

ORDERS FROM MARCH 2 THROUGH
MARCH 30, 1987

Appeals Dismissed

No. 86-1135. *CORY v. VIRGINIA*. Appeal from Ct. App. Va. dismissed for want of substantial federal question.

No. 86-1175. *THOMPSON v. STEPHENS, CHIEF JUSTICE, KENTUCKY SUPREME COURT, ET AL.* Appeal from Sup. Ct. Ky. dismissed for want of jurisdiction.

No. 86-5829. *KISSNER v. SOUTH DAKOTA*. Appeal from Sup. Ct. S. D. dismissed for want of jurisdiction. Reported below: 390 N. W. 2d 58.

No. 86-6156. *PETERS v. MCCUTCHEON ET AL.* Appeal from D. C. S. C. dismissed for want of jurisdiction.

No. 86-6320. *ZERMAN v. WOLOFSKY ET AL.* Appeal from Dist. Ct. App. Fla., 4th Dist., 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. 86-839. *BEHNING ET UX. v. CAMELBACK SKI CORP.* Ct. App. Md. Certiorari granted, judgment vacated, and case remanded for further consideration in light of *Asahi Metal Industry Co. v. Superior Court of California*, *ante*, p. 102. Reported below: 307 Md. 270, 513 A. 2d 874.

No. 86-1050. *DUGGER, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS, ET AL. v. MILLER ET AL.* C. A. 11th Cir. Motions of respondents for leave to proceed *in forma pauperis* granted. Certiorari granted, judgment vacated, and case remanded for further consideration in light of *Pennsylvania v. Ritchie*, *ante*, p. 39. Reported below: 798 F. 2d 426.

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*Miscellaneous Orders**

No. — — —. HACKER *v.* UNITED STATES;

No. — — —. HENRY *v.* MINNESOTA PUBLIC UTILITIES COMMISSION; and

No. — — —. STEVENS ET AL. *v.* BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND OF THE STATE OF FLORIDA. Motions to direct the Clerk to file the petitions for writs of certiorari out of time denied.

No. A-597 (86-6367). IN RE GRAY. Super. Ct. D. C. Application for stay, addressed to JUSTICE SCALIA and referred to the Court, denied.

No. D-568. IN RE DISBARMENT OF MOUNTAIN. Disbarment entered. [For earlier order herein, see 478 U. S. 1037.]

No. D-594. IN RE DISBARMENT OF CERAME. Disbarment entered. [For earlier order herein, see 479 U. S. 1003.]

No. D-608. IN RE DISBARMENT OF SHARE. It is ordered that Benjamin D. Share, of Harrisburg, Pa., be suspended from the practice of law in this Court and that a rule issue, returnable within 40 days, requiring him to show cause why he should not be disbarred from the practice of law in this Court.

No. D-609. IN RE DISBARMENT OF CONNOLLY. It is ordered that Daniel Joseph Connolly, of Concord, N. H., 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-610. IN RE DISBARMENT OF LOPEZ. It is ordered that Vincent Cabrera Lopez, 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-611. IN RE DISBARMENT OF BRICKLE. It is ordered that Thomas C. Brickle, of Fond du Lac, Wis., be suspended from the practice of law in this Court and that a rule issue, returnable

*For the Court's orders prescribing amendments to the Federal Rules of Civil Procedure and the Supplemental Rules for Certain Admiralty and Maritime Claims, see *post*, p. 955; and amendments to the Federal Rules of Evidence, see *post*, p. 1025.

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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. 65, Orig. TEXAS *v.* NEW MEXICO. Motion of city of Alamogordo, N. M., et al. for leave to participate in oral argument as *amici curiae*, for divided argument, and for additional time for oral argument denied. [For earlier order herein, see, e. g., 479 U. S. 1078.]

No. 106, Orig. ILLINOIS *v.* KENTUCKY. It is ordered that the Honorable Robert Van Pelt, Senior Judge of the United States District Court for the District of Nebraska, be appointed Special Master in this case with authority to fix the time and conditions for the filing of additional pleadings and to direct subsequent proceedings, and with authority to summon witnesses, issue subpoenas, and take such evidence as may be introduced and such as he may deem necessary to call for. The Master is directed to submit such reports as he may deem appropriate.

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

It is further ordered that if the position of Special Master in this case becomes vacant during a recess of the Court, THE CHIEF JUSTICE shall have authority to make a new designation which shall have the same effect as if originally made by the Court. [For earlier order herein, see 479 U. S. 879.]

No. 84-1602. ANDERSON ET AL. *v.* LIBERTY LOBBY, INC., ET AL., 477 U. S. 242. Motion of respondents to retax costs denied. JUSTICE SCALIA took no part in the consideration or decision of this motion.

No. 86-44. SHEARSON/AMERICAN EXPRESS INC. ET AL. *v.* McMAHON ET AL. C. A. 2d Cir. [Certiorari granted, 479 U. S. 812.] Motion of Stephen Null for leave to file a brief as *amicus curiae* out of time denied.

