A. 9th Cir. THE CHIEF JUSTICE, JUSTICE WHITE, and JUSTICE SCALIA would note probable jurisdiction and set the case for oral argument. JUSTICE O'CONNOR took no part in the consideration or decision of this case. Reported below: 789 F. 2d 1348.

Appeals Dismissed

No. 85-7217. GIBSON *v.* MICHIGAN DEPARTMENT OF SOCIAL SERVICES. Appeal from Ct. App. Mich. dismissed for want of substantial federal question.

No. 86-261. GARFIELD TRUST Co. *v.* DIRECTOR, DIVISION OF TAXATION OF NEW JERSEY. Appeal from Sup. Ct. N. J. dismissed for want of substantial federal question. Reported below: 102 N. J. 420, 508 A. 2d 1104.

No. 86-263. MIYAMOTO *v.* OFFICE OF DISCIPLINARY COUNSEL OF THE SUPREME COURT OF HAWAII. Appeal from Sup. Ct. Haw. dismissed for want of substantial federal question.

No. 86-308. NUNEZ *v.* WAINOCO OIL & GAS Co. ET AL. Appeal from Sup. Ct. La. dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied. Reported below: 488 So. 2d 955.

No. 86-5501. MCLEOD *v.* FLORIDA. Appeal from Dist. Ct. App. Fla., 1st Dist., dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied. Reported below: 477 So. 2d 5.

No. 86-5509. WOODS *v.* KEEBLER Co. Appeal from C. A. 11th Cir. dismissed for want of jurisdiction. Treating the papers

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whereon the appeal was taken as a petition for writ of certiorari, certiorari denied. Reported below: 794 F. 2d 686.

No. 86-378. *PLANNED PARENTHOOD OF CENTRAL AND NORTHERN ARIZONA ET AL. v. BABBITT, GOVERNOR OF ARIZONA, ET AL.* Cross-appeal from C. A. 9th Cir. dismissed. JUSTICE O'CONNOR took no part in the consideration or decision of this case. Reported below: 789 F. 2d 1348.

Certiorari Granted—Reversed and Remanded. (See No. 85-1388, ante, p. 1.)

Miscellaneous Orders

No. — — —. *PARRO ET AL. v. DEPARTMENT OF TRANSPORTATION, FEDERAL AVIATION ADMINISTRATION.* Motion of petitioners to dispense with printing portions of the appendix to the petition for writ of certiorari granted.

No. A-271. *CHURCH OF SCIENTOLOGY OF CALIFORNIA v. WOLLERSHEIM.* Application for stay, presented to JUSTICE O'CONNOR, and by her referred to the Court, is granted and the order entered by JUSTICE O'CONNOR on October 8, 1986, is continued pending the timely filing and disposition of a petition for writ of certiorari. JUSTICE BRENNAN took no part in the consideration or decision of this order.

No. A-307. *KOCZAK ET AL. v. DIXON ET AL.* C. A. 3d Cir. Application for stay and other relief, addressed to THE CHIEF JUSTICE and referred to the Court, denied.

No. D-581. *IN RE DISBARMENT OF HYBSHA.* It is ordered that Adolph Allison Hybsha, of Wichita, Kan., 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-582. *IN RE DISBARMENT OF GOODSTEIN.* It is ordered that Harold Goodstein, of Commack, 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-583. *IN RE DISBARMENT OF GONZALES.* It is ordered that Alphonse C. Gonzales, of Chicago, Ill., be suspended from the practice of law in this Court and that a rule issue, returnable

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within 40 days, requiring him to show cause why he should not be disbarred from the practice of law in this Court.

No. D-584. *IN RE DISBARMENT OF FAWELL*. It is ordered that Michael K. Fawell, of Wheaton, 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-585. *IN RE DISBARMENT OF REYNOLDS*. It is ordered that John Francis Reynolds, of Oak Brook, 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-586. *IN RE DISBARMENT OF SELIGMAN*. It is ordered that Stanley L. Seligman, of Hollywood, 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-587. *IN RE DISBARMENT OF LITTERER*. It is ordered that George E. Litterer, of Media, 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. 85-558. *O'CONNOR ET UX. v. UNITED STATES*;

No. 85-559. *COPLIN ET UX. v. UNITED STATES*; and

No. 85-560. *MATTOX ET UX. v. UNITED STATES*. C. A. Fed. Cir. [Certiorari granted, 474 U. S. 1050.] Motion of petitioners for leave to file a supplemental brief after argument granted.

No. 85-608. *ILLINOIS v. KRULL ET AL.* Sup. Ct. Ill. [Certiorari granted, 475 U. S. 1080.] Motion of petitioner for leave to file reply brief out of time granted.

No. 85-1277. *SCHOOL BOARD OF NASSAU COUNTY, FLORIDA, ET AL. v. ARLINE*. C. A. 11th Cir. [Certiorari granted, 475 U. S. 1118.] Motion of respondent for divided argument to permit American Public Health Association to argue as *amicus curiae* denied.

No. 85-1708. *CALIFORNIA ET AL. v. CABAZON BAND OF MISSION INDIANS ET AL.* C. A. 9th Cir. [Probable jurisdiction post-

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poned, 476 U. S. 1168.] Motion of appellees for divided argument denied. JUSTICE BLACKMUN would grant the motion.

No. 85-2039. UNITED STATES *v.* JOHNSON, PERSONAL REPRESENTATIVE OF THE ESTATE OF JOHNSON. C. A. 11th Cir. [Certiorari granted, *ante*, p. 811.] Motion of the Solicitor General to dispense with printing the joint appendix granted.

No. 85-2067. UNITED STATES *v.* MENDOZA-LOPEZ ET AL. C. A. 8th Cir. [Certiorari granted, *ante*, p. 811.] Motion of the Solicitor General to dispense with printing the joint appendix granted. Motion of respondents for leave to proceed further herein *in forma pauperis* granted.

No. 85-2099. PENNSYLVANIA *v.* FINLEY. Super. Ct. Pa. [Certiorari granted, *ante*, p. 812.] Motion for appointment of counsel granted, and it is ordered that Catherine M. Harper, of Lansdale, Pa., be appointed to serve as counsel for respondent in this case.

No. 85-5221. GRIFFITH *v.* KENTUCKY. Sup. Ct. Ky. [Certiorari granted, 476 U. S. 1157.] Motion for appointment of counsel granted, and it is ordered that J. Vincent Aprile II, Esquire, of Frankfort, Ky., be appointed to serve as counsel for petitioner in this case.

No. 86-5479. WRENN *v.* OHIO DEPARTMENT OF MENTAL HEALTH. C. A. 6th Cir. Motion of petitioner for leave to proceed *in forma pauperis* denied. Petitioner is allowed until November 24, 1986, 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.

JUSTICE BRENNAN and JUSTICE MARSHALL, dissenting.

For the reasons expressed in *Brown v. Herald Co.*, 464 U. S. 928 (1983), we would deny the petition for writ of certiorari without reaching the merits of the motion to proceed *in forma pauperis*.

No. 86-5678. HILL *v.* CITY OF HOUSTON, TEXAS. C. A. 5th Cir. Motion of appellant to expedite consideration of the cross-appeal granted.

No. 86-5414. IN RE MAGOON;

No. 86-5448. IN RE PARRISH; and

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No. 86-5481. *IN RE CURREY*. Petitions for writs of mandamus denied.

No. 86-5442. *IN RE BARONOWSKI*; and

No. 86-5496. *IN RE PASKALIK*. Petitions for writs of prohibition denied.

Probable Jurisdiction Postponed

No. 86-179. *CORPORATION OF THE PRESIDING BISHOP OF THE CHURCH OF JESUS CHRIST OF LATTER-DAY SAINTS ET AL. v. AMOS ET AL.*; and

No. 86-401. *UNITED STATES v. AMOS ET AL.* Appeals from D. C. Utah. Further consideration of question of jurisdiction postponed to hearing of cases on the merits, cases consolidated, and a total of one hour allotted for oral argument. Reported below: 594 F. Supp. 791 and 618 F. Supp. 1013.

No. 86-421. *BOARD OF DIRECTORS OF ROTARY INTERNATIONAL ET AL. v. ROTARY CLUB OF DUARTE ET AL.* Appeal from Ct. App. Cal., 2d App. Dist. Further consideration of question of jurisdiction postponed to hearing of case on the merits. JUSTICE BLACKMUN and JUSTICE O'CONNOR took no part in the consideration or decision of this case. Reported below: 178 Cal. App. 3d 1035, 224 Cal. Rptr. 213.

Certiorari Granted

No. 86-88. *CITICORP INDUSTRIAL CREDIT, INC. v. BROCK, SECRETARY OF LABOR*. C. A. 6th Cir. Certiorari granted. Reported below: 788 F. 2d 1200.

No. 86-177. *TANNER ET AL. v. UNITED STATES*. C. A. 11th Cir. Certiorari granted. Reported below: 772 F. 2d 765.

No. 86-87. *UNITED STATES v. SALERNO ET AL.* C. A. 2d Cir. Certiorari granted. Motion of the Solicitor General to expedite is granted. The Solicitor General's opening brief is due November 18, 1986. Respondent's brief is due December 18, 1986. Case is set for oral argument during the January Session. Reported below: 794 F. 2d 64.

No. 86-5375. *BURGER v. KEMP, WARDEN*. C. A. 11th Cir. Motion of petitioner for leave to proceed *in forma pauperis* and certiorari granted. Reported below: 785 F. 2d 890 and 796 F. 2d 1313.

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Certiorari Denied. (See also Nos. 86-308, 86-5501, and 86-5509, *supra.*)

No. 85-2015. SOUTHERN PACIFIC TRANSPORTATION CO. *v.* HARCON BARGE CO., INC., ET AL. C. A. 5th Cir. *Certiorari* denied. Reported below: 784 F. 2d 665.

No. 85-2019. REARDON, SHERIFF OF ESSEX COUNTY *v.* COLA. C. A. 1st Cir. *Certiorari* denied. Reported below: 787 F. 2d 681.

No. 85-7078. AMMONS ET AL. *v.* WASHINGTON. Sup. Ct. Wash. *Certiorari* denied. Reported below: 105 Wash. 2d 175, 713 P. 2d 719.

No. 85-7154. BAHRAMNIA *v.* UNITED STATES IMMIGRATION AND NATURALIZATION SERVICE. C. A. 5th Cir. *Certiorari* denied. Reported below: 782 F. 2d 1243.

No. 85-7162. BROWN *v.* FLORIDA. Sup. Ct. Fla. *Certiorari* denied. Reported below: 487 So. 2d 1073.

No. 85-7188. NEYLAND *v.* BLACKBURN, WARDEN, ET AL. C. A. 5th Cir. *Certiorari* denied. Reported below: 785 F. 2d 1283.

No. 85-7198. MCSWAIN *v.* UNITED STATES. C. A. 5th Cir. *Certiorari* denied. Reported below: 787 F. 2d 586.

No. 85-7221. GARY *v.* WILKES, SHERIFF, ET AL. C. A. 11th Cir. *Certiorari* denied.

No. 86-78. ROBERTS, PERSONAL REPRESENTATIVE OF THE ESTATE OF ROBERTS *v.* SPALDING ET AL. C. A. 9th Cir. *Certiorari* denied. Reported below: 783 F. 2d 867.

No. 86-137. AMEND *v.* UNITED STATES. C. A. 4th Cir. *Certiorari* denied. Reported below: 791 F. 2d 1120.

No. 86-163. BRIGGINS *v.* POLICE DEPARTMENT OF THE CITY OF NEW YORK ET AL. Ct. App. N. Y. *Certiorari* denied. Reported below: 67 N. Y. 2d 965, 494 N. E. 2d 90.

No. 86-180. KREBS *v.* UNITED STATES. C. A. 6th Cir. *Certiorari* denied. Reported below: 788 F. 2d 1166.

No. 86-189. METZ ET UX. *v.* UNITED STATES. C. A. 11th Cir. *Certiorari* denied. Reported below: 788 F. 2d 1528.

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No. 86-212. DAVIS *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. Reported below: 793 F. 2d 246.

No. 86-227. RIDLEY *v.* UNITED STATES. Ct. Mil. App. Certiorari denied. Reported below: 22 M. J. 351.

No. 86-252. ALOHA AIRLINES, INC. *v.* INTERNATIONAL ASSOCIATION OF MACHINISTS & AEROSPACE WORKERS, AFL-CIO. C. A. 9th Cir. Certiorari denied. Reported below: 790 F. 2d 727.

No. 86-256. DOE *v.* A CORPORATION ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 788 F. 2d 759.

No. 86-289. EALEY, PERSONAL REPRESENTATIVE OF EALEY, ET AL. *v.* CITY OF DETROIT ET AL. Ct. App. Mich. Certiorari denied. Reported below: 144 Mich. App. 324, 375 N. W. 2d 435.

No. 86-342. MANDHARE *v.* W. S. LAFARGUE ELEMENTARY SCHOOL ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 788 F. 2d 1563.

No. 86-368. RAFFAELLI *v.* BOARD OF FIRE AND POLICE COMMISSIONERS OF THE VILLAGE OF JUSTICE, ILLINOIS, ET AL. C. A. 7th Cir. Certiorari denied. Reported below: 793 F. 2d 1295.

No. 86-371. IRVIN ET AL. *v.* RABUN COUNTY, GEORGIA, ET AL. C. A. 11th Cir. Certiorari denied. Reported below: 794 F. 2d 685.

No. 86-373. FLANAGAN ET AL. *v.* PRUDENTIAL-BACHE SECURITIES, INC. Ct. App. N. Y. Certiorari denied. Reported below: 67 N. Y. 2d 500, 495 N. E. 2d 345.

No. 86-374. FLORIDA *v.* SCOTT. Dist. Ct. App. Fla., 3d Dist. Certiorari denied. Reported below: 481 So. 2d 40.

No. 86-385. DAIG CORP. *v.* MEDTRONIC, INC., ET AL. C. A. Fed. Cir. Certiorari denied. Reported below: 789 F. 2d 903.

No. 86-387. HOWARD ELECTRICAL & MECHANICAL, INC. *v.* BAKER INDUSTRIES, INC. C. A. 5th Cir. Certiorari denied. Reported below: 794 F. 2d 965.

No. 86-392. GORDON ET AL. *v.* NATIONAL LABOR RELATIONS BOARD. C. A. 2d Cir. Certiorari denied. Reported below: 792 F. 2d 29.

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No. 86-394. CITIZENS FOR DECENCY THROUGH LAW, INC. *v.* OAK INDUSTRIES, INC., ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 788 F. 2d 1566.

No. 86-400. TRAILWAYS, INC., JOINT COUNCIL OF THE AMALGAMATED TRANSIT UNION, AFL-CIO, CLC *v.* TRAILWAYS LINES, INC. C. A. 3d Cir. Certiorari denied. Reported below: 785 F. 2d 101.

No. 86-403. CRIBBS ET AL. *v.* HILL ET AL. Sup. Ct. Ala. Certiorari denied. Reported below: 489 So. 2d 524.

No. 86-406. KEYSTONE CONSOLIDATED INDUSTRIES, INC. *v.* INTERNATIONAL UNION, UNITED AUTOMOBILE, AEROSPACE & AGRICULTURAL IMPLEMENT WORKERS OF AMERICA ET AL. C. A. 7th Cir. Certiorari denied. Reported below: 793 F. 2d 810.

No. 86-408. MASSOUD *v.* TEXAS. Ct. App. Tex., 5th Dist. Certiorari denied.

No. 86-410. FRINT ET AL. *v.* TEXACO INC. C. A. 11th Cir. Certiorari denied. Reported below: 791 F. 2d 170.

No. 86-425. OBIAYA *v.* COMMISSIONER OF PATENTS AND TRADEMARKS. C. A. Fed. Cir. Certiorari denied. Reported below: 795 F. 2d 1017.

No. 86-426. MADDOX ET AL. *v.* ALABAMA. Sup. Ct. Ala. Certiorari denied. Reported below: 502 So. 2d 786.

No. 86-436. JONES *v.* NIAGARA FRONTIER TRANSPORTATION AUTHORITY ET AL.; and JONES *v.* SIEGFRIED CONSTRUCTION CO., INC., ET AL. C. A. 2d Cir. Certiorari denied. Reported below: 792 F. 2d 136 (second case).

No. 86-446. FLYNT DISTRIBUTING CO., INC. *v.* LERMAN. C. A. 2d Cir. Certiorari denied. Reported below: 789 F. 2d 164.

No. 86-466. CORCORAN *v.* MARYLAND. Ct. Sp. App. Md. Certiorari denied. Reported below: 67 Md. App. 252, 507 A. 2d 200.

No. 86-470. SEATTLE TOTEMS HOCKEY CLUB, INC., ET AL. *v.* NATIONAL HOCKEY LEAGUE ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 783 F. 2d 1347.

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No. 86-474. *CLISSURAS v. CITY OF NEW YORK ET AL.* C. A. 2d Cir. Certiorari denied.

No. 86-477. *SCHURMAN ET AL. v. UNITED STATES PATENT AND TRADEMARK OFFICE.* C. A. Fed. Cir. Certiorari denied. Reported below: 795 F. 2d 1019.

No. 86-479. *CORY v. UNIROYAL, INC.* C. A. 4th Cir. Certiorari denied. Reported below: 790 F. 2d 888.

No. 86-500. *LEONARD v. UNITED STATES.* C. A. 6th Cir. Certiorari denied. Reported below: 802 F. 2d 460.

No. 86-504. *MISSICK v. UNITED STATES.* C. A. 11th Cir. Certiorari denied. Reported below: 795 F. 2d 87.

No. 86-506. *WILLIAMS v. HAWAII.* Sup. Ct. Haw. Certiorari denied. Reported below: 68 Haw. 498, 720 P. 2d 1010.

No. 86-514. *SILVERSTEIN v. BARNES ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 798 F. 2d 467.

No. 86-527. *FERGUSON v. UNITED STATES.* C. A. 7th Cir. Certiorari denied. Reported below: 793 F. 2d 828.

No. 86-538. *HOCKERSMITH v. PARTNER PUBLISHING CO., INC., ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 790 F. 2d 892.

No. 86-551. *WRIGHT v. UNITED STATES.* Ct. App. D. C. Certiorari denied. Reported below: 513 A. 2d 804.

No. 86-582. *WAITES v. UNITED STATES.* C. A. 11th Cir. Certiorari denied. Reported below: 792 F. 2d 1528.

No. 86-5124. *BROWNSCOMBE v. MARYLAND.* Ct. Sp. App. Md. Certiorari denied. Reported below: 66 Md. App. 801.

No. 86-5154. *ROBERTS v. WAINWRIGHT, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS.* C. A. 11th Cir. Certiorari denied. Reported below: 790 F. 2d 87.

No. 86-5182. *VEATCH v. UNITED STATES.* C. A. 3d Cir. Certiorari denied. Reported below: 792 F. 2d 48.

No. 86-5188. *TURNER v. TENNESSEE.* Ct. Crim. App. Tenn. Certiorari denied. Reported below: 713 S. W. 2d 327.

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No. 86-5202. *BUTLER v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 782 F. 2d 1054.

No. 86-5243. *MILLER v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 793 F. 2d 786.

No. 86-5245. *ROBERTS v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 792 F. 2d 140.

No. 86-5272. *TAYLOR v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 792 F. 2d 145.

No. 86-5386. *WHITE v. WAINWRIGHT, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS*. C. A. 11th Cir. Certiorari denied. Reported below: 788 F. 2d 1568.

No. 86-5390. *MILLER v. CUPP, SUPERINTENDENT, OREGON STATE PENITENTIARY*. C. A. 9th Cir. Certiorari denied. Reported below: 791 F. 2d 937.

No. 86-5392. *BARTLETT v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 794 F. 2d 1285.

No. 86-5396. *MASON v. TEXAS*. Ct. App. Tex., 5th Dist. Certiorari denied.

No. 86-5397. *HILL v. PERINI, SUPERINTENDENT, MARION CORRECTIONAL INSTITUTE*. C. A. 6th Cir. Certiorari denied. Reported below: 788 F. 2d 406.

No. 86-5403. *ADELMAN v. CARLSON ET AL.* C. A. 5th Cir. Certiorari denied.

No. 86-5404. *CRUSOS v. UNITED TRANSPORTATION UNION, LOCAL 1201, ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 786 F. 2d 970.

No. 86-5405. *LAGRANGE v. JONES, JUDGE*. C. A. 5th Cir. Certiorari denied.

No. 86-5407. *MCCLOUD v. LOVALLEY ET AL.* C. A. 2d Cir. Certiorari denied.

No. 86-5410. *SINGLETON v. FREY, SUPERINTENDENT, MISSOURI EASTERN CORRECTIONAL CENTER*. C. A. 8th Cir. Certiorari denied. Reported below: 793 F. 2d 212.

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No. 86-5411. *WHITE v. ILLINOIS*. Sup. Ct. Ill. Certiorari denied. Reported below: 111 Ill. 2d 595.

No. 86-5412. *GRUBOWSKI v. GRUBOWSKI*. Ct. Sp. App. Md. Certiorari denied. Reported below: 64 Md. App. 712.

No. 86-5413. *D'ZESATI v. CALIFORNIA STATE UNIVERSITY, SACRAMENTO, ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 791 F. 2d 937.

No. 86-5415. *SPALLA v. FOLTZ, ADMINISTRATOR, MICHIGAN DEPARTMENT OF CORRECTIONS*. C. A. 6th Cir. Certiorari denied. Reported below: 788 F. 2d 400.

No. 86-5421. *DIXSON v. QUARLES, SUPERINTENDENT, HURON VALLEY WOMEN'S FACILITY*. C. A. 6th Cir. Certiorari denied. Reported below: 781 F. 2d 534.

No. 86-5422. *SMITH v. HENSEL, SUPERVISOR, OFFICE OF PROBATION AND PAROLE FOR WHATCOM COUNTY, WASHINGTON, ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 792 F. 2d 144.

No. 86-5425. *HAVENS v. INDIANA ET AL.* C. A. 7th Cir. Certiorari denied. Reported below: 793 F. 2d 143.

No. 86-5428. *WILLIAMS v. VASQUEZ, WARDEN*. C. A. 9th Cir. Certiorari denied. Reported below: 793 F. 2d 303.

No. 86-5433. *BAGLEY v. IOWA*. Ct. App. Iowa. Certiorari denied. Reported below: 393 N. W. 2d 329.

No. 86-5437. *CLINTON v. GEORGIA PORTS AUTHORITY*. C. A. 11th Cir. Certiorari denied. Reported below: 791 F. 2d 171.

No. 86-5438. *WARREN v. ALLGOOD ET AL.* C. A. 11th Cir. Certiorari denied.

No. 86-5440. *ALVES v. HAMILTON, FULTON, AND MONTGOMERY COUNTIES BOCES ET AL.* App. Div., Sup. Ct. N. Y., 3d Jud. Dept. Certiorari denied. Reported below: 117 App. Div. 2d 839, 498 N. Y. S. 2d 733.

No. 86-5446. *TUCKER v. SPEARS, WARDEN, ET AL.* C. A. 11th Cir. Certiorari denied. Reported below: 798 F. 2d 1419.

No. 86-5447. *FEGLEY v. MCCLAIN, JUDGE*. C. A. 6th Cir. Certiorari denied. Reported below: 802 F. 2d 457.

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No. 86-5449. *YOUNG v. CABANA*, SUPERINTENDENT, MISSISSIPPI STATE PENITENTIARY. C. A. 5th Cir. Certiorari denied. Reported below: 785 F. 2d 1033.

No. 86-5454. *PEREZ v. SULLIVAN*, WARDEN. C. A. 10th Cir. Certiorari denied. Reported below: 793 F. 2d 249.

No. 86-5458. *EDABURN v. WISCONSIN*. Ct. App. Wis. Certiorari denied. Reported below: 130 Wis. 2d 542, 393 N. W. 2d 548.

No. 86-5459. *BERGER v. NADLER*, JUDGE. C. A. 3d Cir. Certiorari denied. Reported below: 800 F. 2d 1131.

No. 86-5460. *CENTENO v. THRIFTY DRUG STORES, INC., ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 792 F. 2d 144.

No. 86-5463. *HALL v. OFFICE OF PERSONNEL MANAGEMENT*. C. A. Fed. Cir. Certiorari denied. Reported below: 790 F. 2d 95.

No. 86-5467. *VAZQUEZ ET AL. v. PENNSYLVANIA DEPARTMENT OF PUBLIC WELFARE*. C. A. 3d Cir. Certiorari denied. Reported below: 788 F. 2d 130.

No. 86-5472. *CREASEY v. MUNCY*, WARDEN, ET AL. C. A. 4th Cir. Certiorari denied. Reported below: 796 F. 2d 472.

No. 86-5473. *CARR v. PARKS ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 796 F. 2d 1475.

No. 86-5474. *CARR v. CIRCUIT COURT OF KANAWHA COUNTY*. C. A. 4th Cir. Certiorari denied. Reported below: 798 F. 2d 1408.

No. 86-5475. *LEWIS v. MARTIN*, WARDEN, ET AL. C. A. 4th Cir. Certiorari denied. Reported below: 788 F. 2d 1560.

No. 86-5478. *PERKINS v. CABANA*, SUPERINTENDENT, MISSISSIPPI DEPARTMENT OF CORRECTIONS, ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 794 F. 2d 168.

No. 86-5480. *HARVEY v. MCLENNAN COUNTY JAIL ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 798 F. 2d 1410.

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No. 86-5484. *ELLISON v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 793 F. 2d 942.

No. 86-5486. *JARAMILLO v. UNITED STATES POSTAL SERVICE*. C. A. Fed. Cir. Certiorari denied. Reported below: 795 F. 2d 1019.

No. 86-5487. *DUVALL v. UNITED STATES*. Ct. App. D. C. Certiorari denied.

No. 86-5489. *HINDMAN v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 796 F. 2d 475.

No. 86-5490. *JOHNSON v. DUCKWORTH, SUPERINTENDENT, INDIANA STATE PRISON, ET AL.* C. A. 7th Cir. Certiorari denied. Reported below: 793 F. 2d 898.

No. 86-5491. *DONG JOON AHN v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 794 F. 2d 469.

No. 86-5493. *ZAKY v. UNITED STATES VETERANS ADMINISTRATION ET AL.* C. A. 7th Cir. Certiorari denied. Reported below: 793 F. 2d 832.

No. 86-5494. *BARBER v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 772 F. 2d 914.

No. 86-5497. *SAUNDERS v. McMACKEN, SUPERINTENDENT, HOCKING CORRECTIONAL FACILITY*. C. A. 6th Cir. Certiorari denied. Reported below: 798 F. 2d 1416.

No. 86-5498. *TAYLOR v. UNITED STATES*. Ct. App. D. C. Certiorari denied.

No. 86-5505. *THOMAS v. McCOTTER, DIRECTOR, TEXAS DEPARTMENT OF CORRECTIONS*. C. A. 5th Cir. Certiorari denied.

No. 86-5507. *BOURGEOIS v. LOUISIANA*. Sup. Ct. La. Certiorari denied. Reported below: 488 So. 2d 695.

No. 86-5511. *RAMIREZ v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 796 F. 2d 1477.

No. 86-5512. *JOHNSON v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 788 F. 2d 761.

No. 86-5516. *LIZOTTE v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 794 F. 2d 683.

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No. 86-5519. *CHIRA v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 785 F. 2d 317.

No. 86-5523. *TONEY v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 788 F. 2d 1563.

No. 86-5525. *CLEARY v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 800 F. 2d 1140.

No. 86-5536. *CAMPO v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 793 F. 2d 1251.

No. 86-5543. *MILLER v. BEORN ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 790 F. 2d 84.

No. 86-5552. *NELSON v. THIERET, WARDEN*. C. A. 7th Cir. Certiorari denied. Reported below: 793 F. 2d 146.

No. 86-5556. *FARESE v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 791 F. 2d 939.

No. 86-5563. *JONES v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 800 F. 2d 1141.

No. 86-5575. *SMITH v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 794 F. 2d 1333.

No. 86-5577. *KIMBERLIN v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 781 F. 2d 1247.

No. 86-5578. *BRINAS v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 797 F. 2d 980.

No. 86-5583. *WREN v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 786 F. 2d 1179.

No. 85-1962. *RIDDICK ET AL. v. SCHOOL BOARD OF CITY OF NORFOLK ET AL.* C. A. 4th Cir. Motion of Lawyers' Committee for Civil Rights Under Law et al. for leave to file a brief as *amici curiae* granted. Certiorari denied. JUSTICE WHITE would grant certiorari. Reported below: 784 F. 2d 521.

No. 86-326. *BOARD OF EDUCATION OF THE OKLAHOMA CITY PUBLIC SCHOOLS, INDEPENDENT DISTRICT NO. 89 v. DOWELL ET AL.* C. A. 10th Cir. Certiorari denied. JUSTICE WHITE would grant certiorari. Reported below: 795 F. 2d 1516.

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No. 86-380. MICHIGAN BEER & WINE WHOLESALERS ASSN. v. ATTORNEY GENERAL OF MICHIGAN ET AL. Ct. App. Mich. Certiorari denied. JUSTICE WHITE would grant certiorari. Reported below: 142 Mich. App. 294, 370 N. W. 2d 328.

No. 86-389. CITY OF BIRMINGHAM v. AMERICAN CIVIL LIBERTIES UNION ET AL. C. A. 6th Cir. Certiorari denied. JUSTICE WHITE would grant certiorari. Reported below: 791 F. 2d 1561.

No. 85-7111. PEEK v. KEMP, WARDEN. C. A. 11th Cir. Certiorari denied. JUSTICE BLACKMUN would grant certiorari and set case for oral argument. Reported below: 784 F. 2d 1479.

JUSTICE BRENNAN and JUSTICE MARSHALL, dissenting.

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

No. 86-48. MESSINO v. UNITED STATES;

No. 86-5114. HLAVACH v. UNITED STATES;

No. 86-5120. COVELLO v. UNITED STATES; and

No. 86-5277. TURNER v. UNITED STATES. C. A. 7th Cir. Certiorari denied. Reported below: 791 F. 2d 489.

JUSTICE WHITE, dissenting.

The Courts of Appeals are divided over the kind of agreement necessary to support a conviction for so-called RICO conspiracy. In this case, the Court of Appeals for the Seventh Circuit acknowledged that there is "a clear division among the circuit courts that have considered the issue." *United States v. Neapolitan*, 791 F. 2d 489, 494-495 (1986). I adhere to the view expressed in my dissent in *Adams v. United States*, 474 U. S. 971 (1985), that we should grant certiorari and resolve this conflict.

No. 86-152. INVESTMENT COMPANY INSTITUTE v. CLARKE ET AL. C. A. D. C. Cir. Certiorari denied. JUSTICE SCALIA took no part in the consideration or decision of this petition. Reported below: 252 U. S. App. D. C. 364, 790 F. 2d 925.

No. 86-153. INVESTMENT COMPANY INSTITUTE v. CLARKE ET AL. C. A. 9th Cir. Certiorari denied. JUSTICE SCALIA took no part in the consideration or decision of this petition. Reported below: 793 F. 2d 220.

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No. 86-154. INVESTMENT COMPANY INSTITUTE *v.* CLARKE ET AL. C. A. 2d Cir. Certiorari denied. JUSTICE SCALIA took no part in the consideration or decision of this petition. Reported below: 789 F. 2d 175.

No. 86-195. ARKON SHIPPING AGENCY, INC., ET AL. *v.* KASSAPAS, INDIVIDUALLY AND AS PERSONAL REPRESENTATIVE OF THE ESTATE OF KASSAPAS, ET AL. Ct. App. La., 5th Cir. Motion of Maritime Law Association of the United States for leave to file a brief as *amicus curiae* granted. Certiorari denied. Reported below: 485 So. 2d 565.

No. 86-223. NEAPOLITAN *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied. JUSTICE WHITE and JUSTICE MARSHALL would grant certiorari. Reported below: 791 F. 2d 489.

No. 86-367. NEW MEXICO TAXATION AND REVENUE DEPARTMENT *v.* RAMAH NAVAJO SCHOOL BOARD, INC., ET AL. Ct. App. N. M. Certiorari denied. JUSTICE WHITE and JUSTICE MARSHALL would grant certiorari. Reported below: 104 N. M. 302, 720 P. 2d 1243.

No. 86-376. CONNECTICUT *v.* BADGETT. Sup. Ct. Conn. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 200 Conn. 412, 512 A. 2d 160.

No. 86-448. CONNECTICUT *v.* GRAY. Sup. Ct. Conn. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 200 Conn. 523, 512 A. 2d 217.

No. 86-5029. WILSON *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. JUSTICE BRENNAN would grant certiorari. Reported below: 791 F. 2d 170.

No. 86-5234. BROWN *v.* NORTH CAROLINA. Sup. Ct. N. C. Certiorari denied. Reported below: 345 S. E. 2d 393.

JUSTICE O'CONNOR, concurring.

I write briefly in support of the Court's denial of the petition for certiorari in this case, and to respond to JUSTICE BRENNAN's suggestion that the limits on the prosecutor's right to peremptorily challenge jurors found in *Batson v. Kentucky*, 476 U. S. 79

(1986), apply outside the context of racial discrimination forbidden by the Equal Protection Clause. *Batson* does not touch, indeed, it clearly reaffirms, *id.*, at 89, the ordinary rule that a prosecutor may exercise his peremptory strikes for any reason at all. *Batson*, in my view, depends upon this Nation's profound commitment to the ideal of racial equality, a commitment that refuses to permit the State to act on the premise that racial differences matter. It is central to *Batson* that a "person's race simply 'is unrelated to his fitness as a juror.'" *Id.*, at 87 (citation omitted).

There is no basis for declaring that a juror's attitudes towards the death penalty are similarly irrelevant to the outcome of a capital sentencing proceeding. Indeed, *Witherspoon v. Illinois*, 391 U. S. 510 (1968), upon which JUSTICE BRENNAN's dissent so heavily relies, itself recognizes the relevance of this attitudinal factor. Categorical exclusion of jurors with moral qualms over capital punishment is forbidden precisely because such a practice would produce "a jury uncommonly willing to condemn a man to die." *Id.*, at 521.

Moreover, JUSTICE BRENNAN's dissent ignores a fundamental distinction between peremptory challenges of jurors and challenges for cause. Challenges for cause permit the categorical and unlimited exclusion of jurors exhibiting an inability to serve fairly and impartially in the case to be tried, as noted in *Wainwright v. Witt*, 469 U. S. 412 (1985). In *Witherspoon*, the Court held that the Constitution does not tolerate such a categorical exclusion of jurors who merely express moral scruples about or general objections to capital punishment unless it would "prevent or substantially impair the performance of his duties as a juror in accordance with his instructions and his oath." *Wainwright v. Witt*, *supra*, at 424 (citation omitted).

Peremptory challenges are limited in number. Each party, the prosecutor, and the defense counsel, must balance a host of considerations in deciding which jurors should be peremptorily excused. Permitting prosecutors to take into account the concerns expressed about capital punishment by prospective jurors, or any other factor, in exercising peremptory challenges simply does not implicate the concerns expressed in *Witherspoon*.

We ought not delude ourselves that the deep faith that race should never be relevant has completely triumphed over the painful social reality that, sometimes, it may be. That the Court will not tolerate prosecutors' racially discriminatory use of the pe-

remptory challenge, in effect, is a special rule of relevance, a statement about what this Nation stands for, rather than a statement of fact. In my view, that special rule is a product of the unique history of racial discrimination in this country; it should not be divorced from that context. Outside the uniquely sensitive area of race the ordinary rule that a prosecutor may strike a juror without giving any reason applies. Because a juror's attitudes towards the death penalty may be relevant to how the juror judges, while, as a matter of law, his race is not, this case is not like *Batson*.

JUSTICE BRENNAN, with whom JUSTICE MARSHALL joins, dissenting.

Adhering to my view that the death penalty is in all circumstances cruel and unusual punishment forbidden by the Eighth and Fourteenth Amendments, I would vacate the decision below insofar as it left undisturbed the death sentence imposed in this case. *Gregg v. Georgia*, 428 U. S. 153, 227 (1976) (BRENNAN, J., dissenting). However, even if I believed that the death penalty could be imposed constitutionally under certain circumstances, I nevertheless would grant certiorari because the petitioner presents strong evidence that the State used its peremptory challenges in this case to exclude jurors that it was forbidden to excuse for cause under *Witherspoon v. Illinois*, 391 U. S. 510 (1968).

In *Witherspoon*, this Court held that, in a capital case, the prosecution may not exclude for cause those jurors who indicate that they have scruples about the death penalty, but who nonetheless state that such beliefs would not prevent them from performing their duties as jurors according to law. Exclusion of such jurors, we said, denies a capital defendant the right to sentencing by an impartial jury that is representative of the community, for it "produce[s] a jury uncommonly willing to condemn a man to die." *Id.*, at 521. We underscored the importance of this right in *Adams v. Texas*, 448 U. S. 38 (1980), which held unconstitutional the exclusion of jurors who acknowledged that their concerns about capital punishment might affect their ability to find facts that would lead to its automatic imposition. Texas could not, we said, bar jurors who stated that they would honestly find the relevant facts if convinced of their existence beyond a reasonable doubt,

"yet who frankly concede that the prospects of the death penalty may affect what their honest judgment of the facts will

be or what they may deem to be a reasonable doubt. Such assessments and judgments by jurors are inherent in the jury system, and to exclude all jurors who would be in the slightest way affected by the prospect of the death penalty or by their views about such a penalty would be to deprive the defendant of the impartial jury to which he or she is entitled under the law." *Id.*, at 50.

The petitioner in the case before us, David J. Brown, was convicted of the first-degree murder of two women and given two death sentences. At *voir dire*, the prosecutor had sought to determine not merely if prospective jurors had any scruples about the death penalty that might impair their performance, but if they had any scruples about it at all. The prosecutor was remarkably candid about this objective in addressing the venire at the start of *voir dire*:

"We want to know if you do in fact believe in capital punishment, not wavering. We want to know at the outset, that is when we approve you as a juror, if we do, that you surely do believe in capital punishment in some cases, and that you can, if necessary, make a decision that would involve capital punishment.'" Pet. for Cert. 10.

As the *voir dire* reveals, the prosecutor diligently pursued his goal of seating only those jurors rigidly committed to the death penalty:

"Q.: Mr. Caldwell, how do you feel about capital punishment? Are you for it or against it?

"A.: I am for it.

"Q.: I didn't understand you.

"A.: I said I'm for it.

"Q.: How long have [you] been in favor of capital punishment in some cases, Mr. Caldwell?

"A.: All my life, every time I hear tale of something like that, about all my life, I guess.

"Q.: That's what I wanted to hear, Mr. Caldwell.

"Q.: Mrs. Pope, do you know your mind to the extent of saying whether or not you believe in capital punishment?

"A.: I do.

"Q.: Have all of your adult life?

"A.: Yes, sir.

"Q.: And if ultimately you are called upon after a proper instruction by the Judge to carefully consider what should happen to, to determine life or death, that wouldn't bother you unduly, will it?

"A.: No, sir." *Id.*, at 7, 9-10.

In another exchange, after juror Williams stated that he believed in capital punishment, the prosecutor continued to question him to establish that he had the "strength and fortitude" to render a death verdict "without 'any doubt.'" *Id.*, at 10.

Those jurors who indicated the slightest uncertainty about the death penalty were excused by peremptory challenge, without inquiry into whether their convictions would render them incapable of performing their duties as jurors:

"Q.: Mrs. Beaver, having sat here for some several minutes in this courtroom today, you know what we are here for?

"A.: Yes.

"Q.: Having thoughts about capital punishment, at least I would assume here today, and no doubt having thought about it in the past, do you know your mind about that question?

"A.: I'm afraid I don't.

"Q.: Afraid you don't?

"A.: No.

"[Prosecutor:] The State will excuse Mrs. Beaver with our thanks." *Id.*, at 9.

The State concedes that it could not have excused for cause those jurors failing the prosecutor's litmus test. It maintains, however, that since it used peremptory challenges to accomplish this end, its conduct is immune from scrutiny. The State reads our recent decision in *Batson v. Kentucky*, 476 U. S. 79 (1986), as significant only in that it proscribes racially discriminatory peremptory challenges. It insists that, since the challenges were exercised in this case in a racially neutral manner, they are free from constitutional infirmity.

The implication of the State's position is that it is free to use its peremptory challenges to violate any constitutional command other than the Equal Protection Clause. The State, however, misses the wider significance of *Batson*: that the broad discretion

afforded prosecutors in the exercise of peremptory challenges may not be abused to accomplish *any* unconstitutional end. In *Batson*, we said that "counsel's effort to obtain *possibly relevant* information about prospective jurors is to be distinguished from the practice at issue here." *Id.*, at 89, n. 12 (emphasis added).

JUSTICE O'CONNOR's concurrence observes that, as an unfortunate matter of *fact*, race may be relevant in that it may actually influence a juror's decision. The concurrence correctly notes that such factual relevance is insufficient to justify the exercise of a peremptory challenge on the basis of a juror's race, because race has been deemed irrelevant as a matter of *law*. The concurrence, however, fails to recognize that precisely the same situation obtains with respect to scruples about the death penalty. Such scruples may be relevant as a matter of *fact*. Nonetheless, that is insufficient to justify the use of peremptory challenges to exclude jurors with such scruples, for *Witherspoon* and *Adams* make clear that this characteristic is irrelevant as a matter of *law*. It does not minimize the tragic history of race discrimination in this country to insist that we enforce the *Witherspoon* proscription just as faithfully as that forbidding reliance on race, for we may not pick and choose which constitutional rights we will and will not vindicate in monitoring the jury selection process.

Peremptory challenges may be used for reasons that may not comport completely with rational analysis, or that may resist coherent articulation. Such latitude has for practical reasons required a presumption that these challenges are exercised in a constitutionally responsible fashion. As *Batson* makes clear, however, that presumption is rebuttable. In this case, the Court is presented with evidence from the *voir dire* that plainly indicates that the prosecutor used his peremptory challenges to obtain the "hanging jury," *Witherspoon*, 391 U. S., at 523, that he could not obtain through challenges for cause. We therefore cannot maintain the usual presumption that these challenges were properly used.

Agents of the State enjoy considerable discretion in performing certain functions within the criminal justice system. With great discretion, however, comes great responsibility. When a court has evidence that the State has not lived up to that responsibility, its refusal to intervene converts discretion into a license for constitutional violation. For this reason, I would grant the petition for certiorari in this case.

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No. 86-5310. *ROBERTS v. MISSOURI*. Sup. Ct. Mo.; and
No. 86-5482. *MARLOWE v. KENTUCKY*. Sup. Ct. Ky. Certiorari denied. Reported below: No. 86-5310, 709 S. W. 2d 857; No. 86-5482, 709 S. W. 2d 424.

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. 86-5499. *REIDT v. UNITED STATES*. C. A. 9th Cir. Certiorari before judgment denied.

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Appeals Dismissed

No. 86-424. *STICH v. STICH*. Appeal from Ct. App. Cal., 1st App. Dist., dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied. Reported below: 169 Cal. App. 3d 64, 214 Cal. Rptr. 919.

No. 86-5537. *FERRIS v. CALIFORNIA*. Appeal from Ct. App. Cal., 6th App. Dist., dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied.

No. 86-5593. *NICHOLAS v. UNITED STATES*. Appeal from C. A. 1st Cir. dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied.

No. 86-5559. *BUTLER v. TEXAS*. Appeal from Ct. App. Tex., 3d Dist., dismissed for want of substantial federal question.

Miscellaneous Orders

No. — — —. *MECHANICAL TECHNOLOGY, INC. v. RYDER TRUCK LINES, INC.* Motion of respondent Ryder Truck Lines, Inc., to direct the Clerk not to file the petition for writ of certiorari for failure to comply with Rule 33.7 denied.

No. A-283. *SYKES v. VAN DE WATER ET AL.* C. A. 9th Cir. Application for stay, addressed to JUSTICE WHITE and referred to the Court, denied.

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No. 86-5545. PREISER *v.* DEPARTMENT OF TRANSPORTATION ET AL. C. A. Fed. Cir. Motion of petitioner for leave to proceed *in forma pauperis* denied. Petitioner is allowed until December 1, 1986, 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.

JUSTICE BRENNAN, JUSTICE MARSHALL, JUSTICE BLACKMUN, and JUSTICE STEVENS, dissenting.

For the reasons expressed in *Brown v. Herald Co.*, 464 U. S. 928 (1983), we would deny the petition for writ of certiorari without reaching the merits of the motion to proceed *in forma pauperis*.

No. 86-5547. IN RE JOHL. D. C. Conn. Petition for writ of common-law certiorari denied.

No. 86-5526. IN RE GLAZEBROOK. Petition for writ of mandamus denied.

Probable Jurisdiction Noted

No. 86-251. ROCKFORD LIFE INSURANCE CO. *v.* ILLINOIS DEPARTMENT OF REVENUE ET AL. Appeal from Sup. Ct. Ill. Probable jurisdiction noted. Reported below: 112 Ill. 2d 174, 492 N. E. 2d 1278.

No. 86-341. FORT HALIFAX PACKING CO., INC. *v.* COYNE, DIRECTOR, BUREAU OF LABOR STANDARDS OF MAINE, ET AL. Appeal from Sup. Jud. Ct. Me. Probable jurisdiction noted. Reported below: 510 A. 2d 1054.

No. 86-357. AMERICAN TRUCKING ASSNS., INC., ET AL. *v.* SCHEINER, SECRETARY, DEPARTMENT OF REVENUE OF PENNSYLVANIA, ET AL. Appeal from Sup. Ct. Pa. Probable jurisdiction noted. Reported below: 510 Pa. 430, 509 A. 2d 838.

Certiorari Granted

No. 86-130. ROCK *v.* ARKANSAS. Sup. Ct. Ark. Certiorari granted. Reported below: 288 Ark. 566, 708 S. W. 2d 78.

No. 86-228. KUNGYS *v.* UNITED STATES. C. A. 3d Cir. Certiorari granted. Reported below: 793 F. 2d 516.

No. 86-461. BOARD OF PARDONS ET AL. *v.* ALLEN ET AL. C. A. 9th Cir. Certiorari granted. Reported below: 792 F. 2d 1404.

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No. 86-246. SUMNER, DIRECTOR, NEVADA DEPARTMENT OF PRISONS, ET AL. *v.* SHUMAN. C. A. 9th Cir. Motion of respondent for leave to proceed *in forma pauperis* and certiorari granted. Reported below: 791 F. 2d 788.

Certiorari Denied. (See also Nos. 86-424, 86-5537, 86-5593, and 86-5547, *supra.*)

No. 85-1986. ANDERSON *v.* ALASKA. Ct. App. Alaska. Certiorari denied.

No. 85-2049. CHOON YOUNG CHUNG *v.* NANA DEVELOPMENT CORP. C. A. 4th Cir. Certiorari denied. Reported below: 783 F. 2d 1124.

No. 85-7031. YOUNG *v.* SCHMIDT. C. A. 8th Cir. Certiorari denied.

No. 85-7203. REEVES *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 791 F. 2d 935.

No. 86-22. MICHIGAN *v.* PARHAM. Ct. App. Mich. Certiorari denied. Reported below: 147 Mich. App. 358, 382 N. W. 2d 786.

No. 86-205. HOWARD TRUCKING CO., INC. *v.* STASSI ET AL. Sup. Ct. La. Certiorari denied. Reported below: 485 So. 2d 915.

No. 86-259. CITY OF DES MOINES, IOWA, ET AL. *v.* WILLSON. Sup. Ct. Iowa. Certiorari denied. Reported below: 386 N. W. 2d 76.

No. 86-399. HAMILL *v.* DEPARTMENT OF JUSTICE. C. A. Fed. Cir. Certiorari denied. Reported below: 795 F. 2d 1018.

No. 86-430. TRANS WORLD AIRLINES ET AL. *v.* DISSELL. Sup. Jud. Ct. Me. Certiorari denied. Reported below: 511 A. 2d 441.

No. 86-433. MUTUAL LIFE INSURANCE COMPANY OF NEW YORK *v.* KNOWLES. C. A. 4th Cir. Certiorari denied. Reported below: 788 F. 2d 1038.