No. 86-246. SUMNER, DIRECTOR, NEVADA DEPARTMENT OF PRISONS, ET AL. *v.* SHUMAN. C. A. 9th Cir. [Certiorari granted, 479 U. S. 948.] Motions of Center for Constitutional Rights et al. and Johnny Harris et al. for leave to file briefs as *amici curiae* granted.

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No. 86-281. *RAY v. UNITED STATES*. C. A. 5th Cir. [Certiorari granted, 479 U. S. 960.] Further consideration of motion of the Solicitor General to vacate judgment deferred to hearing of case on the merits.

No. 86-509. *BOWEN, SECRETARY OF HEALTH AND HUMAN SERVICES v. GILLIARD ET AL.*; and

No. 86-564. *KIRK, SECRETARY, NORTH CAROLINA DEPARTMENT OF HUMAN RESOURCES, ET AL. v. GILLIARD ET AL.* D. C. W. D. N. C. [Probable jurisdiction noted, 479 U. S. 1004.] Motion of the Solicitor General for divided argument granted.

No. 86-595. *UNITED STATES v. FAUSTO*. C. A. Fed. Cir. Motion of respondent to amend the question presented denied. Motion of respondent to file a brief *pro se* granted. Motion of respondent to present oral argument *pro se* denied. John M. Nannes, Esquire, of Washington, D. C., a member of the Bar of this Court, is invited to brief and argue this case as *amicus curiae* in support of the judgment below.

No. 86-935. *REGENTS OF THE UNIVERSITY OF CALIFORNIA v. PUBLIC EMPLOYMENT RELATIONS BOARD ET AL.* Appeal from Ct. App. Cal., 1st App. Dist. The Solicitor General is invited to file a brief in this case expressing the views of the United States.

No. 86-1145. *PATRICK v. BURGET ET AL.* C. A. 9th Cir. Motion of Joint Commission on Accreditation of Hospitals et al. for leave to file a brief as *amici curiae* granted. The Solicitor General is invited to file a brief in this case expressing the views of the United States. JUSTICE BLACKMUN took no part in the consideration or decision of these orders.

No. 86-6296. *LAMBERT v. DIRECTOR, OFFICE OF WORKERS' COMPENSATION PROGRAMS, UNITED STATES DEPARTMENT OF LABOR*. C. A. 6th Cir. Motion of petitioner to consolidate this case with No. 86-327, *Mullins Coal Co. v. Director, Office of Workers' Compensation Programs* [certiorari granted, 479 U. S. 1029], denied.

Probable Jurisdiction Noted or Postponed

No. 86-1042. *CITY OF LAKEWOOD v. PLAIN DEALER PUBLISHING CO.* Appeal from C. A. 6th Cir. Probable jurisdiction noted. Reported below: 794 F. 2d 1139.

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No. 86-753. *PENNELL ET AL. v. CITY OF SAN JOSE ET AL.* Appeal from Sup. Ct. Cal. Motions of California Association of Realtors, Pacific Legal Foundation, and California Apartment Association for leave to file briefs as *amici curiae* granted. Further consideration of question of jurisdiction postponed to hearing of case on the merits. Reported below: 42 Cal. 3d 365, 721 P. 2d 1111.

Certiorari Granted

No. 86-714. *WESTFALL ET AL. v. ERWIN ET UX.* C. A. 11th Cir. Certiorari granted. Reported below: 785 F. 2d 1551.

No. 86-939. *ETSI PIPELINE PROJECT v. MISSOURI ET AL.;* and No. 86-941. *HODEL, SECRETARY OF THE INTERIOR, ET AL. v. MISSOURI ET AL.* C. A. 8th Cir. Motion of petitioner in No. 86-939 to substitute ETSI Pipeline Project as petitioner in place of Energy Transportation Systems Inc. granted. Certiorari granted, cases consolidated, and a total of one hour allotted for oral argument. Reported below: 787 F. 2d 270.

Certiorari Denied. (See also No. 86-6320, *supra*.)

No. 85-6828. *KNIGHT v. ILLINOIS.* App. Ct. Ill., 1st Dist. Certiorari denied. Reported below: 139 Ill. App. 3d 188, 486 N. E. 2d 1356.

No. 86-562. *THOMPSON ET AL. v. KENNICKELL.* C. A. D. C. Cir. Certiorari denied. Reported below: 254 U. S. App. D. C. 348, 797 F. 2d 1015.

No. 86-603. *ABELS ET AL. v. MONROE COUNTY EDUCATION ASSN.* Ct. App. Ind. Certiorari denied. Reported below: 489 N. E. 2d 533.

No. 86-611. *CATERINO v. UNITED STATES.* C. A. 1st Cir. Certiorari denied. Reported below: 794 F. 2d 1.

No. 86-887. *PASSAGE ET AL. v. PRUDENTIAL-BACHE SECURITIES, INC., ET AL.* Sup. Ct. Mont. Certiorari denied. Reported below: 223 Mont. 60, 727 P. 2d 1298.

No. 86-904. *TRAINER ET AL. v. UNITED STATES.* C. A. Fed. Cir. Certiorari denied. Reported below: 800 F. 2d 1086.

No. 86-922. *RAND ET AL. v. ANACONDA-ERICSSON, INC., ET AL.* C. A. 2d Cir. Certiorari denied.

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No. 86-977. *THOMAS v. RHODES*. Ct. App. Tex., 2d Dist. Certiorari denied. Reported below: 701 S. W. 2d 943.

No. 86-985. *GOLETA WATER DISTRICT ET AL. v. MCMILLAN ET UX.*; and

No. 86-1150. *MCMILLAN ET UX. v. GOLETA WATER DISTRICT ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 792 F. 2d 1453.

No. 86-1014. *ARACE BROTHERS ET AL. v. NEW JERSEY*. Super. Ct. N. J., App. Div. Certiorari denied.

No. 86-1062. *DREYER v. ARCO CHEMICAL CO.* C. A. 3d Cir. Certiorari denied. Reported below: 801 F. 2d 651.

No. 86-1074. *EASTMAN ET AL. v. DEPARTMENT OF TRANSPORTATION, FEDERAL AVIATION ADMINISTRATION.* C. A. Fed. Cir. Certiorari denied. Reported below: 802 F. 2d 471.

No. 86-1077. *BATTERY WORLD, INC., ET AL. v. EXIDE CORP.* Ct. App. Ohio, Cuyahoga County. Certiorari denied.

No. 86-1129. *EVANS v. UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MARYLAND.* C. A. 4th Cir. Certiorari denied. Reported below: 801 F. 2d 703.

No. 86-1133. *TENNECO OIL CO. v. KERN OIL & REFINING CO.* C. A. 9th Cir. Certiorari denied. Reported below: 792 F. 2d 1380.

No. 86-1137. *PERLMAN v. CITY OF CHICAGO ET AL.* C. A. 7th Cir. Certiorari denied. Reported below: 801 F. 2d 262.

No. 86-1147. *LAWNDALE MEDICAL SUPPLY, INC., ET AL. v. DEPARTMENT OF REGISTRATION AND EDUCATION OF THE STATE OF ILLINOIS.* App. Ct. Ill., 1st Dist. Certiorari denied. Reported below: 144 Ill. App. 3d 1172, 510 N. E. 2d 1329.

No. 86-1148. *HOGAN v. MYRTLE SPRINGS REVERTED INDEPENDENT SCHOOL DISTRICT ET AL.* Ct. App. Tex., 6th Dist. Certiorari denied. Reported below: 705 S. W. 2d 707.

No. 86-1156. *RHODEN v. LITTLES.* C. A. 11th Cir. Certiorari denied. Reported below: 798 F. 2d 1418.

No. 86-1167. *ANDERSON v. UNITED STATES.* C. A. 7th Cir. Certiorari denied. Reported below: 800 F. 2d 704.

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No. 86-1169. *ROSANO v. UNITED STATES ET AL.* C. A. Fed. Cir. Certiorari denied. Reported below: 800 F. 2d 1126.

No. 86-1173. *ELIAS v. ILLINOIS ATTORNEY REGISTRATION AND DISCIPLINARY COMMISSION.* Sup. Ct. Ill. Certiorari denied. Reported below: 114 Ill. 2d 321, 499 N. E. 2d 1327.

No. 86-1203. *PITTS v. COMMISSIONER OF PATENTS AND TRADEMARKS.* C. A. Fed. Cir. Certiorari denied. Reported below: 809 F. 2d 789.

No. 86-1212. *WHITEHEAD v. UNITED STATES.* C. A. 11th Cir. Certiorari denied. Reported below: 803 F. 2d 1184.

No. 86-1241. *RUDELL ET AL. v. COMPREHENSIVE ACCOUNTING CORP. ET AL.* C. A. 7th Cir. Certiorari denied. Reported below: 802 F. 2d 926.

No. 86-1244. *GOLDEN v. DUPNIK, SHERIFF, PIMA COUNTY, ARIZONA (ARIZONA, REAL PARTY IN INTEREST).* Ct. App. Ariz. Certiorari denied. Reported below: 151 Ariz. 227, 726 P. 2d 1096.

No. 86-1249. *KARLIN v. UNITED STATES.* C. A. 3d Cir. Certiorari denied. Reported below: 785 F. 2d 90.

No. 86-1254. *SAUSSY v. UNITED STATES.* C. A. 6th Cir. Certiorari denied. Reported below: 802 F. 2d 849.

No. 86-1264. *MAULL v. UNITED STATES.* C. A. 8th Cir. Certiorari denied. Reported below: 806 F. 2d 1340.

No. 86-1268. *STELLY ET UX. v. COMMISSIONER OF INTERNAL REVENUE (two cases).* C. A. 5th Cir. Certiorari denied. Reported below: 804 F. 2d 868 (first case); 804 F. 2d 872 (second case).

No. 86-1275. *DICKIE v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. Reported below: 802 F. 2d 453.