No. 86-435. STOWE-WOODWARD CO. *v.* VIOCK ET AL. Ct. App. Ohio, Erie County. Certiorari denied.

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No. 86-437. DABISH, EXECUTRIX OF THE ESTATE OF DABISH *v.* CHARTER ARMS CORP. C. A. 6th Cir. Certiorari denied. Reported below: 791 F. 2d 932.

No. 86-439. CENTURY BRASS PRODUCTS, INC. *v.* INTERNATIONAL UNION, UNITED AUTOMOBILE, AEROSPACE & AGRICULTURAL IMPLEMENT WORKERS OF AMERICA, ET AL. C. A. 2d Cir. Certiorari denied. Reported below: 795 F. 2d 265.

No. 86-441. CHICAGO SYSTEMS SOFTWARE ET AL. *v.* EVANS NEWTON, INC. C. A. 7th Cir. Certiorari denied. Reported below: 793 F. 2d 889.

No. 86-447. DAWN DEVELOPERS, INC., ET AL. *v.* REAL ESTATE CORPORATION OF FLORIDA, N. V. Dist. Ct. App. Fla., 5th Dist. Certiorari denied. Reported below: 489 So. 2d 32.

No. 86-449. CITY OF WILDWOOD *v.* ANELA ET AL. C. A. 3d Cir. Certiorari denied. Reported below: 790 F. 2d 1063.

No. 86-452. DIXON *v.* FEDERAL DEPOSIT INSURANCE CORPORATION. C. A. 6th Cir. Certiorari denied. Reported below: 791 F. 2d 932.

No. 86-454. MCI TELECOMMUNICATIONS CORP. *v.* KELLERMAN, DBA AUTHORIZED SALES & SERVICE, ET AL. Sup. Ct. Ill. Certiorari denied. Reported below: 112 Ill. 2d 428, 493 N. E. 2d 1045.

No. 86-456. AHMAD *v.* NEW YORK. App. Div., Sup. Ct. N. Y., 1st Jud. Dept. Certiorari denied. Reported below: 121 App. Div. 2d 287, 503 N. Y. S. 2d 536.

No. 86-457. RICHARDSON *v.* PENNSYLVANIA. Super. Ct. Pa. Certiorari denied. Reported below: 345 Pa. Super. 621, 496 A. 2d 854.

No. 86-462. KAISER CEMENT CORP. *v.* FISCHBACH & MOORE, INC., ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 793 F. 2d 1100.

No. 86-463. FIORELLO ET AL. *v.* EATON CORP. ET AL. C. A. 6th Cir. Certiorari denied. Reported below: 787 F. 2d 589.

No. 86-464. MARTORI BROS. DISTRIBUTORS ET AL. *v.* JAMES-MASSENGALE ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 781 F. 2d 1349 and 791 F. 2d 799.

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No. 86-467. *LANGLEY ET AL. v. YOUNG*. C. A. 6th Cir. Certiorari denied. Reported below: 793 F. 2d 792.

No. 86-469. *ORANGE v. BOMERSHEIM ET AL.* C. A. 8th Cir. Certiorari denied. Reported below: 794 F. 2d 678.

No. 86-480. *DARBY DENTAL SUPPLY CO., INC., ET AL. v. PREMIER DENTAL PRODUCTS CO.* C. A. 3d Cir. Certiorari denied. Reported below: 794 F. 2d 850.

No. 86-502. *CUMBERLAND OIL CORP. ET AL. v. THROPP ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 791 F. 2d 1037.

No. 86-507. *TRANS INTERNATIONAL AIRLINES v. NEWSOME ET AL.* Sup. Ct. Ala. Certiorari denied. Reported below: 492 So. 2d 592.

No. 86-513. *ORTHO PHARMACEUTICAL CORP. v. WELLS, BY HER MOTHER AND NEXT FRIEND, MAIHAFFER, ET AL.* C. A. 11th Cir. Certiorari denied. Reported below: 788 F. 2d 741.

No. 86-524. *BERGH ET AL. v. DEPARTMENT OF TRANSPORTATION, FEDERAL AVIATION ADMINISTRATION.* C. A. Fed. Cir. Certiorari denied. Reported below: 794 F. 2d 1575.

No. 86-540. *QUILLEN v. BOWEN, SECRETARY OF HEALTH AND HUMAN SERVICES.* C. A. 6th Cir. Certiorari denied. Reported below: 793 F. 2d 1293.

No. 86-587. *FORTNA v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. Reported below: 796 F. 2d 724.

No. 86-596. *SUTHERLAND v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. Reported below: 795 F. 2d 1008.

No. 86-5073. *ABBOTT v. OKLAHOMA.* Ct. Crim. App. Okla. Certiorari denied. Reported below: 719 P. 2d 1289.

No. 86-5076. *CURNEW v. UNITED STATES.* C. A. 8th Cir. Certiorari denied. Reported below: 788 F. 2d 1335.

No. 86-5096. *BLACKSTON v. SECRETARY OF THE NAVY.* C. A. 3d Cir. Certiorari denied. Reported below: 791 F. 2d 915.

No. 86-5108. *WEBB v. WAINWRIGHT, SECRETARY OF FLORIDA DEPARTMENT OF CORRECTIONS.* C. A. 11th Cir. Certiorari denied. Reported below: 786 F. 2d 1178.

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No. 86-5130. *HAYNES v. NEW YORK*. Ct. App. N. Y. Certiorari denied. Reported below: 67 N. Y. 2d 944, 494 N. E. 2d 121.

No. 86-5159. *FREEBURG v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 790 F. 2d 85.

No. 86-5218. *PORTER v. ILLINOIS*. App. Ct. Ill., 5th Dist. Certiorari denied. Reported below: 141 Ill. App. 3d 71, 489 N. E. 2d 1154.

No. 86-5256. *KENNEDY v. FLORIDA*. Sup. Ct. Fla. Certiorari denied. Reported below: 491 So. 2d 279.

No. 86-5356. *JACKSON v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 795 F. 2d 88.

No. 86-5439. *YATES v. SECRETARY OF THE ARMY*. C. A. Fed. Cir. Certiorari denied.

No. 86-5444. *ABUSHAAR v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 800 F. 2d 1140.

No. 86-5457. *CULBRETH v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 791 F. 2d 926.

No. 86-5466. *RECTOR v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 794 F. 2d 680.

No. 86-5469. *WRIGHT v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 787 F. 2d 594.

No. 86-5477. *DONALDSON v. CALIFORNIA*. Ct. App. Cal., 2d App. Dist. Certiorari denied.

No. 86-5485. *JOHNPOLL v. CARLSON, DIRECTOR, UNITED STATES BUREAU OF PRISONS, ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 798 F. 2d 467.

No. 86-5488. *IN RE BRYANT*. C. A. 11th Cir. Certiorari denied.

No. 86-5492. *KEARNEY v. DAVIS, WARDEN*. C. A. 6th Cir. Certiorari denied.

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No. 86-5515. *KINNELL v. MASCHNER, DIRECTOR, KANSAS STATE PENITENTIARY, ET AL.* C. A. 10th Cir. Certiorari denied.

No. 86-5517. *HOLT v. WELDON, WARDEN.* C. A. 11th Cir. Certiorari denied. Reported below: 786 F. 2d 1180.

No. 86-5521. *RODMAN v. TAYLOR ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 802 F. 2d 459.

No. 86-5522. *MINIS v. OHIO UNEMPLOYMENT COMPENSATION BOARD OF REVIEW.* Sup. Ct. Ohio. Certiorari denied.

No. 86-5528. *BROWN v. SEAWELL ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 788 F. 2d 1560.

No. 86-5529. *CHAMBERS v. INDUSTRIAL COMMISSION OF ILLINOIS ET AL.* App. Ct. Ill., 1st Dist. Certiorari denied. Reported below: 139 Ill. App. 3d 550, 487 N. E. 2d 1142.

No. 86-5534. *BEEMAN v. UNITED STATES.* C. A. 10th Cir. Certiorari denied.

No. 86-5535. *HERZOG v. UNITED STATES.* C. A. 11th Cir. Certiorari denied. Reported below: 794 F. 2d 685.

No. 86-5538. *BELL v. STONE.* C. A. 6th Cir. Certiorari denied. Reported below: 793 F. 2d 1290.

No. 86-5546. *BROWN v. LOCKHART, DIRECTOR, ARKANSAS DEPARTMENT OF CORRECTION.* C. A. 8th Cir. Certiorari denied.

No. 86-5553. *RILEY v. TEXAS.* Ct. App. Tex., 1st Dist. Certiorari denied.

No. 86-5603. *BITTNER v. UNITED STATES PAROLE COMMISSION.* C. A. 8th Cir. Certiorari denied. Reported below: 802 F. 2d 463.

No. 86-5615. *COLE v. UNITED STATES.* C. A. 11th Cir. Certiorari denied. Reported below: 796 F. 2d 380.

No. 86-5628. *ELKINS v. UNITED STATES.* C. A. 11th Cir. Certiorari denied. Reported below: 795 F. 2d 919.

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No. 86-5630. *HEATH v. UNITED STATES PAROLE COMMISSION ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 788 F. 2d 85.

No. 86-5659. *GUPTA v. UNITED STATES.* C. A. 2d Cir. Certiorari denied. Reported below: 801 F. 2d 391.

No. 85-1922. *WAINWRIGHT, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS v. DEANGELO.* C. A. 11th Cir. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 781 F. 2d 1516.

No. 86-445. *NEW YORK v. SMITH.* Ct. App. N. Y. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 68 N. Y. 2d 737, 497 N. E. 2d 689.

No. 86-143. *MUSTAFA, AKA BROWN v. UNITED STATES.* Ct. Mil. App. Certiorari denied. Reported below: 22 M. J. 165.

JUSTICE WHITE, with whom JUSTICE BRENNAN joins, dissenting.

In this case the trial court admitted, over petitioner's objection, the testimony of a purported expert on blood spatter techniques. On appeal, the Court of Military Appeals held that the testimony in question was admissible under Military Rule of Evidence 702, which is worded identically to Federal Rule of Evidence 702. The court held that the so-called *Frye* test for determining the admissibility of expert testimony, see *Frye v. United States*, 54 App. D. C. 46, 47, 293 F. 1013, 1014 (1923), was superseded by the 1975 enactment of the Federal Rules of Evidence. The court described Military Rule 702 as establishing a much lower threshold than *Frye* for determining whether a given person is an expert. This conclusion is supported by decisions interpreting Federal Rule of Evidence 702 as establishing a more flexible standard of admissibility than the *Frye* test. See, e. g., *United States v. Downing*, 753 F. 2d 1224 (CA3 1985). Other courts, however, have interpreted Federal Rule of Evidence 702 as incorporating the *Frye* test. *Barrel of Fun, Inc. v. State Farm Fire & Casualty Co.*, 739 F. 2d 1028, 1031, n. 9 (CA5 1984); *United States v. McBride*, 786 F. 2d 45, 49 (CA2 1986). I would grant certiorari to resolve this conflict on an obviously recurring and important issue.

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No. 86-386. UNITED STATES STEEL CORP. ET AL. *v.* PRYOR. C. A. 2d Cir. Certiorari denied. JUSTICE POWELL and JUSTICE O'CONNOR would grant certiorari. Reported below: 794 F. 2d 52.

No. 86-5211. REED *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. Reported below: 790 F. 2d 208.

JUSTICE WHITE, dissenting.

In this case, the District Court permitted a 13th, alternate juror to participate in the jury's deliberations, a procedure to which petitioner's counsel stipulated. The 13 jurors unanimously found petitioner guilty. On appeal, petitioner argued that the use of a 13-member jury violated Federal Rule of Criminal Procedure 24(c), that the Rule is not waivable, and that even if it is, it can only be waived by a defendant personally and not by counsel. The Court of Appeals held that petitioner, through his counsel, had waived compliance with Rule 24(c). It concluded that "[b]ecause the waiver herein was neither prejudicial nor of constitutional magnitude and was made in the presence of the defendant in open court, . . . the failure to obtain appellant's personal assent . . . , [if erroneous,] was harmless beyond a reasonable doubt." 790 F. 2d 208, 211 (CA2 1986). This decision conflicts with *United States v. Virginia Erection Corp.*, 335 F. 2d 868, 870 (CA4 1964), which requires a defendant's express and personal waiver of Rule 24(c), assuming that the Rule can be waived at all. See also *United States v. Chatman*, 584 F. 2d 1358 (CA4 1978) (explaining *Virginia Erection* as establishing a *per se* rule of plain error in cases where Rule 24(c) is violated without obtaining a defendant's personal consent); *United States v. Beasley*, 464 F. 2d 468 (CA10 1972) (holding, in a case not involving an issue of waiver, that violations of Rule 24(c) are reversible *per se*, and approving the result in *Virginia Erection*). I would grant certiorari to resolve this conflict.

No. 86-5321. MALQUIST *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. JUSTICE WHITE would grant certiorari. Reported below: 791 F. 2d 1399.

No. 86-5542. WOODS *v.* FLORIDA. Sup. Ct. Fla. Certiorari denied. Reported below: 490 So. 2d 24.

JUSTICE MARSHALL, with whom JUSTICE BRENNAN joins, dissenting.

Adhering to my view that the death penalty is under all circumstances cruel and unusual punishment forbidden by the Eighth

and Fourteenth Amendments, I would vacate the judgment of the Florida Supreme Court insofar as it left undisturbed the death sentence imposed in this case. *Gregg v. Georgia*, 428 U. S. 153, 231 (1976) (MARSHALL, J., dissenting). Even if I believed, however, that the death penalty could constitutionally be imposed under certain circumstances, petitioner's youth and mental condition preclude imposition of a sentence of death under the requirements of the Eighth Amendment.

Petitioner Ronald Woods was convicted of first-degree murder and sentenced to death in connection with the stabbing of a guard at the Union Correctional Institution, at which Woods was an inmate. The Florida Supreme Court affirmed petitioner's conviction and death sentence. 490 So. 2d 24 (1986). Woods was 18 years old at the time of his trial. *Id.*, at 28, n. 7. The evidence submitted to the trial court in mitigation of sentence showed that petitioner had suffered seizures in childhood, and had sustained brain damage. Pet. for Cert. 20. Petitioner's IQ is reported to be below 73, within the borderline range of mental retardation. *Ibid.*

I believe that the imposition of capital punishment for crimes committed by juveniles is unconstitutionally cruel punishment forbidden by the Eighth Amendment. "Although '[c]rimes committed by youths may be just as harmful to victims as those committed by older persons, . . . they deserve less punishment because adolescents may have less capacity to control their conduct and to think in long-range terms than adults.'" *Roach v. Aiken*, 474 U. S. 1039 (1986) (BRENNAN, J., dissenting) (quoting Twentieth Century Fund Task Force on Sentencing Policy Toward Young Offenders, *Confronting Youth Crime* 7 (1978)); see also *Eddings v. Oklahoma*, 455 U. S. 104, 115-116 (1982). These considerations are particularly compelling where, as here, the offender's mental capacities are organically impaired. While the trial court treated petitioner's youth as a mitigating circumstance, it did not consider whether petitioner's mental retardation, or the combination of his youth and mental incapacity, presented a circumstance that might foreclose application of the death penalty.

The execution of a mentally retarded child in retribution for a crime committed at or before the age of 18 cannot, in my judgment, be reconciled with the requirements of the Eighth Amendment, or with our fundamental commitment to the preservation of human rights. I would grant the petition for certiorari.

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JUSTICE BLACKMUN, with whom JUSTICE BRENNAN joins, dissenting.

In view of the presence in the courtroom throughout the trial of a substantial number of uniformed guards (up to as many as 45) and the trial court's denial of petitioner's request to clear the courtroom of uniformed spectators, and the failure of the Supreme Court of Florida in its opinion, see 490 So. 2d 24, 26-27 (1986), even to cite this Court's then recent decision in *Holbrook v. Flynn*, 475 U. S. 560 (1986), I would grant the petition for certiorari, vacate the judgment below, and remand the case to the Supreme Court of Florida for reconsideration in light of *Holbrook*.

No. 86-5548 (A-334). *VANWOUDENBERG 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. Certiorari denied. Reported below: 720 P. 2d 328.

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 the application for stay and the petition for writ of certiorari and would vacate the death sentence in this case.

No. 86-5591. *INGRAM v. UNITED STATES*. C. A. 4th Cir. Motion of petitioner to defer consideration of the petition for writ of certiorari denied. Certiorari denied. Reported below: 691 F. 2d 498.

Rehearing Denied

No. 85-2080. *GRACE v. HEARTLAND TRANSPORTATION, INC.*, *ante*, p. 825;

No. 85-2081. *IN RE GRACE*, *ante*, p. 810;

No. 85-2082. *IN RE GRACE*, *ante*, p. 809;

No. 85-6575. *GUTHRIE v. SOWDERS, WARDEN*, *ante*, p. 830;

No. 85-7000. *DAVIDSON v. MCCOTTER, DIRECTOR, TEXAS DEPARTMENT OF CORRECTIONS*, *ante*, p. 836;

No. 85-7010. *KING v. ILLINOIS*, *ante*, p. 872;

No. 85-7225. *IN RE McDONALD*, *ante*, p. 809;

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No. 86-5031. *STONER v. REES, WARDEN*, *ante*, p. 857;

No. 86-5045. *SMITH v. MCCOTTER, DIRECTOR, TEXAS DEPARTMENT OF CORRECTIONS*, *ante*, p. 857;

No. 86-5053. *PENA-PEREZ v. LOUISIANA STATE BAR ASSN.*, *ante*, p. 858; and

No. 86-5248. *DACE v. SOUTH DAKOTA ET AL.*, *ante*, p. 867. Petitions for rehearing denied. JUSTICE SCALIA took no part in the consideration or decision of these petitions.

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Dismissal Under Rule 53

No. 85-1623. *ISLAMIC REPUBLIC OF IRAN ET AL. v. BOEING CO. ET AL.* C. A. 9th Cir. Certiorari dismissed under this Court's Rule 53. Reported below: 771 F. 2d 1279.

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Appeal Dismissed

No. 86-5576. *ALLEN v. DEPARTMENT OF HUMAN RESOURCES*. Appeal from Super. Ct. Ga., Baldwin County, dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied.

Certiorari Granted—Reversed. (See No. 86-21, *ante*, p. 85.)

Certiorari Granted—Vacated and Remanded

No. 85-1011. *UNITED STATES v. HARRIS ET UX.* C. A. 11th Cir. Certiorari granted, judgment vacated, and case remanded for further consideration in light of *O'Connor v. United States*, *ante*, p. 27. Reported below: 768 F. 2d 1240.

Certiorari Granted—Reversed and Remanded. (See No. 86-139, *ante*, p. 92.)

Miscellaneous Orders

No. — — —. *CANE v. SOWDERS, WARDEN*. Motion to proceed *in forma pauperis* without submitting an affidavit in support thereof granted.

No. A-176 (86-5387). *LAFRAMBOISE v. ALASKA*. Ct. App. Alaska. Application for stay, addressed to JUSTICE O'CONNOR and referred to the Court, denied.

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No. A-369. *MARTIN v. WAINWRIGHT, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS, ET AL.* Application for stay of execution of sentence of death, presented to JUSTICE POWELL, and by him referred to the Court, is granted pending the timely filing and disposition by this Court of a petition for writ of certiorari. Should the petition for writ of certiorari be denied, this stay terminates automatically. In the event the petition for writ of certiorari is granted, this stay shall continue pending the issuance of the mandate of this Court.

No. D-588. *IN RE DISBARMENT OF SPEERT.* It is ordered that Victor Allen Speert, of Austin, 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-589. *IN RE DISBARMENT OF BENEDICT.* It is ordered that Mark J. Benedict, of San Antonio, 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-590. *IN RE DISBARMENT OF KAZDOY.* It is ordered that Alan Craig Kazdoy, of Midlothian, 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. 84-6075. *TISON v. ARIZONA* (two cases). Sup. Ct. Ariz. [Certiorari granted, 475 U. S. 1010.] Motion of petitioners for leave to file a supplemental brief after argument granted.

No. 85-732. *WESTERN AIR LINES, INC., ET AL. v. BOARD OF EQUALIZATION OF THE STATE OF SOUTH DAKOTA ET AL.* Sup. Ct. S. D. [Probable jurisdiction noted, 475 U. S. 1008.] The parties are directed to file supplemental briefs within 20 days addressing the following questions:

"1. Under 49 U. S. C. §1513(d)(3), the subsection 'shall not apply to any in lieu tax which is wholly utilized for airport and aeronautical purposes.' Is the question whether a state tax is an 'in lieu tax which is wholly utilized for airport and aeronautical purposes,' one of state or federal law?

"2. If federal law governs the question whether a tax is an 'in lieu tax' under §1513(d)(3), is the South Dakota Airline Flight

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Property Tax, S. D. Codified Laws, Ch. 10-29, an 'in lieu tax' under § 1513(d)(3)?"

The Solicitor General is invited to file a brief within 20 days expressing the views of the United States on these questions. JUSTICE WHITE and JUSTICE MARSHALL dissent from the order directing supplemental briefing.

No. 85-782. IMMIGRATION AND NATURALIZATION SERVICE *v.* CARDOZA-FONSECA. C. A. 9th Cir. [Certiorari granted, 475 U. S. 1009.] Motion of the Solicitor General for leave to file a supplemental brief after argument granted.

No. 85-1626. GOODMAN ET AL. *v.* LUKENS STEEL CO. ET AL. C. A. 3d Cir. Motion of petitioners to expedite consideration of the petition for writ of certiorari denied.

No. 85-1645. LUKENS STEEL CO. *v.* UNITED POLITICAL ACTION COMMITTEE ET AL. C. A. 3d Cir. Motion of the parties to defer consideration of the petition for writ of certiorari granted.

No. 86-71. CTS CORP. *v.* DYNAMICS CORPORATION OF AMERICA; and

No. 86-97. INDIANA *v.* DYNAMICS CORPORATION OF AMERICA. C. A. 7th Cir. [Probable jurisdiction noted, *ante*, p. 810.] Motion of appellants to dispense with printing the joint appendix granted.

No. 86-87. UNITED STATES *v.* SALERNO ET AL. C. A. 2d Cir. [Certiorari granted, *ante*, p. 929.] Motion of the Solicitor General to dispense with printing the joint appendix granted.

No. 86-104. BOARD OF AIRPORT COMMISSIONERS OF THE CITY OF LOS ANGELES ET AL. *v.* JEWS FOR JESUS, INC., ET AL. C. A. 9th Cir. [Certiorari granted, *ante*, p. 812.] Motion of Andrew J. Ekonomou, Esquire, to permit Jay Alan Sekulow to present oral argument *pro hac vice* granted.

No. 86-5524. MAYER *v.* ANGELICA. C. A. 7th Cir. Motion of petitioner for leave to proceed *in forma pauperis* denied. Petitioner is allowed until December 8, 1986, 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.

JUSTICE BRENNAN and JUSTICE MARSHALL, dissenting.

For the reasons expressed in *Brown v. Herald Co.*, 464 U. S. 928 (1983), we would deny the petition for writ of certiorari

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without reaching the merits of the motion to proceed *in forma pauperis*.

No. 86-5718. *IN RE MIESBAUER*. Petition for writ of habeas corpus denied.

Probable Jurisdiction Noted

No. 86-98. *RIVERA v. MINNICH*. Appeal from Sup. Ct. Pa. Probable jurisdiction noted. Reported below: 509 Pa. 588, 506 A. 2d 879.

Certiorari Granted

No. 86-281. *RAY v. UNITED STATES*. C. A. 5th Cir. Certiorari granted. Reported below: 791 F. 2d 929.

No. 86-511. *COMMISSIONER OF INTERNAL REVENUE v. FINK ET UX*. C. A. 6th Cir. Certiorari granted. Reported below: 789 F. 2d 427.

No. 86-475. *FRAZIER v. HEEBE, CHIEF JUDGE, UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF LOUISIANA, ET AL.* C. A. 5th Cir. Motion of American Corporate Counsel Association for leave to file a brief as *amicus curiae* granted. Certiorari granted. Reported below: 788 F. 2d 1049.

No. 86-510. *UNITED STATES v. HOHRI ET AL.* C. A. D. C. Cir. Certiorari granted. JUSTICE SCALIA took no part in the consideration or decision of this petition. Reported below: 251 U. S. App. D. C. 145, 782 F. 2d 227.

No. 86-526. *CATERPILLAR INC. ET AL. v. WILLIAMS ET AL.* C. A. 9th Cir. Motion of Merchants & Manufacturers Association for leave to file a brief as *amicus curiae* granted. Certiorari granted. Reported below: 786 F. 2d 928.

No. 86-5344. *MILLER v. FLORIDA*. Sup. Ct. Fla. Motion of petitioner for leave to proceed *in forma pauperis* and certiorari granted. Reported below: 488 So. 2d 820.

Certiorari Denied. (See also No. 86-5576, *supra*.)

No. 85-2047. *FLORIDA v. KANE*. Dist. Ct. App. Fla., 3d Dist. Certiorari denied. Reported below: 483 So. 2d 66.

No. 85-2077. *BRYAN ET AL. v. ERKINS ET AL.*; and

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No. 86-372. *UNITED STEELWORKERS OF AMERICA v. ERKINS ET AL.* C. A. 11th Cir. Certiorari denied. Reported below: 785 F. 2d 1538.

No. 85-6911. *HYCHE v. UNITED STATES.* C. A. 11th Cir. Certiorari denied. Reported below: 783 F. 2d 203.

No. 85-6917. *MOSS v. UNITED STATES.* C. A. 11th Cir. Certiorari denied. Reported below: 784 F. 2d 402.

No. 85-6992. *GARDNER v. LUSBY ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 785 F. 2d 308.

No. 85-7019. *GANUS v. ILLINOIS.* App. Ct. Ill., 2d Dist. Certiorari denied. Reported below: 136 Ill. App. 3d 1161, 497 N. E. 2d 1042.

No. 85-7094. *THIBAUT v. BOWEN, SECRETARY OF HEALTH AND HUMAN SERVICES.* C. A. 2d Cir. Certiorari denied. Reported below: 788 F. 2d 6.

No. 85-7179. *TRENCH v. IMMIGRATION AND NATURALIZATION SERVICE.* C. A. 10th Cir. Certiorari denied. Reported below: 783 F. 2d 181.

No. 86-170. *PROVENZANO v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. Reported below: 782 F. 2d 533.

No. 86-280. *OUTBOARD MARINE CORP. v. UNITED STATES ET AL.* C. A. 7th Cir. Certiorari denied. Reported below: 789 F. 2d 497.

No. 86-311. *RICHARDS v. DEPARTMENT OF TRANSPORTATION, FEDERAL AVIATION ADMINISTRATION.* C. A. Fed. Cir. Certiorari denied. Reported below: 795 F. 2d 1016.

No. 86-314. *ALLEY ET VIR v. GUBSER DEVELOPMENT CO. ET AL.* C. A. 10th Cir. Certiorari denied. Reported below: 785 F. 2d 849.

No. 86-351. *CITY OF ST. CHARLES ET AL. v. AMERICAN CIVIL LIBERTIES UNION ET AL.* C. A. 7th Cir. Certiorari denied. Reported below: 794 F. 2d 265.

No. 86-352. *KRZYSKE v. UNITED STATES.* C. A. 6th Cir. Certiorari denied.

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No. 86-362. *HOUSE OF WHEAT ET AL. v. WRIGHT ET AL.* Ct. App. Ohio, Montgomery County. Certiorari denied.

No. 86-404. *WHALEY v. UNITED STATES.* C. A. 9th Cir. Certiorari denied. Reported below: 788 F. 2d 581.

No. 86-442. *AIR LINE EMPLOYEES ASSN., INTERNATIONAL v. REPUBLIC AIRLINES, INC., ET AL.* C. A. 7th Cir. Certiorari denied. Reported below: 798 F. 2d 967.

No. 86-485. *MAYNARD, WARDEN v. BOWEN.* C. A. 10th Cir. Certiorari denied. Reported below: 799 F. 2d 593.

No. 86-486. *COHEN, SECRETARY, PENNSYLVANIA DEPARTMENT OF PUBLIC WELFARE, ET AL. v. CLARK.* C. A. 3d Cir. Certiorari denied. Reported below: 794 F. 2d 79.

No. 86-488. *POWELL v. TEXAS.* Ct. App. Tex., 14th Dist. Certiorari denied.

No. 86-494. *STORY v. WYOMING.* Sup. Ct. Wyo. Certiorari denied. Reported below: 721 P. 2d 1020.

No. 86-498. *GILMORE v. ZIMMERMAN, ATTORNEY GENERAL OF PENNSYLVANIA.* C. A. 3d Cir. Certiorari denied. Reported below: 793 F. 2d 564.

No. 86-508. *MASTROPIETRO v. MASTROPIETRO.* Super. Ct. N. J., App. Div. Certiorari denied.

No. 86-515. *JUDY'S FOODS, INC., ET AL. v. A & B FOOD SERVICES CORP. ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 798 F. 2d 468.

No. 86-517. *BOLES v. ELLIS ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 788 F. 2d 7.

No. 86-519. *SCHIAVONE CONSTRUCTION CO. ET AL. v. MEROLA, DISTRICT ATTORNEY OF BRONX COUNTY, NEW YORK.* C. A. D. C. Cir. Certiorari denied.

No. 86-535. *LEE v. UNION ELECTRIC CO. ET AL.* C. A. 8th Cir. Certiorari denied. Reported below: 789 F. 2d 1303.

No. 86-605. *KEVAL v. WEINBERGER, SECRETARY OF DEFENSE.* C. A. 4th Cir. Certiorari denied. Reported below: 796 F. 2d 473.

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No. 86-616. *ROGERS v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 795 F. 2d 1008.

No. 86-617. *BECKER ET AL. v. COMMISSIONER OF INTERNAL REVENUE*. C. A. 7th Cir. Certiorari denied. Reported below: 799 F. 2d 753.

No. 86-627. *MONTGOMERY ET AL. v. BOARD OF ZONING ADJUSTMENTS OF CITY OF NEW ORLEANS ET AL.* Ct. App. La., 4th Cir. Certiorari denied. Reported below: 488 So. 2d 1277.

No. 86-658. *BADER ET AL. v. DEPARTMENT OF TRANSPORTATION, FEDERAL AVIATION ADMINISTRATION*. C. A. Fed. Cir. Certiorari denied. Reported below: 802 F. 2d 469.

No. 86-659. *REYNOLDS ET AL. v. DEPARTMENT OF TRANSPORTATION, FEDERAL AVIATION ADMINISTRATION*. C. A. Fed. Cir. Certiorari denied. Reported below: 802 F. 2d 469.

No. 86-660. *BRUCE v. DEPARTMENT OF TRANSPORTATION, FEDERAL AVIATION ADMINISTRATION*. C. A. Fed. Cir. Certiorari denied. Reported below: 802 F. 2d 469.

No. 86-661. *ALLEN ET AL. v. DEPARTMENT OF TRANSPORTATION, FEDERAL AVIATION ADMINISTRATION*. C. A. Fed. Cir. Certiorari denied. Reported below: 802 F. 2d 469.

No. 86-5017. *GRAYBILL v. UNITED STATES POSTAL SERVICE*. C. A. Fed. Cir. Certiorari denied. Reported below: 782 F. 2d 1567.

No. 86-5054. *MENDIOLA-NAVARETTE v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 790 F. 2d 85.

No. 86-5077. *RUFFEN v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 780 F. 2d 1493.

No. 86-5081. *RILEY v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 788 F. 2d 521.

No. 86-5118. *CRAIG v. ENGLE, DEPUTY DIRECTOR, CORRECTIONAL PROGRAMS, ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 793 F. 2d 1291.

No. 86-5187. *REEVES v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 794 F. 2d 1101.

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No. 86-5209. *WINDSOR v. IDAHO*. Sup. Ct. Idaho. Certiorari denied. Reported below: 110 Idaho 410, 716 P. 2d 1182.

No. 86-5210. *LIGHTFOOT v. WHITE, WARDEN, ET AL.* C. A. 11th Cir. Certiorari denied. Reported below: 791 F. 2d 171.

No. 86-5229. *SALGADO-HERNANDEZ v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 790 F. 2d 1265.

No. 86-5241. *BELL v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 798 F. 2d 1416.

No. 86-5261. *SLADER v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 791 F. 2d 655.

No. 86-5268. *ARTIS v. UNITED STATES*. Ct. App. D. C. Certiorari denied. Reported below: 505 A. 2d 52.

No. 86-5312. *ROWLAND v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 789 F. 2d 1169.

No. 86-5328. *DAVIS v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 792 F. 2d 1299.

No. 86-5514. *LEYTON-ARGENAL v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 794 F. 2d 683.

No. 86-5551. *STANKOWSKI v. CONTE ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 800 F. 2d 1139.

No. 86-5554. *RODRIGUES v. GUDEMAN ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 794 F. 2d 1458.

No. 86-5555. *SMITH v. CONFEDERATED TRIBES OF THE WARM SPRINGS RESERVATION OF OREGON*. C. A. 9th Cir. Certiorari denied. Reported below: 783 F. 2d 1409.

No. 86-5558. *BRITTON v. PERINI, SUPERINTENDENT, MARION CORRECTIONAL INSTITUTION*. C. A. 6th Cir. Certiorari denied. Reported below: 798 F. 2d 1413.

No. 86-5560. *BROWN v. WELLDON ET AL.* C. A. 11th Cir. Certiorari denied.

No. 86-5561. *MCCARTHY v. LOPES, COMMISSIONER, CONNECTICUT DEPARTMENT OF CORRECTIONS*. Sup. Ct. Conn. Certiorari denied. Reported below: 201 Conn. 115, 513 A. 2d 139.

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No. 86-5562. *McRAE v. BLACKBURN, WARDEN*. C. A. 5th Cir. Certiorari denied. Reported below: 793 F. 2d 684.

No. 86-5564. *HERSHIPS v. McCUTCHEN, DOYLE, BROWN & ENERSEN ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 796 F. 2d 478.

No. 86-5567. *CLEMENTE v. CAMPOY, WARDEN*. C. A. 9th Cir. Certiorari denied. Reported below: 794 F. 2d 682.

No. 86-5568. *JONES v. KEMP, WARDEN*. C. A. 11th Cir. Certiorari denied. Reported below: 794 F. 2d 1536.

No. 86-5569. *CROCHET v. BLACKBURN, WARDEN*. C. A. 5th Cir. Certiorari denied. Reported below: 797 F. 2d 975.

No. 86-5574. *PARR v. FOLTZ, REGIONAL ADMINISTRATOR, MICHIGAN DEPARTMENT OF CORRECTIONS*. C. A. 6th Cir. Certiorari denied. Reported below: 802 F. 2d 459.

No. 86-5580. *BALTSAVIAS v. SECRETARY OF HEALTH AND HUMAN SERVICES*. C. A. 2d Cir. Certiorari denied. Reported below: 792 F. 2d 136.

No. 86-5584. *MARSETT v. NEW JERSEY*. Super. Ct. N. J., App. Div. Certiorari denied.

No. 86-5585. *SALANARDI v. WARDEN, METROPOLITAN CORRECTIONAL CENTER, NEW YORK, NEW YORK*. C. A. 2d Cir. Certiorari denied. Reported below: 792 F. 2d 136.

No. 86-5643. *MASTERS v. COMMISSIONER OF INTERNAL REVENUE*. C. A. 9th Cir. Certiorari denied. Reported below: 791 F. 2d 937.

No. 86-5680. *HOLLIS v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 796 F. 2d 1043.

No. 86-5685. *FELTON v. HICKS ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 791 F. 2d 916.

No. 85-1903. *COLORADO v. SANTISTEVAN*. Sup. Ct. Colo. Motion of Colorado District Attorneys Council et al. for leave to file a brief as *amici curiae* granted. Certiorari denied. Reported below: 715 P. 2d 792.

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No. 85-2107. AMOCO OIL CO. v. JIM HEILIG OIL & GAS, INC., ET AL. C. A. 6th Cir. Certiorari denied. Reported below: 786 F. 2d 1163.

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

This case concerns an application of the "separate document" requirement for judgments contained in Rule 58 of the Federal Rules of Civil Procedure.¹ I dissent from the denial of certiorari because I am persuaded that the United States Court of Appeals for the Sixth Circuit misconstrued our prior cases having to do with the requirement.

Petitioner Amoco Oil Co. took an appeal from an order issued by the Bankruptcy Court for the Eastern District of Michigan. On May 21, 1985, the District Court affirmed the Bankruptcy Court's ruling by a memorandum and order consisting of a single document. Petitioner moved for reconsideration. The motion was denied on June 28 in a similar single-document memorandum and order.²

On July 25, 1985, Amoco filed a notice of appeal with the Court of Appeals for the Sixth Circuit. That court issued an order directing Amoco to show cause why the appeal should not be dismissed. It suggested that, because the District Court had issued

¹ Rule 58 reads in its entirety:

"Subject to the provisions of Rule 54(b): (1) upon a general verdict of a jury, or upon a decision by the court that a party shall recover only a sum certain or costs or that all relief shall be denied, the clerk, unless the court otherwise orders, shall forthwith prepare, sign, and enter the judgment without awaiting any direction by the court; (2) upon a decision by the court granting other relief, or upon a special verdict or a general verdict accompanied by answers to interrogatories, the court shall promptly approve the form of the judgment, and the clerk shall thereupon enter it. *Every judgment shall be set forth on a separate document. A judgment is effective only when so set forth and when entered as provided in Rule 79(a).* Entry of the judgment shall not be delayed for taxing of costs. Attorneys shall not submit forms of judgment except upon direction of the court, and these directions shall not be given as a matter of course." (Emphasis supplied.)

² Inasmuch as the motion for reconsideration was untimely, it is not clear why the District Court entertained it. See Fed. Rule Civ. Proc. 59(e). In any event, because of its untimeliness, the motion would not have tolled the time for Amoco's appeal had there been no Rule 58 problem with the District Court's original memorandum opinion and order. See Fed. Rule App. Proc. 4(a)(4).

its initial memorandum opinion and order on May 21, Amoco's filing would be 35 days late under Federal Rules of Appellate Procedure 4(a) and 26(a). App. to Pet. for Cert. C-1. In response, Amoco contended that, rather than being untimely, its appeal actually was premature, given that the District Court had never entered a judgment separate from the May 21 memorandum and order as Rule 58 requires. The Court of Appeals rejected this contention. It observed that in *Bankers Trust Co. v. Mallis*, 435 U. S. 381 (1978) (*per curiam*), this Court had adopted a common-sense, rather than a technical, approach to the requirements of Rule 58 so long as no party was misled. App. to Pet. for Cert. D-1. The Court of Appeals further noted that Amoco's motion for reconsideration of the May 21 memorandum and order demonstrated that Amoco considered that opinion to be the final decision. Accordingly, the court concluded: "The mere technicality that the district court failed to file a separate judgment should not be used to give jurisdiction to this Court of an untimely filed appeal in which the parties were not misled by the lack of a separate judgment." *Id.*, at D-1 to D-2.

Rule 58 provides in pertinent part: "Every judgment shall be set forth on a separate document." See n. 1, *supra*. The genesis and purpose of this "separate document" requirement, which was added to Rule 58 by amendment in 1963, are explained in the Advisory Committee Notes. Prior to the amendment difficulties had arisen in situations where a court had "written an opinion or memorandum containing some apparently directive or dispositive words, *e. g.*, 'the plaintiff's motion [for summary judgment] is granted.'" 28 U. S. C. App., p. 627. At times court clerks had viewed these documents as a sufficient basis for entering a judgment. Problems occasionally arose, however, when the documents did not provide all the necessary elements of the judgment or when the court later would issue a formal judgment. Parties were thus uncertain as to when the judgment was effective and as to when the time began to run for purposes of filing postjudgment motions and appeals. The Advisory Committee observed: "The amended rule eliminates these uncertainties by requiring that there be a judgment set out on a separate document—distinct from any opinion or memorandum—which provides the basis for the entry of judgment." *Id.*, at 628.

This Court already has been concerned with the interpretation of Rule 58. In *United States v. Indrelunas*, 411 U. S. 216 (1973)

(*per curiam*), it was faced with a situation where, although a docket entry had been made on March 21, 1969, which noted jury verdicts in favor of respondent and another against the Government, the formal judgment specifying the amount of the verdicts was not entered until February 25, 1971. The Court of Appeals for the Seventh Circuit dismissed the Government's appeal, filed after the 1971 entry, as untimely. This Court reviewed the history of the 1963 amendment to Rule 58 and cited with approval Professor Moore's remark that the Rule constituted "'a mechanical change that would be subject to criticism for its formalism were it not for the fact that something like this was needed to make certain when a judgment becomes effective.'" *Id.*, at 220 (quoting 6A J. Moore, Federal Practice §58.04[4.-2], p. 58-161 (1972)). It also concluded that the appeal taken and abandoned by the Government during the time between the docketing of the jury verdict and the entry of judgment was not an appropriate part of the Rule 58 inquiry. It noted simply that "whatever may be the appropriate sanctions available in a particular case for capricious conduct on the part of a litigant, we do not believe that a case-by-case tailoring of the 'separate document' provision of Rule 58 is one of them." 411 U. S., at 221. Accordingly, it concluded that the mechanical application of Rule 58, as advocated by Professor Moore, was appropriate and required reversal of the Court of Appeals' judgment.

In *Bankers Trust, supra*, the Court returned to the separate-document matter. There the Court of Appeals for the Second Circuit had proceeded to a consideration of the merits of an appeal even though it could find no document appearing to be a judgment of the District Court. See *id.*, at 382. The Court of Appeals based its decision on the fact that the District Court and the parties assumed that the dismissal had been adjudicated. *Ibid.* We approved that conclusion. We first observed that the major purpose behind the separate-document requirement was to clarify when the time for an appeal begins to run. Citing the remarks of the Advisory Committee mentioned above, we further noted that the separate-document requirement was aimed particularly at "avoid[ing] the inequities that were inherent when a party appealed from a document or docket entry that appeared to be a final judgment of the district court only to have the appellate court announce later that an earlier document or entry had been the judgment and dismiss the appeal as untimely." *Id.*, at 385.

We could not see, however, how the purpose of Rule 58 or the concerns of the Advisory Committee would be served in that case by depriving the Court of Appeals of jurisdiction because of the absence of a separate document. If the court were to lose jurisdiction for this reason, then "[u]pon dismissal, the district court would simply file and enter the separate judgment, from which a timely appeal would then be taken. Wheels would spin for no practical purpose." *Ibid.* While observing that "[t]echnical application" of Rule 58 would be necessary in a situation similar to the one in *Indrelunas* to avoid a party's uncertainty as to when to bring an appeal, we concluded that the rule "should not prevent the parties from waiving the separate-judgment requirement where one has accidentally not been entered." 435 U. S., at 386. In this respect, we cited another remark of Professor Moore: "[I]t must be remembered that the rule is designed to simplify and make certain the matter of appealability. It is not designed as a trap for the inexperienced. . . . The rule should be interpreted to prevent loss of the right of appeal, not to facilitate loss.'" *Ibid.* (quoting 9 J. Moore, Federal Practice ¶110.08[2], pp. 119-120 (1970)).

These two decisions, I believe, are to be read to support the following proposition: the separate-document requirement must be applied mechanically in order to *protect* a party's right of appeal, although parties may waive this requirement in order to maintain appellate jurisdiction of their case. Cf. 6A J. Moore, J. Lucas, & G. Grotheer, Moore's Federal Practice ¶58.02.1, p. 58-22 (2d ed. 1986). The fundamental error of the Court of Appeals in this case, therefore, was to employ Amoco's purported waiver to *defeat* its appeal. Amoco's filing for reconsideration might well have signaled its recognition that the May 21 order was indeed the final judgment. As the Court made clear in *Indrelunas*, however, while relevant to the question of sanctions, a party's conduct is irrelevant to the application of Rule 58 unless it serves to *maintain* the right of appeal. Given that a finding of waiver in this case results in Amoco's loss of its right of appeal, then, under our earlier decisions in *Indrelunas* and *Bankers Trust*, Rule 58 should have been applied mechanically. The Court of Appeals should have dismissed the purported appeal and directed the District Court to enter a final judgment, from which a proper appeal could lie. Accordingly, I would grant certiorari and reverse the judgment of the Court of Appeals.

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No. 86-219. SOUTHERN UNION CO. *v.* JICARILLA APACHE TRIBE ET AL.;

No. 86-224. SOUTHLAND ROYALTY CO. *v.* JICARILLA APACHE TRIBE ET AL.;

No. 86-225. EXXON CORP. *v.* JICARILLA APACHE TRIBE ET AL.; and

No. 86-226. UNICON PRODUCING CO. *v.* JICARILLA APACHE TRIBE ET AL. C. A. 10th Cir. Motion of Mountain States Legal Foundation for leave to file a brief as *amicus curiae* granted. Certiorari denied. Reported below: 782 F. 2d 855 and 793 F. 2d 1171.

No. 86-283. COX *v.* COX. Ct. App. Cal., 4th App. Dist. Certiorari denied.

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

This Court, in *McCarty v. McCarty*, 453 U. S. 210 (1981), held that federal law precludes a state court from dividing military retired pay pursuant to state community property laws. Congress, concerned with the effect our holding would have on the divorced spouses of retired military personnel, enacted the Uniformed Services Former Spouse's Protection Act (USFSPA), Pub. L. 97-252, 96 Stat. 730, 10 U. S. C. § 1408. That Act, in effect, nullified our decision in *McCarty* and permitted States to treat military retired pay as either the property of the military member or as property of both the member and his spouse. California enacted 1983 Cal. Stats., ch. 775, Cal. Civ. Code Ann. § 5124 (West) (effective up to January 1, 1986). In so doing, the California Legislature declared that California would return to its pre-*McCarty* practice of treating military retired pay as community property.

This case presents the question whether USFSPA is to be given retroactive effect. In other words, is that Act to be read to permit spouses, whose divorce decrees were made final after our decision in *McCarty* but before USFSPA was enacted, to set aside that part of their divorce decrees denying them a share in a military pension because of our holding in *McCarty*. Petitioner in this case attempted to set aside her divorce decree which became final during the period of time between our decision in *McCarty* and enactment of USFSPA. The California Court of Appeal held that USFSPA is not to be given retroactive effect. Other state courts which have considered this question have come to a differ-

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ent conclusion. *E. g.*, *Edsall v. Superior Court*, 143 Ariz. 240, 693 P. 2d 895 (1984); *Smith v. Smith*, 458 A. 2d 711 (Del. Fam. Ct. 1983). Because of this confusion, and because the answer to the question presented turns on an interpretation of a federal statute, I would grant the petition for certiorari.

No. 86-459. *COOPER INDUSTRIES, INC. v. I. A. M. NATIONAL PENSION FUND BENEFIT PLAN A ET AL.* C. A. D. C. Cir. Certiorari denied. JUSTICE WHITE took no part in the consideration or decision of this petition. Reported below: 252 U. S. App. D. C. 189, 789 F. 2d 21.

No. 86-460. *McMAHON ET AL. v. McDOWELL ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 794 F. 2d 100.

JUSTICE WHITE, dissenting.

In this case the Court of Appeals for the Third Circuit held that certain provisions of the Pennsylvania Wage Payment and Collection Law (WPCL), Pa. Stat. Ann., Title 43, § 260.1 *et seq.* (Purdon 1964 and Supp. 1986), were pre-empted by § 514(a) of the Employee Retirement Income Security Act of 1974 (ERISA), 88 Stat. 897, 29 U. S. C. § 1144(a). 794 F. 2d 100 (1986). The WPCL authorizes an employee to sue his or her employer for wages, fringe benefits, and pension plan contributions. The Court of Appeals reasoned that these provisions could not withstand the preemptive sweep of § 514(a), inasmuch as ERISA establishes a comprehensive mechanism for the recovery of delinquent pension plan contributions, and the petitioner-employees in this case were attempting to avoid this mechanism and "substitute instead a state regulation that circumvents the scheme carefully devised by Congress." 794 F. 2d, at 107. This holding conflicts with the decision in *Sasso v. Vachris*, 66 N. Y. 2d 28, 484 N. E. 2d 1359 (1985). In that case, the Court of Appeals of the State of New York held that § 514(a) did not pre-empt N. Y. Bus. Corp. Law § 630 (McKinney 1986), which imposes personal liability upon the 10 largest shareholders of a closely held New York corporation for the payment of pension fund contributions owed its employees. Observing that ERISA also contained remedial provisions for the collection of delinquent contributions, the *Sasso* court stated that these remedies "merely supplement, rather than supersede, existing State remedies" 66 N. Y. 2d, at 36, 484 N. E. 2d, at 1364. I would grant the petition for certiorari to resolve this conflict.