No. 86-5579. *LOGAN v. ILLINOIS.* App. Ct. Ill., 1st Dist. Certiorari denied. Reported below: 117 Ill. App. 3d 753, 453 N. E. 2d 1317.

No. 86-5827. *BUENO-HERNANDEZ v. WYOMING.* Sup. Ct. Wyo. Certiorari denied. Reported below: 724 P. 2d 1132.

No. 86-5861. *MUNGO v. DREWES ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 801 F. 2d 394.

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No. 86-5926. GRESCHNER ET AL. *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. Reported below: 802 F. 2d 373.

No. 86-5964. NELSON *v.* SOLEM, WARDEN. C. A. 8th Cir. Certiorari denied. Reported below: 795 F. 2d 636.

No. 86-5986. MATARESE *v.* LEFEVRE, SUPERINTENDENT, CLINTON CORRECTION FACILITY, ET AL. C. A. 2d Cir. Certiorari denied. Reported below: 801 F. 2d 98.

No. 86-5987. RODRIGUEZ *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied. Reported below: 803 F. 2d 318.

No. 86-5992. COLEMAN *v.* WHITE, WARDEN, ET AL. C. A. 11th Cir. Certiorari denied.

No. 86-5993. CUEVAS *v.* HENDERSON, SUPERINTENDENT, AUBURN CORRECTIONAL FACILITY. C. A. 2d Cir. Certiorari denied. Reported below: 801 F. 2d 586.

No. 86-6062. STRAUDER *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 802 F. 2d 778.

No. 86-6076. COURTNEY *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 806 F. 2d 1068.

No. 86-6125. THOMPSON *v.* OLSON ET AL. C. A. 1st Cir. Certiorari denied. Reported below: 798 F. 2d 552.

No. 86-6154. TOWNSEND *v.* FOLTZ, ADMINISTRATOR, MICHIGAN DEPARTMENT OF CORRECTIONS, ET AL. C. A. 6th Cir. Certiorari denied. Reported below: 805 F. 2d 1036.

No. 86-6160. HAINES *v.* STAGNER, SUPERINTENDENT, CORRECTIONAL TRAINING FACILITY AT SOLEDAD. C. A. 9th Cir. Certiorari denied. Reported below: 801 F. 2d 399.

No. 86-6164. DIXON *v.* DUGGER, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS. C. A. 11th Cir. Certiorari denied.

No. 86-6166. GARCIA *v.* DUGGER, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS, ET AL. C. A. 11th Cir. Certiorari denied.

No. 86-6167. AL-JAAMI *v.* HARRISON ET AL. C. A. 6th Cir. Certiorari denied. Reported below: 802 F. 2d 456.

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No. 86-6168. DAVID *v.* AMERICAN TELEPHONE & TELEGRAPH CO. ET AL. C. A. 11th Cir. Certiorari denied. Reported below: 800 F. 2d 266.

No. 86-6173. TODD *v.* TENNESSEE ET AL. C. A. 6th Cir. Certiorari denied.

No. 86-6176. WALTER *v.* LYNAUGH, INTERIM DIRECTOR, TEXAS DEPARTMENT OF CORRECTIONS. C. A. 5th Cir. Certiorari denied. Reported below: 802 F. 2d 453.

No. 86-6177. SMALL *v.* BARKER ET AL. C. A. 4th Cir. Certiorari denied. Reported below: 801 F. 2d 395.

No. 86-6187. OLIVERI *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied. Reported below: 806 F. 2d 61.

No. 86-6192. GIAVASIS *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 805 F. 2d 1037.

No. 86-6218. JONES *v.* ZIMMERMAN, SUPERINTENDENT, STATE CORRECTIONAL INSTITUTION AND CORRECTIONAL DIAGNOSTIC CLASSIFICATION CENTER AT GRATERFORD. C. A. 3d Cir. Certiorari denied. Reported below: 805 F. 2d 1125.

No. 86-6229. COMBS *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 810 F. 2d 203.

No. 86-6244. HOWELL *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 801 F. 2d 400.

No. 86-6250. ANDREWS *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied. Reported below: 808 F. 2d 1515.

No. 86-6259. MCCUBBINS *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 797 F. 2d 979.

No. 86-6317. MCNEILL *v.* SCULLY, WARDEN, ET AL. C. A. 2d Cir. Certiorari denied. Reported below: 802 F. 2d 443.

No. 86-6329. BROWN *v.* GEARINGER, SUPERINTENDENT, MEN'S CORRECTIONAL INSTITUTION. C. A. 11th Cir. Certiorari denied. Reported below: 805 F. 2d 1042.

No. 86-832. BOLDEN, WARDEN *v.* MERLO. C. A. 6th Cir. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 801 F. 2d 252.

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No. 86-1064. CUOMO, GOVERNOR OF NEW YORK, ET AL. *v.* KOEHLER, COMMISSIONER OF NEW YORK CITY DEPARTMENT OF CORRECTIONS, ET AL. C. A. 2d Cir. Motion of inmate respondents for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 803 F. 2d 46.