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No. 86-471. COOPER ET AL. *v.* FORSYTH COUNTY HOSPITAL AUTHORITY, INC., ET AL. C. A. 4th Cir. Certiorari denied. JUSTICE WHITE and JUSTICE BLACKMUN took no part in the consideration or decision of this petition. Reported below: 789 F. 2d 278.

No. 86-496. VOLKSWAGEN OF AMERICA, INC. *v.* PROTON. C. A. 3d Cir. Certiorari denied. JUSTICE WHITE would grant certiorari. Reported below: 797 F. 2d 129.

No. 86-601. MATHES *v.* COMMISSIONER OF INTERNAL REVENUE. C. A. D. C. Cir. Certiorari denied. JUSTICE SCALIA took no part in the consideration or decision of this petition. Reported below: 252 U. S. App. D. C. 131, 788 F. 2d 33.

No. 86-5541. MAXWELL *v.* FLORIDA. Sup. Ct. Fla. Certiorari denied. Reported below: 490 So. 2d 927.

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 under all circumstances cruel and unusual punishment forbidden by the Eighth and Fourteenth Amendments, I would vacate the judgment of the Florida Supreme Court insofar as it left undisturbed the death sentence imposed in this case. *Gregg v. Georgia*, 428 U. S. 153, 231 (1976) (MARSHALL, J., dissenting). However, even if I believed that the death penalty could constitutionally be imposed under certain circumstances, I would nevertheless grant certiorari because petitioner's Sixth Amendment right to effective assistance of counsel required that he be given access to his trial counsel's work files for use in his state habeas corpus hearing in which he alleged that trial counsel's representation was constitutionally deficient.

I

Petitioner was convicted of murder and sentenced to death after a jury trial. The Supreme Court of Florida affirmed his conviction and sentence on direct appeal. 443 So. 2d 967 (1983). Fol-

lowing the issuance of a death warrant, petitioner sought habeas corpus relief in state court. After a hearing, the habeas petition was denied; the Supreme Court of Florida again affirmed. *Maxwell v. Wainwright*, 490 So. 2d 927 (1986).

The petition stated a claim for ineffective assistance of trial counsel, challenging counsel's failure to make certain motions and objections in the course of petitioner's defense. The habeas petition also alleged that trial counsel, engaged in his first attempt to defend a client on capital charges, inadequately investigated petitioner's background in preparation for the penalty phase of the trial. *Id.*, at 932-933.

Prior to the hearing, petitioner's trial counsel refused habeas counsel's informal request to produce work files pertaining to petitioner's defense. Time constraints did not permit habeas counsel to subpoena these materials before filing petitioner's motion for habeas corpus relief.¹ When the trial attorney testified at the hearing, he admitted denying access to the requested files and again refused production. He offered this justification for his refusal:

"It is my reason and belief that . . . if I'm going to divulge or reveal or to allow people to inspect my files it should be done by court order from either side and the reason for that belief is that I think and believe wholeheartedly that if an attorney who's a trial attorney is preparing his case for trial that if its going to be subject to review a couple of years later it may put a chilling effect on an attorney making notes or work product or whatever have you.

"In other words, that attorney may not be as free to express himself within his own confines of his file and, consequently, until a court orders me to do so and that's determined to be a lawful order, I have refused permission to turn it over to you." App. to Brief in Opposition 19-20.

Habeas counsel then moved to compel production of the trial attorney's entire file. The state court denied this motion "based upon [trial counsel's] rationale." *Id.*, at 20.

Without the file, petitioner was unable to demonstrate the alleged deficiency of trial counsel's representation, particularly with respect to his preparation for the penalty phase of petitioner's trial.

¹ Habeas counsel agreed to represent petitioner on October 30, 1984. The State of Florida had scheduled petitioner's execution for November 7, 1984.

This was due in large part to the attorney's apparent inability to recall important details of his representation. For example:

"Q. Did you obtain a release from Mr. Maxwell to try to take a look at any of [the State's] records?

"A. I don't have any recollection of that.

"Q. So you didn't even obtain a release from Mr. Maxwell?

"A. I didn't say that.

"Q. You said you don't have any recollection?

"A. Exactly.

"Q. Would it be in the file if you had?

"A. You're asking hypothetical questions and I don't know. I make notations on actions that I take in a great majority of times. Sometimes I don't make notations. So it's hard for me to answer that.

"Q. Something like a release of medical information?

"A. That should be in the file.

"Q. Did you try to obtain or review any of Mr. Maxwell's medical records?

"A. I have no recollection of that." *Id.*, at 27-28.

"Q. Other than the motions and memoranda you filed in the court file to the penalty phase, did you prepare any internal memorandum regarding the application of the aggravating and mitigating circumstances to this case?

"A. I had a lot of law or some law—the word 'a lot' is relative—into that case and whether I dictated memorandums or not, I don't remember. If I have them, I have them. If I don't, I don't.

"Q. But again those would be in your file; wouldn't it?

"A. Yes. . . ." *Id.*, at 36.

"Q. Do you recall finding out about any traumatic experiences Mr. Maxwell had?

"A. I may or may not have.

"Q. You may or may not?

"A. I'm sure I dealt in that area though.

"Q. Did you speak with any teachers Mr. Maxwell had?

"A. I have no recollection of doing that at all.

"Q. Ministers?

"A. Now, Joseph Maxwell [petitioner's father] was very religious and I don't remember whether I talked to a minister

or priest or a clergyman in that area or not. I don't specifically remember although it's possible.

"You have to remember it's three years I have not looked at that file and there's just things I don't remember because of the multitude of things that have happened since then.

"Q. I understand. If we had the file, would we be able to find out the answers to some of these questions?

"A. I'm afraid not. In some areas, yes, in some areas, no, because I don't make extensive notes on what I don't do. What I do is make notes on what I do do. And when you're coming from a negative position, I will not necessarily have notes to protect myself. More or less, I don't prepare a case to protect myself.

"So I may not have those kinds of notes. I would have notes as to what I did do." *Id.*, at 44-45.

On appeal to the Florida Supreme Court, petitioner argued that the denial of his requests for access to his trial attorney's files had impaired his due process right to a full and fair evidentiary hearing on his claim of ineffective assistance of counsel. The court rejected this argument with no substantive discussion, holding simply that "the hearing on the motion comported with due process principles." 490 So. 2d, at 932.

II

An essential element of our society's protection of citizens accused of crime is the right to effective assistance of counsel. *Strickland v. Washington*, 466 U. S. 668 (1984); *Gideon v. Wainwright*, 372 U. S. 335 (1963). "Counsel is provided to assist the defendant in presenting his defense, but in order to do so effectively the attorney must work closely with the defendant in formulating defense strategy. . . . Moreover, counsel is likely to have to make a number of crucial decisions throughout the proceedings on a range of subjects that may require consultation with the defendant. These decisions can best be made, and counsel's duties most effectively discharged, if the attorney and the defendant have a relationship characterized by trust and confidence." *Morris v. Slappy*, 461 U. S. 1, 21 (1983) (BRENNAN, J., concurring in result). Counsel's duty to maintain this trust and confidence extends beyond the trial itself. Though he may not continue to represent the defendant following conviction and the disposition of post-trial motions,

he must nevertheless cooperate with defendant's attempts to challenge the conviction or sentence, especially if he possesses unique information about a claim the defendant seeks to raise. Use of this information may be the decisive factor in determining the defendant's failure or success on direct or collateral review.

A defendant's interest in the information in his trial counsel's exclusive possession is of even greater significance when the defendant alleges ineffective assistance by trial counsel. Providing access to such information unquestionably advances the inquiry this Court identified in *Strickland v. Washington*, *supra*, at 689, as essential to determining whether counsel has rendered ineffective assistance: "A fair assessment of attorney performance requires that every effort be made to eliminate the distorting effects of hindsight, to reconstruct the circumstances of counsel's challenged conduct, and to evaluate the conduct from counsel's perspective at the time." There is no more accurate or reliable evidence of trial counsel's actual perspective and extent of preparation than the contents of his client's case file. Access to these materials is critical where, as here, trial counsel's testimony rests on little more than vague recollections. Indeed, with respect to petitioner's allegation that his trial attorney did not adequately prepare for the sentencing proceeding, petitioner's need for access to the work files is of paramount importance. Denying access to what may be the most relevant evidence of the adequacy of legal representation is, in this respect, "fundamentally incompatible with the Eighth Amendment's heightened 'need for reliability in the determination that death is the appropriate punishment . . .'" *Caldwell v. Mississippi*, 472 U. S. 320, 340 (1985) (quoting *Woodson v. North Carolina*, 428 U. S. 280, 305 (1976)).

The courts below erred, in violation of petitioner's Sixth Amendment rights, in accepting trial counsel's reasons for withholding petitioner's files.² The right to effective assistance fully encom-

²To the extent the Florida courts accepted trial counsel's suggested work-product doctrine, their rulings vastly misconstrue this doctrine's underlying purpose; the privilege to withhold an attorney's work product belongs to the client, and in this case petitioner seeks access to files retained by his own attorney. Cf. *Spivey v. Zant*, 683 F. 2d 881, 885 (CA5 1982) (interpreting Federal Rule of Civil Procedure 26(b)(3)). The attorney's asserted need to ensure that he is "free to express himself" within the confines of a written file is likewise without merit. He seems to claim that if his recorded thoughts are not protected from discovery, he will be less likely to inform himself and

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passes the client's right to obtain from trial counsel the work files generated during and pertinent to that client's defense. It further entitles the client to utilize materials contained in these files in any proceeding at which the adequacy of trial counsel's representation may be challenged.³

I would grant the petition for certiorari.

Rehearing Denied

No. 86-5354. *GEURIN v. UNITED STATES*, ante, p. 888. Petition for rehearing denied.

No. 85-2043. *HOFFART v. TEXAS*, ante, p. 824;

No. 85-2135. *HARDIN v. GILBERT & COLVIN* (two cases), ante, p. 828;

No. 85-2160. *TOWN OF NORWOOD v. UNCOMPAHGRE VALLEY WATER USERS ASSN. ET AL.*, ante, p. 829;

No. 85-6572. *BOUDREAUX v. BLACKBURN, WARDEN*, ante, p. 830;

No. 85-6883. *BUCKMORE v. UNITED STATES ET AL.*, ante, p. 833;

No. 85-6916. *WILLIAMS v. NELLO L. TEER CO. ET AL.*, ante, p. 833;

No. 85-6957. *FLOWERS v. COUGHLIN, COMMISSIONER, NEW YORK STATE DEPARTMENT OF CORRECTIONS, ET AL.*, ante, p. 835;

No. 85-6960. *MAXHAM v. DEPARTMENT OF THE NAVY*, ante, p. 835;

consider along with his client the various defensive strategies that might be available. In other words, he argues that he will be less likely to provide effective assistance of counsel, and yet this is precisely the issue petitioner wishes to investigate. I cannot accept that a lawyer should oppose the disclosure of recorded thoughts that do not evidence ineffective assistance; nor can I accept that petitioner's Sixth Amendment rights do not prevail over his lawyer's asserted privacy interests where that lawyer's recorded thoughts may reflect that ineffective assistance has in fact been rendered.

³Though States are not constitutionally required to establish avenues for seeking postconviction relief from an erroneous conviction, "when a State opts to act in a field where its action has significant discretionary elements, it must nonetheless act in accord with the dictates of the Constitution—and, in particular, in accord with the Due Process Clause." *Evitts v. Lucey*, 469 U. S. 387, 401 (1985).

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- No. 85-7025. *HOLLINS v. HENKEL*, ante, p. 837;
No. 85-7035. *TRAUNIG v. VETERANS ADMINISTRATION*, ante, p. 837;
No. 85-7064. *COMSIA v. BURKHART ET UX.*, ante, p. 839;
No. 85-7098. *IN RE NELSON*, ante, p. 810;
No. 85-7109. *SIMMONS v. DEPARTMENT OF THE NAVY*, ante, p. 841;
No. 85-7172. *SKINNER v. UNITED STATES*, ante, p. 844;
No. 85-7181. *LEE v. HARDAGE ET AL.*, ante, p. 845;
No. 85-7222. *COLLIER v. NEWSOME, SUPERINTENDENT, GEORGIA STATE PRISON, ET AL.*, ante, p. 846;
No. 85-7224. *PICCIANDRA v. UNITED STATES*, ante, p. 847;
No. 86-35. *POLYAK v. HULEN ET AL.* (two cases), ante, p. 803;
No. 86-5052. *WILKINS v. KANE ET AL.*, ante, p. 858;
No. 86-5056. *JOHL v. JOHL ET AL.*, ante, p. 858;
No. 86-5217. *IN RE MEADOWS*, ante, p. 810;
No. 86-5225. *DAVIS v. CHILDREN'S HOSPITAL OF NORTHERN CALIFORNIA ET AL.*, ante, p. 866; and
No. 86-5258. *ISHIHARA v. UNITED STATES*, ante, p. 867. Petitions for rehearing denied. JUSTICE SCALIA took no part in the consideration or decision of these petitions.

NOVEMBER 19, 1986

Miscellaneous Order

No. A-386. *WAINWRIGHT, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS v. BUNDY*. Application of the Attorney General of Florida for an order to vacate the stay of execution of sentence of death entered by the United States Court of Appeals for the Eleventh Circuit, presented to JUSTICE POWELL, and by him referred to the Court, denied.

NOVEMBER 26, 1986

Dismissals Under Rule 53

No. 86-5571. *MELLENDEZ-CARRION ET AL. v. UNITED STATES*. C. A. 2d Cir. Certiorari dismissed under this Court's Rule 53. Reported below: 790 F. 2d 984.

No. 86-5607. *BERRIOS-BERRIOS v. UNITED STATES*. C. A. 2d Cir. Certiorari dismissed under this Court's Rule 53. Reported below: 791 F. 2d 246.

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NOVEMBER 28, 1986

Dismissal Under Rule 53

No. 86-451. *SOHIO ALASKA PETROLEUM CO. v. CIBRO PETROLEUM PRODUCTS, INC.* Temp. Emerg. Ct. App. Certiorari dismissed under this Court's Rule 53. Reported below: 798 F. 2d 1421.

DECEMBER 1, 1986

Appeals Dismissed

No. 86-94. *PIPKIN v. COLORADO.* Appeal from Dist. Ct. Colo., Arapahoe County, dismissed for want of substantial federal question.

No. 86-5618. *FRANKLIN v. TENNESSEE.* Appeal from Sup. Ct. Tenn. dismissed for want of substantial federal question. Reported below: 714 S. W. 2d 252.

No. 86-571. *MENDONCA v. OREGON.* Appeal from Ct. App. Ore. dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied. Reported below: 77 Ore. App. 195, 712 P. 2d 186.

No. 86-586. *HUDSON v. EDGETT ET AL.* Appeal from C. A. 2d Cir. dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied.

No. 86-5587. *PRENZLER v. JONES 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.

No. 86-5609. *STEVENSON v. ELUA.* Appeal from Sup. Ct. Haw. dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied.

No. 86-5633. *SEITU v. CITY OF JACKSON, MISSISSIPPI, ET AL.* Appeal from C. A. 5th Cir. dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied. Reported below: 788 F. 2d 1563.

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No. 86-612. PRUDENTIAL FEDERAL SAVINGS & LOAN ASSN. ET AL. *v.* FLANIGAN. Appeal from Sup. Ct. Mont. dismissed for want of properly presented federal question. Reported below: 221 Mont. 419, 720 P. 2d 257.

No. 86-5642. PETERSEN *v.* ATLANTIC GULF & PACIFIC CO. ET AL. Appeal from D. C. S. D. Tex. dismissed for want of jurisdiction.

Vacated and Remanded on Appeal

No. 85-1773. OBERLY, ATTORNEY GENERAL OF DELAWARE, ET AL. *v.* BALTIMORE & OHIO RAILROAD CO. ET AL. Appeal from C. A. 3d Cir. Judgment vacated and case remanded for further consideration in light of the position presently asserted by the Solicitor General in his brief as *amicus curiae* filed November 10, 1986. THE CHIEF JUSTICE would note probable jurisdiction and set case for oral argument. Reported below: 782 F. 2d 29.

Miscellaneous Orders

No. D-563. IN RE DISBARMENT OF JAMES. Disbarment entered. [For earlier order herein, see 478 U. S. 1034.]

No. D-565. IN RE DISBARMENT OF MCCLOSKEY. Disbarment entered. [For earlier order herein, see 478 U. S. 1037.]

No. 85-792. INTERSTATE COMMERCE COMMISSION *v.* BROTHERHOOD OF LOCOMOTIVE ENGINEERS ET AL.; and

No. 85-793. MISSOURI-KANSAS-TEXAS RAILROAD CO. *v.* BROTHERHOOD OF LOCOMOTIVE ENGINEERS ET AL. C. A. D. C. Cir. [Certiorari granted, 475 U. S. 1081.] Counsel for the parties are invited to file supplemental briefs, not to exceed 10 pages in length (15 pages if filed on behalf of both petitioners or both respondents), limited to the following question: "In view of 28 U. S. C. § 2344, 49 U. S. C. § 10327(i), and the passage of more than 60 days between (1) respondents' appeals from the Interstate Commerce Commission's October 25, 1983, order, declining to reconsider its May 18, 1983, order regarding respondent Brotherhood of Locomotive Engineers' motion for clarification, and (2) service of the Commission's May 18, 1983, clarification order, did the appeals properly bring before the reviewing court the May 18, 1983, order?" Briefs may be submitted no later than December 22, 1986.

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No. 85-2067. UNITED STATES *v.* MENDOZA-LOPEZ ET AL. C. A. 8th Cir. [Certiorari granted, *ante*, p. 811.] Motion for appointment of counsel granted, and it is ordered that Kathy Goudy, of Lincoln, Neb., be appointed to serve as counsel for respondents in this case.

No. 85-6461. MARTIN *v.* OHIO. Sup. Ct. Ohio. [Certiorari granted, 475 U. S. 1119.] Motion of respondent to strike reply brief denied.

No. 86-6. RICKETTS, DIRECTOR, ARIZONA DEPARTMENT OF CORRECTIONS, ET AL. *v.* ADAMSON. C. A. 9th Cir. [Certiorari granted, *ante*, p. 812.] Motion of respondent to disqualify petitioner's counsel denied.

No. 86-5082. WRENN *v.* OHIO DEPARTMENT OF MENTAL HEALTH ET AL., *ante*, p. 809. Motion of petitioner to reconsider the order denying leave to proceed *in forma pauperis* denied. JUSTICE SCALIA took no part in the consideration or decision of this motion.

No. 86-5596. WRENN *v.* MISSOURI. C. A. 8th Cir. Motion of petitioner for leave to proceed *in forma pauperis* denied. Petitioner is allowed until December 22, 1986, 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.

JUSTICE BRENNAN and JUSTICE MARSHALL, dissenting.

For the reasons expressed in *Brown v. Herald Co.*, 464 U. S. 928 (1983), we would deny the petition for writ of certiorari without reaching the merits of the motion to proceed *in forma pauperis*.

No. 86-5740. ORPINUK *v.* UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES. C. A. Fed. Cir. Motion of petitioner for leave to proceed *in forma pauperis* denied. Petitioner is allowed until December 22, 1986, 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.

JUSTICE BRENNAN, JUSTICE MARSHALL, and JUSTICE STEVENS, dissenting.

For the reasons expressed in *Brown v. Herald Co.*, 464 U. S. 928 (1983), we would deny the petition for writ of certiorari

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without reaching the merits of the motion to proceed *in forma pauperis*.

No. 86-5592. IN RE FILIPAS;

No. 86-5612. IN RE HJELTER; and

No. 86-5675. IN RE JAMES. Petitions for writs of mandamus denied.

No. 86-692. IN RE REAL. Petition for writ of mandamus and/or prohibition denied.

Probable Jurisdiction Noted

No. 86-566. PERRY ET AL. *v.* THOMAS. Appeal from Ct. App. Cal., 2d App. Dist. Probable jurisdiction noted.

No. 86-231. PENSION BENEFIT GUARANTY CORPORATION *v.* YAHN & McDONNELL, INC., ET AL.; and

No. 86-253. UNITED RETAIL & WHOLESALE EMPLOYEES TEAMSTERS UNION LOCAL NO. 115 PENSION PLAN ET AL. *v.* YAHN & McDONNELL, INC., ET AL. Appeals from C. A. 3d Cir. Probable jurisdiction noted, cases consolidated, and a total of one hour allotted for oral argument. JUSTICE WHITE took no part in the consideration or decision of these cases. Reported below: 787 F. 2d 128.

Certiorari Granted

No. 86-260. SOUTH DAKOTA *v.* DOLE, SECRETARY OF TRANSPORTATION. C. A. 8th Cir. Certiorari granted. Reported below: 791 F. 2d 628.

No. 86-319. VAN DRASEK *v.* LEHMAN, SECRETARY OF THE NAVY, ET AL. C. A. Fed. Cir. Certiorari granted. Reported below: 790 F. 2d 90.

No. 86-381. CALIFORNIA *v.* SUPERIOR COURT OF CALIFORNIA, SAN BERNARDINO COUNTY (SMOLIN ET AL., REAL PARTIES IN INTEREST). Sup. Ct. Cal. Certiorari granted. Reported below: 41 Cal. 3d 758, 716 P. 2d 991.

No. 85-1626. GOODMAN ET AL. *v.* LUKENS STEEL CO. ET AL.; and

No. 85-2010. UNITED STEELWORKERS OF AMERICA, AFL-CIO-CLC, ET AL. *v.* GOODMAN ET AL. C. A. 3d Cir. Certiorari granted, cases consolidated, and a total of one hour allotted for oral argument. Reported below: 777 F. 2d 113.

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No. 85-2064. GREER, WARDEN *v.* MILLER. C. A. 7th Cir. Motion of respondent for leave to proceed *in forma pauperis* and certiorari granted. Reported below: 789 F. 2d 438.

No. 86-322. CRAWFORD FITTING CO. ET AL. *v.* J. T. GIBBONS, INC.; and

No. 86-328. CHAMPION INTERNATIONAL CORP. *v.* INTERNATIONAL WOODWORKERS OF AMERICA, AFL-CIO, CLC, ET AL. C. A. 5th Cir. Certiorari granted, cases consolidated, and a total of one hour allotted for oral argument. Reported below: No. 86-322, 790 F. 2d 1193; No. 86-328, 790 F. 2d 1174.

No. 86-497. AGENCY HOLDING CORP. ET AL. *v.* MALLEY-DUFF & ASSOCIATES, INC.; and

No. 86-531. CROWN LIFE INSURANCE CO. ET AL. *v.* MALLEY-DUFF & ASSOCIATES, INC., ET AL. C. A. 3d Cir. Certiorari granted in No. 86-497. Certiorari granted in No. 86-531 limited to Questions I and II presented by the petition. Cases consolidated and a total of one hour allotted for oral argument. Reported below: 792 F. 2d 341.

Certiorari Denied. (See also Nos. 86-571, 86-586, 86-5587, 86-5609, and 86-5633, *supra*.)

No. 85-1976. DYKES ET AL. *v.* DYKES ET AL. C. A. 11th Cir. Certiorari denied. Reported below: 783 F. 2d 1000.

No. 85-2002. J. YOUNG & CO., INC. *v.* M/V BOB LIVINGSTON ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 784 F. 2d 1112.

No. 85-2123. HUCKABY *v.* GEORGIA. Ct. App. Ga. Certiorari denied.

No. 85-2155. ANDERSON *v.* UNITED STATES POSTAL SERVICE. C. A. Fed. Cir. Certiorari denied. Reported below: 785 F. 2d 325.

No. 85-6973. DIXON *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 787 F. 2d 593.

No. 85-6978. MURPHY *v.* ALLSBROOK, SUPERINTENDENT, ODOM CORRECTIONAL COMPLEX, ET AL. C. A. 4th Cir. Certiorari denied. Reported below: 772 F. 2d 900.

No. 85-7129. WEST *v.* MISSISSIPPI. Sup. Ct. Miss. Certiorari denied. Reported below: 485 So. 2d 681.

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No. 85-7171. *VOGEL v. NICKS ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 787 F. 2d 594.

No. 86-58. *FRED S. JAMES & CO. OF TEXAS, INC. v. EQUILEASE CORP. ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 793 F. 2d 598.

No. 86-142. *CITY OF MONTGOMERY ET AL. v. BENJAMIN ET AL.* C. A. 11th Cir. Certiorari denied. Reported below: 785 F. 2d 959.

No. 86-151. *NEW YORK v. MATTISON.* Ct. App. N. Y. Certiorari denied. Reported below: 67 N. Y. 2d 462, 494 N. E. 2d 1374.

No. 86-241. *FIELDS ET AL. v. ROCKDALE COUNTY, GEORGIA, ET AL.* C. A. 11th Cir. Certiorari denied. Reported below: 785 F. 2d 1558.

No. 86-254. *BETHLEHEM STEEL CORP. v. PEMBERTON*; and
No. 86-444. *PEMBERTON v. BETHLEHEM STEEL CORP.* Ct. Sp. App. Md. Certiorari denied. Reported below: 66 Md. App. 133, 502 A. 2d 1101.

No. 86-271. *HOLLOWAY v. WALKER, JUDGE, ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 784 F. 2d 1287.

No. 86-275. *BOARD OF EDUCATION OF THE CITY OF NEW YORK ET AL. v. STEIN*; and

No. 86-533. *STEIN v. BOARD OF EDUCATION OF THE CITY OF NEW YORK ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 792 F. 2d 13.

No. 86-285. *DOYLE v. UNITED STATES.* C. A. 9th Cir. Certiorari denied. Reported below: 786 F. 2d 1440.

No. 86-294. *PERDUE ET AL. v. UNITED STATES.* C. A. 11th Cir. Certiorari denied. Reported below: 783 F. 2d 203.

No. 86-330. *LE BEAU v. DEPARTMENT OF TRANSPORTATION, FEDERAL AVIATION ADMINISTRATION.* C. A. Fed. Cir. Certiorari denied. Reported below: 795 F. 2d 1015.

No. 86-334. *ENSIGN ELECTRIC DIVISION OF HARVEY HUBBELL INC. ET AL. v. NATIONAL LABOR RELATIONS BOARD.* C. A. 4th Cir. Certiorari denied. Reported below: 767 F. 2d 1100 and 783 F. 2d 1121.

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No. 86-345. *THREE WAY CORP. ET AL. v. INTERSTATE COMMERCE COMMISSION ET AL.* C. A. D. C. Cir. Certiorari denied. Reported below: 253 U. S. App. D. C. 164, 792 F. 2d 232.

No. 86-347. *GRASSI ET AL. v. UNITED STATES.* C. A. 11th Cir. Certiorari denied. Reported below: 783 F. 2d 1572.

No. 86-365. *STANKO ET AL. v. UNITED STATES.* C. A. 10th Cir. Certiorari denied. Reported below: 793 F. 2d 232.

No. 86-370. *BRENNAN v. DEPARTMENT OF HEALTH AND HUMAN SERVICES.* C. A. Fed. Cir. Certiorari denied. Reported below: 787 F. 2d 1559.

No. 86-377. *CARVAJAL v. UNITED STATES.* C. A. 9th Cir. Certiorari denied. Reported below: 785 F. 2d 682.

No. 86-384. *SVETANOFF v. McMILLIAN.* C. A. 7th Cir. Certiorari denied. Reported below: 793 F. 2d 149.

No. 86-397. *CHURCH OF ST. PAUL AND ST. ANDREW v. BARWICK ET AL.* Ct. App. N. Y. Certiorari denied. Reported below: 67 N. Y. 2d 510, 496 N. E. 2d 183.

No. 86-411. *OTLOWSKI, MAYOR OF PERTH AMBOY, ET AL. v. KEAN, GOVERNOR OF NEW JERSEY, ET AL.* Super. Ct. N. J., App. Div. Certiorari denied.

No. 86-420. *LANG v. UNITED STATES ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 792 F. 2d 1235.

No. 86-501. *GARRIES v. UNITED STATES.* Ct. Mil. App. Certiorari denied. Reported below: 22 M. J. 288.

No. 86-521. *DiSALVO v. UNITED STATES.* C. A. 3d Cir. Certiorari denied. Reported below: 791 F. 2d 922.

No. 86-530. *KELLERMYER ET AL. v. BLUE FLAME GAS CORP. ET AL.* Temp. Emerg. Ct. App. Certiorari denied. Reported below: 797 F. 2d 983.

No. 86-539. *TORRENCE v. OXFORD MUNICIPAL SCHOOL DISTRICT ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 793 F. 2d 1289.

No. 86-544. *KENNEDY v. UNITED STATES.* C. A. 7th Cir. Certiorari denied. Reported below: 797 F. 2d 540.

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No. 86-545. *DUNCAN ET AL. v. VILLAGE OF MIDDLEFIELD, OHIO*. Sup. Ct. Ohio. Certiorari denied. Reported below: 23 Ohio St. 3d 83, 491 N. E. 2d 692.

No. 86-549. *THOMPSON, DBA LIBERTY SUPERMARKET NO. 29 v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 792 F. 2d 1119.

No. 86-552. *HUBBARD BROADCASTING, INC. v. METROPOLITAN SPORTS FACILITIES COMMISSION ET AL.* C. A. 8th Cir. Certiorari denied. Reported below: 797 F. 2d 552.

No. 86-555. *INTERNATIONAL FRUIT PRODUCTS CO., INC., ET AL. v. BRYANT ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 793 F. 2d 118.

No. 86-557. *SCOTT v. GREENBERG, EXECUTRIX OF THE ESTATE OF BARNETT, ET AL.* Ct. App. Ohio, Franklin County. Certiorari denied.

No. 86-560. *ODUM v. UNITED STATES PATENT AND TRADE-MARK OFFICE*. C. A. Fed. Cir. Certiorari denied. Reported below: 790 F. 2d 92.

No. 86-573. *TUN ET UX. v. KAUIKEOLANI CHILDREN'S HOSPITAL ET AL.* Sup. Ct. Haw. Certiorari denied.

No. 86-574. *CITY OF SCOTTSDALE v. CORRIGAN*. Ct. App. Ariz. Certiorari denied. Reported below: 149 Ariz. 553, 720 P. 2d 528.

No. 86-576. *SHOEMAKER ET AL. v. HANDEL, EXECUTIVE DIRECTOR OF THE NEW JERSEY RACING COMMISSION, ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 795 F. 2d 1136.

No. 86-577. *CALIFORNIA PACIFIC RESEARCH, INC. v. UNITED STATES POSTAL SERVICE*. C. A. 9th Cir. Certiorari denied. Reported below: 794 F. 2d 682.

No. 86-579. *FEUERER v. ADAMAR OF NEW JERSEY, INC.* C. A. 3d Cir. Certiorari denied. Reported below: 800 F. 2d 1132.

No. 86-580. *TUCKER ET AL. v. WHITAKER TRAVEL, LTD., ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 800 F. 2d 1140.

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No. 86-583. AUSTIN ET AL. *v.* LEXINGTON INSURANCE CO. C. A. 5th Cir. Certiorari denied. Reported below: 794 F. 2d 941.

No. 86-585. ALLEN ET AL. *v.* CALIFORNIA. App. Dept., Super. Ct. Cal., Orange County. Certiorari denied.

No. 86-588. AETNA CASUALTY & SURETY CO. *v.* SMITH PLUMBING, INC., DBA WHITE MOUNTAIN SUPPLY CO. Sup. Ct. Ariz. Certiorari denied. Reported below: 149 Ariz. 524, 720 P. 2d 499.

No. 86-590. UNIVERSAL CITY STUDIOS, INC. *v.* NINTENDO CO., LTD., ET AL. C. A. 2d Cir. Certiorari denied. Reported below: 797 F. 2d 70.

No. 86-593. NOWELL, THROUGH HIS MOTHER AND NEXT FRIEND, NOWELL, ET AL. *v.* UNIVERSAL ELECTRICAL CO. C. A. 5th Cir. Certiorari denied. Reported below: 792 F. 2d 1310.

No. 86-598. RAND ET AL. *v.* ANACONDA-ERICSSON, INC., ET AL. C. A. 2d Cir. Certiorari denied. Reported below: 794 F. 2d 843.

No. 86-599. SPIEGEL *v.* CONTINENTAL ILLINOIS NATIONAL BANK ET AL. C. A. 7th Cir. Certiorari denied. Reported below: 790 F. 2d 638.

No. 86-600. ENVIRONMENTAL CONTROL BOARD OF THE CITY OF NEW YORK ET AL. *v.* STERLING ET AL. C. A. 2d Cir. Certiorari denied. Reported below: 793 F. 2d 52 and 795 F. 2d 8.

No. 86-633. POTISOPHON ET AL. *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 798 F. 2d 1416.

No. 86-650. ROBINSON *v.* KENTUCKY. Cir. Ct. Ky., Campbell County. Certiorari denied.

No. 86-653. RENNA *v.* CITY COUNCIL OF THE CITY OF SARATOGA, CALIFORNIA, ET AL. Ct. App. Cal., 6th App. Dist. Certiorari denied.

No. 86-655. GOULD *v.* MUTUAL LIFE INSURANCE COMPANY OF NEW YORK. C. A. 9th Cir. Certiorari denied. Reported below: 790 F. 2d 769.

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No. 86-677. SEARS, ROEBUCK & CO. *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 785 F. 2d 777.

No. 86-698. IMANI, ON BEHALF OF HAYES *v.* BOWEN, SECRETARY OF HEALTH AND HUMAN SERVICES. C. A. 7th Cir. Certiorari denied. Reported below: 797 F. 2d 508.

No. 86-705. WILSON *v.* TURNAGE, DIRECTOR, SELECTIVE SERVICE SYSTEM. C. A. Fed. Cir. Certiorari denied. Reported below: 791 F. 2d 151.

No. 86-706. AGATE ET AL. *v.* GENERAL MOTORS CORP. C. A. 6th Cir. Certiorari denied. Reported below: 798 F. 2d 1413.

No. 86-708. BURWELL *v.* NATIONAL TRANSPORTATION SAFETY BOARD ET AL. C. A. D. C. Cir. Certiorari denied. Reported below: 253 U. S. App. D. C. 39, 791 F. 2d 210.

No. 86-721. PRAGER *v.* HODEL, SECRETARY OF THE INTERIOR, ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 793 F. 2d 730.

No. 86-722. HOWARD *v.* MARSH, SECRETARY OF THE ARMY. C. A. 8th Cir. Certiorari denied. Reported below: 785 F. 2d 645.

No. 86-5001. COUCH *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 791 F. 2d 931.

No. 86-5013. GARCES ET AL. *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied.

No. 86-5033. BORNING *v.* LOUISIANA. Sup. Ct. La. Certiorari denied. Reported below: 481 So. 2d 1330.

No. 86-5121. HOLBROOK *v.* SOUTH CAROLINA. Sup. Ct. S. C. Certiorari denied.

No. 86-5134. MOSIER *v.* MURPHY, WARDEN. C. A. 10th Cir. Certiorari denied. Reported below: 790 F. 2d 62.

No. 86-5143. ROBERTS *v.* LOCKHART, DIRECTOR, ARKANSAS DEPARTMENT OF CORRECTION. C. A. 8th Cir. Certiorari denied.

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No. 86-5184. *SCROGGINS v. IDAHO*. Sup. Ct. Idaho. Certiorari denied. Reported below: 110 Idaho 380, 716 P. 2d 1152.

No. 86-5235. *JOHNSON v. WHITE, WARDEN, ET AL.* C. A. 11th Cir. Certiorari denied.

No. 86-5242. *VELLEFF v. NEVADA*. Sup. Ct. Nev. Certiorari denied. Reported below: 102 Nev. 753.

No. 86-5257. *CRAWFORD v. GEORGIA*. Sup. Ct. Ga. Certiorari denied. Reported below: 256 Ga. 57, 344 S. E. 2d 215.

No. 86-5273. *VAUGHN v. CONNECTICUT*. Sup. Ct. Conn. Certiorari denied. Reported below: 199 Conn. 557, 508 A. 2d 430.

No. 86-5274. *BAGLEY v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 788 F. 2d 759.

No. 86-5276. *KELTON v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 791 F. 2d 101.

No. 86-5287. *FRY v. WISCONSIN*. Sup. Ct. Wis. Certiorari denied. Reported below: 131 Wis. 2d 153, 388 N. W. 2d 565.

No. 86-5289. *PLUMMER ET UX. v. PENNSYLVANIA DEPARTMENT OF PUBLIC ASSISTANCE ET AL.* C. A. 3d Cir. Certiorari before judgment denied.

No. 86-5296. *OWENS v. MAGUIRE*. C. A. 3d Cir. Certiorari denied.

No. 86-5320. *MILLER v. CALIFORNIA*. Ct. App. Cal., 4th App. Dist. Certiorari denied.

No. 86-5337. *ADKINS v. GREER, WARDEN, ET AL.* C. A. 7th Cir. Certiorari denied. Reported below: 791 F. 2d 590.

No. 86-5341. *CARTER v. WISCONSIN*. Sup. Ct. Wis. Certiorari denied. Reported below: 131 Wis. 2d 69, 389 N. W. 2d 1.

No. 86-5364. *SANCHEZ v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 790 F. 2d 245.

No. 86-5365. *HEYMAN v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 794 F. 2d 788.

No. 86-5368. *MILLER v. NEUBERT, SUPERINTENDENT, LEESBURG STATE PRISON, ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 796 F. 2d 598.

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No. 86-5389. *YOUNG ET AL. v. BOWEN, SECRETARY OF HEALTH AND HUMAN SERVICES*. C. A. 6th Cir. Certiorari denied. Reported below: 787 F. 2d 1064.

No. 86-5393. *PRENZLER v. SOCIAL SECURITY ADMINISTRATION*. C. A. 9th Cir. Certiorari denied.

No. 86-5394. *MERKEL ET AL. v. SCOVILL, INC.* C. A. 6th Cir. Certiorari denied. Reported below: 787 F. 2d 174.

No. 86-5395. *SCALF v. UNITED STATES*. C. A. 10th Cir. Certiorari denied.

No. 86-5431. *MARTIN v. SEARS, ROEBUCK & Co.* C. A. 10th Cir. Certiorari denied.

No. 86-5445. *KRAISELBURD v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 786 F. 2d 1395.

No. 86-5455. *KENNEY v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 789 F. 2d 783.

No. 86-5470. *LACHMAN v. UNITED STATES*. C. A. 9th Cir. Certiorari denied.

No. 86-5495. *JONES v. REIDEY ET AL.* C. A. D. C. Cir. Certiorari denied.

No. 86-5527. *HAWTHORNE v. OHIO*. Sup. Ct. Ohio. Certiorari denied.

No. 86-5539. *EKBLAD v. SHABAZ ET AL.* C. A. 7th Cir. Certiorari denied.

No. 86-5582. *WEBER v. STRAM*. Ct. App. Cal., 2d App. Dist. Certiorari denied.

No. 86-5586. *SCHLICHER v. KANSAS*. Sup. Ct. Kan. Certiorari denied.

No. 86-5588. *PHILLIPS v. MORRIS, SUPERINTENDENT, SOUTHERN OHIO CORRECTIONAL FACILITY*. C. A. 6th Cir. Certiorari denied.

No. 86-5589. *TAYLOR v. BOWEN, SECRETARY OF HEALTH AND HUMAN SERVICES*. C. A. 3d Cir. Certiorari denied. Reported below: 802 F. 2d 448.

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No. 86-5594. *WRIGHT v. FIRESTONE TIRE & RUBBER CO.* C. A. 11th Cir. Certiorari denied. Reported below: 798 F. 2d 1419.

No. 86-5595. *POPE v. JOLIET FEDERAL SAVINGS & LOAN ASSN. ET AL.* App. Ct. Ill., 3d Dist. Certiorari denied. Reported below: 138 Ill. App. 3d 1167, 502 N. E. 2d 876.

No. 86-5597. *BECKER v. SUFFOLK COUNTY LEGAL AID DIVISION.* C. A. 2d Cir. Certiorari denied.

No. 86-5604. *RIVERA v. FRANZEN, DIRECTOR, ILLINOIS DEPARTMENT OF CORRECTIONS, ET AL.* C. A. 7th Cir. Certiorari denied. Reported below: 794 F. 2d 314.

No. 86-5605. *BECKER v. ARCADIAN GARDENS.* C. A. 2d Cir. Certiorari denied. Reported below: 795 F. 2d 78.

No. 86-5606. *BECKER v. HENRY MODELLS & CO., INC.* C. A. 2d Cir. Certiorari denied.

No. 86-5608. *DALTON v. DELAWARE.* Sup. Ct. Del. Certiorari denied. Reported below: 514 A. 2d 413.

No. 86-5613. *ERWIN ET AL. v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. Reported below: 793 F. 2d 656.

No. 86-5619. *ADELMAN v. GRAVES.* C. A. 5th Cir. Certiorari denied.

No. 86-5622. *WOJTCZAK v. FULCOMER, SUPERINTENDENT, STATE CORRECTIONAL INSTITUTION AT HUNTINGDON, ET AL.* C. A. 3d Cir. Certiorari denied.

No. 86-5623. *PINTE v. RAFFERTY, SUPERINTENDENT, RAHWAY STATE PRISON, ET AL.* C. A. 3d Cir. Certiorari denied.

No. 86-5625. *PEARSON v. UNITED STATES.* C. A. 11th Cir. Certiorari denied. Reported below: 791 F. 2d 867.

No. 86-5626. *CARTER v. ST. LOUIS-SAN FRANCISCO RAILWAY CO.* C. A. 6th Cir. Certiorari denied. Reported below: 791 F. 2d 931.

No. 86-5634. *SMITH v. KANSAS.* Sup. Ct. Kan. Certiorari denied. Reported below: 239 Kan. 695.

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No. 86-5635. *O'BRIAIN v. CALIFORNIA*. Ct. App. Cal., 2d App. Dist. Certiorari denied.

No. 86-5636. *MITCHELL v. VARIOUS AGENCIES OF THE FEDERAL AND STATE GOVERNMENTS*. Sup. Ct. N. M. Certiorari denied.

No. 86-5637. *KOENIG v. SOLEM, WARDEN, ET AL.* C. A. 8th Cir. Certiorari denied. Reported below: 794 F. 2d 680.

No. 86-5638. *MCCOY v. CLERK OF COURT OF DARLINGTON COUNTY ET AL.* Sup. Ct. S. C. Certiorari denied.

No. 86-5640. *TAYLOR v. BORG, WARDEN*. C. A. 9th Cir. Certiorari denied.

No. 86-5641. *WILLIAMS v. UNION CARBIDE CORP.* C. A. 6th Cir. Certiorari denied. Reported below: 790 F. 2d 552.

No. 86-5645. *GILCES v. JONES*. C. A. 2d Cir. Certiorari denied.

No. 86-5646. *COLEMAN v. DELAWARE ET AL.* C. A. 3d Cir. Certiorari denied.

No. 86-5647. *BERCAW v. MANDAK, JUDGE*. C. A. 3d Cir. Certiorari denied.

No. 86-5650. *SLATER v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 788 F. 2d 1563.

No. 86-5651. *HOPPER v. INDIANA*. Ct. App. Ind. Certiorari denied. Reported below: 489 N. E. 2d 1209.

No. 86-5660. *DAVIS v. ROBBS ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 794 F. 2d 1129.

No. 86-5661. *KENNEY v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 796 F. 2d 480.

No. 86-5662. *GARCIA v. OHIO*. Ct. App. Ohio, Cuyahoga County. Certiorari denied.

No. 86-5663. *MURILLO v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 794 F. 2d 683.

No. 86-5665. *MYRICK v. UNITED STATES*. Ct. App. D. C. Certiorari denied. Reported below: 504 A. 2d 580.

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No. 86-5668. *MALAVE v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 801 F. 2d 1343.

No. 86-5669. *TODDY-GARCIA v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 797 F. 2d 976.

No. 86-5671. *FORD v. BURROUGHS CORP.* C. A. 3d Cir. Certiorari denied. Reported below: 800 F. 2d 1133.

No. 86-5676. *MCKNIGHT v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 800 F. 2d 1141.

No. 86-5687. *LYNCH v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 798 F. 2d 1416.

No. 86-5689. *COLLATOS v. UNITED STATES*. C. A. 1st Cir. Certiorari denied. Reported below: 798 F. 2d 18.

No. 86-5690. *BROWNSCOMBE v. VETERANS ADMINISTRATION*. C. A. Fed. Cir. Certiorari denied. Reported below: 802 F. 2d 468.

No. 86-5692. *MALLORY v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 798 F. 2d 473.

No. 86-5700. *JOHNSON v. MARYLAND*. Ct. Sp. App. Md. Certiorari denied. Reported below: 67 Md. App. 347, 507 A. 2d 1134.

No. 86-5704. *GOODACRE v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 793 F. 2d 1124.

No. 86-5705. *GARRIS v. LINDSAY, ADMINISTRATOR, MAXIMUM SECURITY FACILITY AT LORTON, ET AL.* C. A. D. C. Cir. Certiorari denied. Reported below: 254 U. S. App. D. C. 13, 794 F. 2d 722.

No. 86-5709. *KINNELL v. UNITED STATES DISTRICT COURT JUDGES ET AL.* C. A. 10th Cir. Certiorari denied.

No. 86-5728. *CEBAS-BRUNO ET AL. v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 792 F. 2d 1125.

No. 86-5737. *CAMPBELL v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 798 F. 2d 1409.

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No. 86-5742. *WASHINGTON v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 798 F. 2d 473.

No. 86-5761. *BRATTON-BEY v. COMPTROLLER OF THE TREASURY*. Ct. Sp. App. Md. Certiorari denied. Reported below: 67 Md. App. 759.

No. 86-5768. *OSGOOD v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 794 F. 2d 1087.

No. 85-1821. *UTAH ET AL. v. UTE INDIAN TRIBE*. C. A. 10th Cir. Motion of Santa Fe Mining, Inc., for leave to file a brief as *amicus curiae* granted. Motion of the Solicitor General for leave to file supplemental memorandum as *amicus curiae* granted. Certiorari denied. Reported below: 773 F. 2d 1087.

No. 86-72. *R. L. PAYNE CO., INC. v. MALQUIST ET AL.* Sup. Ct. Mont. Motion of respondent Dale H. Malquist for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 220 Mont. 176, 714 P. 2d 995.

No. 86-173. *HARRIS v. ATTORNEY GENERAL OF VIRGINIA ET AL.* C. A. 4th Cir. Certiorari denied. JUSTICE WHITE would grant certiorari. Reported below: 792 F. 2d 139.

No. 86-602. *PEARSON TRUCKING & RIGGING, INC. v. HICKS, DBA HICKS ENGINEERING CO.* Sup. Ct. Nev. Certiorari denied. JUSTICE WHITE would grant certiorari. Reported below: 102 Nev. 331, 720 P. 2d 1229.

No. 86-218. *WALKER ET AL. v. ROWE ET AL.* C. A. 7th Cir. Motion of Sam Bivins et al. for leave to file a brief as *amici curiae* granted. Certiorari denied. Reported below: 791 F. 2d 507.

No. 86-250. *BOWEN, WARDEN, ET AL. v. PEOPLES*. C. A. 11th Cir. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 791 F. 2d 861.

No. 86-553. *CONNECTICUT v. WHELAN*. Sup. Ct. Conn. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 200 Conn. 743, 513 A. 2d 86.

No. 86-584. *CALIFORNIA v. TYBERG*. Ct. App. Cal., 4th App. Dist. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied.