No. 86-1159. TCI CABLEVISION, INC., ET AL. *v.* CENTRAL TELECOMMUNICATIONS, INC. C. A. 8th Cir. Motion of Media Institute for leave to file a brief as *amicus curiae* granted. Certiorari denied. Reported below: 800 F. 2d 711.

No. 86-5867. CALHOUN *v.* MARYLAND. Ct. App. Md. Certiorari denied. Reported below: 306 Md. 692, 511 A. 2d 461.

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.

Maryland's capital sentencing statute provides that, "[i]f [the sentencing jury] finds that the mitigating circumstances do not outweigh the aggravating circumstances, the sentence shall be death." Md. Ann. Code, Art. 27, § 413(h)(2) (1957). The trial court's jury instruction in this case similarly stated: "If you find that the mitigating factors do not by a preponderance of the evidence outweigh the aggravating factors, then you mark that accordingly and proceed to Section 4 and enter a sentence of death." 306 Md. 692, 698, 511 A. 2d 461, 464 (1986). Once again the Maryland Court of Appeals has reviewed the statute and jury instruction and has concluded that defendant was not assigned the burden of proof during his sentencing proceeding, even though neither the statute nor the instruction otherwise expressly addressed the placement of this burden.

"[I]t is plain that any rational juror would understand the language of § 413(h) and [this instruction] as placing the burden of persuasion on the accused. Indeed, I cannot imagine any other way to read the statute that does not completely ignore its words. No fair-minded juror could have understood from these instructions that the burden was upon the State to

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prove by a preponderance of the evidence that aggravating circumstances must outweigh mitigating circumstances before a sentence of death could be returned." *Huffington v. Maryland*, 478 U. S. 1023, 1027 (1986) (MARSHALL, J., dissenting from denial of certiorari).

I adhere to my belief that the Maryland statute, as written, and as applied, unconstitutionally places the burden of proof on capital defendants at the sentencing phase of their trials. I would grant the petition for certiorari.

No. 86-5965. *MORGAN ET AL. 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. 231, 801 F. 2d 445.

No. 86-5991. *MULLIGAN v. KEMP, WARDEN*. C. A. 11th Cir.; and

No. 86-6094. *TUCKER v. KEMP, WARDEN*. C. A. 11th Cir. Certiorari denied. JUSTICE BLACKMUN would grant certiorari. Reported below: No. 86-5991, 771 F. 2d 1436; No. 86-6094, 802 F. 2d 1293.

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. 86-6204. *MCMURTREY v. ARIZONA*. Sup. Ct. Ariz.; and

No. 86-6227. *THOMAS v. DUGGER*, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS. Sup. Ct. Fla. Certiorari denied. Reported below: No. 86-6204, 151 Ariz. 105, 726 P. 2d 202; No. 86-6227, 495 So. 2d 172.

JUSTICE BRENNAN and JUSTICE MARSHALL, dissenting.

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

Rehearing Denied

No. 85-7163. *LOCKHART v. McCOTTER*, DIRECTOR, TEXAS DEPARTMENT OF CORRECTIONS, 479 U. S. 1030. Petition for rehearing denied.

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No. 86-359. *CASTRO GONZALEZ v. PUERTO RICO ET AL.*, 479 U. S. 1024;

No. 86-710. *SLADE v. UNITED STATES OF MEXICO*, 479 U. S. 1032;

No. 86-726. *BAKER v. LOS ANGELES HERALD EXAMINER ET AL.*, 479 U. S. 1032;

No. 86-745. *VERMONT DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES v. BOWEN, SECRETARY OF HEALTH AND HUMAN SERVICES, ET AL.*, 479 U. S. 1064;

No. 86-918. *CITY AND COUNTY OF SAN FRANCISCO ET AL. v. CHRISTIAN SCIENCE READING ROOM JOINTLY MAINTAINED ET AL.*, 479 U. S. 1066;

No. 86-5510. *FELDMAN v. UNITED STATES*, 479 U. S. 1067;

No. 86-5632. *SCINTO v. UNITED STATES*, 479 U. S. 1037;

No. 86-5724. *TAUVAR v. BAR HARBOR CONGREGATION OF JEHOVAH'S WITNESSES, INC., ET AL.*, 479 U. S. 1038;

No. 86-5735. *HUBBARD v. ONION*, 479 U. S. 1038;

No. 86-5757. *ROYAL v. EXXON U. S. A. CHEMICAL DEPARTMENT*, 479 U. S. 1038;

No. 86-5882. *HARRISON v. BOWEN, SECRETARY OF HEALTH AND HUMAN SERVICES*, 479 U. S. 1042; and

No. 86-5978. *MCDONALD v. ALABAMA*, 479 U. S. 1061. Petitions for rehearing denied.

No. 86-5809. *POINDEXTER v. FEDERAL BUREAU OF INVESTIGATION*, 479 U. S. 1047. Petition for rehearing denied. JUSTICE SCALIA took no part in the consideration or decision of this petition.

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Appeals Dismissed

No. 86-1178. *DIPPEL v. TACO BELL CORP.* Appeal from Ct. App. Mo., Eastern 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: 716 S. W. 2d 342.

No. 86-1198. *CHEVRON U. S. A. INC. v. LOR, INC., ET AL.* Appeal from Ct. App. La., 1st Cir., dismissed for want of substantial federal question. Reported below: 489 So. 2d 1326.

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No. 86-6266. MIDDLETON *v.* OREGON. Appeal from Ct. App. Ore. dismissed for want of substantial federal question. Reported below: 79 Ore. App. 794, 720 P. 2d 1310.

Certiorari Granted—Vacated and Remanded

No. 86-5699. GORMAN *v.* MARYLAND. Ct. Sp. App. Md. 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*, 479 U. S. 314 (1987). Reported below: 66 Md. App. 804.

*Miscellaneous Orders**

No. — — —. EVANS *v.* FOLTZ, WARDEN; and

No. — — —. DRIVERS, CHAUFFEURS & HELPERS LOCAL UNION NO. 639, AFFILIATED WITH INTERNATIONAL BROTHERHOOD OF TEAMSTERS, CHAUFFEURS, WAREHOUSEMEN & HELPERS OF AMERICA *v.* NATIONAL LABOR RELATIONS BOARD ET AL. Motions to direct the Clerk to file the petitions for writs of certiorari out of time denied.

No. A-535. LEWINGDON ET AL. *v.* CELESTE ET AL. C. A. 6th Cir. Application for certificate of probable cause, addressed to THE CHIEF JUSTICE and referred to the Court, denied.

No. A-610. IN RE GRACEY. C. A. 3d Cir. Application for stay, addressed to JUSTICE O'CONNOR and referred to the Court, denied.

No. A-633. GRAHAM, AS EXECUTOR OF THE ESTATE OF GRAHAM *v.* TELEDYNE-CONTINENTAL MOTORS, A DIVISION OF TELEDYNE INDUSTRIES, INC., ET AL. C. A. 9th Cir. Application for recall and stay of mandate and injunction, addressed to THE CHIEF JUSTICE and referred to the Court, denied. JUSTICE BRENNAN and JUSTICE STEVENS would grant the application.

No. D-578. IN RE DISBARMENT OF ALKER. Disbarment entered. [For earlier order herein, see 479 U. S. 912.]

No. D-596. IN RE DISBARMENT OF KRAMER. Disbarment entered. [For earlier order herein, see 479 U. S. 1025.]

No. D-612. IN RE DISBARMENT OF BING. It is ordered that James Bing, of New York, N. Y., be suspended from the practice

*For the Court's order prescribing amendments to the Federal Rules of Criminal Procedure, see *post*, p. 1043.

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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-613. IN RE DISBARMENT OF SASSOWER. It is ordered that George Sassower, of White Plains, 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-614. IN RE DISBARMENT OF BRIGGS. It is ordered that William Leon Briggs, of Fort Wayne, Ind., 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-615. IN RE DISBARMENT OF ABRAHAMS. It is ordered that Maurice Meier Abrahams, of New York, N. Y., be suspended from the practice of law in this Court and that a rule issue, returnable within 40 days, requiring him to show cause why he should not be disbarred from the practice of law in this Court.

No. D-616. IN RE DISBARMENT OF DECIOUS. It is ordered that Kit Conelly Decious, of Brooklyn, 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. 85-1835. CALIFORNIA *v.* ROONEY. Ct. App. Cal., 2d App. Dist. [Certiorari granted, 479 U. S. 881.] Motion of respondent for divided argument denied.

No. 86-44. SHEARSON/AMERICAN EXPRESS INC. ET AL. *v.* MCMAHON ET AL. C. A. 2d Cir. [Certiorari granted, 479 U. S. 812.] Motion of Carvel Gordon Dillard for leave to file a brief as *amicus curiae* out of time denied.

No. 86-246. SUMNER, DIRECTOR, NEVADA DEPARTMENT OF PRISONS, ET AL. *v.* SHUMAN. C. A. 9th Cir. [Certiorari granted, 479 U. S. 948.] Motion of respondent for divided argument denied.

No. 86-492. BOYLE, PERSONAL REPRESENTATIVE OF THE HEIRS AND ESTATE OF BOYLE *v.* UNITED TECHNOLOGIES CORP.

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C. A. 4th Cir. [Certiorari granted, 479 U. S. 1029.] Motion of Joan S. Tozer et al. for leave to file a brief as *amici curiae* granted. JUSTICE POWELL took no part in the consideration or decision of this motion.

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, 479 U. S. 983.] Motions of A. J. Cunningham Packing Corp. et al. and HMK Corp. for leave to file briefs as *amici curiae* granted.

No. 86-1383. NEW YORK LAND CO. ET AL. *v.* REPUBLIC OF THE PHILIPPINES. C. A. 2d Cir. Application of respondent for an extension of time within which to file a brief in opposition to the petition for writ of certiorari, presented to JUSTICE MARSHALL, and by him referred to the Court, is granted and the time is extended to and including April 24, 1987. JUSTICE MARSHALL took no part in the consideration or decision of this application.