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No. 86-277. *WALKER v. ILLINOIS*. Sup. Ct. Ill.;
No. 86-5453. *TICHNELL v. MARYLAND*. Ct. App. Md.;
No. 86-5617. *SPAZIANO v. WAINWRIGHT, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS*. Sup. Ct. Fla.;

No. 86-5631. *NEWSTED v. OKLAHOMA*. Ct. Crim. App. Okla.;
No. 86-5639. *MAGWOOD v. ALABAMA*. Ct. Crim. App. Ala.;
No. 86-5644. *MAK v. WASHINGTON*. Sup. Ct. Wash.;
No. 86-5683. *WALKER v. OKLAHOMA*. Ct. Crim. App. Okla.;
and

No. 86-5686. *ROGERS v. GEORGIA*. Sup. Ct. Ga. Certiorari denied. Reported below: No. 86-277, 109 Ill. 2d 484, 488 N. E. 2d 529; No. 86-5453, 306 Md. 428, 509 A. 2d 1179; No. 86-5617, 489 So. 2d 720; No. 86-5631, 720 P. 2d 734; No. 86-5639, 494 So. 2d 124; No. 86-5644, 105 Wash. 2d 692, 718 P. 2d 407; No. 86-5683, 723 P. 2d 273; No. 86-5686, 256 Ga. 140, 344 S. E. 2d 644.

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. 86-336. *LINNAS v. IMMIGRATION AND NATURALIZATION SERVICE*. C. A. 2d Cir. Certiorari denied. JUSTICE BRENNAN, JUSTICE BLACKMUN, and JUSTICE O'CONNOR would grant certiorari. Reported below: 790 F. 2d 1024.

No. 86-490. *COMMISSIONER OF INTERNAL REVENUE v. ILLINOIS CEREAL MILLS, INC.* C. A. 7th Cir. Certiorari denied. Reported below: 789 F. 2d 1234.

JUSTICE WHITE, with whom JUSTICE BLACKMUN joins, dissenting.

This case presents the question whether any portion of the cost of a factory's electrical system qualifies for the investment tax credit under § 38 of the Internal Revenue Code, 26 U. S. C. § 38, and if so, what portion. The Code defines "section 38 property" to include "tangible personal property" and "other tangible property," such as industrial machinery, but to exclude "a building and its structural components." 26 U. S. C. §§ 48(a)(1)(A), (B). In this case, the Court of Appeals for the Seventh Circuit held that the cost of installation of a factory's electrical distribution system

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must be allocated between "section 38 property" and "non-section 38 property" according to a ratio by which electrical usage is divided between the operation of machinery, on the one hand, and ordinary building maintenance, like lighting and climate control, on the other. 789 F. 2d 1234 (1986). As applied to the facts before it, this interpretation resulted in qualification for the investment tax credit of 95% of the cost of the factory's electrical system. The Court of Appeals adopted this theory of allocation from the Tax Court's decision in *Scott Paper Co. v. Commissioner*, 74 T. C. 137, 182-187 (1980). The Fourth Circuit in *A. C. Monk & Co. v. United States*, 686 F. 2d 1058, 1065-1066 (1982), rejected the allocation method adopted by the Tax Court in *Scott Paper* and held that an electrical system can qualify for the credit only if it is so "inextricably linked to the present, specific machinery" that it cannot "be reasonably adapted in the present building to more general uses." If a manufacturer converting the building to another use would be able, with reasonable alterations, to use the existing system, the system is a structural component; if the existing system essentially would have to be scrapped, it qualifies for the investment tax credit. The issue involves many other taxpayers, and I would grant certiorari to resolve this conflict.

No. 86-547. *BROWNING v. CLERK, UNITED STATES HOUSE OF REPRESENTATIVES, ET AL.* C. A. D. C. Cir. Certiorari denied. JUSTICE WHITE and JUSTICE BLACKMUN would grant certiorari. JUSTICE SCALIA took no part in the consideration or decision of this petition. Reported below: 252 U. S. App. D. C. 241, 789 F. 2d 923.

No. 86-5598. *BROWN v. JUST ET AL.* C. A. D. C. Cir. Certiorari denied. JUSTICE SCALIA took no part in the consideration or decision of this petition.

No. 86-5610. *THOMAS v. KEMP, WARDEN.* C. A. 11th Cir. Certiorari denied. Reported below: 796 F. 2d 1322.

JUSTICE MARSHALL, with whom JUSTICE BRENNAN joins, dissenting.

The United States Court of Appeals for the Eleventh Circuit held below that petitioner's Sixth Amendment right to the assistance of counsel was not violated when he was refused counsel at his preliminary hearing on a capital murder charge, because the denial of counsel at the preliminary hearing was harmless error.

I

Petitioner Donald Wayne Thomas was convicted of murder and sentenced to death after jury trial. The State of Georgia charged petitioner, who was then 19 years old, with the murder of a 9-year-old boy. At the preliminary hearing 10 days after petitioner's arrest, petitioner requested an opportunity to retain private counsel, indicating that he did not wish to be represented by the public defender. The court denied petitioner's request, excused the public defender, and held the preliminary hearing in the absence of any defense counsel. The State's main witness, a 15-year-old mentally retarded girl, then testified without cross-examination that petitioner had told her he had committed the murder, and had shown her the body. This testimony differed in various material respects from the later testimony given by this witness at trial.

On direct appeal from petitioner's subsequent conviction, the Georgia Supreme Court affirmed the conviction and sentence. *Thomas v. State*, 245 Ga. 688, 266 S. E. 2d 499 (1980). This Court granted certiorari, vacated the sentence of death, and remanded for reconsideration in light of *Godfrey v. Georgia*, 446 U. S. 420 (1980). *Thomas v. Georgia*, 449 U. S. 988 (1980). On remand, the Georgia Supreme Court reinstated the death sentence, without benefit of further briefing or oral argument. *Thomas v. State*, 247 Ga. 233, 275 S. E. 2d 318, cert. denied, 452 U. S. 973 (1981). Having exhausted in state postconviction proceedings claims of ineffective assistance of counsel and prosecutorial misconduct at the sentencing phase of the trial, petitioner's counsel brought a federal habeas corpus action raising those issues.

During the pendency of the federal petition, counsel, who had not represented petitioner at trial, first discovered the preliminary hearing transcript in the files of the public defender's office, and realized that petitioner had been denied counsel at his preliminary hearing. Counsel notified the District Court that Thomas would move to amend his federal habeas petition as soon as the new claim could be presented to the state courts for exhaustion. Relief on this claim was denied in new state proceedings, and petitioner's counsel moved to amend the federal petition. The District Court vacated petitioner's death sentence on the ground that petitioner had not received effective assistance of counsel at the sentencing phase of his trial, but denied the motion to amend the petition as untimely. As an alternative ground of decision, the District Court also held that even if the claim were timely pre-

sented, the denial of counsel at the preliminary hearing had been harmless error.

Both parties appealed from the District Court's order. The Court of Appeals affirmed. 796 F. 2d 1322 (1986). On the denial-of-counsel claim, the Court of Appeals adopted the District Court's alternative ground, holding that "[t]he prosecution has carried its burden of persuading this Court that, even if constitutional error was established, the error was harmless." *Id.*, at 1326. Finding that "Thomas' [trial] counsel had access to the transcript of the preliminary hearing," "knew the nature of the State's case," and "sought and received early psychiatric examinations and evaluations on Thomas," the Court of Appeals concluded that "Thomas was not prejudiced by his counsel's absence at the preliminary hearing." *Id.*, at 1327.

II

It has been settled for more than half a century that a defendant facing capital charges is entitled to the assistance of counsel. *Powell v. Alabama*, 287 U. S. 45 (1932). The right to counsel, it was then recognized, is not merely a right to trial counsel, but a right to the assistance of counsel in preparing a defense throughout the period from arraignment to trial; defendants are "as much entitled to such aid during that period as at the trial itself." *Id.*, at 57. Our recognition of the right to counsel has substantially increased in the period since *Powell* was decided. See, e. g., *Argersinger v. Hamlin*, 407 U. S. 25 (1972); *Gideon v. Wainwright*, 372 U. S. 335 (1963); *Johnson v. Zerbst*, 304 U. S. 458 (1938). It is astonishing to me that the Court of Appeals so readily determined, despite our repeated holdings to the contrary, that it is not *per se* constitutional error to deny the assistance of counsel to a defendant whose life the State intends to take.

In support of its conclusion that the denial of counsel in the preliminary hearing of a capital prosecution can be harmless error, the Court of Appeals relied upon *Coleman v. Alabama*, 399 U. S. 1 (1970), in which this Court remanded for consideration of harmless error under *Chapman v. California*, 386 U. S. 18 (1967), the denial of counsel at a preliminary hearing. This reliance is fundamentally misplaced, for *Coleman* was not a capital case. As Chief Justice Burger stated for the Court in *Holloway v. Arkan-*

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sas, 435 U. S. 475, 489 (1978), "when a defendant is deprived of the presence and assistance of his attorney, either throughout the prosecution or during a critical stage in, at least, the prosecution of a capital offense, reversal is automatic."*

Our recent cases make clear that, contrary to the Court of Appeals' conclusion below, denial of counsel at any critical stage of a criminal prosecution is *per se* constitutional error. "Actual or constructive denial of the assistance of counsel altogether is legally presumed to result in prejudice." *Strickland v. Washington*, 466 U. S. 668, 692 (1984). "The presumption that counsel's assistance is essential requires us to conclude that a trial is unfair if the accused is denied counsel at a critical stage of his trial." *United States v. Cronin*, 466 U. S. 648, 659 (1984) (footnote omitted). Petitioner's capital trial was unfair for precisely this reason. The Court of Appeals' casual conclusion that "[c]ounsel could not have revealed defects in the State's case so great that the magistrate would have refused to bind the petitioner over to the State's custody," 796 F. 2d, at 1327, is nothing more than speculation of a kind which the Constitution will not countenance. Mere recitation of the words "harmless error" is not a constitutionally sufficient basis on which to permit the State to deny the assistance of any lawyer at all to a defendant against whom the State is seeking the death penalty.

I dissent from the denial of the petition for certiorari.

Rehearing Denied

No. 85-7189. *WILEY v. MISSISSIPPI*, *ante*, p. 906;

No. 86-236. *MARENO v. ROBERTS, COMMISSIONER OF LABOR OF THE STATE OF NEW YORK*, *ante*, p. 878;

No. 86-278. *JENSEN v. UNITED STATES*, *ante*, p. 924;

No. 86-5316. *VESAY v. UNITED STATES*, *ante*, p. 887;

No. 86-5319. *GIBSON v. KIVETT ET AL.*, *ante*, p. 887;

No. 86-5327. *GILREATH v. KEMP, WARDEN*, *ante*, p. 890; and

No. 86-5346. *MIESBAUER v. KANSAS*, *ante*, p. 888. Petitions for rehearing denied.

*It is not open to question that the preliminary hearing held below was a "critical stage" in petitioner's prosecution. See *Coleman v. Alabama*, 399 U. S. 1, 9-10 (1970).

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No. 86-5384. *BONIN v. T. L. JAMES & Co., INC., ET AL.*, *ante*, p. 888;

No. 86-5427. *MAK v. UNITED STATES*, *ante*, p. 889; and

No. 86-5550. *IN RE DIXON*, *ante*, p. 913. Petitions for rehearing denied.

No. 85-1535. *VEREZ ET AL. v. VIRGINIA*, *ante*, p. 813;

No. 85-1854. *BANKS v. FINLEY-SELIGMAN & LATZ, INC.*, *ante*, p. 816;

No. 85-1856. *JAYCO SYSTEMS, INC. v. SAVIN BUSINESS MACHINES CORP.*, *ante*, p. 816;

No. 85-1960. *DURDEN v. OFFICE OF PERSONNEL MANAGEMENT*, *ante*, p. 820;

No. 85-1975. *POLYAK v. HULEN ET AL.*, *ante*, p. 821;

No. 85-1991. *IN RE POLYAK*, *ante*, p. 810;

No. 85-2018. *KUNGLE v. ST. JOHN'S COLLEGE ET AL.*, *ante*, p. 822;

No. 85-2059. *WINSLOW v. BOARD OF MORGAN COUNTY COMMISSIONERS*, *ante*, p. 825;

No. 85-2112. *LODI TRUCK SERVICE, INC. v. DIVISION OF LABOR STANDARDS ENFORCEMENT, DEPARTMENT OF INDUSTRIAL RELATIONS OF CALIFORNIA*, *ante*, p. 801;

No. 85-2132. *KEHOE v. HOFMANN*, *ante*, p. 828;

No. 85-2165. *DAMASCUS v. PACIFIC BELL CO. ET AL.*, *ante*, p. 830;

No. 85-6844. *PULLEY v. SCOTT ET AL.*, *ante*, p. 803;

No. 85-6890. *BUELL v. OHIO*, *ante*, p. 871;

No. 85-6897. *CLARK v. MARSHALL, SUPERINTENDENT, SOUTHERN OHIO CORRECTIONAL FACILITY*, *ante*, p. 833;

No. 85-6937. *MAY v. INTERNATIONAL BUSINESS ASSOCIATES, INC., ET AL.*, *ante*, p. 834;

No. 85-6941. *BASALYGA v. PENNSYLVANIA*, *ante*, p. 834;

No. 85-7007. *FINNAN v. FINNAN ET AL.*, *ante*, p. 836;

No. 85-7017. *COOK v. GEORGIA*, *ante*, p. 871;

No. 85-7042. *EITEL v. BALDWIN*, *ante*, p. 838;

No. 85-7065. *JACKSON v. DISTRICT OF COLUMBIA DEPARTMENT OF EMPLOYMENT SERVICES*, *ante*, p. 839;

No. 85-7070. *BYRNE v. LOUISIANA*, *ante*, p. 871;

No. 85-7135. *COLLIER v. NEWSOME, SUPERINTENDENT, GEORGIA STATE PRISON*, *ante*, p. 842;

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- No. 85-7141. *WARD v. LOUISIANA*, *ante*, p. 871;
No. 85-7165. *GRANDISON v. MARYLAND*, *ante*, p. 873;
No. 85-7192. *GOODRICH v. BANK OF AMERICA ET AL.*, *ante*,
p. 845;
No. 85-7199. *WALKER v. BOARD OF EDUCATION OF THE CITY
OF NEW YORK*, *ante*, p. 845;
No. 85-7215. *IN RE WENDT*, *ante*, p. 810;
No. 86-14. *BUCKLEY v. PENNSYLVANIA*, *ante*, p. 802;
No. 86-15. *DEVINE v. UNITED STATES*, *ante*, p. 848;
No. 86-56. *SHOECRAFT v. CATHOLIC SOCIAL SERVICES BU-
REAU, INC., ET AL.*, *ante*, p. 805;
No. 86-128. *FLORENCE ET UX. v. COMMISSIONER OF INTER-
NAL REVENUE*, *ante*, p. 851;
No. 86-182. *POLYAK v. BUFORD EVANS & SONS*, *ante*, p. 804;
No. 86-235. *BELL v. NEW YORK ET AL.*, *ante*, p. 854;
No. 86-242. *SMITH v. DEPARTMENT OF THE AIR FORCE*, *ante*,
p. 854;
No. 86-5041. *VALWAY ET UX. v. KEARNS ET AL.*, *ante*, p. 857;
No. 86-5083. *WRIGHT v. YACKLEY*, *ante*, p. 859;
No. 86-5086. *PETRIC v. MARYLAND*, *ante*, p. 860;
No. 86-5097. *JENSON v. MCDUGALD*, *ante*, p. 860;
No. 86-5156. *MAY v. EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION ET AL.*, *ante*, p. 863;
No. 86-5157. *HARVARD v. FLORIDA*, *ante*, p. 863;
No. 86-5160. *FEWELL v. FEWELL*, *ante*, p. 863;
No. 86-5206. *FREE v. ILLINOIS*, *ante*, p. 871; and
No. 86-5233. *DUVALLON v. FLORIDA*, *ante*, p. 866. Petitions
for rehearing denied. JUSTICE SCALIA took no part in the consid-
eration or decision of these petitions.

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Miscellaneous Order

No. A-426. *EVANS v. MCCOTTER*, DIRECTOR, TEXAS DEPART-
MENT OF CORRECTIONS. Application for stay of execution of sen-
tence of death, presented to JUSTICE WHITE, and by him referred
to the Court, denied. JUSTICE BLACKMUN and JUSTICE STEVENS
would grant the application.

JUSTICE BRENNAN and JUSTICE MARSHALL, dissenting.

Adhering to our views that the death penalty is in all circum-
stances cruel and unusual punishment prohibited by the Eighth

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and Fourteenth Amendments, *Gregg v. Georgia*, 428 U. S. 153, 227, 231 (1976), we would grant the application for stay in order to give the applicant time to file a petition for writ of certiorari and would grant the petition and vacate the death sentence in this case.

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Assignment Order

Pursuant to the authority conferred by the Constitution and Statutes of the United States, and more particularly by 28 U. S. C. § 42, the Court hereby assigns and allots ASSOCIATE JUSTICE ANTONIN SCALIA as Circuit Justice for the District of Columbia Circuit for the day of December 5, 1986.

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Appeals Dismissed

No. 85-2147. *DOE ET AL. v. LOUISIANA DEPARTMENT OF HEALTH AND HUMAN RESOURCES ET AL.* Appeal from Ct. App. La., 4th Cir., dismissed for want of substantial federal question. Reported below: 479 So. 2d 369.

No. 86-610. *BREAUX, ATTORNEY FOR BOSWELL v. ALLIED BANK OF TEXAS.* Appeal from Ct. App. Tex., 14th 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: 699 S. W. 2d 599.

No. 86-618. *HILST v. GRIMES, INSURANCE COMMISSIONER OF OKLAHOMA.* Appeal from Ct. App. Okla. dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied.

Vacated and Remanded After Certiorari Granted

No. 85-1735. *THOMAS, ADMINISTRATOR, ENVIRONMENTAL PROTECTION AGENCY, ET AL. v. OUTBOARD MARINE CORP.* C. A. 7th Cir. [Certiorari granted, *ante*, p. 811.] Judgment vacated and case remanded for further consideration in light of the amendment of § 104(e) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U. S. C. § 9604(e), by the Superfund Amendments and Reauthorization Act of 1986, Pub. L. 99-499, § 104(m).

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Miscellaneous Orders

No. — — —. SCOTT *v.* THE NEWS HERALD ET AL. Motion to direct the Clerk to file the petition for writ of certiorari out of time denied.

No. A-420 (86-589). KRUPPS ET AL. *v.* TEXAS. Ct. Crim. App. Tex. Application for stay of enforcement of order of confinement, presented to JUSTICE WHITE, and by him referred to the Court, is granted pending final disposition of the petition for writ of certiorari by this Court.

No. D-561. IN RE DISBARMENT OF STANTON. Disbarment entered. [For earlier order herein, see 478 U. S. 1018.]

No. D-571. IN RE DISBARMENT OF WILLIAMS. Disbarment entered. [For earlier order herein, see 478 U. S. 1038.]

No. D-591. IN RE DISBARMENT OF BURNS. It is ordered that Richard Gordon Burns, of Corte Madera, 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-592. IN RE DISBARMENT OF GIOMETTI. It is ordered that Eugene M. Giometti, of Glendale, 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-593. IN RE DISBARMENT OF CHRISTNER. It is ordered that Kenneth Dale Christner, of Pedro, 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-594. IN RE DISBARMENT OF CERAME. It is ordered that John R. Cerame, 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. 85-673. HARTIGAN, ATTORNEY GENERAL OF THE STATE OF ILLINOIS, ET AL. *v.* ZBARAZ ET AL. C. A. 7th Cir. [Probable jurisdiction postponed, *ante*, p. 881.] Motion of Legal Defense Fund for Unborn Children for leave to file a brief as *amicus cu-*

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riae denied. Motion of Alan Ernest to allow counsel to represent children unborn and born alive denied.

No. 85-1513. EDWARDS, GOVERNOR OF LOUISIANA, ET AL. *v.* AGUILLARD ET AL. C. A. 5th Cir. [Probable jurisdiction noted, 476 U. S. 1103.] Motion of appellants for leave to file reply brief out of time granted.

No. 85-1835. CALIFORNIA *v.* ROONEY. Ct. App. Cal., 2d App. Dist. [Certiorari granted, *ante*, p. 881.] Motion of Americans for Effective Law Enforcement, Inc., et al. for leave to file a brief as *amici curiae* granted.

No. 85-2156. SHAAARE TEFILA CONGREGATION ET AL. *v.* COBB ET AL. C. A. 4th Cir. [Certiorari granted, *ante*, p. 812.] Motions of American-Arab Anti-Discrimination Committee and Anti-Defamation League of B'nai B'rith et al. for leave to file briefs as *amici curiae* granted.

No. 86-246. SUMNER, DIRECTOR, NEVADA DEPARTMENT OF PRISONS, ET AL. *v.* SHUMAN. C. A. 9th Cir. [Certiorari granted, *ante*, p. 948.] Motion for appointment of counsel granted, and it is ordered that N. Patrick Flanagan III, Esquire, of Reno, Nev., be appointed to serve as counsel for respondent in this case.

No. 86-475. FRAZIER *v.* HEEBE, CHIEF JUDGE, UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF LOUISIANA, ET AL. C. A. 5th Cir. [Certiorari granted, *ante*, p. 960.] Motion of petitioner to dispense with printing the joint appendix granted.

No. 86-637. COMMUNICATIONS WORKERS OF AMERICA ET AL. *v.* BECK ET AL. C. A. 4th Cir. The Solicitor General is invited to file a brief in this case expressing the views of the United States.

No. 86-5838. IN RE CLOUGH. Petition for writ of habeas corpus denied.

No. 86-620. IN RE ALBERT ET AL. Petition for writ of mandamus denied.

Probable Jurisdiction Noted

No. 86-509. BOWEN, SECRETARY OF HEALTH AND HUMAN SERVICES *v.* GILLIARD ET AL.; and

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No. 86-564. KIRK, SECRETARY, NORTH CAROLINA DEPARTMENT OF HUMAN RESOURCES, ET AL. *v.* GILLIARD ET AL. Appeals from D. C. W. D. N. C. Motion of appellees for leave to proceed *in forma pauperis* granted. Probable jurisdiction noted, cases consolidated, and a total of one hour allotted for oral argument. Reported below: 633 F. Supp. 1529.

Certiorari Granted

No. 86-234. McNALLY *v.* UNITED STATES; and

No. 86-286. GRAY *v.* UNITED STATES. C. A. 6th Cir. Certiorari granted in No. 86-234 limited to Question 4 presented by the petition and to Question 1 in No. 86-286 as incorporated by reference in No. 86-234. Certiorari granted in No. 86-286 limited to Questions 1 and 3 presented by the petition. Cases consolidated and a total of one hour allotted for oral argument. Reported below: 790 F. 2d 1290.

No. 86-393. UNITED STATES ET AL. *v.* STANLEY ET AL. C. A. 11th Cir. Certiorari granted. Reported below: 786 F. 2d 1490.

No. 86-495. K MART CORP. *v.* CARTIER, INC., ET AL.;

No. 86-624. 47TH STREET PHOTO, INC. *v.* COALITION TO PRESERVE THE INTEGRITY OF AMERICAN TRADEMARKS ET AL.; and

No. 86-625. UNITED STATES ET AL. *v.* COALITION TO PRESERVE THE INTEGRITY OF AMERICAN TRADEMARKS ET AL. C. A. D. C. Cir. Certiorari granted, cases consolidated, and a total of one hour allotted for oral argument. Reported below: 252 U. S. App. D. C. 342, 790 F. 2d 903.

No. 86-572. KENTUCKY *v.* STINCER. Sup. Ct. Ky. Motion of respondent for leave to proceed *in forma pauperis* and certiorari granted. Reported below: 712 S. W. 2d 939.

No. 86-5324. GRIFFIN *v.* WISCONSIN. Sup. Ct. Wis. Motion of petitioner for leave to proceed *in forma pauperis* and certiorari granted. Reported below: 131 Wis. 2d 41, 388 N. W. 2d 535.

Certiorari Denied. (See also Nos. 86-610 and 86-618, *supra*.)

No. 85-1524. HUBBARD BROADCASTING, INC. *v.* SOUTHERN SATELLITE SYSTEMS, INC., ET AL. C. A. 8th Cir. Certiorari denied. Reported below: 777 F. 2d 393.

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No. 85-7055. *CARRION v. NEW YORK*. App. Div., Sup. Ct. N. Y., 1st Jud. Dept. Certiorari denied. Reported below: 116 App. Div. 2d 1043, 496 N. Y. S. 2d 885.

No. 86-295. *SMITH v. PENNSYLVANIA*. Sup. Ct. Pa. Certiorari denied. Reported below: 511 Pa. 36, 511 A. 2d 796.

No. 86-361. *ANDERSON ET AL. v. UNITED STATES DEPARTMENT OF TRANSPORTATION, FEDERAL AVIATION ADMINISTRATION*; *BRANDIS ET AL. v. UNITED STATES DEPARTMENT OF TRANSPORTATION, FEDERAL AVIATION ADMINISTRATION*; *BURGARD v. UNITED STATES DEPARTMENT OF TRANSPORTATION, FEDERAL AVIATION ADMINISTRATION*; *CONROY v. UNITED STATES DEPARTMENT OF TRANSPORTATION, FEDERAL AVIATION ADMINISTRATION*; *DeLUTRI v. UNITED STATES DEPARTMENT OF TRANSPORTATION, FEDERAL AVIATION ADMINISTRATION*; *ELLIS ET AL. v. UNITED STATES DEPARTMENT OF TRANSPORTATION, FEDERAL AVIATION ADMINISTRATION*; *LYDON v. UNITED STATES DEPARTMENT OF TRANSPORTATION, FEDERAL AVIATION ADMINISTRATION*; *MURPHY v. UNITED STATES DEPARTMENT OF TRANSPORTATION, FEDERAL AVIATION ADMINISTRATION*; *PIORKOWSKI v. UNITED STATES DEPARTMENT OF TRANSPORTATION, FEDERAL AVIATION ADMINISTRATION*; *ROMASHKO v. UNITED STATES DEPARTMENT OF TRANSPORTATION, FEDERAL AVIATION ADMINISTRATION*; and *TOEPFER v. UNITED STATES DEPARTMENT OF TRANSPORTATION, FEDERAL AVIATION ADMINISTRATION*. C. A. Fed. Cir. Certiorari denied. Reported below: 795 F. 2d 1014 (1st case); 795 F. 2d 1012 (2d case); 795 F. 2d 1012 (3d case); 795 F. 2d 1012 (4th case); 795 F. 2d 1011 (5th case); 795 F. 2d 1012 (6th case); 795 F. 2d 1012 (7th case); 795 F. 2d 1014 (8th case); 795 F. 2d 1012 (9th case); 795 F. 2d 1014 (10th case); 795 F. 2d 1011 (11th case).

No. 86-375. *WHITE MOUNTAIN APACHE TRIBE v. HODEL, SECRETARY OF THE INTERIOR, ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 784 F. 2d 921.

No. 86-405. *KASHANI v. NELSON, COMMISSIONER OF THE IMMIGRATION AND NATURALIZATION SERVICE*. C. A. 7th Cir. Certiorari denied. Reported below: 793 F. 2d 818.

No. 86-407. *DODSON v. UNITED STATES*. Ct. Mil. App. Certiorari denied. Reported below: 21 M. J. 237.

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No. 86-416. *HARWOOD ET AL. v. COMMISSIONER OF INTERNAL REVENUE*. C. A. 9th Cir. Certiorari denied. Reported below: 786 F. 2d 1174.

No. 86-417. *GARDNER ET AL. v. EVANS, GOVERNOR OF IDAHO, ET AL.* Sup. Ct. Idaho. Certiorari denied. Reported below: 110 Idaho 925, 719 P. 2d 1185.

No. 86-450. *UNITED BROTHERHOOD OF CARPENTERS & JOINERS OF AMERICA, LOCAL UNION 201, AFL-CIO v. NATIONAL LABOR RELATIONS BOARD*. C. A. 10th Cir. Certiorari denied.

No. 86-481. *CENTRAL STATES, SOUTHEAST AND SOUTHWEST AREAS PENSION FUND ET AL. v. WHITWORTH BROS. STORAGE Co.*; and

No. 86-666. *WHITWORTH BROS. STORAGE Co. v. CENTRAL STATES, SOUTHEAST AND SOUTHWEST AREAS PENSION FUND ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 794 F. 2d 221.

No. 86-499. *TERRELL ET AL. v. ALEXANDER ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 798 F. 2d 469.

No. 86-518. *EVERGREEN TOWERS, INC. v. CITY OF EAST ORANGE ET AL.* Super. Ct. N. J., App. Div. Certiorari denied.

No. 86-536. *GRAHAM ET AL. v. INDIANA*. Ct. App. Ind. Certiorari denied. Reported below: 480 N. E. 2d 981.

No. 86-550. *BECKHAM v. SUN NEWS ET AL.* Sup. Ct. S. C. Certiorari denied. Reported below: 289 S. C. 28, 344 S. E. 2d 603.

No. 86-604. *TOWNLEY, WARDEN, ET AL. v. CLARK*. C. A. 4th Cir. Certiorari denied. Reported below: 791 F. 2d 925.

No. 86-607. *DIAMOND SHAMROCK CORP. v. HAMILTON ET AL.* C. A. 10th Cir. Certiorari denied. Reported below: 791 F. 2d 1416.

No. 86-609. *CHAUFFEURS, TEAMSTERS & HELPERS LOCAL UNION No. 238 v. CRST, INC.* C. A. 8th Cir. Certiorari denied. Reported below: 795 F. 2d 1400.

No. 86-614. *WELCH v. CARSON PRODUCTIONS GROUP, LTD.* C. A. 2d Cir. Certiorari denied. Reported below: 791 F. 2d 13.

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No. 86-615. *BROWN v. BROWN*. Ct. App. Cal., 2d App. Dist. Certiorari denied.

No. 86-619. *ALLEN v. CHILTON CO., DIVISION OF A. B. C., INC.* C. A. 3d Cir. Certiorari denied. Reported below: 800 F. 2d 1130.

No. 86-623. *SCHAAFSMA v. FLORIDA*. Dist. Ct. App. Fla., 4th Dist. Certiorari denied. Reported below: 491 So. 2d 564.

No. 86-626. *TRENT ET AL. v. CODMAN & SHURTLEFF, INC., ET AL.* Ct. App. Ohio, Franklin County. Certiorari denied.

No. 86-630. *CUMMINGS, A MINOR, BY HER GUARDIAN AD LITEM, TECHMEIER, ET AL. v. BRIGGS & STRATTON RETIREMENT PLAN ET AL.* C. A. 7th Cir. Certiorari denied. Reported below: 797 F. 2d 383.

No. 86-635. *HOGUE v. CLINTON, GOVERNOR OF ARKANSAS, ET AL.* C. A. 8th Cir. Certiorari denied. Reported below: 791 F. 2d 1318.

No. 86-638. *CLARK OIL & REFINING CORP. v. GO-TANE SERVICE STATIONS, INC.* Temp. Emerg. Ct. App. Certiorari denied. Reported below: 798 F. 2d 481.

No. 86-639. *DAIGLE v. GULF STATES UTILITY CO. ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 794 F. 2d 974.

No. 86-645. *HOLDEN v. OWENS-ILLINOIS, INC.* C. A. 6th Cir. Certiorari denied. Reported below: 793 F. 2d 745.

No. 86-657. *MALACHOWSKI ET UX. v. CITY OF KEENE ET AL.* C. A. 1st Cir. Certiorari denied.

No. 86-662. *NATIVE VILLAGE OF NENANA v. ALASKA DEPARTMENT OF HEALTH AND SOCIAL SERVICES*. Sup. Ct. Alaska. Certiorari denied. Reported below: 722 P. 2d 219.

No. 86-665. *STONE, INDIVIDUALLY AND AS SPECIAL ADMINISTRATRIX OF THE ESTATE OF STONE, ET AL. v. PARADISE HOLDINGS, INC., ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 795 F. 2d 756.

No. 86-687. *MERTZ v. MARSH, SECRETARY OF THE ARMY*. C. A. 11th Cir. Certiorari denied. Reported below: 786 F. 2d 1578.

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No. 86-699. ALLEN *v.* ALABAMA. Ct. Crim. App. Ala. Certiorari denied. Reported below: 492 So. 2d 669.

No. 86-739. KING *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 802 F. 2d 731.

No. 86-748. CHUNIE, AKA HERRERA, ET AL. *v.* RINGROSE ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 788 F. 2d 638.

No. 86-752. DLUGOSZ *v.* OFFICE OF PERSONNEL MANAGEMENT. C. A. Fed. Cir. Certiorari denied. Reported below: 802 F. 2d 471.

No. 86-755. STEFAN *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 784 F. 2d 1093.

No. 86-5090. ADAMS *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 785 F. 2d 917.

No. 86-5201. GRANGER *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 790 F. 2d 892.

No. 86-5370. VESTER *v.* MURRAY, DIRECTOR, VIRGINIA DEPARTMENT OF CORRECTIONS. C. A. 4th Cir. Certiorari denied. Reported below: 795 F. 2d 1007.

No. 86-5387. LAFRAMBOISE *v.* ALASKA. Ct. App. Alaska. Certiorari denied.

No. 86-5432. WILLIAMS *v.* ROGERS, WARDEN, ET AL. C. A. 4th Cir. Certiorari denied. Reported below: 791 F. 2d 166.

No. 86-5456. ELY *v.* MORE THAN 20 FBI AGENTS ET AL. C. A. 7th Cir. Certiorari denied. Reported below: 792 F. 2d 142.

No. 86-5518. OWENS-EL *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 795 F. 2d 82.

No. 86-5532. CAPOBIANCHI *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied. Reported below: 800 F. 2d 1140.

No. 86-5572. NAJOHN *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 785 F. 2d 1420.

No. 86-5652. SUN *v.* BUSH ET AL. Ct. App. Ga. Certiorari denied. Reported below: 179 Ga. App. 80, 345 S. E. 2d 85.

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No. 86-5653. *MCBEE v. HARRISON, WARDEN*. C. A. 6th Cir. Certiorari denied. Reported below: 802 F. 2d 458.

No. 86-5664. *CASAS v. CALIFORNIA*. Ct. App. Cal., 6th App. Dist. Certiorari denied. Reported below: 181 Cal. App. 3d 889, 226 Cal. Rptr. 285.

No. 86-5667. *JOYNER v. PHELPS, SECRETARY, LOUISIANA DEPARTMENT OF CORRECTIONS, ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 786 F. 2d 1317.

No. 86-5674. *JOHNS v. ESTELLE, SUPERINTENDENT, CALIFORNIA MEN'S COLONY, ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 801 F. 2d 399.

No. 86-5677. *MAFFEI v. BOWEN, SECRETARY OF HEALTH AND HUMAN SERVICES*. C. A. 3d Cir. Certiorari denied. Reported below: 800 F. 2d 1135.

No. 86-5682. *HALL v. WAINWRIGHT, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS*. C. A. 11th Cir. Certiorari denied. Reported below: 798 F. 2d 1418.

No. 86-5684. *DRUMHELLER v. SAMBERG, WARDEN, ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 796 F. 2d 1475.

No. 86-5691. *CASTLE v. CALIFORNIA*. Ct. App. Cal., 4th App. Dist. Certiorari denied.

No. 86-5693. *MCNEIL v. CUYLER, SUPERINTENDENT, STATE CORRECTIONAL INSTITUTION AND CORRECTIONAL DIAGNOSTIC AND CLASSIFICATION CENTER AT GRATERFORD, ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 782 F. 2d 443.

No. 86-5694. *RICHARD v. MASSACHUSETTS*. Sup. Jud. Ct. Mass. Certiorari denied. Reported below: 398 Mass. 392, 496 N. E. 2d 1366.

No. 86-5696. *PANNACCI v. THORP CONSUMER DISCOUNT CO.* C. A. 3d Cir. Certiorari denied. Reported below: 800 F. 2d 1140.

No. 86-5706. *BENTLEY v. BENTLEY*. C. A. 11th Cir. Certiorari denied. Reported below: 798 F. 2d 1418.

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No. 86-5710. *ASHLEY v. ARMSTRONG, CONTROLLER OF THE COLORADO DEPARTMENT OF LABOR, ET AL.* C. A. 10th Cir. Certiorari denied.

No. 86-5713. *SHABAZZ v. BARNAUSKAS ET AL.* C. A. 11th Cir. Certiorari denied. Reported below: 790 F. 2d 1536.

No. 86-5714. *WISE ET UX. v. KAISER, TRUSTEE.* C. A. 7th Cir. Certiorari denied. Reported below: 791 F. 2d 73.

No. 86-5715. *TYNER v. NEWSOME, WARDEN.* C. A. 11th Cir. Certiorari denied.

No. 86-5716. *PAYTON v. ALABAMA.* Ct. Crim. App. Ala. Certiorari denied. Reported below: 492 So. 2d 674.

No. 86-5717. *MAY v. BUREAU OF MOTOR VEHICLES.* Sup. Ct. Ohio. Certiorari denied.

No. 86-5719. *MATTHEWS v. MCCLUNG ET AL.* C. A. 11th Cir. Certiorari denied.

No. 86-5727. *WARE v. MURRAY, DIRECTOR, VIRGINIA DEPARTMENT OF CORRECTIONS.* C. A. 4th Cir. Certiorari denied. Reported below: 796 F. 2d 475.

No. 86-5734. *HEYWARD v. UNITED STATES.* Ct. Mil. App. Certiorari denied. Reported below: 23 M. J. 49.

No. 86-5756. *WILLIAMS v. L. C. P. CHEMICALS, INC., ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 802 F. 2d 461.

No. 86-5764. *NORWOOD v. UNITED STATES.* C. A. 7th Cir. Certiorari denied. Reported below: 798 F. 2d 1094.

No. 86-5766. *HIGDON v. UNITED STATES.* C. A. 11th Cir. Certiorari denied. Reported below: 798 F. 2d 1419.

No. 86-5772. *NEELY v. UNITED STATES; and*

No. 86-5773. *RICHELIE v. UNITED STATES.* C. A. 6th Cir. Certiorari denied. Reported below: 803 F. 2d 722.

No. 86-5776. *EINARSON v. FLAMM.* C. A. 1st Cir. Certiorari denied. Reported below: 802 F. 2d 441.

No. 86-5778. *HARRELSON v. UNITED STATES.* C. A. 5th Cir. Certiorari denied.

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No. 86-5793. CARTER ET AL. *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. Reported below: 801 F. 2d 78.

No. 86-5802. MARCH *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 800 F. 2d 264.

No. 86-5810. MALADY *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied. Reported below: 802 F. 2d 463.

No. 86-5811. WALKER *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 802 F. 2d 460.

No. 86-5824. BARNES *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 800 F. 2d 1146.

No. 86-390. MULTIMEDIA, INC. *v.* HAWKINS, BY AND THROUGH HIS GUARDIAN AD LITEM, HAWKINS. Sup. Ct. S. C. Motions of North Carolina Press Association et al. and Conus Communications for leave to file briefs as *amici curiae* granted. Certiorari denied. JUSTICE BRENNAN would grant certiorari. Reported below: 288 S. C. 569, 344 S. E. 2d 145.

No. 86-396. ILLINOIS *v.* ANDERSON. Sup. Ct. Ill. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 113 Ill. 2d 1, 495 N. E. 2d 485.

No. 86-641. THOMPSON *v.* CASAS. Sup. Ct. Cal. Certiorari denied. JUSTICE WHITE would grant certiorari. Reported below: 42 Cal. 3d 131, 720 P. 2d 921.

No. 86-5024. DIAMEN *v.* MARTIN ET AL. C. A. D. C. Cir. Certiorari denied. JUSTICE SCALIA took no part in the consideration or decision of this petition.

No. 86-5314. MILTON *v.* FLORIDA. Dist. Ct. App. Fla., 1st Dist. Certiorari denied. JUSTICE BRENNAN would grant certiorari and set the case for oral argument. JUSTICE MARSHALL and JUSTICE BLACKMUN would grant certiorari, vacate the judgment of the District Court of Appeal of Florida, First District, and remand the case for further consideration in light of *Smalis v. Pennsylvania*, 476 U. S. 140 (1986). Reported below: 488 So. 2d 878.

Rehearing Denied

No. 85-2168. FLEMING *v.* MOORE, *ante*, p. 890;

No. 86-113. AMERICAN BAPTIST CHURCHES IN THE U. S. A. ET AL. *v.* REAGAN, PRESIDENT OF THE UNITED STATES, ET AL., *ante*, p. 914; and

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No. 86-5472. CREASEY *v.* MUNCY, WARDEN, ET AL., *ante*, p. 936. Petition for rehearing denied.

No. 86-5003. GAMBRELL *v.* ACKERMAN, JUDGE, *ante*, p. 855. Petition for rehearing denied. JUSTICE SCALIA took no part in the consideration or decision of this petition.

DECEMBER 9, 1986

Appeal Dismissed. (See No. 85-1022, *ante*, at 139.)

DECEMBER 12, 1986

Miscellaneous Order

No. A-436. ANDRADE *v.* MCCOTTER, DIRECTOR, TEXAS DEPARTMENT OF CORRECTIONS. Application for stay of execution of sentence of death and for certificate of probable cause, presented to JUSTICE WHITE, and by him referred to the Court, 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 the application for stay in order to give the applicant time to file a petition for writ of certiorari and would grant the petition and vacate the death sentence in this case.

DECEMBER 15, 1986

Dismissal Under Rule 53

No. 86-764. MERCHANTS NATIONAL BANK OF FORT SMITH *v.* UNITED STATES. C. A. 8th Cir. Certiorari dismissed under this Court's Rule 53. Reported below: 797 F. 2d 676.

Affirmed on Appeal

No. 86-731. MINGO ET AL. *v.* JAMES ET AL. Affirmed on appeal from D. C. S. D. Miss.

Appeals Dismissed

No. 86-654. PEREZ ET AL. *v.* PUERTO RICO. Appeal from Sup. Ct. P. R. dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied. Reported below: 117 D. P. R. 380.

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No. 86-5725. *ABDULLAH v. RAINWATER ET AL.* Appeal from C. A. 11th Cir. dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied.

No. 86-5758. *PERKINS v. HARTIGAN, ATTORNEY GENERAL OF ILLINOIS, ET AL.* Appeal from C. A. 7th Cir. dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied.

No. 86-670. *KANTORSKI v. L. F. C. LEASING & FINANCIAL CORP.* Appeal from App. Ct. Mass. dismissed for want of jurisdiction. Reported below: 22 Mass. App. 1103, 491 N. E. 2d 1088.

No. 86-695. *HANSEN ET AL. v. UNITED STATES.* Appeal from D. C. W. D. Wis. dismissed for want of jurisdiction.

Certiorari Granted—Vacated and Remanded

No. 86-86. *SHULTZ, SECRETARY OF STATE v. COOPER ET AL.*; and

No. 86-284. *COOPER ET AL. v. SHULTZ, SECRETARY OF STATE.* C. A. D. C. Cir. Certiorari granted, judgment vacated, and cases remanded for further consideration in light of *Pennsylvania v. Delaware Valley Citizens' Council for Clean Air*, 478 U. S. 546 (1986), and *Library of Congress v. Shaw*, 478 U. S. 310 (1986). JUSTICE SCALIA took no part in the consideration or decision of these cases. Reported below: 252 U. S. App. D. C. 18, 786 F. 2d 431.

Miscellaneous Orders

No. D-564. *IN RE DISBARMENT OF HOLZER.* Reginald Jack Holzer, of Chicago, Ill., having requested to resign as a member of the Bar of this Court, it is ordered that his name be stricken from the roll of attorneys admitted to practice before the Bar of this Court. The rule to show cause, heretofore issued on September 11, 1986 [478 U. S. 1037], is hereby discharged.

No. D-569. *IN RE DISBARMENT OF CHRISTAKIS.* Lee J. Christakis, of Gary, Ind., having requested to resign as a member of the Bar of this Court, it is ordered that his name be stricken from the roll of attorneys admitted to practice before the Bar of this Court. The rule to show cause, heretofore issued on September 11, 1986 [478 U. S. 1038], is hereby discharged.

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No. D-573. IN RE DISBARMENT OF SHIELDS. Disbarment entered. [For earlier order herein, see 478 U. S. 1038.]

No. 85-1358. LUKHARD, COMMISSIONER, VIRGINIA DEPARTMENT OF SOCIAL SERVICES *v.* REED ET AL. C. A. 4th Cir. [Certiorari granted, 477 U. S. 903.] Motion of the Solicitor General to permit Glen D. Nager, Esquire, to present oral argument *pro hac vice* granted.

No. 85-1963. TYLER PIPE INDUSTRIES, INC. *v.* WASHINGTON STATE DEPARTMENT OF REVENUE; and

No. 85-2006. NATIONAL CAN CORP. ET AL. *v.* WASHINGTON STATE DEPARTMENT OF REVENUE. Sup. Ct. Wash. [Probable jurisdiction noted, *ante*, p. 810.] Motion of appellants for divided argument granted. JUSTICE POWELL took no part in the consideration or decision of this motion.

No. 85-5348. BUCHANAN *v.* KENTUCKY. Sup. Ct. Ky. [Certiorari granted, 476 U. S. 1140.] Motion for appointment of counsel granted, and it is ordered that Kevin Michael McNally, Esquire, of Frankfort, Ky., be appointed to serve as counsel for petitioner in this case. Motion of petitioner for divided argument denied.

No. 86-6. RICKETTS, DIRECTOR, ARIZONA DEPARTMENT OF CORRECTIONS, ET AL. *v.* ADAMSON. C. A. 9th Cir. [Certiorari granted, *ante*, p. 812.] Motion of the Solicitor General for leave to participate in oral argument as *amicus curiae* and for divided argument granted.

No. 86-44. SHEARSON/AMERICAN EXPRESS INC. ET AL. *v.* MCMAHON ET AL. C. A. 2d Cir. [Certiorari granted, *ante*, p. 812.] Motion of the Solicitor General for leave to participate in oral argument as *amicus curiae* and for divided argument granted.

No. 86-87. UNITED STATES *v.* SALERNO ET AL. C. A. 2d Cir. [Certiorari granted, *ante*, p. 929.] Motion of American Bar Association for leave to file a brief as *amicus curiae* out of time granted.

No. 86-133. NOLLAN ET UX. *v.* CALIFORNIA COASTAL COMMISSION. Ct. App. Cal., 2d App. Dist. [Probable jurisdiction noted, *ante*, p. 913.] Motion of appellee to dismiss appeal denied.

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No. 86-421. BOARD OF DIRECTORS OF ROTARY INTERNATIONAL ET AL. *v.* ROTARY CLUB OF DUARTE ET AL. Ct. App. Cal., 2d App. Dist. [Probable jurisdiction postponed, *ante*, p. 929.] Motion of California for leave to intervene granted. JUSTICE BLACKMUN and JUSTICE O'CONNOR took no part in the consideration or decision of this motion.

No. 86-882. HODGSON ET AL. *v.* MINNESOTA ET AL. C. A. 8th Cir. Motion of petitioners to expedite consideration of petition for writ of certiorari before judgment denied.

No. 86-900. LABRANCHE *v.* UNITED STATES OLYMPIC COMMITTEE. C. A. 9th Cir. Motion of petitioner to expedite consideration of petition for writ of certiorari before judgment and to consolidate with No. 86-270, *San Francisco Arts & Athletics, Inc., et al. v. United States Olympic Committee et al.* [certiorari granted, *ante*, p. 913], denied.

No. 86-5479. WRENN *v.* OHIO DEPARTMENT OF MENTAL HEALTH, *ante*, p. 928. Motion of petitioner for reconsideration of order of Court denying leave to proceed *in forma pauperis* denied.

No. 86-5655. IN RE MANN;

No. 86-5739. IN RE CARPENTER; and

No. 86-5808. IN RE BURGESS. Petitions for writs of mandamus denied.

Certiorari Granted

No. 86-422. CARPENTER ET AL. *v.* UNITED STATES. C. A. 2d Cir. Motion of Securities Industry Association, Inc., for leave to file a brief as *amicus curiae* granted. Certiorari granted. Reported below: 791 F. 2d 1024.