No. 86-5020. BOOTH *v.* MARYLAND. Ct. App. Md. [Certiorari granted, 479 U. S. 882.] Motion of Sunny Von Bulow National Victim Advocacy Center, Inc., et al. for leave to file a brief as *amici curiae* out of time denied.

No. 86-6207. IN RE HAMM. Petition for writ of mandamus denied.

Probable Jurisdiction Noted

No. 85-1765. BANKERS LIFE & CASUALTY CO. *v.* CRENSHAW. Appeal from Sup. Ct. Miss. Probable jurisdiction noted. JUSTICE STEVENS took no part in the consideration or decision of this case. Reported below: 483 So. 2d 254.

Certiorari Granted

No. 86-787. HICKS, DISTRICT ATTORNEY FOR COUNTY OF ORANGE, CALIFORNIA, ACTING ON BEHALF OF FEIOCK *v.* FEIOCK. Ct. App. Cal., 4th App. Dist. Certiorari granted. Reported below: 180 Cal. App. 3d 649, 225 Cal. Rptr. 748.

No. 86-957. LILJEBERG *v.* HEALTH SERVICES ACQUISITION CORP. C. A. 5th Cir. Certiorari granted. Reported below: 796 F. 2d 796.

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No. 86-622. *TRAYNOR v. TURNAGE, ADMINISTRATOR, VETERANS' ADMINISTRATION, ET AL.* C. A. 2d Cir.; and

No. 86-737. *MCKELVEY v. TURNAGE, ADMINISTRATOR OF VETERANS' AFFAIRS, ET AL.* C. A. D. C. Cir. Certiorari granted, cases consolidated, and a total of one hour allotted for oral argument. JUSTICE SCALIA took no part in the consideration or decision of these petitions. Reported below: No. 86-622, 791 F. 2d 226; No. 86-737, 253 U. S. App. D. C. 126, 792 F. 2d 194.

No. 86-946. *EMPLOYMENT DIVISION, DEPARTMENT OF HUMAN RESOURCES OF THE STATE OF OREGON, ET AL. v. SMITH;* and

No. 86-947. *EMPLOYMENT DIVISION, DEPARTMENT OF HUMAN RESOURCES OF THE STATE OF OREGON, ET AL. v. BLACK.* Sup. Ct. Ore. Certiorari granted, cases consolidated, and a total of one hour allotted for oral argument. Reported below: No. 86-946, 301 Ore. 209, 721 P. 2d 445; No. 86-947, 301 Ore. 221, 721 P. 2d 451.

No. 86-995. *MURRAY v. UNITED STATES;* and

No. 86-1016. *CARTER v. UNITED STATES.* C. A. 1st Cir. Certiorari granted in No. 86-995 limited to Question I presented by the petition. Certiorari granted in No. 86-1016 limited to Question II presented by the petition. Cases consolidated and a total of one hour allotted for oral argument. Reported below: 803 F. 2d 20.

Certiorari Denied. (See also No. 86-1178, *supra*.)

No. 85-359. *COUNTY OF WAYNE ET AL. v. MARCHESE.* C. A. 6th Cir. Certiorari denied. Reported below: 758 F. 2d 181.

No. 85-1048. *VIPPOLIS ET AL. v. VILLAGE OF HAVERSTRAW, NEW YORK, ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 768 F. 2d 40.

No. 85-1192. *CITY OF SHEPHERDSVILLE, KENTUCKY, ET AL. v. RYMER.* C. A. 6th Cir. Certiorari denied. Reported below: 775 F. 2d 756.

No. 85-1485. *WALKER v. OHIO.* Ct. App. Ohio, Cuyahoga County. Certiorari denied. Reported below: 26 Ohio App. 3d 29, 498 N. E. 2d 191.

No. 85-1585. *CITY OF BORGER, TEXAS, ET AL. v. GRAND-STAFF, INDIVIDUALLY AND AS REPRESENTATIVE OF THE ESTATE*

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OF GRANDSTAFF, ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 767 F. 2d 161.

No. 85-6886. JACKSON *v.* OHIO. Sup. Ct. Ohio. Certiorari denied. Reported below: 22 Ohio St. 3d 281, 490 N. E. 2d 893.

No. 85-7052. WHITE *v.* ARN, SUPERINTENDENT, OHIO REFORMATORY FOR WOMEN. C. A. 6th Cir. Certiorari denied. Reported below: 788 F. 2d 338.

No. 86-554. STEWART ET AL. *v.* NEW PRAIRIE CLASSROOM TEACHERS ASSN. Ct. App. Ind. Certiorari denied. Reported below: 487 N. E. 2d 1324.

No. 86-828. SOUTHWESTERN SHEET METAL WORKS, INC. *v.* SEMCO MANUFACTURING, INC. C. A. 5th Cir. Certiorari denied. Reported below: 788 F. 2d 1144.