No. 86-656. REAGAN, PRESIDENT OF THE UNITED STATES, ET AL. *v.* ABOUREZK ET AL. C. A. D. C. Cir. Certiorari granted. JUSTICE SCALIA took no part in the consideration or decision of this petition. Reported below: 251 U. S. App. D. C. 355, 785 F. 2d 1043.

Certiorari Denied. (See also Nos. 86-654, 86-5725, and 86-5758, *supra*.)

No. 85-1946. MARSH *v.* UNITED STATES. Ct. Mil. App. Certiorari denied. Reported below: 21 M. J. 445.

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No. 85-2028. *GILL v. UNITED STATES*; and
No. 85-7100. *BRUNO v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 791 F. 2d 922.

No. 85-2062. *ACKER ET AL. v. UNITED STATES*. C. A. Fed. Cir. Certiorari denied. Reported below: 786 F. 2d 1126.

No. 85-7046. *SMITH v. LOCKHART, DIRECTOR, ARKANSAS DEPARTMENT OF CORRECTION*. C. A. 8th Cir. Certiorari denied.

No. 85-7080. *BAKER v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 781 F. 2d 85.

No. 85-7107. *PAGAN v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 785 F. 2d 378.

No. 85-7150. *BENNY v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 786 F. 2d 1410.

No. 85-7184. *GILES v. UNITED STATES*. C. A. 10th Cir. Certiorari denied.

No. 85-7206. *DIXON v. UNITED STATES*; *MALDONADO v. UNITED STATES*; and *GREEN v. UNITED STATES*. C. A. 2d Cir. Certiorari denied.

No. 86-75. *CIAMBRONE v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 787 F. 2d 799.

No. 86-100. *SMITH v. UNITED STATES*; and
No. 86-111. *STONEMAN v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 789 F. 2d 196.

No. 86-121. *PULLY v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 786 F. 2d 1158.

No. 86-238. *THOROUGHbred RACING ASSOCIATIONS OF NORTH AMERICA, INC., ET AL. v. CAPRA ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 787 F. 2d 463.

No. 86-409. *METROPOLITAN TRANSPORTATION AUTHORITY ET AL. v. INTERSTATE COMMERCE COMMISSION ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 792 F. 2d 287.

No. 86-453. *CARSON ET AL. v. BLOCK, SECRETARY OF AGRICULTURE, ET AL.* C. A. 7th Cir. Certiorari denied. Reported below: 790 F. 2d 562.

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No. 86-491. *GIANCOLA ET AL. v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 783 F. 2d 1549.

No. 86-529. *TRINIDAD CORP. v. DISTRICT NO. 1, PACIFIC COAST DISTRICT, MARINE ENGINEERS' BENEFICIAL ASSN., AFL-CIO*. App. Div., Sup. Ct. N. Y., 1st Jud. Dept. Certiorari denied. Reported below: 116 App. Div. 2d 1048, 497 N. Y. S. 2d 806.

No. 86-642. *UNITED TRANSPORTATION UNION v. TAYLOR ET AL.*; and

No. 86-669. *MISSOURI PACIFIC RAILROAD CO. ET AL. v. TAYLOR ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 794 F. 2d 1082.

No. 86-643. *KAYZAKIAN v. KRAJEWSKI ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 791 F. 2d 926.

No. 86-664. *JAMES-MASSENGAL ET AL. v. MARTORI BROS. DISTRIBUTORS ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 781 F. 2d 1349 and 791 F. 2d 799.

No. 86-667. *POLYAK v. BUFORD EVANS & SONS*. C. A. 6th Cir. Certiorari denied. Reported below: 787 F. 2d 588.

No. 86-673. *REVLON, INC. v. CARSON PRODUCTS CO.* C. A. Fed. Cir. Certiorari denied. Reported below: 803 F. 2d 676.

No. 86-681. *LAWSON v. TENNESSEE*. Ct. Crim. App. Tenn. Certiorari denied.

No. 86-682. *PERKINS v. ALABAMA*. Ct. Crim. App. Ala. Certiorari denied. Reported below: 494 So. 2d 723.

No. 86-683. *ZEMONICK ET AL. v. CONSOLIDATION COAL CO. ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 796 F. 2d 1546.

No. 86-732. *BRIEHLER v. TOWN OF JAMESTOWN ET AL.* C. A. 1st Cir. Certiorari denied. Reported below: 802 F. 2d 439.

No. 86-756. *BIRK ET AL. v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 797 F. 2d 199.

No. 86-760. *HESCORP v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 801 F. 2d 70.

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No. 86-5039. *MCCONICO v. WHITE, WARDEN, ET AL.* C. A. 11th Cir. Certiorari denied.

No. 86-5131. *CAMPBELL v. MILLER ET AL.* C. A. 7th Cir. Certiorari denied. Reported below: 787 F. 2d 217.

No. 86-5135. *MOUNTS v. UNITED STATES.* C. A. 6th Cir. Certiorari denied. Reported below: 793 F. 2d 125.

No. 86-5158. *HUTCHINS v. BROGAN.* C. A. 8th Cir. Certiorari denied.

No. 86-5275. *DAWSON v. MCCOTTER, DIRECTOR, TEXAS DEPARTMENT OF CORRECTIONS.* Ct. Crim. App. Tex. Certiorari denied.

No. 86-5409. *KATTOUAH v. UNITED STATES.* C. A. 6th Cir. Certiorari denied. Reported below: 802 F. 2d 460.

No. 86-5418. *MCCAULEY v. UNITED STATES.* C. A. 6th Cir. Certiorari denied. Reported below: 798 F. 2d 1416.

No. 86-5443. *BONIFACE v. WAINWRIGHT, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS.* C. A. 11th Cir. Certiorari denied. Reported below: 788 F. 2d 1568.

No. 86-5540. *FATT v. UNITED STATES.* C. A. 9th Cir. Certiorari denied. Reported below: 794 F. 2d 683.

No. 86-5602. *KAHN v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. Reported below: 787 F. 2d 586.

No. 86-5616. *CONDOM v. UNITED STATES.* C. A. 11th Cir. Certiorari denied. Reported below: 797 F. 2d 980.

No. 86-5666. *HARRISON v. UNITED STATES.* Ct. App. D. C. Certiorari denied.

No. 86-5679. *PLUNKETT v. OKLAHOMA.* Ct. Crim. App. Okla. Certiorari denied. Reported below: 719 P. 2d 834.

No. 86-5697. *DEAN v. RAFFERTY, SUPERINTENDENT, NEW JERSEY STATE PRISON, ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 800 F. 2d 1132.

No. 86-5708. *JONES v. DAVIS, WARDEN.* C. A. 6th Cir. Certiorari denied. Reported below: 798 F. 2d 469.

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No. 86-5711. *BRYANT v. CALIFORNIA*. Ct. App. Cal., 1st App. Dist. Certiorari denied.

No. 86-5712. *BROWN v. CALIFORNIA*. Ct. App. Cal., 2d App. Dist. Certiorari denied.

No. 86-5720. *BOSQUE v. CALIFORNIA*. Ct. App. Cal., 2d App. Dist. Certiorari denied.

No. 86-5726. *STEPHENS v. LACK*. C. A. 6th Cir. Certiorari denied. Reported below: 802 F. 2d 460.

No. 86-5730. *RUFFIN v. MURRAY, DIRECTOR, VIRGINIA DEPARTMENT OF CORRECTIONS*. C. A. 4th Cir. Certiorari denied. Reported below: 801 F. 2d 394.

No. 86-5731. *LONG ET AL. v. MORAN, DIRECTOR, RHODE ISLAND DEPARTMENT OF CORRECTIONS*. C. A. 1st Cir. Certiorari denied. Reported below: 802 F. 2d 440.

No. 86-5732. *PALMER v. BERRY, WARDEN, ET AL.* C. A. 11th Cir. Certiorari denied. Reported below: 795 F. 2d 88.

No. 86-5733. *HOLLAND v. MURRAY, DIRECTOR, VIRGINIA DEPARTMENT OF CORRECTIONS*. C. A. 4th Cir. Certiorari denied. Reported below: 796 F. 2d 473.

No. 86-5747. *SIMPSON, AKA WOODS v. MASSACHUSETTS*. C. A. 1st Cir. Certiorari denied. Reported below: 795 F. 2d 216.

No. 86-5749. *WOODFIN v. BOWEN*. C. A. 4th Cir. Certiorari denied. Reported below: 786 F. 2d 1159.

No. 86-5751. *BEGAY ET AL. v. SMIALEK, STATE MEDICAL INVESTIGATOR*. Sup. Ct. N. M. Certiorari denied. Reported below: 104 N. M. 375, 721 P. 2d 1306.

No. 86-5755. *SYKES v. VAN DE WATER ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 789 F. 2d 922.

No. 86-5767. *HARDIN v. REDMAN, WARDEN*. C. A. 6th Cir. Certiorari denied. Reported below: 798 F. 2d 1414.

No. 86-5779. *GHOLSTON v. LAMBERT ET AL.* C. A. 11th Cir. Certiorari denied.

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No. 86-5789. *WIMAN v. LOCKHART, DIRECTOR, ARKANSAS DEPARTMENT OF CORRECTION*. C. A. 8th Cir. Certiorari denied. Reported below: 797 F. 2d 666.

No. 86-5790. *STANKOWSKI v. MCDOWELL, SHERIFF, ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 802 F. 2d 448.

No. 86-5792. *BANKS ET AL. v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 793 F. 2d 1553.

No. 86-5807. *CROCKETT v. MCCOTTER, DIRECTOR, TEXAS DEPARTMENT OF CORRECTIONS*. C. A. 5th Cir. Certiorari denied. Reported below: 796 F. 2d 787.

No. 86-5812. *WILLIAMS v. UNITED STATES POSTAL SERVICE ET AL.* C. A. 11th Cir. Certiorari before judgment denied.

No. 86-5814. *STONER v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 799 F. 2d 1253.

No. 86-5817. *STOUT v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 800 F. 2d 1146.

No. 86-483. *PIERCE v. UNITED STATES*. C. A. D. C. Cir. Certiorari denied. JUSTICE WHITE and JUSTICE SCALIA took no part in the consideration or decision of this petition. Reported below: 254 U. S. App. D. C. 40, 794 F. 2d 749.

No. 86-697. *ST. LOUIS HOME INSULATORS ET AL. v. BURROUGHS CORP.* C. A. 8th Cir. Certiorari denied. JUSTICE WHITE took no part in the consideration or decision of this petition. Reported below: 793 F. 2d 954.

No. 86-5373. *SPIERINGS v. ALASKA*. Sup. Ct. Alaska. Certiorari denied. Reported below: 718 P. 2d 156.

JUSTICE WHITE, dissenting.

In this case, the Supreme Court of the State of Alaska affirmed the petitioner's conviction, rejecting his argument that the trial judge improperly instructed the jury on a lesser included offense. *Dresnek v. State*, 718 P. 2d 156 (1986). Over the petitioner's objection, the trial judge gave a "transition instruction"; the jurors were instructed that they could not render a verdict on a lesser included offense until they unanimously acquitted the petitioner on the greater offense. The Alaska Supreme Court held that the instruction was proper. This decision conflicts with the approach

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followed in the Courts of Appeals for the Second and Ninth Circuits. In *United States v. Tsanas*, 572 F. 2d 340 (CA2), cert. denied, 435 U. S. 995 (1978), the court held that if a defendant seasonably objects to this type of instruction, the trial judge should instruct the jury with an alternative formulation: jurors may consider the lesser included offense if they cannot reach agreement on the greater offense. 572 F. 2d, at 346. The Court of Appeals for the Ninth Circuit, in *United States v. Jackson*, 726 F. 2d 1466 (1984), followed the *Tsanas* approach. There, the court reasoned that "although either formulation may be employed if the defendant expresses no choice, it is error to reject the form timely requested by defendant." 726 F. 2d, at 1469. I would grant the petition of certiorari to resolve this conflict.

No. 86-5707. *GARCIA v. FLORIDA*. Sup. Ct. Fla. Certiorari denied. Reported below: 492 So. 2d 360.

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. 86-5515. *KINNELL v. MASCHNER, DIRECTOR, KANSAS STATE PENITENTIARY, ET AL.*, ante, p. 952. Petition for rehearing denied.

No. 85-2126. *MALACHOWSKI ET UX. v. CITY OF KEENE ET AL.*, ante, p. 828;

No. 86-101. *HARRIS ET AL. v. COURT OF APPEALS OF MISSOURI, WESTERN DISTRICT, ET AL.*, ante, p. 851;

No. 86-194. *MALACHOWSKI ET UX., ON BEHALF OF THE JUVENILE, AMY M. v. NEW HAMPSHIRE*, ante, p. 854; and

No. 86-5177. *WELLS v. CITY OF HOUSTON, TEXAS, ET AL.*, ante, p. 864. Petitions for rehearing denied. JUSTICE SCALIA took no part in the consideration or decision of these petitions.

DECEMBER 17, 1986

Miscellaneous Order

No. A-464. *ANDRADE v. MCCOTTER, DIRECTOR, TEXAS DEPARTMENT OF CORRECTIONS*. Application for stay of execution

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of sentence of death, presented to JUSTICE WHITE, and by him referred to the Court, 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 the application for stay in order to give the applicant time to file a petition for writ of certiorari, and would grant the petition and vacate the death sentence in this case.

DECEMBER 23, 1986

Dismissals Under Rule 53

No. 86-567. *CURRY ET AL. v. BAKER ET AL.* C. A. 11th Cir. Certiorari dismissed under this Court's Rule 53. Reported below: 802 F. 2d 1302.

No. 86-569. *GRADDICK, ATTORNEY GENERAL OF ALABAMA v. HENDERSON ET AL.* Appeal from D. C. M. D. Ala. dismissed under this Court's Rule 53. Reported below: 641 F. Supp. 1192.

DECEMBER 30, 1986

Dismissal Under Rule 53

No. 86-613. *GRIFFIN HOSPITAL v. COMMISSION ON HOSPITALS AND HEALTH CARE.* Appeal from Sup. Ct. Conn. dismissed under this Court's Rule 53. Reported below: 200 Conn. 489, 512 A. 2d 199.

JANUARY 12, 1987

Appointment of Reporter of Decisions

It is ordered that Frank D. Wagner be appointed Reporter of Decisions of this Court to succeed Henry C. Lind, effective February 1, 1987, and he is charged with the duty of reporting the decisions of the present Term which have not been reported prior to February 1, 1987.

Appeals Dismissed

No. 85-1094. *HOPFMANN ET AL. v. CONNOLLY ET AL.* Appeal from C. A. 1st Cir. dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied. Reported below: 769 F. 2d 24.

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No. 86-719. *EDWARDS, ADMINISTRATRIX FOR THE ESTATE OF EDWARDS v. EDWARDS*. Appeal from Sup. Ct. Tenn. dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied. Reported below: 713 S. W. 2d 642.

No. 86-5782. *HARRIS v. MENENDEZ*. Appeal from C. A. 11th Cir. dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied.

No. 86-359. *CASTRO GONZALEZ v. PUERTO RICO ET AL.* Appeal from Super. Ct. Puerto Rico dismissed for want of substantial federal question.

No. 86-581. *NEW YORK STATE RESTAURANT ASSN., INC., ET AL. v. CITY OF NEW YORK ET AL.* Appeal from App. Div., Sup. Ct. N. Y., 1st Jud. Dept., dismissed for want of substantial federal question. Reported below: 119 App. Div. 2d 427, 500 N. Y. S. 2d 224.

No. 86-799. *FISHER v. COPLEY PRESS, INC., ET AL.* Appeal from Ct. App. Cal., 4th App. Dist., dismissed for want of substantial federal question.

No. 86-5670. *LOWERY v. NELSON ET AL.* Appeal from Ct. App. Wash. dismissed for want of substantial federal question. Reported below: 43 Wash. App. 747, 719 P. 2d 594.

No. 86-686. *HYDROPOOL & COGENERATION SERVICES, INC. v. CALIFORNIA PUBLIC UTILITIES COMMISSION ET AL.* Appeal from Sup. Ct. Cal. dismissed for want of jurisdiction. JUSTICE BLACKMUN took no part in the consideration or decision of this case.

No. 86-712. *BUTCHER ET UX. v. DEPARTMENT OF THE TREASURY, REVENUE DIVISION, FOR THE STATE OF MICHIGAN, ET AL.* Appeal from Sup. Ct. Mich. dismissed for want of properly presented federal question. Reported below: 425 Mich. 262, 389 N. W. 2d 412.

No. 86-759. *REARDON v. REARDON ET AL.* Appeal from D. C. N. J. dismissed for want of jurisdiction.

Vacated and Remanded on Appeal

No. 86-434. *EU, SECRETARY OF STATE OF CALIFORNIA, ET AL. v. SAN FRANCISCO COUNTY DEMOCRATIC CENTRAL COMMIT-*

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TEE ET AL. Appeal from C. A. 9th Cir. Judgment vacated and case remanded for further consideration in light of *Tashjian v. Republican Party of Connecticut*, ante, p. 208. JUSTICE STEVENS would affirm the judgment. THE CHIEF JUSTICE took no part in the consideration or decision of this case. Reported below: 792 F. 2d 802.

Certiorari Granted—Vacated and Remanded

No. 86-597. UNION GAS CO. v. PENNSYLVANIA. C. A. 3d Cir. Certiorari granted, judgment vacated, and case remanded for further consideration in light of the Superfund Amendments and Reauthorization Act of 1986, Pub. L. 99-499. Reported below: 792 F. 2d 372.

Miscellaneous Orders

No. — — —. RUPP ET AL. v. UNITED FOOD & COMMERCIAL WORKERS UNION, LOCAL 1439. Motion to direct the Clerk to file a petition for writ of certiorari out of time denied.

No. A-411 (86-6012). LEAVITT v. UNITED STATES. C. A. 11th Cir. Application for stay, addressed to JUSTICE STEVENS and referred to the Court, denied.

No. D-591. IN RE DISBARMENT OF BURNS. Richard Gordon Burns, of Corte Madera, Cal., having requested to resign as a member of the Bar of this Court, it is ordered that his name be stricken from the roll of attorneys admitted to practice before the Bar of this Court. The rule to show cause, heretofore issued on December 8, 1986 [ante, p. 1003], is hereby discharged. THE CHIEF JUSTICE and JUSTICE O'CONNOR took no part in the consideration or decision of this order.

No. D-595. IN RE DISBARMENT OF HARTMAN. It is ordered that Ronald L. Hartman of Encino, 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-596. IN RE DISBARMENT OF KRAMER. It is ordered that Stuart R. Kramer, 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-597. *IN RE DISBARMENT OF FABRÉ*. It is ordered that Edwin George Fabré, of Detroit, Mich., be suspended from the practice of law in this Court and that a rule issue, returnable within 40 days, requiring him to show cause why he should not be disbarred from the practice of law in this Court.

No. D-598. *IN RE DISBARMENT OF GORIN*. It is ordered that Martin Manuel Gorin, of Kansas City, Mo., 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-599. *IN RE DISBARMENT OF HENRY*. It is ordered that James Vance Henry, of Fresno, 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-600. *IN RE DISBARMENT OF TUCKER*. It is ordered that Robert L. Tucker, 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-601. *IN RE DISBARMENT OF INTINI*. It is ordered that Anthony Intini III, of Oak Brook, 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. 85-1708. *CALIFORNIA ET AL. v. CABAZON BAND OF MISSION INDIANS ET AL.* C. A. 9th Cir. [Probable jurisdiction postponed, 476 U. S. 1168.] Motion of appellees for leave to file a supplemental brief after argument granted. Motion of appellants for leave to file a supplemental brief after argument granted.

No. 85-1722. *O'LONE, ADMINISTRATOR, LEESBURG PRISON COMPLEX, ET AL. v. ESTATE OF SHABAZZ ET AL.* C. A. 3d Cir. [Certiorari granted, *ante*, p. 881.] Motion of the Solicitor General for leave to participate in oral argument as *amicus curiae* and for divided argument granted.

No. 86-87. *UNITED STATES v. SALERNO ET AL.* C. A. 2d Cir. [Certiorari granted, *ante*, p. 929.] Motion of Americans for Effective Law Enforcement, Inc., et al. for leave to file a brief as

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amici curiae out of time denied. Motion of Howard Perry for leave to file a brief as *amicus curiae* granted. Motion of National Association of Criminal Defense Lawyers for leave to participate in oral argument as *amicus curiae*, for divided argument, and for additional time for oral argument denied.

No. 86-108. HILTON, SUPERINTENDENT, NEW JERSEY STATE PRISON, ET AL. *v.* BRAUNSKILL. C. A. 3d Cir. [Certiorari granted, *ante*, p. 881.] Motion of the Solicitor General for leave to participate in oral argument as *amicus curiae* and for divided argument denied.

No. 86-231. PENSION BENEFIT GUARANTY CORPORATION *v.* YAHN & McDONNELL, INC., ET AL.; and

No. 86-253. UNITED RETAIL & WHOLESALE EMPLOYEES TEAMSTERS UNION LOCAL NO. 115 PENSION PLAN ET AL. *v.* YAHN & McDONNELL, INC., ET AL. C. A. 3d Cir. [Probable jurisdiction noted, *ante*, p. 982.] Motion of appellants to dispense with printing the joint appendix granted. JUSTICE WHITE took no part in the consideration or decision of this motion.

No. 86-234. McNALLY *v.* UNITED STATES; and

No. 86-286. GRAY *v.* UNITED STATES. C. A. 6th Cir. [Certiorari granted, *ante*, p. 1005.] Motion of the Solicitor General to dispense with printing the joint appendix granted.

No. 86-260. SOUTH DAKOTA *v.* DOLE, SECRETARY OF TRANSPORTATION. C. A. 8th Cir. [Certiorari granted, *ante*, p. 982.] Motion of petitioner to dispense with printing the joint appendix granted.

No. 86-322. CRAWFORD FITTING CO. ET AL. *v.* J. T. GIBBONS, INC.; and

No. 86-328. CHAMPION INTERNATIONAL CORP. *v.* INTERNATIONAL WOODWORKERS OF AMERICA, AFL-CIO, CLC, ET AL. C. A. 5th Cir. [Certiorari granted, *ante*, p. 983.] Motions of petitioners to dispense with printing the joint appendix granted.

No. 86-337. BURLINGTON NORTHERN RAILROAD CO. *v.* OKLAHOMA TAX COMMISSION ET AL. C. A. 10th Cir. [Certiorari granted, *ante*, p. 913.] Motions of Association of American Railroads and American Bus 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.

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No. 86-511. COMMISSIONER OF INTERNAL REVENUE *v.* FINK ET UX. C. A. 6th Cir. [Certiorari granted, *ante*, p. 960.] Motion of the Solicitor General to dispense with printing the joint appendix granted.

No. 86-572. KENTUCKY *v.* STINCER. Sup. Ct. Ky. [Certiorari granted, *ante*, p. 1005.] Motion for appointment of counsel granted, and it is ordered that Mark A. Posnansky, Esquire, of Frankfort, Ky., be appointed to serve as counsel for respondent in this case.

No. 86-953. ABELL *v.* UNITED STATES. Ct. Mil. App. Motion of petitioner to expedite consideration of petition for writ of certiorari and to consolidate with No. 85-1581, *Solorio v. United States* [certiorari granted, 476 U. S. 1181], denied.

No. 86-5765. WRENN *v.* MCFADDEN ET AL. C. A. 4th Cir. Motion of petitioner for leave to proceed *in forma pauperis* denied. Petitioner is allowed until February 2, 1987, 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.

JUSTICE BRENNAN and JUSTICE MARSHALL, dissenting.

For the reasons expressed in *Brown v. Herald Co.*, 464 U. S. 928 (1983), we would deny the petition for writ of certiorari without reaching the merits of the motion to proceed *in forma pauperis*.

No. 86-5905. IN RE TAYLOR. Petition for writ of habeas corpus denied.

No. 86-907. IN RE ZUGER;

No. 86-5738. IN RE CALPIN;

No. 86-5754. IN RE MCELROY;

No. 86-5785. IN RE MCQUEEN;

No. 86-5799. IN RE JOHL;

No. 86-5831. IN RE BLUITT; and

No. 86-5850. IN RE FLEMING. Petitions for writs of mandamus denied.

No. 86-804. IN RE ROWAN COS., INC. Petition for writ of mandamus and/or other relief denied.

Certiorari Granted

No. 86-489. LANGLEY ET UX. *v.* FEDERAL DEPOSIT INSURANCE CORPORATION. C. A. 5th Cir. Certiorari granted. Reported below: 792 F. 2d 541.

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No. 86-594. NATIONAL LABOR RELATIONS BOARD ET AL. *v.* UNITED FOOD & COMMERCIAL WORKERS UNION, LOCAL 23, AFL-CIO. C. A. 3d Cir. Certiorari granted. Reported below: 788 F. 2d 178.

No. 86-651. UNITED PAPERWORKERS INTERNATIONAL UNION, AFL-CIO, ET AL. *v.* MISCO, INC. C. A. 5th Cir. Certiorari granted. Reported below: 768 F. 2d 739.

No. 86-772. CITY OF ST. LOUIS *v.* PRAPROTNIK. C. A. 8th Cir. Certiorari granted. Reported below: 798 F. 2d 1168.

No. 86-327. MULLINS COAL CO., INC. OF VIRGINIA, ET AL. *v.* DIRECTOR, OFFICE OF WORKERS' COMPENSATION PROGRAMS, UNITED STATES DEPARTMENT OF LABOR, ET AL. C. A. 4th Cir. Motion of National Coal Association for leave to file a brief as *amicus curiae* granted. Motion of respondent Luke R. Ray for leave to proceed *in forma pauperis* granted. Certiorari granted. Reported below: 785 F. 2d 424.

No. 86-473. GWALTNEY OF SMITHFIELD, LTD. *v.* CHESAPEAKE BAY FOUNDATION, INC., ET AL. C. A. 4th Cir. Motion of Connecticut Business & Industry Association for leave to file a brief as *amicus curiae* granted. Certiorari granted. Reported below: 791 F. 2d 304.

No. 86-492. BOYLE, PERSONAL REPRESENTATIVE OF THE HEIRS AND ESTATE OF BOYLE *v.* UNITED TECHNOLOGIES CORP. C. A. 4th Cir. Certiorari granted. JUSTICE POWELL took no part in the consideration or decision of this petition. Reported below: 792 F. 2d 413.

No. 86-595. UNITED STATES *v.* FAUSTO. C. A. Fed. Cir. Motion of respondent for leave to proceed *in forma pauperis* granted. Motion of respondent for leave to file a cross-petition for writ of certiorari out of time denied. Certiorari granted. Reported below: 783 F. 2d 1020 and 791 F. 2d 1554.

Certiorari Denied. (See also Nos. 85-1094, 86-719, and 86-5782, *supra.*)

No. 85-1931. PATWARDHAN *v.* SAN ANTONIO COMMUNITY HOSPITAL ET AL. Ct. App. Cal., 4th App. Dist. Certiorari denied.

No. 85-7156. BROWN *v.* GUILLORY, WARDEN, ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 790 F. 2d 891.

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No. 85-7163. *LOCKHART v. McCOTTER, DIRECTOR, TEXAS DEPARTMENT OF CORRECTIONS*. C. A. 5th Cir. Certiorari denied. Reported below: 782 F. 2d 1275.

No. 86-382. *SUTTON ET AL. v. UNITED STATES*. Temp. Emerg. Ct. App. Certiorari denied. Reported below: 795 F. 2d 1040.

No. 86-391. *ASHER v. WASHINGTON*. Ct. App. Wash. Certiorari denied.

No. 86-428. *CUDD PRESSURE CONTROL, INC., ET AL. v. KIN-
DLE ET AL.* C. A. 5th Cir. Certiorari denied. Reported below:
792 F. 2d 507.

No. 86-482. *PATCHOGUE NURSING CENTER v. BOWEN, SEC-
RETARY OF HEALTH AND HUMAN SERVICES, ET AL.* C. A. 2d
Cir. Certiorari denied. Reported below: 797 F. 2d 1137.

No. 86-493. *TEXAS STATE COMMISSION FOR THE BLIND ET
AL. v. UNITED STATES*. C. A. Fed. Cir. Certiorari denied.
Reported below: 796 F. 2d 400.

No. 86-505. *LUBBOCK INDEPENDENT SCHOOL DISTRICT v.
TEXAS EDUCATION AGENCY ET AL.* C. A. 5th Cir. Certiorari
denied. Reported below: 790 F. 2d 1262.

No. 86-512. *HANKS v. UNITED STATES*. C. A. 4th Cir. Cer-
tiorari denied. Reported below: 792 F. 2d 140.

No. 86-523. *MOSHER STEEL Co., DIVISION OF TRINITY INDUS-
TRIES, ET AL. v. BROCK, SECRETARY OF LABOR*. C. A. 11th Cir.
Certiorari denied. Reported below: 791 F. 2d 1535.

No. 86-525. *PAN AMERICAN WORLD AIRWAYS, INC. v. EQUAL
EMPLOYMENT OPPORTUNITY COMMISSION ET AL.* C. A. 9th Cir.
Certiorari denied. Reported below: 796 F. 2d 314.

No. 86-534. *CBS INC. v. MOLECULON RESEARCH CORP.*
C. A. Fed. Cir. Certiorari denied. Reported below: 793 F. 2d
1261.

No. 86-537. *PENA v. UNITED STATES*. Ct. Mil. App. Cer-
tiorari denied. Reported below: 22 M. J. 281.

No. 86-541. *WALLACE ET AL. v. ALLEGHENY-LUDLUM INDUS-
TRIES ET AL.* C. A. 11th Cir. Certiorari denied. Reported
below: 794 F. 2d 686.

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No. 86-556. *MOORE ET AL. v. ILLINOIS*. Sup. Ct. Ill. Certiorari denied.

No. 86-561. *GRODE, INSURANCE COMMISSIONER OF PENNSYLVANIA v. UNITED SERVICES AUTOMOBILE ASSN. ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 792 F. 2d 356.

No. 86-592. *SYUFY ENTERPRISES v. AMERICAN MULTICINEMA, INC., ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 793 F. 2d 990.

No. 86-606. *LOCKE v. MESA PETROLEUM CO. ET AL.* C. A. 11th Cir. Certiorari denied. Reported below: 787 F. 2d 1484.

No. 86-621. *SPECTOR v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 793 F. 2d 932.

No. 86-640. *HARRIS, PERSONAL REPRESENTATIVE OF THE ESTATE OF ROLLE v. CITY OF MIAMI*. Dist. Ct. App. Fla., 3d Dist. Certiorari denied. Reported below: 490 So. 2d 69.

No. 86-647. *CUSENZA v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 789 F. 2d 919.

No. 86-663. *LORD ELECTRIC CO., INC., ET AL. v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 797 F. 2d 1377.

No. 86-675. *JASLOW DENTAL LABORATORY, INC., ET AL. v. WHELAN ASSOCIATES, INC.* C. A. 3d Cir. Certiorari denied. Reported below: 797 F. 2d 1222.

No. 86-679. *BOOTH NEWSPAPERS, INC. v. DEWITT, JUDGE, MIDLAND COUNTY CIRCUIT COURT, ET AL.* Ct. App. Mich. Certiorari denied. Reported below: 145 Mich. App. 396, 377 N. W. 2d 868.

No. 86-685. *CRISWELL v. BALTIMORE & OHIO RAILROAD CO., INC.* C. A. 4th Cir. Certiorari denied.

No. 86-690. *GASAWAY, DBA SUBURBAN SEALING CO. v. LABORERS' PENSION FUND ET AL.* C. A. 7th Cir. Certiorari denied. Reported below: 793 F. 2d 1296.

No. 86-693. *SMITH v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 793 F. 2d 85.

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No. 86-694. *KOLENTUS ET AL. v. AVCO CORP. ET AL.* C. A. 7th Cir. Certiorari denied. Reported below: 798 F. 2d 949.

No. 86-702. *JOHNSON ET UX. v. FEDERAL LAND BANK OF LOUISVILLE ET AL.* Sup. Ct. Ohio. Certiorari denied. Reported below: 24 Ohio St. 3d 69, 493 N. E. 2d 946.

No. 86-707. *JENSEN v. COUNTY OF LANCASTER ET AL.* Cir. Ct. Lancaster County, Va. Certiorari denied.

No. 86-710. *SLADE v. UNITED STATES OF MEXICO.* C. A. D. C. Cir. Certiorari denied. Reported below: 252 U. S. App. D. C. 341, 790 F. 2d 163.

No. 86-713. *STORRS v. MUNICIPALITY OF ANCHORAGE.* Sup. Ct. Alaska. Certiorari denied. Reported below: 721 P. 2d 1146.

No. 86-716. *RANDOLPH COUNTY v. ALABAMA POWER CO.* C. A. 11th Cir. Certiorari denied. Reported below: 784 F. 2d 1067.

No. 86-717. *NAMACO INDUSTRIES, INC. v. ROBART WOOD & WIRE PRODUCTS CORP.* C. A. 4th Cir. Certiorari denied. Reported below: 797 F. 2d 176.

No. 86-718. *ALEXANDER v. CITY OF MENLO PARK ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 787 F. 2d 1371.

No. 86-720. *LOOART PRESS, INC. v. CALIFORNIA STATE BOARD OF EQUALIZATION.* Ct. App. Cal., 1st App. Dist. Certiorari denied.

No. 86-723. *COHEN v. WORKERS' COMPENSATION APPEALS BOARD OF CALIFORNIA ET AL.* Ct. App. Cal., 4th App. Dist. Certiorari denied.

No. 86-725. *DOOLEY ET AL. v. AMERICAN AIRLINES, INC., ET AL.* C. A. 7th Cir. Certiorari denied. Reported below: 797 F. 2d 1447.

No. 86-726. *BAKER v. LOS ANGELES HERALD EXAMINER ET AL.* Sup. Ct. Cal. Certiorari denied. Reported below: 42 Cal. 3d 254, 721 P. 2d 87.

No. 86-727. *DERVISHIAN v. VIRGINIA.* Sup. Ct. Va. Certiorari denied.

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No. 86-730. *CANNON v. LOYOLA UNIVERSITY OF CHICAGO ET AL.* C. A. 7th Cir. Certiorari denied. Reported below: 784 F. 2d 777.

No. 86-733. *BADER ET AL. v. ITEL CORP. ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 791 F. 2d 672.

No. 86-734. *ROTHERY STORAGE & VAN CO., INC., ET AL. v. ATLAS VAN LINES, INC.* C. A. D. C. Cir. Certiorari denied. Reported below: 253 U. S. App. D. C. 142, 792 F. 2d 210.

No. 86-742. *HARRELL ET AL. v. REEVES ET AL.* C. A. 11th Cir. Certiorari denied. Reported below: 791 F. 2d 1481.

No. 86-743. *ZIECHMANN ET AL. v. ADOMAITIS ET AL.* Ct. App. Ohio, Cuyahoga County. Certiorari denied.

No. 86-750. *SIMPSON PAPER CO. v. CALIFORNIA DEPARTMENT OF INDUSTRIAL RELATIONS, DIVISION OF OCCUPATIONAL SAFETY AND HEALTH.* Ct. App. Cal., 3d App. Dist. Certiorari denied.

No. 86-754. *ROYAL CENTER, INC. v. LOCAL JOINT EXECUTIVE BOARD OF LAS VEGAS ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 796 F. 2d 1159.

No. 86-766. *AIRLINES TRANSPORTATION CO. v. NATIONAL LABOR RELATIONS BOARD.* C. A. 3d Cir. Certiorari denied. Reported below: 800 F. 2d 1136.

No. 86-767. *PEREZ v. LAREDO JUNIOR COLLEGE ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 795 F. 2d 83.

No. 86-768. *KANSAS CITY SOUTHERN RAILWAY CO. v. MISSOURI PACIFIC RAILROAD CO. ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 798 F. 2d 1410.

No. 86-769. *HOUGH v. KISS ET AL.* Super. Ct. N. J., App. Div. Certiorari denied.

No. 86-770. *HARRIS v. BLAKE ET AL.* C. A. 10th Cir. Certiorari denied. Reported below: 798 F. 2d 419.

No. 86-771. *INTERMEDICS INC. v. MEDTRONIC, INC., ET AL.* C. A. Fed. Cir. Certiorari denied. Reported below: 799 F. 2d 734.

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No. 86-773. *STORA KOPPARBERGS BERGSLAGS AB ET AL. v. CRUCIBLE, INC., ET AL.* C. A. Fed. Cir. Certiorari denied. Reported below: 793 F. 2d 1565.

No. 86-774. *CAMAROTA v. BERGER ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 800 F. 2d 1132.

No. 86-777. *MINCHEW v. FIERER.* C. A. 4th Cir. Certiorari denied. Reported below: 795 F. 2d 81.

No. 86-778. *MCCOLLUM ET AL. v. TISCH, POSTMASTER GENERAL OF THE UNITED STATES.* C. A. 11th Cir. Certiorari denied. Reported below: 794 F. 2d 602.

No. 86-779. *DELORETO ET AL. v. CITY OF SANTA BARBARA.* Ct. App. Cal., 2d App. Dist. Certiorari denied.

No. 86-780. *LA FOLLETTE, ATTORNEY GENERAL OF WISCONSIN v. BURLINGTON NORTHERN RAILROAD CO. ET AL.* Sup. Ct. Wis. Certiorari denied. Reported below: 131 Wis. 2d 564, 388 N. W. 2d 916.

No. 86-782. *STICKLEN ET AL. v. CITY OF MIDDLETOWN, OHIO.* Sup. Ct. Ohio. Certiorari denied. Reported below: 25 Ohio St. 3d 71, 495 N. E. 2d 380.

No. 86-783. *WECHT v. ALLEGHENY COUNTY.* Pa. Commw. Ct. Certiorari denied. Reported below: 88 Pa. Commw. 128, 488 A. 2d 671.

No. 86-785. *CORRIGAN ET AL. v. SOMMERS DRUG STORES CO.* C. A. 5th Cir. Certiorari denied. Reported below: 793 F. 2d 1456.

No. 86-786. *MUELLER ET AL. v. UEHLEIN ET AL.* C. A. 7th Cir. Certiorari denied. Reported below: 794 F. 2d 300.

No. 86-789. *AMERICAN MULTI-CINEMA, INC. v. SYUFY ENTERPRISES.* C. A. 9th Cir. Certiorari denied. Reported below: 793 F. 2d 990.

No. 86-790. *SCHWARZ v. CITY OF WARWICK ET AL.* C. A. 1st Cir. Certiorari denied. Reported below: 802 F. 2d 440.

No. 86-791. *GREY v. STATE BAR OF CALIFORNIA.* Sup. Ct. Cal. Certiorari denied.

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No. 86-795. *WESTMAC, INC. v. SMITH ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 797 F. 2d 313.

No. 86-796. *JACKSON v. NATIONAL BROADCASTING CO. ET AL.* C. A. 11th Cir. Certiorari denied. Reported below: 790 F. 2d 87.

No. 86-798. *BOYD v. MCNEILAB, INC.* C. A. 5th Cir. Certiorari denied. Reported below: 798 F. 2d 1410.

No. 86-801. *PARRO ET AL. v. DEPARTMENT OF TRANSPORTATION, FEDERAL AVIATION ADMINISTRATION.* C. A. Fed. Cir. Certiorari denied. Reported below: 795 F. 2d 1018.

No. 86-812. *JOHNSON v. PERLMUTTER.* App. Ct. Conn. Certiorari denied. Reported below: 6 Conn. App. 292, 505 A. 2d 13.

No. 86-813. *HOMEBOUND HEALTH CARE AGENCY v. TENNESSEE VALLEY HOME HEALTH AGENCY ET AL.* Ct. Civ. App. Ala. Certiorari denied. Reported below: 494 So. 2d 640.

No. 86-816. *HICKS v. UNITED STATES.* C. A. 11th Cir. Certiorari denied. Reported below: 798 F. 2d 446.

No. 86-817. *CARDEN ET AL. v. ARKOMA ASSOCIATES.* C. A. 5th Cir. Certiorari denied.

No. 86-821. *LEE v. REAGAN, PRESIDENT OF THE UNITED STATES, ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 789 F. 2d 921.

No. 86-824. *MORRIS v. UNITED STATES.* Ct. Mil. App. Certiorari denied. Reported below: 23 M. J. 161.

No. 86-829. *DIAMOND SHAMROCK CORP. v. ZINKE & TRUMBO ET AL.* C. A. 10th Cir. Certiorari denied.

No. 86-837. *BIERMANN v. COMMISSIONER OF INTERNAL REVENUE.* C. A. 11th Cir. Certiorari denied. Reported below: 800 F. 2d 266.

No. 86-846. *GOODMAN v. UNITED STATES.* C. A. 3d Cir. Certiorari denied. Reported below: 800 F. 2d 1140.

No. 86-850. *BENSON ET UX. v. RAUSEO ET AL.* Ct. Sp. App. Md. Certiorari denied. Reported below: 67 Md. App. 758.

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No. 86-851. *BRIGGS v. HAGEN*, ADMINISTRATRIX OF THE ESTATE OF HAGEN, ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 792 F. 2d 1119.

No. 86-853. *GRIFFIN*, EXECUTRIX OF THE ESTATE OF COBB *v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 802 F. 2d 457.

No. 86-868. *STAHL v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 792 F. 2d 1438.

No. 86-901. *COCHRAN v. RIVERS ET AL.* C. A. 11th Cir. Certiorari denied. Reported below: 794 F. 2d 685.

No. 86-911. *KRALL v. UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF SOUTH DAKOTA*. C. A. 8th Cir. Certiorari denied.

No. 86-928. *NEAL v. WHITE*, WARDEN. C. A. 11th Cir. Certiorari denied. Reported below: 802 F. 2d 1397.

No. 86-936. *VAMOS v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 797 F. 2d 1146.

No. 86-944. *SULLIVAN v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 803 F. 2d 87.

No. 86-5047. *LAWSON v. CREDIT THRIFT OF AMERICA ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 791 F. 2d 933.

No. 86-5100. *WOOD v. McMACKIN*, SUPERINTENDENT, HOCKING CORRECTIONAL FACILITY. C. A. 6th Cir. Certiorari denied. Reported below: 790 F. 2d 548.

No. 86-5147. *MORTON v. FOLTZ*, ADMINISTRATOR, MICHIGAN DEPARTMENT OF CORRECTIONS. C. A. 6th Cir. Certiorari denied. Reported below: 782 F. 2d 1042.

No. 86-5193. *SPENCER v. McCOTTER*, DIRECTOR, TEXAS DEPARTMENT OF CORRECTIONS. C. A. 5th Cir. Certiorari denied. Reported below: 791 F. 2d 929.

No. 86-5230. *PATTERSON v. BLACK*, WARDEN. C. A. 8th Cir. Certiorari denied. Reported below: 791 F. 2d 107.

No. 86-5377. *WOODS v. ARMONTROUT*, WARDEN. C. A. 8th Cir. Certiorari denied. Reported below: 787 F. 2d 310.

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No. 86-5378. *KACHBALIAN v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 800 F. 2d 1141.

No. 86-5388. *TYSON v. MCKELLAR, WARDEN, ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 788 F. 2d 1560.

No. 86-5419. *STOCKARD v. WHITE, WARDEN, ET AL.* C. A. 11th Cir. Certiorari denied. Reported below: 792 F. 2d 1124.

No. 86-5465. *SHEGRUD v. WISCONSIN*. Sup. Ct. Wis. Certiorari denied. Reported below: 131 Wis. 2d 133, 389 N. W. 2d 7.

No. 86-5508. *MAGHE v. OKLAHOMA*. Ct. Crim. App. Okla. Certiorari denied.

No. 86-5524. *MAYER v. ANGELICA*. C. A. 7th Cir. Certiorari denied. Reported below: 790 F. 2d 1315.

No. 86-5549. *WILSHIRE v. RHODE ISLAND ET AL.* Sup. Ct. R. I. Certiorari denied. Reported below: 509 A. 2d 444.

No. 86-5557. *CHEESEMAN v. OFFICE OF PERSONNEL MANAGEMENT*. C. A. Fed. Cir. Certiorari denied. Reported below: 791 F. 2d 138.

No. 86-5566. *RIZO v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 795 F. 2d 1008.

No. 86-5570. *HUERTA v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 792 F. 2d 1492.

No. 86-5601. *HARROLD v. UNITED STATES*. C. A. 10th Cir. Certiorari denied. Reported below: 796 F. 2d 1275.

No. 86-5611. *EURY ET AL. v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 792 F. 2d 441.

No. 86-5624. *PITTS v. DISPENZA, DEPUTY EXECUTIVE SECRETARY, AIR FORCE BOARD FOR THE CORRECTION OF MILITARY RECORDS*. C. A. Fed. Cir. Certiorari denied. Reported below: 802 F. 2d 471.

No. 86-5632. *SCINTO v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 795 F. 2d 87.

No. 86-5648. *MCCOWN v. BOWEN, SECRETARY OF HEALTH AND HUMAN SERVICES*. C. A. 6th Cir. Certiorari denied. Reported below: 796 F. 2d 151.

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No. 86-5649. *MICHAELS v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 796 F. 2d 1112.

No. 86-5658. *DOMINA v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 784 F. 2d 1361.

No. 86-5673. *HASSAIN v. JOHNSON*. C. A. 9th Cir. Certiorari denied. Reported below: 790 F. 2d 1420.

No. 86-5681. *KOVACS v. MERIT SYSTEMS PROTECTION BOARD*. C. A. Fed. Cir. Certiorari denied. Reported below: 802 F. 2d 472.

No. 86-5688. *ELLISON v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 798 F. 2d 1102.

No. 86-5695. *WEBB v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 796 F. 2d 60.

No. 86-5721. *BUNCH v. MURRAY, DIRECTOR, VIRGINIA DEPARTMENT OF CORRECTIONS*. C. A. 4th Cir. Certiorari denied. Reported below: 796 F. 2d 472.

No. 86-5724. *TAUVAR v. BAR HARBOR CONGREGATION OF JEHOVAH'S WITNESSES, INC., ET AL.* C. A. 1st Cir. Certiorari denied. Reported below: 787 F. 2d 579.

No. 86-5735. *HUBBARD v. ONION*. C. A. 5th Cir. Certiorari denied.

No. 86-5743. *TOWNES v. BRASHER ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 795 F. 2d 1008.

No. 86-5748. *SHEWCHUN v. NEESE ET AL.* C. A. 11th Cir. Certiorari denied.

No. 86-5750. *LUCIEN v. CHRANS, WARDEN*. C. A. 7th Cir. Certiorari denied.

No. 86-5753. *HARVEY v. TORRES ET AL.* C. A. 5th Cir. Certiorari denied.

No. 86-5757. *ROYAL v. EXXON U. S. A. CHEMICAL DEPARTMENT*. C. A. 5th Cir. Certiorari denied.

No. 86-5759. *RIVERA v. NEW YORK*. App. Div., Sup. Ct. N. Y., 4th Jud. Dept. Certiorari denied.

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No. 86-5760. *JORDAN v. WASHINGTON*. Ct. App. Wash. Certiorari denied. Reported below: 39 Wash. App. 530, 694 P. 2d 47.

No. 86-5763. *ROBINSON v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 801 F. 2d 392.

No. 86-5770. *SIMMONS v. WAINWRIGHT, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS, ET AL.* C. A. 11th Cir. Certiorari denied. Reported below: 801 F. 2d 402.

No. 86-5771. *WILSON v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 796 F. 2d 55.

No. 86-5774. *STAPLES v. YOUNG*. Ct. App. Wis. Certiorari denied. Reported below: 132 Wis. 2d 481, 392 N. W. 2d 849.

No. 86-5777. *LOTT v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 800 F. 2d 266.

No. 86-5780. *ABBOTT v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 800 F. 2d 1143.

No. 86-5781. *BEASLEY v. MCCOTTER, DIRECTOR, TEXAS DEPARTMENT OF CORRECTIONS*. C. A. 5th Cir. Certiorari denied. Reported below: 798 F. 2d 116.

No. 86-5783. *HARRIS v. FLORIDA*. Sup. Ct. Fla. Certiorari denied. Reported below: 494 So. 2d 1151.

No. 86-5788. *GREEN v. SUMTER POLICE DEPARTMENT ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 796 F. 2d 473.

No. 86-5791. *RAMAZETTI v. COMMISSIONER OF INTERNAL REVENUE*. C. A. 6th Cir. Certiorari denied. Reported below: 802 F. 2d 459.

No. 86-5794. *HUMPHREY v. UNITED STATES*. C. A. 11th Cir. Certiorari denied.

No. 86-5795. *CARONE v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 791 F. 2d 922.

No. 86-5796. *CARR v. CIRCUIT COURT OF KANAWHA COUNTY, WEST VIRGINIA*. C. A. 4th Cir. Certiorari denied. Reported below: 803 F. 2d 1180.

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No. 86-5797. *HARDY v. MINNESOTA LAWYERS PROFESSIONAL RESPONSIBILITY BOARD ET AL.* Sup. Ct. Minn. Certiorari denied.

No. 86-5798. *BAZILE v. BLACKBURN, WARDEN, ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 795 F. 2d 1008.

No. 86-5803. *DANIELS v. ALABAMA.* Sup. Ct. Ala. Certiorari denied. Reported below: 534 So. 2d 656.

No. 86-5804. *WILLIAMS v. UNITED STATES.* C. A. 6th Cir. Certiorari denied. Reported below: 803 F. 2d 722.

No. 86-5805. *McMANNIS v. HEDRICK, WARDEN.* C. A. 4th Cir. Certiorari denied. Reported below: 796 F. 2d 473.

No. 86-5806. *ANDREWS v. WISCONSIN.* Ct. App. Wis. Certiorari denied. Reported below: 132 Wis. 2d 479, 392 N. W. 2d 848.

No. 86-5813. *CRENSHAW v. CITY OF TOLEDO ET AL.* Sup. Ct. Ohio. Certiorari denied.

No. 86-5816. *JAMES v. GEORGIA.* Ct. App. Ga. Certiorari denied. Reported below: 180 Ga. App. 7, 348 S. E. 2d 502.

No. 86-5818. *MINOR v. BUREAU OF SOCIAL SERVICES OF HENNEPIN COUNTY, MINNESOTA.* Sup. Ct. Minn. Certiorari denied. Reported below: 391 N. W. 2d 791.

No. 86-5820. *DUNDORE ET UX. v. O'DONNELL ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 791 F. 2d 916.

No. 86-5821. *WARD v. INDIANA.* Sup. Ct. Ind. Certiorari denied.

No. 86-5822. *RUSSELL v. NORTHWESTERN MUTUAL INSURANCE Co.* Ct. App. Wis. Certiorari denied.

No. 86-5823. *DAVIS v. CALIFORNIA.* Ct. App. Cal., 6th App. Dist. Certiorari denied.

No. 86-5826. *GRAY v. HOLLAND, WARDEN.* C. A. 4th Cir. Certiorari denied. Reported below: 801 F. 2d 394.

No. 86-5830. *GENTSCH v. McCOTTER, DIRECTOR, TEXAS DEPARTMENT OF CORRECTIONS.* C. A. 5th Cir. Certiorari denied.

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No. 86-5832. *AVITIA v. UNITED STATES IMMIGRATION AND NATURALIZATION SERVICE ET AL.* C. A. 7th Cir. Certiorari denied.

No. 86-5834. *BLYTHER v. WASHINGTON GAS LIGHT CO.* Ct. App. D. C. Certiorari denied.

No. 86-5835. *COLLIER v. GEORGIA.* Sup. Ct. Ga. Certiorari denied.

No. 86-5836. *COLLIER v. NEWSOME, WARDEN.* C. A. 11th Cir. Certiorari denied. Reported below: 803 F. 2d 1183.

No. 86-5839. *ROBINSON v. LOCKHART, DIRECTOR, ARKANSAS DEPARTMENT OF CORRECTION.* C. A. 8th Cir. Certiorari denied. Reported below: 802 F. 2d 464.

No. 86-5840. *STEWART v. MISSISSIPPI.* Sup. Ct. Miss. Certiorari denied. Reported below: 495 So. 2d 494.

No. 86-5843. *HASAN v. GREYHOUND LEASING & FINANCIAL CORP.* C. A. 9th Cir. Certiorari denied.

No. 86-5845. *JACKSON v. THIERET, WARDEN, ET AL.* C. A. 7th Cir. Certiorari denied.

No. 86-5848. *HARRIS v. JUDICIAL QUALIFICATIONS COMMISSION.* Sup. Ct. Fla. Certiorari denied. Reported below: 496 So. 2d 142.

No. 86-5849. *BRITT v. MURRAY, DIRECTOR, VIRGINIA DEPARTMENT OF CORRECTIONS.* C. A. 4th Cir. Certiorari denied. Reported below: 795 F. 2d 81.

No. 86-5851. *CANE v. SOWDERS, WARDEN.* C. A. 6th Cir. Certiorari denied. Reported below: 798 F. 2d 1413.

No. 86-5852. *GILMORE v. MARKS ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 799 F. 2d 51.

No. 86-5853. *FLETCHER v. TENNESSEE.* Ct. Crim. App. Tenn. Certiorari denied.

No. 86-5854. *LINDO v. CITY AND COUNTY OF SAN FRANCISCO ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 792 F. 2d 1122.

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No. 86-5856. REED *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 798 F. 2d 1418.

No. 86-5858. KENAN *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 803 F. 2d 722.

No. 86-5859. CRUZ-RIVERA *v.* BOWEN, SECRETARY OF HEALTH AND HUMAN SERVICES. C. A. 1st Cir. Certiorari denied. Reported below: 795 F. 2d 77.

No. 86-5860. OBADELE *v.* MEESE, ATTORNEY GENERAL OF THE UNITED STATES, ET AL. C. A. D. C. Cir. Certiorari denied. Reported below: 253 U. S. App. D. C. 39, 791 F. 2d 210.

No. 86-5863. DUBOSE *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 796 F. 2d 475.

No. 86-5869. FOUNTAIN *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 802 F. 2d 1398.

No. 86-5876. WILLIAMS *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 797 F. 2d 979.

No. 86-5882. HARRISON *v.* BOWEN, SECRETARY OF HEALTH AND HUMAN SERVICES. C. A. 4th Cir. Certiorari denied. Reported below: 790 F. 2d 83.

No. 86-5886. TELEPO *v.* EDWARDS ET AL. Sup. Ct. N. J. Certiorari denied. Reported below: 105 N. J. 562, 523 A. 2d 195.

No. 86-5893. POLONIA *v.* BOWEN, SECRETARY OF HEALTH AND HUMAN SERVICES. C. A. 1st Cir. Certiorari denied. Reported below: 795 F. 2d 76.

No. 86-5896. MORRIS *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied. Reported below: 802 F. 2d 447.

No. 86-5898. OLUSHOGA *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 803 F. 2d 722.

No. 86-5908. IBE *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 799 F. 2d 751.

No. 86-5909. CRACHY *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 800 F. 2d 83.

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No. 86-5914. WILLIAMS *v.* MARLBORO STATE HOSPITAL ET AL. C. A. 3d Cir. Certiorari denied. Reported below: 791 F. 2d 923.

No. 86-5925. MILLSAP *v.* GUDDUCCI. C. A. 2d Cir. Certiorari denied.

No. 86-5927. BOWMAN *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied. Reported below: 798 F. 2d 333.

No. 86-5932. KUZMA *v.* UNITED STATES POSTAL SERVICE. C. A. 2d Cir. Certiorari denied. Reported below: 798 F. 2d 29.

No. 86-5936. GITTMAN *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied. Reported below: 802 F. 2d 449.

No. 86-5937. BIBB *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 796 F. 2d 1475.

No. 86-5942. TAFT-TSARELKA *v.* MASSACHUSETTS ET AL. C. A. 1st Cir. Certiorari denied. Reported below: 802 F. 2d 441.

No. 86-354. HUBER ET AL. *v.* UNITED STATES MERIT SYSTEMS PROTECTION BOARD. C. A. Fed. Cir. Certiorari denied. JUSTICE WHITE would deny certiorari. Reported below: 793 F. 2d 284.

No. 86-522. COLORADO INTERSTATE GAS CO. *v.* FEDERAL ENERGY REGULATORY COMMISSION. C. A. 10th Cir. Motion of Tennessee Gas Pipeline Co. et al. for leave to file a brief as *amici curiae* granted. Certiorari denied. Reported below: 791 F. 2d 803.

No. 86-563. CIPOLLONE, EXECUTOR OF THE ESTATE OF CIPOLLONE *v.* LIGGETT GROUP, INC., ET AL. C. A. 3d Cir. Motion of American Heart Association et al. for leave to file a brief as *amici curiae* granted. Certiorari denied. JUSTICE POWELL took no part in the consideration or decision of this motion and this petition. Reported below: 789 F. 2d 181.

No. 86-636. MARTIN COUNTY, FLORIDA *v.* MAKEMSON ET AL.; and OKEECHOBEE COUNTY, FLORIDA *v.* DENNIS ET AL. Sup. Ct. Fla. Certiorari denied. Reported below: 491 So. 2d 1109 (first case); 491 So. 2d 1115 (second case).

JUSTICE WHITE, dissenting.

Petitioners are two political subdivisions in the State of Florida that have filed a single petition for certiorari, under this Court's Rule 19.4, seeking review of two separate judgments of the Supreme Court of Florida. Both cases present the same federal constitutional question; I set forth the facts in *Martin County v. Makemson* only.

Respondent Robert Makemson was appointed under Florida law to represent a defendant charged with first-degree murder, kidnapping, and armed robbery. Respondent's representation of the defendant spanned a 9-month period, and upon completion of the task respondent petitioned the trial court, pursuant to Fla. Stat. § 925.036 (1985),* for attorney's fees in the amount of \$9,500. Section 925.036(2)(d) establishes a limit of \$3,500 on compensation to appointed attorneys who represent capital defendants at trial. Notwithstanding this provision, the state trial court awarded respondent the \$9,500 he requested, declaring that "in setting rigid maximum fees without regard to the circumstances in each case[, § 925.036] is arbitrary and capricious and violates the due process clause of the United States and Florida Constitutions." 491 So. 2d 1109, 1111 (1986). The Fourth District Court of Appeals quashed the trial court's order declaring § 925.036 unconstitutional and certified several pertinent questions to the Florida Supreme Court. 464 So. 2d 1281 (1985). The Supreme Court held, *inter alia*, that the statute, while facially valid, was unconstitutional as applied to this case. The court reasoned:

"[W]e find that the statutory maximum fees, as inflexibly imposed in cases involving unusual or extraordinary circum-

*Florida Stat. § 925.036 (1985) provides, in relevant part:

"(1) An attorney appointed pursuant to s. 925.035 or s. 27.53 shall, at the conclusion of the representation, be compensated at an hourly rate fixed by the chief judge or senior judge of the circuit in an amount not to exceed the prevailing hourly rate for similar representation rendered in the circuit; however, such compensation shall not exceed the maximum fee limits established by this section. . . .

"(2) The compensation for representation shall not exceed the following:

"(a) For misdemeanors and juveniles represented at the trial level: \$1,000.

"(b) For noncapital, nonlife felonies represented at the trial level: \$2,500.

"(c) For life felonies represented at the trial level: \$3,000.

"(d) For capital cases represented at the trial level: \$3,500.

"(e) For representation on appeal: \$2,000."

stances, interfere with the defendant's sixth amendment right 'to have the assistance of counsel for his defense.' The statute, as applied to many of today's cases, provides for only token compensation. The availability of effective counsel is therefore called into question in those cases when it is needed most.

"[Section 925.036] interferes with the sixth amendment right to counsel. . . . [W]e must not lose sight of the fact that it is the defendant's right to effective representation rather than the attorney's right to fair compensation which is our focus." 491 So. 2d, at 1112.

This Court has never held that the Sixth Amendment right to counsel, made applicable to the States by the Fourteenth Amendment, requires the States and their political subdivisions to pay appointed counsel reasonable compensation for their services. Indeed, under our existing cases, I discern nothing in the Sixth Amendment that would prohibit a State from requiring its lawyers to represent indigent criminal defendants without *any* compensation for their services at all. By my view, Florida had no Sixth Amendment duty to enact § 925.036; it follows *a fortiori* that the Sixth Amendment does not require the State or its political subdivisions to pay *more* than the limits established in that statute. This view is consistent with our decision in *Powell v. Alabama*, 287 U. S. 45 (1932). There, the Court held that a state trial court had a duty to assign counsel in a capital case where the defendant was unable to employ an attorney and was incapable of representing himself. The Court asserted that "[a]ttorneys are officers of the court, and are bound to render service when required by such an appointment." *Id.*, at 73.

Even were I not of this view, I would still vote to grant the petition for certiorari because the decisions in these cases conflict with the decisions of other courts. In *Williamson v. Vardeman*, 674 F. 2d 1211, 1214 (1982), for example, the Eighth Circuit held that the courts of Missouri could constitutionally compel private attorneys to represent indigent defendants without compensation for their services. And, in *New Jersey v. Rush*, 46 N. J. 399, 217 A. 2d 441 (1966), the Supreme Court of New Jersey expressly rejected the argument that the Sixth Amendment mandates payment of fees to appointed counsel. The court assumed—perhaps

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gratuitously—that an attorney had standing to assert the Sixth Amendment right of his client, and stated that it knew “of no data to support a claim that an assigned attorney fails or shirks in the least the full measure of an attorney’s obligation to a client. . . . A lawyer needs no motivation beyond his sense of duty and his pride.” *Id.*, at 405–406, 217 A. 2d, at 444.

This petition presents an important issue of constitutional law that the Court should address. I respectfully dissent from the denial of certiorari.

No. 86–704. MINNESOTA *v.* BERNDT. Sup. Ct. Minn. Motion of Minnesota County Attorneys Association et al. for leave to file a brief as *amici curiae* granted. Certiorari denied. Reported below: 392 N. W. 2d 876.

No. 86–747. HEINTZ, COMMISSIONER OF THE CONNECTICUT DEPARTMENT OF INCOME MAINTENANCE *v.* HILLBURN ET AL. C. A. 2d Cir. Motion of Connecticut Association of Health Care Facilities, Inc., for leave to file a brief as *amicus curiae* granted. Motion of respondents for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 795 F. 2d 252.

No. 86–797. MICHIGAN *v.* BOOKER. C. A. 6th Cir. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 801 F. 2d 871.

No. 86–5420. BELL *v.* TEXAS. Ct. Crim. App. Tex.;

No. 86–5614. CARTER *v.* TENNESSEE. Sup. Ct. Tenn.; and

No. 86–5844. BOYD *v.* INDIANA. Sup. Ct. Ind. Certiorari denied. Reported below: No. 86–5420, 707 S. W. 2d 52; No. 86–5614, 714 S. W. 2d 241; No. 86–5844, 494 N. E. 2d 284.

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. 86–5787 (A–272). GOODRICH *v.* BUNNELL, SUPERINTENDENT, CALIFORNIA DEPARTMENT OF CORRECTIONS. C. A. 9th

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Cir. Application for bail, addressed to JUSTICE BRENNAN and referred to the Court, denied. Certiorari denied.

No. 86-5809. *POINDEXTER v. FEDERAL BUREAU OF INVESTIGATION*. C. A. D. C. Cir. Certiorari denied. JUSTICE SCALIA took no part in the consideration or decision of this petition. Reported below: 252 U. S. App. D. C. 240, 789 F. 2d 72.

Rehearing Denied

No. 85-7111. *PEEK v. KEMP, WARDEN*, *ante*, p. 939;

No. 86-139. *CITY OF NEWPORT, KENTUCKY, ET AL. v. IACOBUCCI, DBA TALK OF THE TOWN, ET AL.*, *ante*, p. 92;

No. 86-277. *WALKER v. ILLINOIS*, *ante*, p. 995;

No. 86-404. *WHALEY v. UNITED STATES*, *ante*, p. 962;

No. 86-424. *STICH v. STICH*, *ante*, p. 946;

No. 86-474. *CLISSURAS v. CITY OF NEW YORK ET AL.*, *ante*, p. 933;

No. 86-5320. *MILLER v. CALIFORNIA*, *ante*, p. 989;

No. 86-5410. *SINGLETON v. FREY, SUPERINTENDENT, MISSOURI EASTERN CORRECTIONAL CENTER*, *ante*, p. 934;

No. 86-5414. *IN RE MAGOON*, *ante*, p. 928;

No. 86-5448. *IN RE PARRISH*, *ante*, p. 928;

No. 86-5456. *ELY v. MORE THAN 20 FBI AGENTS ET AL.*, *ante*, p. 1009;

No. 86-5493. *ZAKY v. UNITED STATES VETERANS ADMINISTRATION ET AL.*, *ante*, p. 937;

No. 86-5529. *CHAMBERS v. INDUSTRIAL COMMISSION OF ILLINOIS ET AL.*, *ante*, p. 952;

No. 86-5547. *IN RE JOHL*, *ante*, p. 947; and

No. 86-5559. *BUTLER v. TEXAS*, *ante*, p. 946. Petitions for rehearing denied.

No. 85-1887. *FENNELL v. WARNER LAMBERT CO.*, *ante*, p. 817;

No. 85-6052. *AUGUSTYNIAK v. CITY OF NEW YORK ET AL.*, 475 U. S. 1027;

No. 85-7012. *ROBERTS v. MACKEY ET AL.*, *ante*, p. 836;

No. 85-7146. *YOUNGS-SETTLE v. ANDERSON*, *ante*, p. 843;

No. 86-5136. *MISSIRLIAN v. HUNTINGTON MEMORIAL HOSPITAL*, *ante*, p. 862; and

No. 86-5166. *LIRA v. UNITED STATES*, *ante*, p. 863. Petitions for rehearing denied. JUSTICE SCALIA took no part in the consideration or decision of these petitions.

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No. 83-5010. *GELB v. UNITED STATES*, 464 U. S. 853;
No. 85-7027. *IN RE WEYGANDT*, *ante*, p. 809;
No. 85-7033. *VIOLA v. UNITED STATES*, *ante*, p. 837;
No. 86-5138. *VIOLA v. KUBITZA ET AL.*, *ante*, p. 862; and
No. 86-5224. *VIOLA v. ARIZONA*, *ante*, p. 804. Motions for leave to file petitions for rehearing denied. JUSTICE SCALIA took no part in the consideration or decision of these motions.

No. 86-5330. *OTWORTH v. SOUTHERN PACIFIC TRANSPORTATION Co.*, *ante*, p. 887. Motion for leave to file petition for rehearing denied.

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Dismissal Under Rule 53

No. 86-516. *PLAPINGER ET AL. v. CITIBANK, N. A., ET AL.* Dist. Ct. App. Fla., 3d Dist. Certiorari dismissed under this Court's Rule 53. Reported below: 491 So. 2d 563.

JANUARY 15, 1987

Dismissal Under Rule 53

No. 85-1987. *SEE ET AL. v. UNITED STATES*. C. A. 8th Cir. [Certiorari granted, *ante*, p. 811.] Writ of certiorari dismissed under this Court's Rule 53.

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Miscellaneous Order

No. A-524 (86-6188). *MOORE v. BLACKBURN, WARDEN*. C. A. 5th Cir. Application for stay of execution of sentence of death, presented to JUSTICE WHITE, and by him referred to the Court, is granted pending the disposition by this Court of the petition for writ of certiorari. Should the petition for writ of certiorari be denied, this stay terminates automatically. In the event the petition for writ of certiorari is granted, this stay shall continue pending the sending down of the judgment of this Court. THE CHIEF JUSTICE, JUSTICE O'CONNOR, and JUSTICE SCALIA would deny the application.

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Affirmed on Appeal

No. 86-631. *CITY OF WATSEKA ET AL. v. ILLINOIS PUBLIC ACTION COUNCIL ET AL.* Affirmed on appeal from C. A. 7th Cir. Reported below: 796 F. 2d 1547.

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JUSTICE WHITE, with whom THE CHIEF JUSTICE and JUSTICE O'CONNOR join, dissenting.

The Court of Appeals for the Seventh Circuit held in this case that a city ordinance limiting door-to-door soliciting to the hours between 9 a.m. and 5 p.m., Monday through Saturday, violated the First and Fourteenth Amendments to the United States Constitution. 796 F. 2d 1547 (1986). It is undisputed that the ordinance is content neutral. The purpose of the ordinance is to protect citizens' privacy and to prevent crime, obviously legitimate governmental objectives as the Court of Appeals recognized. The Court of Appeals nevertheless concluded that the ordinance impermissibly restricted First Amendment activities because the city had less restrictive alternatives to accomplish its objectives. We have held, however, that a time, place, and manner restriction is valid if it is narrowly tailored to serve a significant governmental interest and leaves open ample alternative channels for communication of the information, and we have not imposed the requirement that the restriction be the least restrictive means available. See *Clark v. Community for Creative Non-Violence*, 468 U. S. 288, 293-294 (1984); see also *Regan v. Time, Inc.*, 468 U. S. 641, 657 (1984) ("The less-restrictive-alternative analysis . . . has never been a part of the inquiry into the validity of a time, place, and manner regulation. It is enough that the . . . restriction substantially serves the Government's legitimate ends") (opinion of WHITE, J.). Because the decision below departs from this standard, I would note probable jurisdiction.

Appeals Dismissed

No. 86-800. *LUCERO ET AL. v. SNYDER ET AL.* Appeal from C. A. 10th Cir. dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied.

No. 86-802. *HOLIDAY UNIVERSAL, INC. v. MONTGOMERY COUNTY, MARYLAND, ET AL.* Appeal from Ct. Sp. App. Md. dismissed for want of jurisdiction. Reported below: 67 Md. App. 568, 508 A. 2d 991.

No. 86-842. *SHILEY INC. v. CORRIGAN ET AL.* Appeal from Ct. App. Cal., 2d App. Dist. Motion of California Chamber of Commerce et al. for leave to file a brief as *amici curiae* granted. Appeal dismissed for want of jurisdiction. Treating the papers

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whereon the appeal was taken as a petition for writ of certiorari, certiorari denied. Reported below: 182 Cal. App. 3d 166, 227 Cal. Rptr. 247.

No. 86-844. *DARLAND ET UX. v. COMPTROLLER OF THE TREASURY, INCOME TAX DIVISION, STATE OF MARYLAND.* Appeal from Ct. Sp. App. Md. dismissed for want of substantial federal question. Reported below: 67 Md. App. 762.

Vacated and Remanded on Appeal

No. 84-1545. *MILLER-WOHL CO., INC. v. COMMISSIONER OF LABOR AND INDUSTRY OF MONTANA ET AL.* Appeal from Sup. Ct. Mont. Judgment vacated and case remanded for further consideration in light of *California Federal Savings & Loan Assn. v. Guerra*, ante, p. 272. JUSTICE BLACKMUN, JUSTICE STEVENS, and JUSTICE SCALIA would dismiss the appeal for want of substantial federal question. Reported below: 214 Mont. 238, 692 P. 2d 1243.

Certiorari Dismissed

No. 86-746. *SHARE ET AL. v. BERING ET AL.* Sup. Ct. Wash. Petition for writ of certiorari dismissed for want of jurisdiction. Reported below: 106 Wash. 2d 212, 721 P. 2d 918.

Miscellaneous Orders

No. — — —. *BANK OF AMERICA NATIONAL TRUST & SAVINGS ASSN. ET AL. v. FAB III CONCRETE CORP.* Motion to direct the Clerk to file a petition for writ of certiorari out of time denied.

No. — — —. *DEMOUCHETTE v. TEXAS*; and

No. — — —. *PARKER v. ILLINOIS.* Motions for leave to proceed *in forma pauperis* without submitting affidavits in support thereof granted.

No. D-566. *IN RE DISBARMENT OF FRAZIN.* Disbarment entered. [For earlier order herein, see 478 U. S. 1037.]

No. D-570. *IN RE DISBARMENT OF PAYNE.* Disbarment entered. [For earlier order herein, see 478 U. S. 1038.]

No. D-572. *IN RE DISBARMENT OF CHASE.* Disbarment entered. [For earlier order herein, see 478 U. S. 1047.]

No. D-574. *IN RE DISBARMENT OF BRANNEN.* Disbarment entered. [For earlier order herein, see 478 U. S. 1038.]

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No. D-576. IN RE DISBARMENT OF WEISS. Disbarment entered. [For earlier order herein, see 478 U. S. 1038.]

No. D-579. IN RE DISBARMENT OF BETZ. Disbarment entered. [For earlier order herein, see *ante*, p. 912.]

No. D-587. IN RE DISBARMENT OF LITTERER. Disbarment entered. [For earlier order herein, see *ante*, p. 927.]

No. D-602. IN RE DISBARMENT OF HOLMES. It is ordered that Paul H. Holmes, of Hattiesburg, Miss., 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-603. IN RE DISBARMENT OF WEINSOFF. It is ordered that Irving Weinsoff, of Miami, 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-604. IN RE DISBARMENT OF KORNOWSKI. It is ordered that Edward Leonard Kornowski, of Solon, 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. 6, Orig. NEBRASKA *v.* WYOMING ET AL. Motion for leave to file petition for an order enforcing decree and for injunctive relief granted. Defendants are allowed 60 days within which to file answers. This proceeding shall be docketed as case No. 108, Original.

No. 85-2039. UNITED STATES *v.* JOHNSON, PERSONAL REPRESENTATIVE OF THE ESTATE OF JOHNSON. C. A. 11th Cir. [Certiorari granted, *ante*, p. 811.] Motion of William H. Gilardy et al. for leave to participate in oral argument as *amici curiae*, for divided argument, and for additional time for oral argument denied.

No. 85-2068. RANKIN ET AL. *v.* MCPHERSON. C. A. 5th Cir. [Certiorari granted, *ante*, p. 913.] Motion of the Solicitor General for leave to participate in oral argument as *amicus curiae* and for divided argument granted.

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No. 86-44. SHEARSON/AMERICAN EXPRESS INC. ET AL. *v.* MCMAHON ET AL. C. A. 2d Cir. [Certiorari granted, *ante*, p. 812.] Motion of petitioners for additional time for oral argument denied.

No. 86-88. CITICORP INDUSTRIAL CREDIT, INC. *v.* BROCK, SECRETARY OF LABOR. C. A. 6th Cir. [Certiorari granted, *ante*, p. 929.] Motion of petitioner to dispense with printing the joint appendix granted.

No. 86-108. HILTON, SUPERINTENDENT, NEW JERSEY STATE PRISON, ET AL. *v.* BRAUNSKILL. C. A. 3d Cir. [Certiorari granted, *ante*, p. 881.] Motion of American Civil Liberties Union et al. for leave to file a brief as *amici curiae* granted.

No. 86-179. CORPORATION OF THE PRESIDING BISHOP OF THE CHURCH OF JESUS CHRIST OF LATTER-DAY SAINTS ET AL. *v.* AMOS ET AL.; and

No. 86-401. UNITED STATES *v.* AMOS ET AL. D. C. Utah. [Probable jurisdiction postponed, *ante*, p. 929.] Motion of the Solicitor General to dispense with printing the joint appendix granted.

No. 86-270. SAN FRANCISCO ARTS & ATHLETICS, INC., ET AL. *v.* UNITED STATES OLYMPIC COMMITTEE ET AL. C. A. 9th Cir. [Certiorari granted, *ante*, p. 913.] Motion of American Federation of Labor and Congress of Industrial Organizations for leave to file a brief as *amicus curiae* granted.

No. 86-281. RAY *v.* UNITED STATES. C. A. 5th Cir. [Certiorari granted, *ante*, p. 960.] Motion of the Solicitor General to dispense with printing the joint appendix granted.

No. 86-341. FORT HALIFAX PACKING CO., INC. *v.* COYNE, DIRECTOR, BUREAU OF LABOR STANDARDS OF MAINE, ET AL. Sup. Jud. Ct. Me. [Probable jurisdiction noted, *ante*, p. 947.] Motion of the Solicitor General for leave to participate in oral argument as *amicus curiae* and for divided argument denied.

No. 86-421. BOARD OF DIRECTORS OF ROTARY INTERNATIONAL ET AL. *v.* ROTARY CLUB OF DUARTE ET AL. Ct. App. Cal., 2d App. Dist. [Probable jurisdiction postponed, *ante*, p. 929.] Motion of California for divided argument granted. JUSTICE BLACKMUN and JUSTICE O'CONNOR took no part in the consideration or decision of this motion.

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No. 86-5324. *GRIFFIN v. WISCONSIN*. Sup. Ct. Wis. [Certiorari granted, *ante*, p. 1005.] Motion for appointment of counsel granted, and it is ordered that Alan G. Habermehl, Esquire, of Madison, Wis., be appointed to serve as counsel for petitioner in this case.

No. 86-5965. *MORGAN ET AL. v. UNITED STATES*. C. A. D. C. Cir. Motion of petitioners for leave to proceed *in forma pauperis* denied. Petitioners are allowed until February 10, 1987, 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.

JUSTICE BRENNAN and JUSTICE MARSHALL, dissenting.

For the reasons expressed in *Brown v. Herald Co.*, 464 U. S. 928 (1983), we would deny the petition for writ of certiorari without reaching the merits of the motion to proceed *in forma pauperis*. JUSTICE SCALIA took no part in the consideration or decision of this motion.

No. 86-5873. *IN RE TYLER*. Petition for writ of mandamus denied.

No. 86-5916. *IN RE MCQUEEN*. Petition for writ of mandamus and/or prohibition denied.

Certiorari Granted

No. 86-648. *WISCONSIN DEPARTMENT OF HEALTH AND SOCIAL SERVICES v. BOWEN, SECRETARY OF HEALTH AND HUMAN SERVICES*. C. A. 7th Cir. Certiorari granted. Reported below: 797 F. 2d 391.

No. 86-836. *HAZELWOOD SCHOOL DISTRICT ET AL. v. KUHLMAYER ET AL.* C. A. 8th Cir. Motion of National School Boards Association for leave to file a brief as *amicus curiae* granted. Motion of respondents for leave to file appendix to brief in opposition on oversized paper denied. Certiorari granted. Reported below: 795 F. 2d 1368.

Certiorari Denied. (See also Nos. 86-800 and 86-842, *supra*.)

No. 86-465. *FLORIDA ROCK INDUSTRIES, INC. v. UNITED STATES*. C. A. Fed. Cir. Certiorari denied. Reported below: 791 F. 2d 893.

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No. 86-476. *RAILWAY LABOR EXECUTIVES' ASSN. v. STATEN ISLAND RAILROAD CORP. ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 792 F. 2d 7.

No. 86-542. *ROBINSON v. UNITED STATES.* C. A. 3d Cir. Certiorari denied. Reported below: 795 F. 2d 278.

No. 86-628. *KATHY G. J. v. ARNOLD D.* App. Div., Sup. Ct. N. Y., 2d Jud. Dept. Certiorari denied. Reported below: 116 App. Div. 2d 247, 501 N. Y. S. 2d 58.

No. 86-634. *SANGUINE, LTD. v. UNITED STATES DEPARTMENT OF THE INTERIOR ET AL.* C. A. 10th Cir. Certiorari denied. Reported below: 798 F. 2d 389.

No. 86-644. *SELTZER v. UNITED STATES.* C. A. 6th Cir. Certiorari denied. Reported below: 794 F. 2d 1114.

No. 86-649. *FLORIDA v. DIXON, AKA RATCLIFF; and*

No. 86-5847. *DIXON v. FLORIDA.* Dist. Ct. App. Fla., 2d Dist. Certiorari denied. Reported below: 487 So. 2d 1195.

No. 86-671. *UTSEY v. DEPARTMENT OF THE ARMY.* C. A. 4th Cir. Certiorari denied. Reported below: 796 F. 2d 475.

No. 86-676. *GIBSON ET AL. v. UNITED STATES ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 781 F. 2d 1334.

No. 86-688. *RICKETTS, DIRECTOR, ARIZONA DEPARTMENT OF CORRECTIONS, ET AL. v. VICKERS.* C. A. 9th Cir. Certiorari denied. Reported below: 798 F. 2d 369.

No. 86-807. *ROBERT K. MORROW, INC., TRUSTEE v. AGRIBEEF CO. ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 797 F. 2d 790.

No. 86-809. *PAGE v. ORANGE COUNTY, FLORIDA, ET AL.* C. A. 11th Cir. Certiorari denied.

No. 86-810. *MOSLEY v. BARTMAN ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 796 F. 2d 479.

No. 86-811. *MOSLEY v. NOEL ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 793 F. 2d 302.

No. 86-820. *HIMMILRIGHT v. FOULKS.* C. A. 6th Cir. Certiorari denied. Reported below: 802 F. 2d 457.

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No. 86-831. *PHILLIPS PETROLEUM CO. v. RICHARDSON ET AL.* C. A. 8th Cir. Certiorari denied. Reported below: 791 F. 2d 641.

No. 86-838. *NORDLICHT v. NEW YORK TELEPHONE CO.* C. A. 2d Cir. Certiorari denied. Reported below: 799 F. 2d 859.

No. 86-845. *LATTA ET AL. v. CITY OF ATLANTA ET AL.* Sup. Ct. Ga. Certiorari denied. Reported below: 256 Ga. XXVII, 347 S. E. 2d 229.

No. 86-852. *APRILE ET AL. v. KENTUCKY.* Sup. Ct. Ky. Certiorari denied. Reported below: 715 S. W. 2d 475.

No. 86-866. *MORIARTY ET AL. v. FAIRFIELD COMMONS CONDOMINIUM ASSN. ET AL.* Ct. App. Ohio, Lucas County. Certiorari denied. Reported below: 30 Ohio App. 3d 11, 506 N. E. 2d 237.

No. 86-872. *ALLEN v. SPARTANBURG COUNTY DEPARTMENT OF SOCIAL SERVICES ET AL.* Sup. Ct. S. C. Certiorari denied.

No. 86-906. *YONAN v. UNITED STATES.* C. A. 7th Cir. Certiorari denied. Reported below: 800 F. 2d 164.

No. 86-954. *JOHNSON v. TINNEY, WARDEN.* C. A. 4th Cir. Certiorari denied. Reported below: 800 F. 2d 260.

No. 86-974. *ROBNETT v. UNITED STATES.* C. A. Fed. Cir. Certiorari denied. Reported below: 802 F. 2d 468.

No. 86-5503. *STEVENSON v. MISSOURI.* Sup. Ct. Mo. Certiorari denied.

No. 86-5573. *SINGER v. PENNSYLVANIA.* Super. Ct. Pa. Certiorari denied. Reported below: 352 Pa. Super. 619, 505 A. 2d 1036.

No. 86-5621. *WHALEY v. UNITED STATES.* C. A. 11th Cir. Certiorari denied. Reported below: 779 F. 2d 585.

No. 86-5627. *KIPERTS v. UNITED STATES.* C. A. 9th Cir. Certiorari denied. Reported below: 792 F. 2d 145.

No. 86-5654. *BARR v. UNITED STATES.* C. A. 2d Cir. Certiorari denied. Reported below: 796 F. 2d 20.

No. 86-5672. *HILLIARD v. SPALDING ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 782 F. 2d 1052.

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No. 86-5698. *CHERRY v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 794 F. 2d 201.

No. 86-5703. *DONALDSON v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 793 F. 2d 498.

No. 86-5722. *SCHULER v. UNIVERSITY OF MINNESOTA*. C. A. 8th Cir. Certiorari denied. Reported below: 788 F. 2d 510.

No. 86-5729. *SEVERINO v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 800 F. 2d 42.

No. 86-5784. *TAYLOR v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 798 F. 2d 271.

No. 86-5786. *SANCHEZ v. MILLER, WARDEN*. C. A. 7th Cir. Certiorari denied. Reported below: 792 F. 2d 694.

No. 86-5864. *JOLES v. LOUISIANA*. Sup. Ct. La. Certiorari denied. Reported below: 492 So. 2d 490.

No. 86-5870. *DRIVER v. JOHNSON, WARDEN, ET AL.* C. A. 10th Cir. Certiorari denied.

No. 86-5874. *COLEMAN v. ILLINOIS*. App. Ct. Ill., 3d Dist. Certiorari denied. Reported below: 135 Ill. App. 3d 186, 481 N. E. 2d 335.

No. 86-5875. *WELLS v. MCCOTTER, DIRECTOR, TEXAS DEPARTMENT OF CORRECTIONS*. C. A. 5th Cir. Certiorari denied.

No. 86-5878. *JACOBS v. GREGG*. C. A. 3d Cir. Certiorari denied.

No. 86-5881. *DALEBOUT v. OREGON*. Sup. Ct. Ore. Certiorari denied. Reported below: 301 Ore. 240, 720 P. 2d 1279.

No. 86-5883. *HABER v. WAINWRIGHT, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS, ET AL.* C. A. 11th Cir. Certiorari denied. Reported below: 802 F. 2d 1397.

No. 86-5885. *FOY v. MASCHNER, WARDEN, ET AL.* C. A. 10th Cir. Certiorari denied.

No. 86-5887. *HARVEY v. MCCOTTER, DIRECTOR, TEXAS DEPARTMENT OF CORRECTIONS*. C. A. 5th Cir. Certiorari denied.

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No. 86-5890. *ANDERSON v. BLACKBURN, WARDEN, ET AL.* C. A. 5th Cir. Certiorari denied.

No. 86-5891. *DOYLE v. TEXAS.* Ct. Crim. App. Tex. Certiorari denied.

No. 86-5892. *MARTIN v. McCOTTER, DIRECTOR, TEXAS DEPARTMENT OF CORRECTIONS.* C. A. 5th Cir. Certiorari denied. Reported below: 796 F. 2d 813.

No. 86-5894. *SHERRICK v. OKLAHOMA.* Ct. Crim. App. Okla. Certiorari denied. Reported below: 725 P. 2d 1278.

No. 86-5897. *STEVENS v. IOWA.* Sup. Ct. Iowa. Certiorari denied. Reported below: 394 N. W. 2d 388.

No. 86-5899. *McCLELLAN v. KENTUCKY.* Sup. Ct. Ky. Certiorari denied. Reported below: 715 S. W. 2d 464.

No. 86-5903. *MAISON v. HOUSEWRIGHT, DIRECTOR, NEVADA DEPARTMENT OF CORRECTIONS.* C. A. 9th Cir. Certiorari denied.

No. 86-5907. *BROWN EL v. ARMONTROUT, WARDEN.* Sup. Ct. Mo. Certiorari denied.

No. 86-5910. *TURNER v. BAIR ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 798 F. 2d 1409.

No. 86-5912. *TERRY v. ARIZONA.* Ct. App. Ariz. Certiorari denied.

No. 86-5913. *SUN v. BUSH ET AL.* Ct. App. Ga. Certiorari denied. Reported below: 179 Ga. App. 80, 345 S. E. 2d 85.

No. 86-5929. *BELL v. PENNSYLVANIA.* Sup. Ct. Pa. Certiorari denied.

No. 86-5933. *FALU-RIVERA v. SECRETARY OF HEALTH AND HUMAN SERVICES.* C. A. 1st Cir. Certiorari denied. Reported below: 802 F. 2d 439.

No. 86-5935. *DURR v. NEW JERSEY.* Sup. Ct. N. J. Certiorari denied. Reported below: 105 N. J. 576, 523 A. 2d 205.

No. 86-5938. *RODRIGUEZ v. RICKETTS, DIRECTOR, ARIZONA DEPARTMENT OF CORRECTIONS, ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 798 F. 2d 1250.

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No. 86-5950. *BAKER v. UNIVERSITY OF ALABAMA AT BIRMINGHAM ET AL.* C. A. 11th Cir. Certiorari denied. Reported below: 804 F. 2d 679.

No. 86-5951. *SMITH v. UNITED STATES.* C. A. 4th Cir. Certiorari denied. Reported below: 800 F. 2d 261.

No. 86-5966. *NICHOLAS v. UNITED STATES.* C. A. 1st Cir. Certiorari denied.

No. 86-5968. *SEIFERT v. MINNESOTA.* Ct. App. Minn. Certiorari denied.

No. 86-5969. *WOODFIN v. HARTMAN ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 800 F. 2d 261.

No. 86-5970. *ST. HILAIRE v. MARICOPA COUNTY SHERIFF'S DEPARTMENT ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 801 F. 2d 400.

No. 86-5990. *RHOADS v. ALASKA.* Ct. App. Alaska. Certiorari denied.

No. 86-5998. *SKOZEN v. ILLINOIS.* App. Ct. Ill., 1st Dist. Certiorari denied. Reported below: 142 Ill. App. 3d 515, 491 N. E. 2d 1352.

No. 86-528. *BROWN, INDIVIDUALLY AND AS PERSONAL REPRESENTATIVE OF BROWN, ET AL. v. UNITED STATES;* and

No. 86-202. *SEA FEVER CORP. v. UNITED STATES.* C. A. 1st Cir. Certiorari denied. Reported below: No. 86-528, 790 F. 2d 199; No. 86-202, 795 F. 2d 76.

JUSTICE WHITE, with whom JUSTICE BLACKMUN joins, dissenting.

These cases present the question whether the discretionary-function exception to liability under the Federal Tort Claims Act, 28 U. S. C. § 2680(a), encompasses governmental decisions involving allocation of resources. The Court of Appeals in these cases held that such decisions are covered by the discretionary-function exception. 790 F. 2d 199, 202 (CA1 1986). Other Courts of Appeals have rejected this view. See *Eklof Marine Corp. v. United States*, 762 F. 2d 200, 204 (CA2 1985). See also *Aslakson v. United States*, 790 F. 2d 688, 693 (CA8 1986). I would grant one of these petitions to resolve the conflict.

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No. 86-629. SEATTLE MASTER BUILDERS ASSN. ET AL. *v.* PACIFIC NORTHWEST ELECTRIC POWER AND CONSERVATION PLANNING COUNCIL ET AL. C. A. 9th Cir. Certiorari denied. JUSTICE WHITE would grant certiorari. Reported below: 786 F. 2d 1359.

No. 86-646. TWC HOLDINGS, INC. *v.* JOHN F. HARKINS CO., INC. C. A. 3d Cir. Certiorari denied. JUSTICE WHITE and JUSTICE O'CONNOR would grant certiorari. Reported below: 796 F. 2d 657.

No. 86-703. INTERNATIONAL OILFIELD DIVERS, INC., ET AL. *v.* PICKLE ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 791 F. 2d 1237.

JUSTICE WHITE, with whom THE CHIEF JUSTICE joins, dissenting.

The Jones Act, 38 Stat. 1185, as amended, 46 U. S. C. § 688(a), provides that "[a]ny seaman who shall suffer personal injury in the course of his employment may, at his election, maintain an action for damages at law" This case presents the question of who is a "seaman" for purposes of the Jones Act.

The Court of Appeals for the Fifth Circuit, both in this case and in its previous cases, has taken an expansive view in defining who is a seaman. The Fifth Circuit, relying on its earlier opinion in *Offshore Co. v. Robison*, 266 F. 2d 769 (1959), has taken the position that to be a seaman, a person need not assist in the transportation function of a vessel. See *Barrett v. Chevron, U. S. A., Inc.*, 781 F. 2d 1067, 1073 (1986) (en banc). Other Courts of Appeals, particularly the Third and Seventh Circuits, have rejected this view and require that before a plaintiff can sue under the Jones Act, he must be employed in such a way as to assist in the navigational function of a vessel. See *Johnson v. John F. Beasley Construction Co.*, 742 F. 2d 1054, 1061 (CA7 1984) ("[W]e think the second part of the *Robison* test strays from important Jones Act principles when it speaks of the employee's duties as having to relate only to the 'function of the vessel or the accomplishment of its mission' without further qualifying 'function' and 'mission' in terms of the *transportation* function and mission of the vessel") (emphasis in original), cert. denied, 469 U. S. 1211 (1985); *Simko v. C & C Marine Maintenance Co.*, 594 F. 2d 960, 964-965 (CA3), cert. denied, 444 U. S. 833 (1979). There is even dis-

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agreement within the Fifth Circuit over this point. See *Barrett, supra*, at 1076 (Gee, J., specially concurring).

Because of the direct split among the Courts of Appeals, I would grant the petition.

No. 86-814. WHITE MOUNTAIN APACHE TRIBE ET AL. *v.* ARIZONA STATE TRANSPORTATION BOARD ET AL. C. A. 9th Cir. Motion of Ak-Chin Indian Community et al. for leave to file a brief as *amici curiae* granted. Certiorari denied. Reported below: 798 F. 2d 1205.

No. 86-818. FALCON INSURANCE CO. ET AL. *v.* ELI LILLY & CO. C. A. D. C. Cir. Certiorari denied. JUSTICE SCALIA took no part in the consideration or decision of this petition. Reported below: 254 U. S. App. D. C. 1, 794 F. 2d 710.

No. 86-822. HOME INSURANCE CO. ET AL. *v.* ELI LILLY & CO. C. A. D. C. Cir. Certiorari denied. JUSTICE SCALIA took no part in the consideration or decision of this petition. Reported below: 254 U. S. App. D. C. 1, 794 F. 2d 710.

No. 86-855. JACOBSEN ET AL. *v.* ANHEUSER-BUSCH, INC. Sup. Ct. Minn. Certiorari denied. JUSTICE O'CONNOR would grant certiorari. Reported below: 392 N. W. 2d 868.

No. 86-5620. MCLEAN-DAVIS *v.* UNITED STATES. C. A. 11th Cir. Motion of petitioner to defer consideration of the petition for writ of certiorari denied. Certiorari denied. Reported below: 785 F. 2d 1534 and 795 F. 2d 957.

Rehearing Denied

No. 86-517. BOLES *v.* ELLIS ET AL., *ante*, p. 962;

No. 86-5431. MARTIN *v.* SEARS, ROEBUCK & Co., *ante*, p. 990;

No. 86-5453. TICHNELL *v.* MARYLAND, *ante*, p. 995;

No. 86-5589. TAYLOR *v.* BOWEN, SECRETARY OF HEALTH AND HUMAN SERVICES, *ante*, p. 990;

No. 86-5597. BECKER *v.* SUFFOLK COUNTY LEGAL AID DIVISION, *ante*, p. 991;

No. 86-5605. BECKER *v.* ARCADIAN GARDENS, *ante*, p. 991;

No. 86-5606. BECKER *v.* HENRY MODELLS & Co., INC., *ante*, p. 991; and

No. 86-5838. IN RE CLOUGH, *ante*, p. 1004. Petitions for rehearing denied.

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Appeals Dismissed

No. 86-894. *HELDSTAB v. CITY OF MILWAUKEE*. Appeal from Ct. App. Wis. dismissed for want of jurisdiction. Reported below: 132 Wis. 2d 480, 392 N. W. 2d 849.

No. 86-950. *WINCHESTER & WESTERN RAILROAD CO. v. VIRGINIA ET AL.* Appeal from Sup. Ct. Va. dismissed for want of jurisdiction. JUSTICE WHITE would postpone jurisdiction to a hearing of the case on the merits.

No. 86-5919. *STOKES v. ASSOCIATE CIRCUIT COURT OF TEXAS COUNTY, MISSOURI*. Appeal from Ct. App. Mo., Southern Dist., dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied.

No. 86-5977. *STEVENSON v. GRISWOLD*. Appeal from Sup. Ct. Haw. dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied.

No. 86-5978. *MCDONALD v. ALABAMA*. Appeal from Ct. Crim. App. Ala. dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied. Reported below: 492 So. 2d 673.

No. 86-6000. *POTE v. REAGAN, PRESIDENT OF THE UNITED STATES*. Appeal from C. A. D. C. Cir. dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied.

Certiorari Granted—Vacated and Remanded

No. 85-1480. *UNITED STATES v. MERCHANTS NATIONAL BANK OF MOBILE*. C. A. 11th Cir. Certiorari granted, judgment vacated, and case remanded for further consideration in light of *Jersey Shore State Bank v. United States*, ante, p. 442. Reported below: 772 F. 2d 1522.

No. 86-57. *TENNESSEE ET AL. v. CHAMPION INTERNATIONAL CORP., DBA CHAMPION PAPERS*. Sup. Ct. Tenn. Certiorari granted, judgment vacated, and case remanded for further consideration in light of *International Paper Co. v. Ouellette*, ante, p. 481. Reported below: 709 S. W. 2d 569.

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Miscellaneous Orders

No. D-562. IN RE DISBARMENT OF DRAKE. Disbarment entered. [For earlier order herein, see 478 U. S. 1034.]

No. D-583. IN RE DISBARMENT OF GONZALES. Alphonse C. Gonzales, of Chicago, Ill., having requested to resign as a member of the Bar of this Court, it is ordered that his name be stricken from the roll of attorneys admitted to practice before the Bar of this Court. The rule to show cause, heretofore issued on November 3, 1986 [*ante*, p. 926], is hereby discharged.

No. D-585. IN RE DISBARMENT OF REYNOLDS. Disbarment entered. [For earlier order herein, see *ante*, p. 927.]

No. D-590. IN RE DISBARMENT OF KAZDOY. Disbarment entered. [For earlier order herein, see *ante*, p. 958.]

No. 86-44. SHEARSON/AMERICAN EXPRESS INC. ET AL. *v.* MCMAHON ET AL. C. A. 2d Cir. [Certiorari granted, *ante*, p. 812.] Motion of Willie D. Chandler et al. for leave to file a brief as *amici curiae* granted.

No. 86-87. UNITED STATES *v.* SALERNO ET AL. C. A. 2d Cir. [Certiorari granted, *ante*, p. 929.] Motion of respondent Cafaro to join brief of respondent Salerno granted.

No. 86-341. FORT HALIFAX PACKING CO., INC. *v.* COYNE, DIRECTOR, BUREAU OF LABOR STANDARDS OF MAINE, ET AL. Sup. Jud. Ct. Me. [Probable jurisdiction noted, *ante*, p. 947.] Motion of Chamber of Commerce of the United States of America for leave to participate in oral argument as *amicus curiae*, for divided argument, and for additional time for oral argument denied.

No. 86-480. DARBY DENTAL SUPPLY CO., INC., ET AL. *v.* PREMIER DENTAL PRODUCTS CO., *ante*, p. 950. Motion of petitioner to direct the Clerk to file a petition for rehearing out of time denied.

No. 86-5344. MILLER *v.* FLORIDA. Sup. Ct. Fla. [Certiorari granted, *ante*, p. 960.] Motion of American Civil Liberties Union et al. for leave to file a brief as *amici curiae* granted.

Probable Jurisdiction Postponed

No. 85-1551. KARCHER, SPEAKER OF THE NEW JERSEY GENERAL ASSEMBLY, ET AL. *v.* MAY ET AL. Appeal from C. A. 3d

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Cir. Further consideration of question of jurisdiction postponed to hearing of case on the merits. Reported below: 780 F. 2d 240.

Certiorari Granted

No. 86-740. OMNI CAPITAL INTERNATIONAL, LTD., ET AL. v. RUDOLF WOLFF & CO., LTD., ET AL. C. A. 5th Cir. Certiorari granted. Reported below: 795 F. 2d 415.

No. 86-890. DEAKINS ET AL. v. MONAGHAN ET AL. C. A. 3d Cir. Certiorari granted. Reported below: 798 F. 2d 632.

No. 86-964. THOMPSON v. THOMPSON, AKA CLAY. C. A. 9th Cir. Certiorari granted. Reported below: 798 F. 2d 1547.

No. 86-472. CHURCH OF SCIENTOLOGY OF CALIFORNIA v. INTERNAL REVENUE SERVICE. C. A. D. C. Cir. Certiorari granted. JUSTICE BRENNAN and JUSTICE SCALIA took no part in the consideration or decision of this petition. Reported below: 253 U. S. App. D. C. 85, 792 F. 2d 153.

No. 86-5963. TAYLOR v. ILLINOIS. App. Ct. Ill., 1st Dist. Motion of petitioner for leave to proceed *in forma pauperis* granted. Certiorari granted limited to Question 1 presented by the petition. Reported below: 141 Ill. App. 3d 839, 491 N. E. 2d 3.

Certiorari Denied. (See also Nos. 86-5919, 86-5977, 86-5978, and 86-6000, *supra*.)

No. 85-1633. MERCHANTS NATIONAL BANK OF MOBILE v. UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 772 F. 2d 1522.

No. 85-1948. DUNNING, DIRECTOR OF THE NEBRASKA DEPARTMENT OF PUBLIC WELFARE, ET AL. v. NEBRASKA HEALTH CARE ASSN., INC., ET AL. C. A. 8th Cir. Certiorari denied. Reported below: 778 F. 2d 1291.

No. 85-6394. MURALT v. NORTH DAKOTA. Sup. Ct. N. D. Certiorari denied. Reported below: 376 N. W. 2d 25.

No. 86-76. BRANCH BANKING & TRUST CO. ET AL. v. NATIONAL CREDIT UNION ADMINISTRATION BOARD ET AL. C. A. 4th Cir. Certiorari denied. Reported below: 786 F. 2d 621.

No. 86-209. HUNTER ENGINEERS & CONSTRUCTORS, INC. v. UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 789 F. 2d 1436.

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No. 86-478. *FIRST NATIONAL BANK OF CHICAGO v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 792 F. 2d 954.

No. 86-520. *TERRELL v. UNIVERSITY OF TEXAS SYSTEM POLICE ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 792 F. 2d 1360.

No. 86-558. *YAMAMOTO v. KLENSKE ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 781 F. 2d 1370.

No. 86-575. *MCCLELLAN v. WEST VIRGINIA*. Cir. Ct. W. Va., Jefferson County. Certiorari denied.

No. 86-689. *AMERICAN SAVINGS & LOAN ASSN. v. FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION, AS RECEIVER FOR SAN MARINO SAVINGS & LOAN ASSN.* Ct. App. Cal., 3d App. Dist. Certiorari denied. Reported below: 180 Cal. App. 3d 336, 225 Cal. Rptr. 422.

No. 86-696. *FIDELITY FINANCIAL CORP. v. FEDERAL HOME LOAN BANK OF SAN FRANCISCO*. C. A. 9th Cir. Certiorari denied. Reported below: 792 F. 2d 1432.

No. 86-709. *YAMAMOTO v. UNITED STATES*. C. A. Fed. Cir. Certiorari denied. Reported below: 795 F. 2d 1018.

No. 86-711. *PECORA ET AL. v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 798 F. 2d 614.

No. 86-724. *HERAEUS-AMERSIL, INC. v. UNITED STATES*. C. A. Fed. Cir. Certiorari denied. Reported below: 795 F. 2d 1575.

No. 86-729. *JOSEPH v. ALEXANDER ET AL.* Ct. App. Ohio, Stark County. Certiorari denied.

No. 86-738. *CAUCUS DISTRIBUTORS, INC., ET AL. v. UNITED STATES*. C. A. 1st Cir. Certiorari denied. Reported below: 795 F. 2d 226.

No. 86-745. *VERMONT DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES v. BOWEN, SECRETARY OF HEALTH AND HUMAN SERVICES, ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 798 F. 2d 57.

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No. 86-788. *PERRY v. ALABAMA POWER CO.* C. A. 11th Cir. Certiorari denied. Reported below: 792 F. 2d 1124.

No. 86-823. *MOBIL OIL CORP. v. BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND OF THE STATE OF FLORIDA.* Sup. Ct. Fla. Certiorari denied. Reported below: 492 So. 2d 339.

No. 86-827. *JAIN v. ITT GRINNELL CORP.* C. A. 5th Cir. Certiorari denied. Reported below: 797 F. 2d 975.

No. 86-840. *ROZAY'S TRANSFER v. SOUTHWEST ADMINISTRATORS, INC.* C. A. 9th Cir. Certiorari denied. Reported below: 791 F. 2d 769.

No. 86-841. *BATH IRON WORKS CORP. ET AL. v. BOUFORD.* Sup. Jud. Ct. Me. Certiorari denied. Reported below: 514 A. 2d 470.

No. 86-856. *DARMSTADTER v. SOUTH CAROLINA NATIONAL BANK.* C. A. 4th Cir. Certiorari denied. Reported below: 813 F. 2d 403.

No. 86-858. *REEDER v. KANSAS CITY BOARD OF POLICE COMMISSIONERS ET AL.* C. A. 8th Cir. Certiorari denied. Reported below: 796 F. 2d 1050.

No. 86-859. *KOVAC v. UNITED STATES.* C. A. 9th Cir. Certiorari denied. Reported below: 795 F. 2d 1509.

No. 86-860. *WALKER v. ACTION INDUSTRIES, INC., ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 802 F. 2d 703.

No. 86-861. *L & L MARINE SERVICE, INC. v. INSURANCE COMPANY OF NORTH AMERICA.* C. A. 8th Cir. Certiorari denied. Reported below: 796 F. 2d 1032.

No. 86-865. *JONES v. FLAGSHIP INTERNATIONAL, DBA SKY CHEFS.* C. A. 5th Cir. Certiorari denied. Reported below: 793 F. 2d 714.

No. 86-869. *D'ANGELO v. DISCIPLINARY BOARD OF SUPREME COURT OF NEW MEXICO.* Sup. Ct. N. M. Certiorari denied. Reported below: 105 N. M. 391, 733 P. 2d 360.

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No. 86-875. *ARTHUR ANDERSEN & Co. v. MANUFACTURERS HANOVER TRUST Co.* C. A. 2d Cir. Certiorari denied. Reported below: 801 F. 2d 13.

No. 86-889. *HOWE v. UNITED STATES ET AL.* C. A. 1st Cir. Certiorari denied. Reported below: 802 F. 2d 440.

No. 86-915. *LEAR v. EQUITABLE LIFE ASSURANCE SOCIETY OF THE UNITED STATES.* C. A. 8th Cir. Certiorari denied. Reported below: 798 F. 2d 1128.

No. 86-917. *C. F. BEAN CORP. v. DRAGADOS, S. A., ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 798 F. 2d 472.

No. 86-918. *CITY AND COUNTY OF SAN FRANCISCO ET AL. v. CHRISTIAN SCIENCE READING ROOM JOINTLY MAINTAINED ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 784 F. 2d 1010 and 792 F. 2d 124.

No. 86-920. *DAKMAK, TRUSTEE FOR BOSTICK FOUNDRY Co. v. LINDBERG, A DIVISION OF SOLA BASIC INDUSTRIES, INC.* C. A. 6th Cir. Certiorari denied. Reported below: 797 F. 2d 280.

No. 86-927. *WILKS ET AL. v. MOUTON ET AL.* Sup. Ct. Cal. Certiorari denied. Reported below: 42 Cal. 3d 400, 722 P. 2d 187.

No. 86-930. *ILLINOIS v. EALY.* App. Ct. Ill., 1st Dist. Certiorari denied. Reported below: 146 Ill. App. 3d 557, 497 N. E. 2d 101.

No. 86-933. *DALE v. CHICAGO TRIBUNE Co.* C. A. 7th Cir. Certiorari denied. Reported below: 797 F. 2d 458.

No. 86-951. *PERL v. WERNZ, DIRECTOR OF LAWYERS PROFESSIONAL RESPONSIBILITY, ET AL.* Sup. Ct. Minn. Certiorari denied. Reported below: 394 N. W. 2d 487.

No. 86-955. *STEAG HANDEL GMBH v. HAWLEY FUEL COAL-MART, INC., ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 796 F. 2d 29.

No. 86-983. *WEYTKOW v. ILLINOIS.* App. Ct. Ill., 1st Dist. Certiorari denied. Reported below: 141 Ill. App. 3d 1174, 503 N. E. 2d 1214.

No. 86-1029. *M McNUTT v. ARIZONA.* Ct. App. Ariz. Certiorari denied.

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No. 86-1044. *VREEKEN ET AL. v. UNITED STATES*. C. A. 10th Cir. Certiorari denied. Reported below: 803 F. 2d 1085.

No. 86-1046. *SANTACROCE, SHERIFF OF NASSAU COUNTY, ET AL. v. BADGLEY ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 800 F. 2d 33.

No. 86-1067. *ATISHA v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 804 F. 2d 920.

No. 86-5510. *FELDMAN v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 788 F. 2d 544.

No. 86-5723. *MOORE v. MURRAY, DIRECTOR, VIRGINIA DEPARTMENT OF CORRECTIONS*. C. A. 4th Cir. Certiorari denied. Reported below: 792 F. 2d 140.

No. 86-5736. *BURKE v. FLORIDA*. Dist. Ct. App. Fla., 4th Dist. Certiorari denied.

No. 86-5825. *FRANCIS v. SCULLY, SUPERINTENDENT, GREEN HAVEN CORRECTIONAL FACILITY, ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 801 F. 2d 391.

No. 86-5871. *CURAN v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 801 F. 2d 396.

No. 86-5877. *JACKSON v. GAUGHAN ET AL.* C. A. 1st Cir. Certiorari denied. Reported below: 808 F. 2d 1512.

No. 86-5879. *BUZZELL v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 802 F. 2d 449.

No. 86-5895. *SERRANO-TELLEZ v. YOUNG, WARDEN, ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 802 F. 2d 459.

No. 86-5904. *MUZA v. UNITED STATES*. C. A. 8th Cir. Certiorari denied.

No. 86-5918. *VALEZ v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 796 F. 2d 24.

No. 86-5921. *RUTA v. MASSACHUSETTS*. App. Ct. Mass. Certiorari denied. Reported below: 22 Mass. App. 1110, 495 N. E. 2d 334.

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No. 86-5931. *BLAKEY v. VASSAR ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 804 F. 2d 677.

No. 86-5934. *ADAMS v. HAMILTON, SUPERINTENDENT, HARNETT YOUTH CENTER, ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 803 F. 2d 713.

No. 86-5939. *THOMAS v. LINCOLN UNIVERSITY.* C. A. 8th Cir. Certiorari denied.

No. 86-5941. *MITCHELL v. OREGON.* Ct. App. Ore. Certiorari denied. Reported below: 81 Ore. App. 108, 724 P. 2d 350.

No. 86-5944. *MAGGARD v. WYRICK, WARDEN.* C. A. 8th Cir. Certiorari denied. Reported below: 800 F. 2d 195.

No. 86-5945. *COOPER v. WOODALL.* C. A. 11th Cir. Certiorari denied.

No. 86-5947. *KEALOHAPAUOLE v. SHIMODA, ADMINISTRATOR, OAHU COMMUNITY CORRECTIONAL CENTER, ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 800 F. 2d 1463.

No. 86-5948. *HARVEY v. LYNAUGH, INTERIM DIRECTOR, TEXAS DEPARTMENT OF CORRECTIONS.* C. A. 5th Cir. Certiorari denied.

No. 86-5949. *HARVEY v. TEXAS COURT OF CRIMINAL APPEALS.* C. A. 5th Cir. Certiorari denied. Reported below: 806 F. 2d 260.

No. 86-5954. *CHUA HAN MOW v. UNITED STATES.* C. A. 9th Cir. Certiorari denied. Reported below: 796 F. 2d 478.

No. 86-5955. *COOPER v. LAMBERT, CHAIRMAN, ALABAMA BOARD OF PARDONS AND PAROLES, ET AL.* C. A. 11th Cir. Certiorari denied.

No. 86-5956. *EPPE v. NEW YORK.* Ct. App. N. Y. Certiorari denied. Reported below: 68 N. Y. 2d 914, 501 N. E. 2d 607.

No. 86-5957. *CALVER v. RIDGECREST MOBILE HOME PARK ET AL.* C. A. 5th Cir. Certiorari denied.

No. 86-5962. *KAHEY ET AL. v. BLACKBURN, WARDEN, ET AL.* C. A. 5th Cir. Certiorari denied.

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No. 86-5971. *HINES v. REDMAN, WARDEN*. C. A. 6th Cir. Certiorari denied. Reported below: 805 F. 2d 1034.

No. 86-5972. *PATTERSON v. BRADY*. C. A. 4th Cir. Certiorari denied.

No. 86-5973. *SELLNER v. PANAGOULIS ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 800 F. 2d 377.

No. 86-5975. *MOORE v. THIERET, WARDEN*. C. A. 7th Cir. Certiorari denied. Reported below: 799 F. 2d 753.

No. 86-5980. *CREEL v. ALABAMA ET AL.* C. A. 11th Cir. Certiorari denied.

No. 86-5981. *FRITTS v. FEDERAL CORRECTIONAL INSTITUTE, LA TUNA, TEXAS-NEW MEXICO*. C. A. 7th Cir. Certiorari denied.

No. 86-5995. *GREEN v. EDWARD J. BETTINGER CO.* C. A. 3d Cir. Certiorari denied. Reported below: 791 F. 2d 917.

No. 86-6002. *PATEL v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 802 F. 2d 466.

No. 86-6004. *SABATKA v. CITY OF CHICAGO ET AL.* C. A. 7th Cir. Certiorari denied. Reported below: 793 F. 2d 1295.

No. 86-6005. *PROCUP v. DUGGER, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS*. Sup. Ct. Fla. Certiorari denied. Reported below: 496 So. 2d 143.

No. 86-6012. *LEAVITT v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 799 F. 2d 1494.

No. 86-6021. *HYLAND v. UNITED STATES*. C. A. 11th Cir. Certiorari denied.

No. 86-6024. *ROSBERG v. NEBRASKA*. Sup. Ct. Neb. Certiorari denied. Reported below: 223 Neb. xxv.

No. 86-6029. *ROONEY v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 801 F. 2d 396.

No. 86-6037. *SELLNER v. PANAGOULIS ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 796 F. 2d 474.

No. 86-6040. *ANDERSSON v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 803 F. 2d 903.

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No. 86-891. MEAD DATA CENTRAL, INC. *v.* WEST PUBLISHING CO. C. A. 8th Cir. Motion of Lawyers Co-operative Publishing Co. for leave to file a brief as *amicus curiae* granted. Certiorari denied. Reported below: 799 F. 2d 1219.

No. 86-900. LABRANCHE *v.* UNITED STATES OLYMPIC COMMITTEE. C. A. 9th Cir. Certiorari before judgment denied.

No. 86-5819. PETERKIN *v.* PENNSYLVANIA ET AL. Sup. Ct. Pa.;

No. 86-5833. BEVINS *v.* KENTUCKY. Sup. Ct. Ky.;

No. 86-5901. FUGITT *v.* GEORGIA. Sup. Ct. Ga.; and

No. 86-6061. ROMERO *v.* TEXAS. Ct. Crim. App. Tex. Certiorari denied. Reported below: No. 86-5819, 511 Pa. 299, 513 A. 2d 373; No. 86-5833, 712 S. W. 2d 932; No. 86-5901, 256 Ga. 292, 348 S. E. 2d 451; No. 86-6061, 716 S. W. 2d 519.

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. 86-5841. PARKER *v.* UNITED STATES. C. A. D. C. Cir. Certiorari denied. JUSTICE SCALIA took no part in the consideration or decision of this petition. Reported below: 255 U. S. App. D. C. 343, 801 F. 2d 1382.

No. 86-5865. FORD *v.* UNITED STATES. C. A. 5th Cir. Motion of petitioner to defer consideration of the petition for writ of certiorari denied. Certiorari denied. Reported below: 797 F. 2d 1329.

Rehearing Denied

No. 85-1524. HUBBARD BROADCASTING, INC. *v.* SOUTHERN SATELLITE SYSTEMS, INC., ET AL., *ante*, p. 1005;

No. 86-173. HARRIS *v.* ATTORNEY GENERAL OF VIRGINIA ET AL., *ante*, p. 994;

No. 86-336. LINNAS *v.* IMMIGRATION AND NATURALIZATION SERVICE, *ante*, p. 995; and

No. 86-375. WHITE MOUNTAIN APACHE TRIBE *v.* HODEL, SECRETARY OF THE INTERIOR, ET AL., *ante*, p. 1006. Petitions for rehearing denied.

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- No. 86-521. *DISALVO v. UNITED STATES*, *ante*, p. 985;
No. 86-586. *HUDSON v. EDGETT ET AL.*, *ante*, p. 979;
No. 86-610. *BREAUX, ATTORNEY FOR BOSWELL v. ALLIED BANK OF TEXAS*, *ante*, p. 1002;
No. 86-5642. *PETERSEN v. ATLANTIC GULF & PACIFIC CO. ET AL.*, *ante*, p. 980;
No. 86-5696. *PANNACCI v. THORP CONSUMER DISCOUNT CO.*, *ante*, p. 1010;
No. 86-5710. *ASHLEY v. ARMSTRONG, CONTROLLER OF THE COLORADO DEPARTMENT OF LABOR, ET AL.*, *ante*, p. 1011; and
No. 86-5755. *SYKES v. VAN DE WATER ET AL.*, *ante*, p. 1020.
Petitions for rehearing denied.

No. 86-5062. *BENNETT v. CHARLES ET AL.*, *ante*, p. 858. Petition for rehearing denied. JUSTICE SCALIA took no part in the consideration or decision of this petition.

JANUARY 30, 1987

Miscellaneous Order

No. A-552. *LOVELACE, NEXT FRIEND OF HERNANDEZ v. LYNAUGH, INTERIM DIRECTOR, TEXAS DEPARTMENT OF CORRECTIONS*. Application for stay of execution of sentence of death, presented to JUSTICE MARSHALL, and by him referred to the Court, denied. JUSTICE BRENNAN and JUSTICE MARSHALL would grant the application. JUSTICE WHITE and JUSTICE STEVENS took no part in the consideration or decision of this application.

FEBRUARY 10, 1987

Miscellaneous Order

No. A-565 (86-6300). *JOHNSON v. LYNAUGH, INTERIM DIRECTOR, TEXAS DEPARTMENT OF CORRECTIONS*. C. A. 5th Cir. Application for stay of execution of sentence of death, presented to JUSTICE WHITE, and by him referred to the Court, is granted pending the disposition by this Court of the petition for writ of certiorari. Should the petition for writ of certiorari be denied, this stay terminates automatically. In the event the petition for writ of certiorari is granted, this stay shall continue pending the sending down of the judgment of this Court. THE CHIEF JUS-

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TICE, JUSTICE WHITE, JUSTICE O'CONNOR, and JUSTICE SCALIA would deny the application.

FEBRUARY 17, 1987

Dismissal Under Rule 53

No. 86-1083. H. H. ROBERTSON CO. *v.* GLAROS. C. A. Fed. Cir. Certiorari dismissed under this Court's Rule 53. Reported below: 797 F. 2d 1564.

FEBRUARY 23, 1987

Appeals Dismissed

No. 86-568. POTTER *v.* ABSHIRE. Appeal from Ct. App. Cal., 5th App. Dist., dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied. Reported below: 179 Cal. App. 3d 73, 224 Cal. Rptr. 312.

No. 86-1131. FINCHER *v.* FLORIDA DEPARTMENT OF LABOR AND EMPLOYMENT SECURITY ET AL. Appeal from C. A. 11th Cir. dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied. Reported below: 798 F. 2d 1371.

No. 86-6049. PRUITT *v.* UNITED STATES STEEL CORP. ET AL. Appeal from C. A. 3d Cir. dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied. Reported below: 791 F. 2d 920.

No. 86-6133. GIACOMMOZZI *v.* ROLLINS. Appeal from C. A. 1st Cir. dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied. Reported below: 808 F. 2d 1512.

No. 86-6150. POPESCU *v.* NEW JERSEY. Appeal from Sup. Ct. N. J. dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied.

No. 86-691. TOBIN LANDSCAPE & CONSTRUCTION CO., INC. *v.* BRAMLETT. Appeal from Ct. App. Tex., 5th Dist., dismissed for want of substantial federal question. Reported below: 708 S. W. 2d 553.

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No. 86-994. *WALKBROADWAY REALTY, INC. v. CITY OF NEW YORK*. Appeal from App. Div., Sup. Ct. N. Y., 1st Jud. Dept., dismissed for want of substantial federal question. Reported below: 120 App. Div. 2d 998, 502 N. Y. S. 2d 317.

No. 86-1031. *EWING ET AL. v. LINDLEY, TAX COMMISSIONER OF OHIO*. Appeal from Sup. Ct. Ohio dismissed for want of substantial federal question. Reported below: 23 Ohio St. 3d 222, 492 N. E. 2d 435.

No. 86-1095. *KOHRIG v. ILLINOIS*. Appeal from Sup. Ct. Ill. dismissed for want of substantial federal question. Reported below: 113 Ill. 2d 384, 498 N. E. 2d 1158.

No. 86-6007. *DELANEY v. OREGON*. Appeal from Sup. Ct. Ore. dismissed for want of substantial federal question. Reported below: 301 Ore. 765, 726 P. 2d 377.

No. 86-6106. *CHAPMAN v. SOUTH CAROLINA TAX COMMISSION ET AL.* Appeal from Sup. Ct. S. C. dismissed for want of substantial federal question.

No. 86-943. *AMERADA HESS CORP. ET AL. v. CORPORATION COMMISSION OF THE STATE OF OKLAHOMA*. Appeal from Sup. Ct. Okla. dismissed for want of properly presented federal question. Reported below: 725 P. 2d 278.

No. 86-1038. *BAKER ET AL. v. CITY OF SANTA MONICA ET AL.* Appeal from Ct. App. Cal., 2d App. Dist., dismissed for want of properly presented federal question. Reported below: 181 Cal. App. 3d 972, 226 Cal. Rptr. 755.

No. 86-960. *HIGH TIDE SEAFOODS ET AL. v. WASHINGTON ET AL.* Appeal from Sup. Ct. Wash. dismissed for want of substantial federal question. JUSTICE STEVENS would note probable jurisdiction and set case for oral argument. Reported below: 106 Wash. 2d 695, 725 P. 2d 411.

No. 86-1079. *KOCZAK ET AL. v. DIXON ET AL.* Appeal from C. A. 3d Cir. Motions of National Legal Foundation and Center for Judicial Studies for leave to file briefs as *amici curiae* granted. Appeal dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied. Reported below: 802 F. 2d 447.

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No. 86-1122. SMITH, ADMINISTRATRIX OF THE ESTATE OF SMITH, ET AL. *v.* CITY OF PHILADELPHIA ET AL. Appeal from Sup. Ct. Pa. dismissed for want of jurisdiction. Reported below: 512 Pa. 129, 516 A. 2d 306.

Certiorari Granted—Vacated and Remanded

No. 84-6504. MACK *v.* ILLINOIS. Sup. Ct. Ill. Motion of petitioner for leave to proceed *in forma pauperis* and certiorari granted. Judgment vacated and case remanded for further consideration in light of *Griffith v. Kentucky*, ante, p. 314. Reported below: 105 Ill. 2d 103, 473 N. E. 2d 880.

No. 84-6536. WHITE *v.* ALABAMA. Ct. Crim. App. Ala. Motion of petitioner for leave to proceed *in forma pauperis* and certiorari granted. Judgment vacated and case remanded for further consideration in light of *Griffith v. Kentucky*, ante, p. 314. Reported below: 462 So. 2d 750.

No. 84-6633. WILLIAMS *v.* TEXAS. Ct. Crim. App. Tex. Motion of petitioner for leave to proceed *in forma pauperis* and certiorari granted. Judgment vacated and case remanded for further consideration in light of *Griffith v. Kentucky*, ante, p. 314. Reported below: 682 S. W. 2d 538.

No. 84-6732. ORJI *v.* UNITED STATES. C. A. 5th Cir. Motion of petitioner for leave to proceed *in forma pauperis* and certiorari granted. Judgment vacated and case remanded for further consideration in light of *Griffith v. Kentucky*, ante, p. 314. Reported below: 756 F. 2d 880.

No. 85-1663. TOLLIVER *v.* UNITED STATES. C. A. 5th Cir. Certiorari granted, judgment vacated, and case remanded for further consideration in light of *Griffith v. Kentucky*, ante, p. 314. Reported below: 780 F. 2d 1177.

No. 85-1961. LESLIE *v.* UNITED STATES. C. A. 5th Cir. Certiorari granted, judgment vacated, and case remanded for further consideration in light of *Griffith v. Kentucky*, ante, p. 314. Reported below: 783 F. 2d 541.

No. 85-5190. NURSE ET AL. *v.* ILLINOIS. App. Ct. Ill., 1st Dist. Motion of petitioners for leave to proceed *in forma pauperis* and certiorari granted. Judgment vacated and case remanded for further consideration in light of *Griffith v. Kentucky*, ante, p. 314. Reported below: 131 Ill. App. 3d 590, 475 N. E. 2d 1000.

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No. 85-5940. *HOLMES v. ILLINOIS*. App. Ct. Ill., 5th Dist. Motion of petitioner for leave to proceed *in forma pauperis* and certiorari granted. Judgment vacated and case remanded for further consideration in light of *Griffith v. Kentucky*, ante, p. 314. Reported below: 133 Ill. App. 3d 1164, 496 N. E. 2d 22.

No. 85-5949. *WHITE v. MISSOURI*. Ct. App. Mo., Western Dist. Motion of petitioner for leave to proceed *in forma pauperis* and certiorari granted. Judgment vacated and case remanded for further consideration in light of *Griffith v. Kentucky*, ante, p. 314. Reported below: 694 S. W. 2d 802.

No. 85-6253. *FORD v. GEORGIA*. Sup. Ct. Ga. Motion of petitioner for leave to proceed *in forma pauperis* and certiorari granted. Judgment vacated and case remanded for further consideration in light of *Griffith v. Kentucky*, ante, p. 314. Reported below: 255 Ga. 81, 335 S. E. 2d 567.

No. 85-6315. *WILLIAMS v. ILLINOIS*. App. Ct. Ill., 3d Dist. Motion of petitioner for leave to proceed *in forma pauperis* and certiorari granted. Judgment vacated and case remanded for further consideration in light of *Griffith v. Kentucky*, ante, p. 314. Reported below: 136 Ill. App. 3d 126, 483 N. E. 2d 306.

No. 85-6350. *PODBORNY v. OHIO*. Ct. App. Ohio, Cuyahoga County. Motion of petitioner for leave to proceed *in forma pauperis* and certiorari granted. Judgment vacated and case remanded for further consideration in light of *Griffith v. Kentucky*, ante, p. 314.

No. 85-6475. *CALDWELL v. MISSISSIPPI*. Sup. Ct. Miss. Motion of petitioner for leave to proceed *in forma pauperis* and certiorari granted. Judgment vacated and case remanded for further consideration in light of *Griffith v. Kentucky*, ante, p. 314, and *Allen v. Hardy*, 478 U. S. 255 (1986). Reported below: 481 So. 2d 850.

No. 85-6549. *EVANS v. UNITED STATES*. C. A. 4th Cir. Motion of petitioner for leave to proceed *in forma pauperis* and certiorari granted. Judgment vacated and case remanded for further consideration in light of *Griffith v. Kentucky*, ante, p. 314. Reported below: 780 F. 2d 425.

No. 85-6552. *JACKSON v. OHIO*. Ct. App. Ohio, Hamilton County. Motion of petitioner for leave to proceed *in forma pau-*

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peris and certiorari granted. Judgment vacated and case remanded for further consideration in light of *Griffith v. Kentucky*, ante, p. 314.

No. 85-6558. *TINSLEY v. VIRGINIA*. Sup. Ct. Va. Motion of petitioner for leave to proceed *in forma pauperis* and certiorari granted. Judgment vacated and case remanded for further consideration in light of *Griffith v. Kentucky*, ante, p. 314.

No. 85-6642. *ALLEN v. ILLINOIS*. App. Ct. Ill., 2d Dist. Motion of petitioner for leave to proceed *in forma pauperis* and certiorari granted. Judgment vacated and case remanded for further consideration in light of *Griffith v. Kentucky*, ante, p. 314. Reported below: 137 Ill. App. 3d 823, 485 N. E. 2d 469.

No. 85-6645. *GRANDISON v. UNITED STATES*. C. A. 4th Cir. Motion of petitioner for leave to proceed *in forma pauperis* and certiorari granted. Judgment vacated and case remanded for further consideration in light of *Griffith v. Kentucky*, ante, p. 314. Reported below: 780 F. 2d 425.

No. 85-6660. *GREEN v. ILLINOIS*. App. Ct. Ill., 1st Dist. Motion of petitioner for leave to proceed *in forma pauperis* and certiorari granted. Judgment vacated and case remanded for further consideration in light of *Griffith v. Kentucky*, ante, p. 314. Reported below: 136 Ill. App. 3d 361, 483 N. E. 2d 606.

No. 85-6678. *WALKER v. OHIO*. Ct. App. Ohio, Stark County. Motion of petitioner for leave to proceed *in forma pauperis* and certiorari granted. Judgment vacated and case remanded for further consideration in light of *Griffith v. Kentucky*, ante, p. 314.

No. 86-5095. *KELLY v. UNITED STATES*. C. A. 4th Cir. Motion of petitioner for leave to proceed *in forma pauperis* and certiorari granted. Judgment vacated and case remanded for further consideration in light of *Griffith v. Kentucky*, ante, p. 314. Reported below: 780 F. 2d 425.

No. 86-5198. *KIRK v. ILLINOIS*. App. Ct. Ill., 1st Dist. Motion of petitioner for leave to proceed *in forma pauperis* and certiorari granted. Judgment vacated and case remanded for further consideration in light of *Griffith v. Kentucky*, ante, p. 314. Reported below: 141 Ill. App. 3d 971, 491 N. E. 2d 78.

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No. 86-5255. ALLEN ET AL. *v.* UNITED STATES. C. A. 4th 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 *Griffith v. Kentucky*, ante, p. 314. Reported below: 787 F. 2d 933.

No. 86-5266. HINES *v.* ALABAMA. Ct. Crim. App. Ala. Motion of petitioner for leave to proceed *in forma pauperis* and certiorari granted. Judgment vacated and case remanded for further consideration in light of *Griffith v. Kentucky*, ante, p. 314. Reported below: 487 So. 2d 970.

No. 86-5345. JACKSON *v.* NORTH CAROLINA. Sup. Ct. N. C. Motion of petitioner for leave to proceed *in forma pauperis* and certiorari granted. Judgment vacated and case remanded for further consideration in light of *Griffith v. Kentucky*, ante, p. 314. Reported below: 317 N. C. 1, 343 S. E. 2d 814.

No. 86-5374. FORD *v.* LOUISIANA. Sup. Ct. La. Motion of petitioner for leave to proceed *in forma pauperis* and certiorari granted. Judgment vacated and case remanded for further consideration in light of *Griffith v. Kentucky*, ante, p. 314. Reported below: 489 So. 2d 1250.

Miscellaneous Orders

No. — — —. BULLEN *v.* DEREGO ET AL. Motion to direct the Clerk to file the petition for writ of certiorari without an affidavit of indigency granted.

No. A-518. SCHWANDER ET AL. *v.* CORDOVA. C. A. 9th Cir. Application for stay, addressed to JUSTICE BLACKMUN and referred to the Court, denied.

No. D-567. IN RE DISBARMENT OF KIRWAN. Disbarment entered. [For earlier order herein, see 478 U. S. 1037.]

No. D-575. IN RE DISBARMENT OF SICKMEN. Disbarment entered. [For earlier order herein, see 478 U. S. 1038.]

No. D-577. IN RE DISBARMENT OF HARRISON. Disbarment entered. [For earlier order herein, see 478 U. S. 1038.]

No. D-582. IN RE DISBARMENT OF GOODSTEIN. Disbarment entered. [For earlier order herein, see ante, p. 926.]

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No. D-584. IN RE DISBARMENT OF FAWELL. Disbarment entered. [For earlier order herein, see *ante*, p. 927.]

No. D-593. IN RE DISBARMENT OF CHRISTNER. Disbarment entered. [For earlier order herein, see *ante*, p. 1003.]

No. D-595. IN RE DISBARMENT OF HARTMAN. Ronald L. Hartman, of Encino, Cal., having requested to resign as a member of the Bar of this Court, it is ordered that his name be stricken from the roll of attorneys admitted to practice before the Bar of this Court. The rule to show cause, heretofore issued on January 12, 1987 [*ante*, p. 1025], is hereby discharged.

No. D-605. IN RE DISBARMENT OF CLARKE. It is ordered that David Ross Clarke, of Belton, S. C., 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-606. IN RE DISBARMENT OF KNOWLES. It is ordered that Robert E. Knowles, of Bradenton, 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-607. IN RE DISBARMENT OF EIMERS. It is ordered that Robert F. Eimers, 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. 65, Orig. TEXAS *v.* NEW MEXICO. Exceptions to the Report of the Special Master are set for oral argument in due course. [For earlier order herein, see, *e. g.*, *ante*, p. 806.]

No. 94, Orig. SOUTH CAROLINA *v.* BAKER, SECRETARY OF THE TREASURY. Report of the Special Master is received and ordered filed. Exceptions to the Report, with supporting briefs, may be filed by the parties within 45 days. Replies thereto, with supporting briefs, may be filed within 30 days. [For earlier order herein, see, *e. g.*, 469 U. S. 1083.]

No. 107, Orig. MICHIGAN *v.* MEESE, ATTORNEY GENERAL OF THE UNITED STATES. Motion for leave to file bill of complaint denied.

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No. 85-1626. GOODMAN ET AL. *v.* LUKENS STEEL CO. ET AL.; and

No. 85-2010. UNITED STEELWORKERS OF AMERICA, AFL-CIO-CLC, ET AL. *v.* GOODMAN ET AL. C. A. 3d Cir. [Certiorari granted, *ante*, p. 982.] Motion of the Solicitor General for leave to participate in oral argument as *amicus curiae* and for divided argument denied.

No. 86-44. SHEARSON/AMERICAN EXPRESS INC. ET AL. *v.* MCMAHON ET AL. C. A. 2d Cir. [Certiorari granted, *ante*, p. 812.] Motion of Bruce Cordray et al. for leave to file a brief as *amici curiae* granted.

No. 86-71. CTS CORP. *v.* DYNAMICS CORPORATION OF AMERICA; and

No. 86-97. INDIANA *v.* DYNAMICS CORPORATION OF AMERICA. C. A. 7th Cir. [Probable jurisdiction noted, *ante*, p. 810.] Motion of appellants for divided argument granted.

No. 86-98. RIVERA *v.* MINNICH. Sup. Ct. Pa. [Probable jurisdiction noted, *ante*, p. 960.] Motion of Oregon for leave to participate in oral argument as *amicus curiae* and for divided argument denied.

No. 86-130. ROCK *v.* ARKANSAS. Sup. Ct. Ark. [Certiorari granted, *ante*, p. 947.] Motion of Product Liability Advisory Council et al. for leave to file a brief as *amici curiae* granted.

No. 86-179. CORPORATION OF THE PRESIDING BISHOP OF THE CHURCH OF JESUS CHRIST OF LATTER-DAY SAINTS ET AL. *v.* AMOS ET AL.; and

No. 86-401. UNITED STATES *v.* AMOS ET AL. D. C. Utah. [Probable jurisdiction postponed, *ante*, p. 929.] Motion of the Solicitor General for divided argument granted, and the time is to be divided as follows: 15 minutes for appellants in No. 86-179 and 15 minutes for the Solicitor General in No. 86-401.

No. 86-234. McNALLY *v.* UNITED STATES; and

No. 86-286. GRAY *v.* UNITED STATES. C. A. 6th Cir. [Certiorari granted, *ante*, p. 1005.] Motion of petitioners for divided argument denied.

No. 86-243. CITY OF HOUSTON, TEXAS *v.* HILL. C. A. 5th Cir. [Probable jurisdiction noted, *ante*, p. 811.] Motion of Na-

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tional Institute of Municipal Law Officers for leave to file a brief as *amicus curiae* out of time denied.

No. 86-322. CRAWFORD FITTING CO. ET AL. *v.* J. T. GIBBONS, INC.; and

No. 86-328. CHAMPION INTERNATIONAL CORP. *v.* INTERNATIONAL WOODWORKERS OF AMERICA, AFL-CIO, CLC, ET AL. C. A. 5th Cir. [Certiorari granted, *ante*, p. 983.] Motion of respondents for divided argument granted. Motion of petitioners for divided argument granted.

No. 86-327. MULLINS COAL CO., INC. OF VIRGINIA, ET AL. *v.* DIRECTOR, OFFICE OF WORKERS' COMPENSATION PROGRAMS, UNITED STATES DEPARTMENT OF LABOR, ET AL. C. A. 4th Cir. [Certiorari granted, *ante*, p. 1029.] Motion of petitioners to dispense with printing the joint appendix granted.

No. 86-357. AMERICAN TRUCKING ASSNS., INC., ET AL. *v.* SCHEINER, SECRETARY, DEPARTMENT OF REVENUE OF PENNSYLVANIA, ET AL. Sup. Ct. Pa. [Probable jurisdiction noted, *ante*, p. 947.] Motion of Yellow Freight System, Inc., et al. for leave to file a brief as *amici curiae* granted.

No. 86-440. BECHTEL, INC. *v.* WEBSTER ET AL. C. A. 9th Cir. Motion of the parties to defer consideration of the petition for writ of certiorari granted for 90 days.

No. 86-475. FRAZIER *v.* HEEBE, CHIEF JUDGE, UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF LOUISIANA, ET AL. C. A. 5th Cir. [Certiorari granted, *ante*, p. 960.] Motion of American Corporate Counsel Association for leave to file a brief as *amicus curiae* granted.

No. 86-497. AGENCY HOLDING CORP. ET AL. *v.* MALLEY-DUFF & ASSOCIATES, INC.; and

No. 86-531. CROWN LIFE INSURANCE CO. ET AL. *v.* MALLEY-DUFF & ASSOCIATES, INC., ET AL. C. A. 3d Cir. [Certiorari granted, *ante*, p. 983.] Motion of petitioners for divided argument granted, and the time is to be divided as follows: 10 minutes for petitioners in No. 86-497 and 20 minutes for petitioners in No. 86-531.

No. 86-940. PACIFIC FIRST FEDERAL SAVINGS BANK ET AL. *v.* REMBOLD ET AL. C. A. 9th Cir.;

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No. 86-958. NORWEST BANK WORTHINGTON ET AL. *v.* AHLERS ET UX. C. A. 8th Cir.;

No. 86-978. GARDEBRING, COMMISSIONER OF THE MINNESOTA DEPARTMENT OF HUMAN SERVICES *v.* JENKINS. C. A. 8th Cir.;

No. 86-1052. VOLKSWAGENWERK AKTIENGESELLSCHAFT *v.* SCHLUNK, ADMINISTRATOR OF THE ESTATES OF SCHLUNK ET AL. App. Ct. Ill., 1st Dist.; and

No. 86-1115. LOUISIANA LAND & EXPLORATION CO. *v.* TEXACO INC. Sup. Ct. La. The Solicitor General is invited to file briefs in these cases expressing the views of the United States.

No. 86-5020. BOOTH *v.* MARYLAND. Ct. App. Md. [Certiorari granted, *ante*, p. 882.] Motion of Stephanie Roper Foundation, Inc., for leave to file a brief as *amicus curiae* out of time granted.

No. 86-5999. TURNER *v.* PANSOPHIC SYSTEMS, INC. C. A. 7th Cir.; and

No. 86-6032. GELB *v.* ROYAL GLOBE INSURANCE CO. C. A. 2d Cir. Motions of petitioners for leave to proceed *in forma pauperis* denied. Petitioners are allowed until March 16, 1987, within which to pay the docketing fee required by Rule 45(a) and to submit petitions in compliance with Rule 33 of the Rules of this Court.

JUSTICE BRENNAN, JUSTICE MARSHALL, JUSTICE BLACKMUN, and JUSTICE STEVENS, dissenting.

For the reasons expressed in *Brown v. Herald Co.*, 464 U. S. 928 (1983), we would deny the petitions for writs of certiorari without reaching the merits of the motions to proceed *in forma pauperis*.

No. 86-6066. WRENN *v.* CHRISTIAN HOSPITAL NE-NW ET AL. C. A. 8th Cir. Motion of petitioner for leave to proceed *in forma pauperis* denied. Petitioner is allowed until March 16, 1987, 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.

JUSTICE BRENNAN and JUSTICE MARSHALL, dissenting.

For the reasons expressed in *Brown v. Herald Co.*, 464 U. S. 928 (1983), we would deny the petition for writ of certiorari

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without reaching the merits of the motion to proceed *in forma pauperis*.

No. 86-6093. *PRESSER v. MONTGOMERY WARD & Co., INC.* C. A. 6th Cir. Motion of petitioner for leave to proceed *in forma pauperis* denied. Petitioner is allowed until March 16, 1987, 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.

JUSTICE BRENNAN, JUSTICE MARSHALL, and JUSTICE STEVENS, dissenting.

For the reasons expressed in *Brown v. Herald Co.*, 464 U. S. 928 (1983), we would deny the petition for writ of certiorari without reaching the merits of the motion to proceed *in forma pauperis*.

No. 86-1025. *IN RE POLYAK*. C. A. 6th Cir. Petition for writ of common-law certiorari denied. Reported below: 782 F. 2d 1043.

No. 86-6161. *IN RE HUMPHREY*; and

No. 86-6261. *IN RE SOGOIAN*. Petitions for writs of habeas corpus denied.

No. 86-6011. *IN RE GRISIO*;

No. 86-6111. *IN RE SEITU*; and

No. 86-6123. *IN RE JOHL*. Petitions for writs of mandamus denied.

Probable Jurisdiction Noted

No. 86-781. *KANSAS GAS & ELECTRIC Co. v. STATE CORPORATION COMMISSION OF KANSAS ET AL.*; and

No. 86-793. *KANSAS CITY POWER & LIGHT Co. v. STATE CORPORATION COMMISSION OF KANSAS ET AL.* Appeals from Sup. Ct. Kan. Motion of Edison Electric Institute for leave to file a brief as *amicus curiae* granted. Probable jurisdiction noted, cases consolidated, and a total of one hour allotted for oral argument. JUSTICE POWELL took no part in the consideration or decision of this motion and these cases. Reported below: 239 Kan. 483, 720 P. 2d 1063.

No. 86-1034. *VIRGINIA v. AMERICAN BOOKSELLERS ASSN., INC., ET AL.* Appeal from C. A. 4th Cir. Probable jurisdiction

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noted. In addition to the question presented on appeal, the parties are directed to brief and argue the question of appellees' standing. Reported below: 802 F. 2d 691.

Certiorari Granted

No. 86-761. FORRESTER *v.* WHITE. C. A. 7th Cir. Certiorari granted. Reported below: 792 F. 2d 647.

No. 86-803. BOOS ET AL. *v.* BARRY, MAYOR OF THE DISTRICT OF COLUMBIA, ET AL. C. A. D. C. Cir. Certiorari granted. Reported below: 255 U. S. App. D. C. 19, 798 F. 2d 1450.

No. 86-863. BOWEN, SECRETARY OF HEALTH AND HUMAN SERVICES *v.* KIZER, DIRECTOR OF CALIFORNIA DEPARTMENT OF HEALTH SERVICES, ET AL. C. A. 9th Cir. Certiorari granted. Reported below: 781 F. 2d 1421.

No. 86-937. UNITED STATES *v.* ROBINSON. C. A. 6th Cir. Certiorari granted. Reported below: 794 F. 2d 1132.

No. 86-986. SCHNEIDEWIND ET AL. *v.* ANR PIPELINE CO. ET AL. C. A. 6th Cir. Certiorari granted. Reported below: 801 F. 2d 228.

No. 86-987. HAIG ET AL. *v.* BISSETT ET AL. C. A. 8th Cir. Certiorari granted. Reported below: 800 F. 2d 812.

No. 86-1021. CARNEGIE-MELLON UNIVERSITY ET AL. *v.* COHILL, JUDGE, UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF PENNSYLVANIA, ET AL. C. A. 3d Cir. Certiorari granted.

No. 86-1108. VERMONT *v.* COX. Sup. Ct. Vt. Certiorari granted. Reported below: 147 Vt. 421, 519 A. 2d 1144.

No. 85-2079. LABORERS HEALTH AND WELFARE TRUST FUND FOR NORTHERN CALIFORNIA ET AL. *v.* ADVANCED LIGHT-WEIGHT CONCRETE CO., INC. C. A. 9th Cir. Motions of National Coordinating Committee for Multiemployer Plans, Laborers International Union of North America National (Industrial) Pension Fund, and Construction Laborers' Trust Funds for Southern California for leave to file briefs as *amici curiae* granted. Certiorari granted. Reported below: 779 F. 2d 497.

No. 86-279. BASIC INC. ET AL. *v.* LEVINSON ET AL. C. A. 6th Cir. Certiorari granted. THE CHIEF JUSTICE took no part

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in the consideration or decision of this petition. Reported below: 786 F. 2d 741.

No. 86-728. HONIG, CALIFORNIA SUPERINTENDENT OF PUBLIC INSTRUCTION *v.* DOE ET AL. C. A. 9th Cir. Certiorari granted limited to Questions 1 and 3 presented by the petition. Reported below: 793 F. 2d 1470.

No. 86-870. PHILLIPS PETROLEUM CO. ET AL. *v.* MISSISSIPPI ET AL. Sup. Ct. Miss. Motions of Robert E. Longino, Jr., and City of Elizabeth, New Jersey, et al. for leave to file briefs as *amici curiae* granted. Certiorari granted. Reported below: 491 So. 2d 508.

No. 86-877. UNITED STATES *v.* OWENS. C. A. 9th Cir. Motion of respondent for leave to proceed *in forma pauperis* and certiorari granted. Reported below: 789 F. 2d 750.

No. 86-6169. THOMPSON *v.* OKLAHOMA. Ct. Crim. App. Okla. Motion of petitioner for leave to proceed *in forma pauperis* and certiorari granted. Reported below: 724 P. 2d 780.

Certiorari Denied. (See also Nos. 86-568, 86-1131, 86-6049, 86-6133, 86-6150, 86-1079, and 86-1025, *supra*.)

No. 85-2001. EVANS *v.* ARKANSAS. Ct. App. Ark. Certiorari denied. Reported below: 17 Ark. App. xvii.

No. 86-239. CHEMICAL MANUFACTURERS ASSN. *v.* NATURAL RESOURCES DEFENSE COUNCIL, INC., ET AL.; and

No. 86-608. CHICAGO ASSOCIATION OF COMMERCE & INDUSTRY ET AL. *v.* NATURAL RESOURCES DEFENSE COUNCIL, INC., ET AL. C. A. 3d Cir. Certiorari denied. Reported below: 790 F. 2d 289.

No. 86-532. CITY OF LOS ANGELES ET AL. *v.* BUTTLER ET AL. Ct. App. Cal., 2d App. Dist. Certiorari denied.

No. 86-565. MANSON, COMMISSIONER, CONNECTICUT DEPARTMENT OF CORRECTIONS *v.* ALSTON ET AL. C. A. 2d Cir. Certiorari denied. Reported below: 791 F. 2d 255.

No. 86-652. MARYLAND *v.* CLARK. Ct. App. Md. Certiorari denied. Reported below: 306 Md. 483, 510 A. 2d 243.

No. 86-680. CLANCY *v.* DEPARTMENT OF TRANSPORTATION, FEDERAL AVIATION ADMINISTRATION. C. A. Fed. Cir. Certiorari denied.

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No. 86-735. ALLEGHENY ELECTRIC COOPERATIVE, INC. *v.* FEDERAL ENERGY REGULATORY COMMISSION ET AL.;

No. 86-736. METROPOLITAN TRANSPORTATION AUTHORITY *v.* FEDERAL ENERGY REGULATORY COMMISSION ET AL.; and

No. 86-942. RHODE ISLAND PUBLIC UTILITIES COMMISSION ET AL. *v.* METROPOLITAN TRANSPORTATION AUTHORITY ET AL. C. A. 2d Cir. Certiorari denied. Reported below: 796 F. 2d 584.

No. 86-741. BINKER, AKA MANOLO *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 795 F. 2d 1218.

No. 86-749. BOARD OF TRUSTEES OF ALABAMA STATE UNIVERSITY *v.* ALABAMA STATE BOARD OF EDUCATION ET AL. C. A. 11th Cir. Certiorari denied. Reported below: 791 F. 2d 1450.

No. 86-762. CARDO *v.* MURPHY ET AL. C. A. 2d Cir. Certiorari denied. Reported below: 788 F. 2d 2.

No. 86-763. SPURLOCK *v.* WREN. C. A. 10th Cir. Certiorari denied. Reported below: 798 F. 2d 1313.

No. 86-775. MARSH MEDIA, LTD. *v.* FEDERAL COMMUNICATIONS COMMISSION ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 798 F. 2d 772.

No. 86-792. KOPPEL ET AL. *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. Reported below: 805 F. 2d 391.

No. 86-808. MARCHINI *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 797 F. 2d 759.

No. 86-819. GLOVER BOTTLED GAS CORP. ET AL. *v.* NATIONAL LABOR RELATIONS BOARD. C. A. 2d Cir. Certiorari denied. Reported below: 801 F. 2d 391.

No. 86-825. JONES ET AL. *v.* UNITED STATES. Ct. Mil. App. Certiorari denied. Reported below: 23 M. J. 156.

No. 86-826. THOMAS ET AL. *v.* UNITED STATES; IVY *v.* UNITED STATES; SMITH *v.* UNITED STATES; THOMPSON *v.* UNITED STATES; DEFIBAUGH *v.* UNITED STATES; MCCALLUM *v.* UNITED STATES; HOLMES *v.* UNITED STATES; SCHLOTE *v.* UNITED STATES; and SHEPHERD *v.* UNITED STATES. Ct. Mil. App. Certiorari denied. Reported below: 22 M. J. 388 (first case); 23 M. J. 153 (second case); 23 M. J. 163 (third case); 23

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M. J. 153 (fourth case); 23 M. J. 180 (fifth case); 23 M. J. 156 (sixth case); 23 M. J. 152 (seventh case); 23 M. J. 155 (eighth case); 23 M. J. 155 (ninth case).

No. 86-834. *NEW JERSEY DISTRICT COURT ASSN., INC., ET AL. v. SUPREME COURT OF NEW JERSEY ET AL.* Super. Ct. N. J., App. Div. Certiorari denied. Reported below: 208 N. J. Super. 527, 506 A. 2d 742.

No. 86-835. *THOMPSON MEDICAL CO., INC. v. FEDERAL TRADE COMMISSION.* C. A. D. C. Cir. Certiorari denied. Reported below: 253 U. S. App. D. C. 18, 791 F. 2d 189.

No. 86-847. *PRUDENTIAL INSURANCE COMPANY OF AMERICA v. UNITED STATES.* C. A. Fed. Cir. Certiorari denied. Reported below: 801 F. 2d 1295.

No. 86-848. *HAYES v. UNITED STATES.* C. A. 9th Cir. Certiorari denied. Reported below: 794 F. 2d 1348.

No. 86-854. *MEACHAM ET AL. v. UNITED STATES.* C. A. 4th Cir. Certiorari denied. Reported below: 799 F. 2d 751.

No. 86-864. *AKERS ET UX. v. COMMISSIONER OF INTERNAL REVENUE.* C. A. 6th Cir. Certiorari denied. Reported below: 799 F. 2d 243.

No. 86-867. *SESSION ET UX. v. I. T. O. CORPORATION OF AMERIPORT.* C. A. 3d Cir. Certiorari denied. Reported below: 800 F. 2d 1138.

No. 86-873. *MAZZA v. UNITED STATES.* C. A. 1st Cir. Certiorari denied. Reported below: 792 F. 2d 1210.

No. 86-874. *PITTMAN v. TENNESSEE.* Ct. Crim. App. Tenn. Certiorari denied.

No. 86-881. *CENTRAL STATES, SOUTHEAST AND SOUTHWEST AREAS PENSION FUND ET AL. v. KRAFTCO, INC., DBA SEALTEST FOODS DIVISION.* C. A. 6th Cir. Certiorari denied. Reported below: 799 F. 2d 1098.

No. 86-883. *NESCOO, INC., ET AL. v. UNITED STATES.* C. A. 9th Cir. Certiorari denied. Reported below: 777 F. 2d 1363.

No. 86-886. *AUGUSTUS ET AL. v. UNITED STATES ET AL.* C. A. 7th Cir. Certiorari denied. Reported below: 796 F. 2d 205.

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No. 86-888. *FRANKLIN v. DISTRICT OF COLUMBIA COURT OF APPEALS*. Ct. App. D. C. Certiorari denied. Reported below: 516 A. 2d 171.

No. 86-892. *SAN MARCOS COUNTY WATER DISTRICT v. SAN MARCOS UNIFIED SCHOOL DISTRICT*. Sup. Ct. Cal. Certiorari denied. Reported below: 42 Cal. 3d 154, 720 P. 2d 935.

No. 86-896. *BENTLEY LABORATORIES, INC. v. SHILEY, INC.* C. A. Fed. Cir. Certiorari denied. Reported below: 794 F. 2d 1561.

No. 86-899. *THIGPEN, COMMISSIONER, MISSISSIPPI DEPARTMENT OF CORRECTIONS, ET AL. v. JONES*; and

No. 86-5924. *JONES v. THIGPEN, COMMISSIONER, MISSISSIPPI DEPARTMENT OF CORRECTIONS*. C. A. 5th Cir. Certiorari denied. Reported below: 788 F. 2d 1101 and 795 F. 2d 521.

No. 86-902. *AMERICAN AIRLINES, INC., ET AL. v. DOOLEY ET AL.* C. A. 7th Cir. Certiorari denied. Reported below: 797 F. 2d 1447.

No. 86-903. *ZARTUCHE v. ILLINOIS*. App. Ct. Ill., 1st Dist. Certiorari denied. Reported below: 143 Ill. App. 3d 1159, 507 N. E. 2d 555.

No. 86-910. *EXPORTADORA COLOMBIANA DE EMERALDAS CO., LTD., ET AL. v. \$630,000 IN UNITED STATES CURRENCY ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 792 F. 2d 1123.

No. 86-912. *VAUGHN ET AL. v. GENERAL FOODS CORP. ET AL.* C. A. 7th Cir. Certiorari denied. Reported below: 797 F. 2d 1403.

No. 86-914. *MIHALCIK v. ILLINOIS EMPLOYERS INSURANCE OF WAUSAU*. C. A. 7th Cir. Certiorari denied. Reported below: 801 F. 2d 949.

No. 86-916. *CARTER v. LOUISIANA*. Ct. App. La., 3d Cir. Certiorari denied. Reported below: 485 So. 2d 260.

No. 86-919. *LIMPERT BROTHERS, INC. v. NATIONAL LABOR RELATIONS BOARD*. C. A. 3d Cir. Certiorari denied. Reported below: 800 F. 2d 1135.

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No. 86-921. *BAGLEY v. IBP, INC.*; and
No. 86-956. *IBP, INC. v. BAGLEY*. C. A. 8th Cir. Certiorari denied. Reported below: 797 F. 2d 632.

No. 86-924. *JORDAN v. SCHROEDER, PERSONAL REPRESENTATIVE FOR THE ESTATE OF SCHROEDER*. Ct. App. Wash. Certiorari denied.

No. 86-929. *DELLA-DONNA v. GORE NEWSPAPERS CO. ET AL.* Dist. Ct. App. Fla., 4th Dist. Certiorari denied. Reported below: 489 So. 2d 72.

No. 86-931. *MACHLEDER v. CBS INC.* C. A. 2d Cir. Certiorari denied. Reported below: 801 F. 2d 46.

No. 86-945. *WKRG-TV, INC. v. WILEY*. Sup. Ct. Ala. Certiorari denied. Reported below: 495 So. 2d 617.

No. 86-948. *CALUMET COUNTY, WISCONSIN v. KOSSMAN ET AL.* C. A. 7th Cir. Certiorari denied. Reported below: 800 F. 2d 697.

No. 86-949. *ARGUS INC. ET AL. v. EASTMAN KODAK CO.* C. A. 2d Cir. Certiorari denied. Reported below: 801 F. 2d 38.

No. 86-959. *FALOONA ET AL., BY THEIR NEXT FRIEND, FREDRICKSON v. HUSTLER MAGAZINE, INC.* C. A. 5th Cir. Certiorari denied. Reported below: 799 F. 2d 1000.

No. 86-961. *CAMPBELL SALES CO. v. NEW YORK STATE TAX COMMISSION*. Ct. App. N. Y. Certiorari denied. Reported below: 68 N. Y. 2d 617, 496 N. E. 2d 213.

No. 86-962. *HUTCHINSON ET AL. v. MILLER ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 797 F. 2d 1279.

No. 86-963. *BROOKPARK NEWS & BOOKS, INC., ET AL. v. CITY OF CLEVELAND ET AL.* Ct. App. Ohio, Cuyahoga County. Certiorari denied.

No. 86-967. *PITTSBURGH & LAKE ERIE RAILROAD CO. v. BEISSEL*. C. A. 3d Cir. Certiorari denied. Reported below: 801 F. 2d 143.

No. 86-968. *GENEVA COUNTY BOARD OF EDUCATION v. HIDLE*. C. A. 11th Cir. Certiorari denied. Reported below: 792 F. 2d 1098.

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No. 86-969. *KANAREK v. WAMBAUGH ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 791 F. 2d 167.

No. 86-970. *BINKER v. UNITED STATES.* C. A. 11th Cir. Certiorari denied. Reported below: 799 F. 2d 695.

No. 86-971. *ROBERTSON v. ALEXANDER GRANT & CO. ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 798 F. 2d 868.

No. 86-972. *HUMMEL v. HUMMEL.* Sup. Ct. Nev. Certiorari denied. Reported below: 102 Nev. 737.

No. 86-973. *SOUTH RANCH OIL CO., INC. v. SEISMIC INTERNATIONAL RESEARCH CORP.* C. A. 10th Cir. Certiorari denied. Reported below: 793 F. 2d 227.

No. 86-975. *WILLIAMS v. OVERTON MANOR EAST HOMEOWNERS ASSN., INC., ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 803 F. 2d 723.

No. 86-976. *CALIFORNIA v. CAREY.* Ct. App. Cal., 2d App. Dist. Certiorari denied. Reported below: 183 Cal. App. 3d 99, 227 Cal. Rptr. 813.

No. 86-984. *BEHAR v. SOUTHEAST BANK TRUST CO., N. A., ET AL.* C. A. 11th Cir. Certiorari denied. Reported below: 801 F. 2d 402.

No. 86-988. *JAMESON v. BETHLEHEM STEEL CORPORATION PENSION PLAN OF BETHLEHEM STEEL CORPORATION ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 802 F. 2d 447.

No. 86-992. *REARDON v. REARDON ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 786 F. 2d 1148.

No. 86-993. *COX v. NORTON, DIRECTOR OF TAX COLLECTION OF THE LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT.* C. A. 6th Cir. Certiorari denied. Reported below: 797 F. 2d 329.

No. 86-1001. *GRAY HILL, INC. v. INDUSTRIAL COMMISSION OF ILLINOIS ET AL.* App. Ct. Ill., 1st Dist. Certiorari denied. Reported below: 145 Ill. App. 3d 371, 495 N. E. 2d 1030.

No. 86-1005. *SOMMERS DRUG STORES COMPANY EMPLOYEE PROFIT SHARING TRUST v. CORRIGAN ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 793 F. 2d 1456.

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No. 86-1009. *COFFELT ET AL. v. ARKANSAS STATE HIGHWAY COMMISSION*. Sup. Ct. Ark. Certiorari denied. Reported below: 289 Ark. 348, 712 S. W. 2d 283.

No. 86-1010. *HOLYFIELD ET AL. v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 802 F. 2d 846.

No. 86-1011. *McGOVREN v. SUPERIOR COURT OF CALIFORNIA, ALAMEDA COUNTY (CALIFORNIA, REAL PARTY IN INTEREST)*. Ct. App. Cal., 1st App. Dist. Certiorari denied.

No. 86-1017. *DEJESUS v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 806 F. 2d 31.

No. 86-1018. *ROSENTHAL v. HAFIF ET AL.* Ct. App. Cal., 2d App. Dist. Certiorari denied.

No. 86-1027. *SUN-LAND NURSERIES, INC. v. SOUTHERN CALIFORNIA DISTRICT COUNCIL OF LABORERS ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 793 F. 2d 1110.

No. 86-1028. *ROYAL NETHERLANDS STEAMSHIP CO. v. QUINTO DE GARCIA*. Dist. Ct. App. Fla., 3d Dist. Certiorari denied. Reported below: 489 So. 2d 128.

No. 86-1035. *MAYES, T/A JACKSON ESTATES v. JACKSON TOWNSHIP RENT LEVELING BOARD ET AL.* Sup. Ct. N. J. Certiorari denied. Reported below: 103 N. J. 362, 511 A. 2d 589.

No. 86-1037. *IERVOLINO v. DELTA AIR LINES, INC.* C. A. 11th Cir. Certiorari denied. Reported below: 796 F. 2d 1408.

No. 86-1041. *RIGGIN v. RIGGIN*. Ct. App. Kan. Certiorari denied. Reported below: 11 Kan. App. 2d xxxiii, 722 P. 2d 591.

No. 86-1047. *UNIT RIG & EQUIPMENT CO. v. SHELDON*. C. A. 10th Cir. Certiorari denied. Reported below: 797 F. 2d 883.

No. 86-1056. *CAMOSCIO v. HEWETT*. App. Ct. Mass. Certiorari denied. Reported below: 22 Mass. App. 1110, 495 N. E. 2d 334.

No. 86-1058. *BELL v. BELL*. C. A. 5th Cir. Certiorari denied. Reported below: 801 F. 2d 396.

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No. 86-1066. *GIBSON v. MOBIL PRODUCING TEXAS & NEW MEXICO, INC., ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 797 F. 2d 975.

No. 86-1069. *WAGNER ET AL. v. BRAZAS ET AL.* Ct. App. Cal., 2d App. Dist. Certiorari denied.

No. 86-1072. *NEW YORK v. P. J. VIDEO, INC., DBA NETWORK VIDEO, ET AL.* Ct. App. N. Y. Certiorari denied. Reported below: 68 N. Y. 2d 296, 501 N. E. 2d 556.

No. 86-1073. *GREAT COMMONWEALTH LIFE INSURANCE CO. ET AL. v. BRANCH BANK & TRUST CO. ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 801 F. 2d 714.

No. 86-1075. *MEEHAN v. PPG INDUSTRIES, INC.* C. A. 7th Cir. Certiorari denied. Reported below: 802 F. 2d 881.

No. 86-1076. *PRIETO v. UNITED STATES.* C. A. 3d Cir. Certiorari denied. Reported below: 780 F. 2d 1017.

No. 86-1078. *GOICHMAN v. DEPARTMENT OF MOTOR VEHICLES OF THE STATE OF CALIFORNIA.* C. A. 9th Cir. Certiorari denied. Reported below: 801 F. 2d 399.

No. 86-1084. *BOYLES ET AL. v. ALMOND ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 792 F. 2d 451.

No. 86-1086. *RIVERA v. UNITED STATES.* Ct. Mil. App. Certiorari denied. Reported below: 23 M. J. 89.

No. 86-1087. *A & E SUPPLY CO., INC. v. NATIONWIDE MUTUAL FIRE INSURANCE CO.* C. A. 4th Cir. Certiorari denied. Reported below: 798 F. 2d 669.

No. 86-1090. *NATION v. EL DORADO SCHOOL DISTRICT ET AL.* C. A. 8th Cir. Certiorari denied.

No. 86-1091. *LARSON v. O'CONNELL ET AL.* App. Ct. Ill., 4th Dist. Certiorari denied. Reported below: 143 Ill. App. 3d 1061, 493 N. E. 2d 1175.

No. 86-1093. *GUCCIONE v. HUSTLER MAGAZINE, INC., ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 800 F. 2d 298.

No. 86-1094. *STATON v. MAYES ET AL.* C. A. 10th Cir. Certiorari denied.

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No. 86-1097. *APOLLO OF THE OZARKS, INC., ET AL. v. GIOTIS ET AL.* C. A. 7th Cir. Certiorari denied. Reported below: 800 F. 2d 660.

No. 86-1100. *WILSON v. INTERNATIONAL OCEAN TRANSPORT CORP., AKA GRAND BASSA TANKERS, INC., ET AL.* C. A. 5th Cir. Certiorari denied.

No. 86-1103. *PAPADAKIS v. UNITED STATES.* C. A. 2d Cir. Certiorari denied. Reported below: 802 F. 2d 618.

No. 86-1107. *HENDERSON v. CONNECTICUT.* App. Ct. Conn. Certiorari denied. Reported below: 8 Conn. App. 342, 512 A. 2d 974.

No. 86-1111. *DERBY ASSOCIATES v. SEASHORE CLUB CONDOMINIUM ASSN., INC., ET AL.* Super. Ct. N. J., App. Div. Certiorari denied.

No. 86-1112. *TUCKER ET AL. v. AMBASSADOR BEACH HOTEL ET AL.* Super. Ct. Pa. Certiorari denied. Reported below: 353 Pa. Super. 651, 506 A. 2d 1342.

No. 86-1113. *BERGMAN ET UX. v. COMMISSIONER OF INTERNAL REVENUE.* C. A. 10th Cir. Certiorari denied.

No. 86-1117. *BARTMAN ET AL. v. ALLIS-CHALMERS CORP. ET AL.* C. A. 7th Cir. Certiorari denied. Reported below: 799 F. 2d 311.

No. 86-1120. *DiBENEDETTO v. MASSACHUSETTS ET AL.* Sup. Jud. Ct. Mass. Certiorari denied. Reported below: 398 Mass. 395, 497 N. E. 2d 266.

No. 86-1124. *JACKSON v. LOUISIANA DEPARTMENT OF PUBLIC SAFETY ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 800 F. 2d 1143.

No. 86-1130. *ALLEN v. SUPREME COURT OF INDIANA ET AL.* Sup. Ct. Ind. Certiorari denied.

No. 86-1132. *LOPEZ v. NEW MEXICO.* Ct. App. N. M. Certiorari denied. Reported below: 105 N. M. 538, 734 P. 2d 778.

No. 86-1138. *PELHAM v. UNITED STATES.* C. A. 6th Cir. Certiorari denied. Reported below: 801 F. 2d 875.

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No. 86-1139. *NEVILLE v. FINNERTY ET AL.* Ct. App. N. Y. Certiorari denied. Reported below: 68 N. Y. 2d 790, 498 N. E. 2d 426.

No. 86-1142. *MOODY v. UNITED STATES.* C. A. 3d Cir. Certiorari denied. Reported below: 803 F. 2d 123.

No. 86-1182. *BODWELL ET UX. v. COMMISSIONER OF INTERNAL REVENUE.* C. A. 9th Cir. Certiorari denied. Reported below: 798 F. 2d 472.

No. 86-1186. *SWIERKOWSKI ET AL. v. UNITED STATES.* C. A. 9th Cir. Certiorari denied. Reported below: 800 F. 2d 1145.

No. 86-1189. *GEORGIUS v. MARYLAND.* Ct. Sp. App. Md. Certiorari denied. Reported below: 68 Md. App. 728.

No. 86-1195. *JOYCE v. COMMISSIONER OF PATENTS AND TRADEMARKS.* C. A. Fed. Cir. Certiorari denied. Reported below: 809 F. 2d 789.

No. 86-5476. *BROWN v. NEW YORK.* Ct. App. N. Y. Certiorari denied. Reported below: 67 N. Y. 2d 555, 496 N. E. 2d 663.

No. 86-5483. *WHEADON v. UNITED STATES.* C. A. 7th Cir. Certiorari denied. Reported below: 794 F. 2d 1277.

No. 86-5565. *JOVANOVIC v. TATE, SUPERINTENDENT, CHILLICOTHE CORRECTIONAL INSTITUTE.* C. A. 6th Cir. Certiorari denied. Reported below: 791 F. 2d 933.

No. 86-5581. *WALTON v. MORRIS, SUPERINTENDENT, SOUTHERN OHIO CORRECTIONAL FACILITY.* C. A. 6th Cir. Certiorari denied. Reported below: 793 F. 2d 1294.

No. 86-5657. *JEFFERIES v. WAINWRIGHT, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS.* C. A. 11th Cir. Certiorari denied. Reported below: 794 F. 2d 1516.

No. 86-5741. *TAYLOR v. UNITED STATES.* C. A. 4th Cir. Certiorari denied. Reported below: 799 F. 2d 126.

No. 86-5752. *LEWIS v. UNITED STATES.* C. A. 7th Cir. Certiorari denied. Reported below: 797 F. 2d 358.

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No. 86-5762. *WALKER v. WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY ET AL.* C. A. D. C. Cir. Certiorari denied. Reported below: 253 U. S. App. D. C. 248, 793 F. 2d 319.

No. 86-5815. *MCDERMOTT v. UNITED STATES.* C. A. 4th Cir. Certiorari denied. Reported below: 796 F. 2d 475.

No. 86-5828. *HEINEMANN v. UNITED STATES.* C. A. 2d Cir. Certiorari denied. Reported below: 801 F. 2d 86.

No. 86-5855. *PAULI v. JABE, WARDEN.* C. A. 6th Cir. Certiorari denied. Reported below: 805 F. 2d 1035.

No. 86-5857. *VAN HORN v. UNITED STATES.* C. A. 6th Cir. Certiorari denied. Reported below: 802 F. 2d 460.

No. 86-5868. *FOWLER v. UNITED STATES.* C. A. 9th Cir. Certiorari denied. Reported below: 794 F. 2d 1446.

No. 86-5911. *WAGUESPACK v. PEAVEY CO. ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 795 F. 2d 523.

No. 86-5922. *TAYLOR v. UNITED STATES.* C. A. 9th Cir. Certiorari denied. Reported below: 802 F. 2d 1108.

No. 86-5928. *ELSHENAWY v. UNITED STATES.* C. A. 6th Cir. Certiorari denied. Reported below: 801 F. 2d 856.

No. 86-5946. *EGGLESTON v. COUNTY OF SANTA CLARA ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 796 F. 2d 478.

No. 86-5961. *GOMEZ v. OFFICE OF PERSONNEL MANAGEMENT.* C. A. Fed. Cir. Certiorari denied. Reported below: 809 F. 2d 789.

No. 86-5976. *RODRIQUEZ-MONDRAGON v. UNITED STATES.* C. A. 5th Cir. Certiorari denied.

No. 86-5982. *FALCON v. UNITED STATES.* C. A. 10th Cir. Certiorari denied.

No. 86-5983. *BAUER v. UNITED STATES.* C. A. 8th Cir. Certiorari denied. Reported below: 800 F. 2d 765.

No. 86-5985. *BROWN v. RETIREMENT COMMITTEE OF THE BRIGGS & STRATTON RETIREMENT PLAN ET AL.* C. A. 7th Cir. Certiorari denied. Reported below: 797 F. 2d 521.

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No. 86-5988. *YANCY v. TEXAS*. Ct. App. Tex., 5th Dist. Certiorari denied.

No. 86-5989. *WILSON v. DENTON ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 805 F. 2d 1037.

No. 86-6006. *LYDA ET AL. v. JOHN K. ET AL.* Ct. App. Cal., 3d App. Dist. Certiorari denied.

No. 86-6010. *COX v. MUNCY, WARDEN.* C. A. 4th Cir. Certiorari denied. Reported below: 806 F. 2d 257.

No. 86-6014. *BONDURANT v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. Reported below: 801 F. 2d 396.

No. 86-6018. *CARMONA v. SECRETARY OF HEALTH AND HUMAN SERVICES.* C. A. 1st Cir. Certiorari denied. Reported below: 802 F. 2d 439.

No. 86-6019. *COLE v. DOUGLAS, WARDEN.* C. A. 10th Cir. Certiorari denied.

No. 86-6020. *BLANDING v. MUNCY, WARDEN.* C. A. 4th Cir. Certiorari denied. Reported below: 804 F. 2d 677.

No. 86-6022. *BARRITT v. BORDENKIRCHER, WARDEN.* C. A. 4th Cir. Certiorari denied. Reported below: 802 F. 2d 451.

No. 86-6025. *STURM v. CALIFORNIA ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 797 F. 2d 978.

No. 86-6028. *MERCADO v. NEW YORK.* Ct. App. N. Y. Certiorari denied. Reported below: 68 N. Y. 2d 874, 501 N. E. 2d 27.

No. 86-6030. *WILKIE v. FOLTZ, REGIONAL ADMINISTRATOR, MICHIGAN DEPARTMENT OF CORRECTIONS.* C. A. 6th Cir. Certiorari denied. Reported below: 803 F. 2d 723.

No. 86-6036. *WEATHERSPOON v. MISSOURI.* Ct. App. Mo., Western Dist. Certiorari denied. Reported below: 716 S. W. 2d 379.

No. 86-6038. *TRAYLOR v. CITY OF ATLANTA ET AL.* C. A. 11th Cir. Certiorari denied. Reported below: 805 F. 2d 1420.

No. 86-6039. *MYERS v. UNITED STATES.* C. A. Fed. Cir. Certiorari denied. Reported below: 802 F. 2d 472.

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No. 86-6041. *FABIAN v. RYAN*. Sup. Ct. Fla. Certiorari denied. Reported below: 494 So. 2d 1150.

No. 86-6045. *AVEDISIAN v. HUBBARD ET UX*. C. A. 4th Cir. Certiorari denied. Reported below: 799 F. 2d 751.

No. 86-6046. *REESE v. FAIRMAN, WARDEN, ET AL*. C. A. 7th Cir. Certiorari denied. Reported below: 801 F. 2d 275.

No. 86-6047. *WARD v. ILLINOIS*. Sup. Ct. Ill. Certiorari denied. Reported below: 113 Ill. 2d 516, 499 N. E. 2d 422.

No. 86-6048. *BROWN v. MARYLAND*. C. A. 4th Cir. Certiorari denied. Reported below: 803 F. 2d 1180.

No. 86-6051. *PRITCHETT v. GRISSWOLD, ACTING WARDEN, ET AL*. C. A. 11th Cir. Certiorari denied. Reported below: 803 F. 2d 1184.

No. 86-6052. *PIKOP v. BURLINGTON NORTHERN RAILROAD Co., INC*. C. A. 8th Cir. Certiorari denied.

No. 86-6053. *QUINONEZ-CIENFUEGOS v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 794 F. 2d 683.

No. 86-6056. *AMOS v. DUGGER, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS*. C. A. 11th Cir. Certiorari denied. Reported below: 804 F. 2d 679.

No. 86-6058. *GRAHAM v. COURT OF APPEAL OF CALIFORNIA, SECOND APPELLATE DISTRICT, ET AL*. Sup. Ct. Cal. Certiorari denied.

No. 86-6064. *MULAZIM v. REDMAN, WARDEN*. C. A. 6th Cir. Certiorari denied.

No. 86-6065. *WILKINS v. WEBB ET AL*. C. A. 4th Cir. Certiorari denied. Reported below: 804 F. 2d 678.

No. 86-6068. *RUEBKE v. KANSAS*. Ct. App. Kan. Certiorari denied. Reported below: 11 Kan. App. 2d 353, 720 P. 2d 1141.

No. 86-6069. *PATTERSON v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 802 F. 2d 452.

No. 86-6070. *FITZGIBBONS v. UNITED STATES*. C. A. Fed. Cir. Certiorari denied. Reported below: 802 F. 2d 469.

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No. 86-6072. *DUNLAP v. BESHEAR, ATTORNEY GENERAL OF KENTUCKY, ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 805 F. 2d 1034.

No. 86-6073. *ALBERTO v. NEW YORK.* App. Div., Sup. Ct. N. Y., 1st Jud. Dept. Certiorari denied. Reported below: 121 App. Div. 2d 848, 503 N. Y. S. 2d 469.

No. 86-6075. *HELLER v. CALIFORNIA.* Ct. App. Cal., 4th App. Dist. Certiorari denied.

No. 86-6077. *KUCHER v. MADERIOS ET AL.* C. A. 1st Cir. Certiorari denied. Reported below: 808 F. 2d 1512.

No. 86-6078. *LEAL v. DAHLBERG, SUPERINTENDENT, OHIO STATE REFORMATORY.* C. A. 6th Cir. Certiorari denied.

No. 86-6079. *AKBAR v. UNITED STATES.* C. A. 9th Cir. Certiorari denied. Reported below: 798 F. 2d 473.

No. 86-6080. *JAFREE v. UNITED STATES.* C. A. 7th Cir. Certiorari denied. Reported below: 801 F. 2d 1344.

No. 86-6081. *LITTLE v. LYNAUGH, INTERIM DIRECTOR, TEXAS DEPARTMENT OF CORRECTIONS.* C. A. 5th Cir. Certiorari denied.

No. 86-6083. *BUITRAGO v. UNITED STATES.* C. A. 2d Cir. Certiorari denied. Reported below: 833 F. 2d 1003.

No. 86-6084. *LEWIS v. UNITED STATES.* C. A. 7th Cir. Certiorari denied. Reported below: 804 F. 2d 143.

No. 86-6086. *HARDNETT v. UNITED STATES.* C. A. 6th Cir. Certiorari denied. Reported below: 804 F. 2d 353.

No. 86-6088. *WRIGHT v. MERIT SYSTEMS PROTECTION BOARD.* C. A. Fed. Cir. Certiorari denied.

No. 86-6089. *MAHONEY v. SOUTH DAKOTA.* Sup. Ct. S. D. Certiorari denied. Reported below: 393 N. W. 2d 796.

No. 86-6091. *OLIVER v. BUNNELL, WARDEN.* C. A. 9th Cir. Certiorari denied.

No. 86-6095. *SHEFFY v. PENNSYLVANIA.* Super. Ct. Pa. Certiorari denied. Reported below: 351 Pa. Super. 211, 505 A. 2d 604.

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No. 86-6096. *ISELL v. GEORGIA*. Ct. App. Ga. Certiorari denied. Reported below: 179 Ga. App. 363, 346 S. E. 2d 857.

No. 86-6097. *JEMISON v. JONES, WARDEN, ET AL.* C. A. 11th Cir. Certiorari denied. Reported below: 804 F. 2d 679.

No. 86-6098. *GREEN v. UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA*. C. A. 9th Cir. Certiorari denied.

No. 86-6099. *CHUWANG v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 793 F. 2d 1295.

No. 86-6100. *LEEHAN v. ILLINOIS*. App. Ct. Ill., 2d Dist. Certiorari denied. Reported below: 141 Ill. App. 3d 1176, 503 N. E. 2d 1215.

No. 86-6102. *BALL v. SECRETARY OF HEALTH AND HUMAN SERVICES ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 798 F. 2d 1413.

No. 86-6104. *DILLOW v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 801 F. 2d 395.

No. 86-6110. *SIANO v. MASSACHUSETTS*. Sup. Jud. Ct. Mass. Certiorari denied. Reported below: 398 Mass. 1007, 499 N. E. 2d 297.

No. 86-6112. *SHAIID v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 799 F. 2d 182.

No. 86-6113. *VAN GOSSEN v. TEXACO INC.* C. A. 5th Cir. Certiorari denied. Reported below: 802 F. 2d 453.

No. 86-6115. *KING v. THOMPSON*. Sup. Ct. N. D. Certiorari denied. Reported below: 393 N. W. 2d 733.

No. 86-6116. *FREEMAN v. KEENEY*. C. A. 9th Cir. Certiorari denied. Reported below: 804 F. 2d 145.

No. 86-6117. *BUCHANAN v. REES, WARDEN*. C. A. 6th Cir. Certiorari denied. Reported below: 803 F. 2d 718.

No. 86-6118. *HASELHUHN v. WYOMING*. Sup. Ct. Wyo. Certiorari denied. Reported below: 727 P. 2d 280.

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No. 86-6119. *JONES v. HOWARD ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 805 F. 2d 1034.

No. 86-6122. *FERLITO v. COMMISSIONER OF CORRECTION OF NEW YORK ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 833 F. 2d 1002.

No. 86-6126. *MYERS v. UNITED STATES.* C. A. Fed. Cir. Certiorari denied. Reported below: 795 F. 2d 1016.

No. 86-6127. *JAMES v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. Reported below: 805 F. 2d 1031.

No. 86-6128. *JACKSON v. NEWSOME, WARDEN.* C. A. 11th Cir. Certiorari denied.

No. 86-6131. *ARMSTRONG v. CHRANS, WARDEN, ET AL.* C. A. 7th Cir. Certiorari denied.

No. 86-6132. *ALONZO v. LYNAUGH, INTERIM DIRECTOR, TEXAS DEPARTMENT OF CORRECTIONS.* C. A. 5th Cir. Certiorari denied.

No. 86-6135. *WALKER v. UNITED STATES.* C. A. 11th Cir. Certiorari denied. Reported below: 805 F. 2d 1042.

No. 86-6136. *MARTIN v. SOUTH CAROLINA.* Sup. Ct. S. C. Certiorari denied.

No. 86-6137. *SAFIR v. UNITED STATES LINES INC. ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 792 F. 2d 19.

No. 86-6138. *POWELL v. FIORI ET AL.* C. A. 10th Cir. Certiorari denied.

No. 86-6140. *WALLACE v. KENTUCKY.* Ct. App. Ky. Certiorari denied.

No. 86-6141. *BARTRUG ET AL. v. VIRGINIA.* Sup. Ct. Va. Certiorari denied.

No. 86-6142. *JOHNSON v. ALABAMA.* Sup. Ct. Ala. Certiorari denied.

No. 86-6144. *CONGER v. LOUISIANA ET AL.* C. A. 5th Cir. Certiorari denied.

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No. 86-6146. *TYSKO v. HAIGH ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 802 F. 2d 449.

No. 86-6147. *RUSSELL v. GARRAGHTY, WARDEN, ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 799 F. 2d 751.

No. 86-6149. *RULE v. O'LEARY, WARDEN, ET AL.* C. A. 7th Cir. Certiorari denied.

No. 86-6151. *WARD v. MICHIGAN ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 805 F. 2d 1037.

No. 86-6152. *ROJAS-GONZALEZ v. UNITED STATES.* C. A. 11th Cir. Certiorari denied. Reported below: 805 F. 2d 1041.

No. 86-6153. *GRIFFITH v. COMMISSIONER OF INTERNAL REVENUE.* C. A. 11th Cir. Certiorari denied. Reported below: 796 F. 2d 1477.

No. 86-6155. *MCBRIDE ET AL. v. UNITED STATES.* C. A. 8th Cir. Certiorari denied. Reported below: 801 F. 2d 1045.

No. 86-6157. *MILLER, ADMINISTRATRIX OF THE ESTATE OF MILLER v. MECKLENBURG COUNTY ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 813 F. 2d 402.

No. 86-6158. *VENEGAS v. UNITED STATES; and*

No. 86-6198. *VINDIOLA v. UNITED STATES.* C. A. 9th Cir. Certiorari denied. Reported below: 800 F. 2d 868.

No. 86-6162. *CLARK v. UNITED STATES.* C. A. 3d Cir. Certiorari denied. Reported below: 806 F. 2d 255.

No. 86-6165. *BOTTIGLIERIE ET AL. v. UNITED STATES.* C. A. 3d Cir. Certiorari denied. Reported below: 802 F. 2d 449.

No. 86-6172. *SPERLING v. UNITED STATES.* C. A. 2d Cir. Certiorari denied. Reported below: 805 F. 2d 391.

No. 86-6174. *NICHOLAS v. UNITED STATES.* C. A. 9th Cir. Certiorari denied. Reported below: 800 F. 2d 263.

No. 86-6178. *MONTOYA v. UNITED STATES.* C. A. 3d Cir. Certiorari denied. Reported below: 804 F. 2d 1249.

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No. 86-6181. *HENKEL v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 799 F. 2d 369.

No. 86-6186. *FERNANDEZ v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 794 F. 2d 1533.

No. 86-6189. *RODRIGUEZ v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 804 F. 2d 1253.

No. 86-6211. *PARKER v. ILLINOIS*. App. Ct Ill., 1st Dist. Certiorari denied. Reported below: 142 Ill. App. 3d 630, 491 N. E. 2d 1285.

No. 85-6783. *WRIGHT v. ILLINOIS*. Sup. Ct. Ill.;
No. 85-7008. *LESKO v. PENNSYLVANIA*. Sup. Ct. Pa.;
No. 85-7016. *FLOYD v. ALABAMA*. Sup. Ct. Ala.;
No. 85-7232. *CARGILL v. GEORGIA*. Sup. Ct. Ga.;
No. 86-5207. *MORGAN v. ILLINOIS*. Sup. Ct. Ill.;
No. 86-5434. *OLINGER v. ILLINOIS*. Sup. Ct. Ill.;
No. 86-5599. *MONTGOMERY v. ILLINOIS*. Sup. Ct. Ill.;
No. 86-5801. *HILL v. NEVADA*. Sup. Ct. Nev.;
No. 86-5906. *SZABO v. ILLINOIS*. Sup. Ct. Ill.;
No. 86-5958. *COOPER v. FLORIDA*. Sup. Ct. Fla.;
No. 86-5994. *BROOKS v. OHIO*. Sup. Ct. Ohio;
No. 86-5997. *JUSTUS v. BASS, SUPERINTENDENT, MECKLENBURG CORRECTIONAL CENTER*. Sup. Ct. Va.;
No. 86-6017. *HILL v. ARKANSAS*. Sup. Ct. Ark.;
No. 86-6026. *WRIGHT v. ALABAMA*. Sup. Ct. Ala.;
No. 86-6033. *COOPER v. TENNESSEE*. Sup. Ct. Tenn.;
No. 86-6092. *MUHAMMAD v. FLORIDA*. Sup. Ct. Fla.; and
No. 86-6194. *DUFOUR v. FLORIDA*. Sup. Ct. Fla. Certiorari denied. Reported below: No. 85-6783, 111 Ill. 2d 128, 490 N. E. 2d 640; No. 85-7008, 509 Pa. 67, 501 A. 2d 200; No. 85-7016, 486 So. 2d 1321; No. 85-7232, 255 Ga. 616, 340 S. E. 2d 891; No. 86-5207, 112 Ill. 2d 111, 492 N. E. 2d 1303; No. 86-5434, 112 Ill. 2d 324, 493 N. E. 2d 579; No. 86-5599, 112 Ill. 2d 517, 494 N. E. 2d 475; No. 86-5801, 102 Nev. 377, 724 P. 2d 734; No. 86-5906, 113 Ill. 2d 83, 497 N. E. 2d 995; No. 86-5958, 492 So. 2d 1059; No. 86-5994, 25 Ohio St. 3d 144, 495 N. E. 2d 407; No. 86-6017, 289 Ark. 387, 713 S. W. 2d 233; No. 86-6026, 494 So. 2d 745; No. 86-6033, 718 S. W. 2d 256; No. 86-6092, 494 So. 2d 969; No. 86-6194, 495 So. 2d 154.

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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. 86-589. *KRUPPS ET AL. v. TEXAS*. Ct. Crim. App. Tex. Certiorari denied. JUSTICE MARSHALL would grant certiorari. Reported below: 712 S. W. 2d 144.

No. 86-830. *CELCOM COMMUNICATIONS CORPORATION OF PENNSYLVANIA v. FEDERAL COMMUNICATIONS COMMISSION ET AL.* C. A. D. C. Cir. Certiorari denied. JUSTICE SCALIA took no part in the consideration or decision of this petition. Reported below: 253 U. S. App. D. C. 171, 792 F. 2d 239.

No. 86-882. *HODGSON ET AL. v. MINNESOTA ET AL.*; and

No. 86-1114. *MINNESOTA v. HODGSON ET AL.* C. A. 8th Cir. Certiorari before judgment denied.

No. 86-885. *BOSTON & MAINE CORP. v. LENFEST ET AL.* C. A. 1st Cir. Motion of National Railway Labor Conference for leave to file a brief as *amicus curiae* granted. Certiorari denied. Reported below: 799 F. 2d 795.

No. 86-893. *JACKSON WATER WORKS, INC., ET AL. v. PUBLIC UTILITIES COMMISSION OF CALIFORNIA ET AL.* C. A. 9th Cir. Certiorari denied. JUSTICE WHITE and JUSTICE POWELL would grant certiorari. Reported below: 793 F. 2d 1090.

No. 86-938. *TENNESSEE v. FLETCHER*. Ct. Crim. App. Tenn. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied.

No. 86-965. *MILLER ET AL. v. SULLIVAN ET AL.* Ct. App. Ariz. Certiorari denied. JUSTICE O'CONNOR took no part in the consideration or decision of this petition. Reported below: 150 Ariz. 573, 724 P. 2d 1242.

No. 86-981. *MAJOR MEDIA OF THE SOUTHEAST, INC., DBA NAE-GELE OUTDOOR ADVERTISING COMPANY OF RALEIGH-DURHAM v. CITY OF RALEIGH*. C. A. 4th Cir. Motions of North Carolina Restaurant Association, Outdoor Advertising Association of America,

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Inc., and Advertising Council Inc. for leave to file briefs as *amici curiae* granted. Certiorari denied. Reported below: 792 F. 2d 1269.

No. 86-982. HANTON *v.* KENNEDY ET AL. C. A. 6th Cir. Motion of respondents for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 797 F. 2d 297.

No. 86-1003. SALINAS ET AL. *v.* ROADWAY EXPRESS, INC., ET AL. C. A. 5th Cir. Motion of respondent Roadway Express, Inc., for damages denied. Certiorari denied. Reported below: 802 F. 2d 787.

No. 86-1036. DOUBLE RAINBOW GOURMET ICE CREAMS *v.* UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA (PILLSBURY CO. ET AL., REAL PARTIES IN INTEREST). C. A. 9th Cir. Certiorari denied. JUSTICE BLACKMUN took no part in the consideration or decision of this petition.

No. 86-5996. BARKSDALE ET AL. *v.* INTERNATIONAL BUSINESS MACHINES CORP. C. A. 4th Cir. Certiorari denied. JUSTICE BLACKMUN took no part in the consideration or decision of this petition.

No. 86-6074. GORMONG *v.* CLEVELAND ELECTRIC COMPANY OF GEORGIA, INC. Ct. App. Ga. Certiorari denied. JUSTICE BLACKMUN took no part in the consideration or decision of this petition. Reported below: 180 Ga. App. 481, 349 S. E. 2d 500.

No. 86-1039. TOWNSHIP OF PISCATAWAY ET AL. *v.* NEW JERSEY CITIZEN ACTION ET AL. C. A. 3d Cir. Certiorari denied. JUSTICE WHITE and JUSTICE O'CONNOR would grant certiorari. Reported below: 797 F. 2d 1250.

No. 86-1109. CELAURO, COMMISSIONER OF REVENUE OF TENNESSEE *v.* MIDLAND BANK & TRUST CO. ET AL. Sup. Ct. Tenn. Motion of Multistate Tax Commission for leave to file a brief as *amicus curiae* granted. Certiorari denied. Reported below: 717 S. W. 2d 580.

No. 86-1123. RELIGIOUS TECHNOLOGY CENTER ET AL. *v.* WOLLERSHEIM ET AL. C. A. 9th Cir. Certiorari denied. JUSTICE BRENNAN took no part in the consideration or decision of this petition. Reported below: 796 F. 2d 1076.

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No. 86-1196 (A-532). *BENNETT v. TEXAS*. Ct. Crim. App. Tex. Application for stay, addressed to JUSTICE BRENNAN and referred to the Court, denied. Certiorari denied.

No. 86-5846. *HOVEY v. MCCARTHY, DIRECTOR, CALIFORNIA DEPARTMENT OF CORRECTIONS*. Sup. Ct. Cal. Motion of petitioner to defer consideration of the petition for writ of certiorari denied. 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.

No. 86-5902. *GWALTNEY v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. JUSTICE BLACKMUN would grant certiorari. Reported below: 790 F. 2d 1378.

Rehearing Denied

No. 86-615. *BROWN v. BROWN*, *ante*, p. 1008;

No. 86-619. *ALLEN v. CHILTON CO., DIVISION OF A. B. C., INC.*, *ante*, p. 1008;

No. 86-667. *POLYAK v. BUFORD EVANS & SONS*, *ante*, p. 1018;

No. 86-5761. *BRATTON-BEY v. COMPTROLLER OF THE TREASURY*, *ante*, p. 994;

No. 86-5863. *DUBOSE v. UNITED STATES*, *ante*, p. 1042;

No. 86-5886. *TELEPO v. EDWARDS ET AL.*, *ante*, p. 1042; and

No. 86-5942. *TAFT-TSARELKA v. MASSACHUSETTS ET AL.*, *ante*, p. 1043. Petitions for rehearing denied.

REPORTER'S NOTE

The next page is purposely numbered 1301. The numbers between 1104 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.