No. 86-878. HOBSON *v.* CONNECTICUT. App. Ct. Conn. Certiorari denied. Reported below: 8 Conn. App. 13, 511 A. 2d 348.

No. 86-880. HUMPHREY ET AL. *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 759 F. 2d 743.

No. 86-909. JACKSON ET AL. *v.* PEOPLE'S REPUBLIC OF CHINA. C. A. 11th Cir. Certiorari denied. Reported below: 794 F. 2d 1490.

No. 86-926. ELING ET AL. *v.* JONES, MINNESOTA CHIEF PUBLIC DEFENDER. C. A. 8th Cir. Certiorari denied. Reported below: 797 F. 2d 697.

No. 86-979. DORSEY ET AL. *v.* HOWARD. C. A. 11th Cir. Certiorari denied. Reported below: 802 F. 2d 1398.

No. 86-989. WARD, POLICE COMMISSIONER OF THE CITY OF NEW YORK, ET AL. *v.* OLIVIERI ET AL.; and

No. 86-1177. OLIVIERI ET AL. *v.* WARD, POLICE COMMISSIONER OF THE CITY OF NEW YORK, ET AL. C. A. 2d Cir. Certiorari denied. Reported below: 801 F. 2d 602.

No. 86-991. COOMBS, NATURAL MOTHER OF CHRISTOPHER J. *v.* MAINE DEPARTMENT OF HUMAN SERVICES. Sup. Jud. Ct. Me. Certiorari denied. Reported below: 505 A. 2d 795.

No. 86-998. JAPAN AIR LINES CO., LTD., ET AL. *v.* DOLE, SECRETARY OF TRANSPORTATION. C. A. D. C. Cir. Certiorari

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denied. Reported below: 255 U. S. App. D. C. 269, 801 F. 2d 483.

No. 86-1000. *WHEELER ET AL. v. UNITED STATES.* C. A. Fed. Cir. Certiorari denied.

No. 86-1004. *TECHNOGRAPH LIQUIDATING TRUST v. GENERAL MOTORS CORP.* C. A. Fed. Cir. Certiorari denied.

No. 86-1012. *RUTH v. UNITED STATES.* C. A. 9th Cir. Certiorari denied. Reported below: 796 F. 2d 479.

No. 86-1043. *GONZALEZ v. SHELL OIL CO.* C. A. 11th Cir. Certiorari denied. Reported below: 797 F. 2d 980.

No. 86-1092. *CITY OF CAPE GIRARDEAU, MISSOURI v. WESTBOROUGH MALL, INC., ET AL.;* and

No. 86-1166. *MAY DEPARTMENT STORES CO. ET AL. v. WESTBOROUGH MALL, INC., ET AL.* C. A. 8th Cir. Certiorari denied. Reported below: 794 F. 2d 330.

No. 86-1154. *LETTERMAN BROTHERS ENERGY PROGRAM 1980-2 ET AL. v. BANCTEXAS DALLAS, N. A.* C. A. 5th Cir. Certiorari denied. Reported below: 799 F. 2d 967.

No. 86-1157. *COUNTY OF SUFFOLK v. GRASECK.* C. A. 2d Cir. Certiorari denied. Reported below: 803 F. 2d 1265.

No. 86-1164. *RAYNER ET AL. v. CLENDENING.* C. A. 5th Cir. Certiorari denied. Reported below: 798 F. 2d 1410.

No. 86-1165. *GOOSTREE v. MONTGOMERY COUNTY QUARTERLY COURT ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 796 F. 2d 854.

No. 86-1176. *LIPPO, DBA WALDEN-WOODFIELD SERVICE STATION v. MOBIL OIL CORP.* C. A. 7th Cir. Certiorari denied. Reported below: 802 F. 2d 975.

No. 86-1179. *TECHNOGRAPH LIQUIDATING TRUST v. GENERAL MOTORS CORP.* C. A. 3d Cir. Certiorari denied.

No. 86-1180. *RICHARD v. SHERRIER.* C. A. 2d Cir. Certiorari denied. Reported below: 805 F. 2d 391.

No. 86-1181. *KEENER ET AL. v. WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY ET AL.* C. A. D. C. Cir. Certiorari

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denied. Reported below: 255 U. S. App. D. C. 148, 800 F. 2d 1173.

No. 86-1183. *FOWLER v. CITY OF LOUISVILLE, KENTUCKY, ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 803 F. 2d 719.

No. 86-1190. *FRAVER ET AL. v. NORTH CAROLINA FARM BUREAU MUTUAL INSURANCE CO., INC.* C. A. 4th Cir. Certiorari denied. Reported below: 801 F. 2d 675.

No. 86-1197. *GIDEON v. RIVERSIDE COMMUNITY COLLEGE DISTRICT.* C. A. 9th Cir. Certiorari denied. Reported below: 800 F. 2d 1145.

No. 86-1208. *CHAPPELL v. GTE PRODUCTS CORP.* C. A. 6th Cir. Certiorari denied. Reported below: 803 F. 2d 261.

No. 86-1235. *GLUKLICK ET AL. v. UNITED STATES.* C. A. 6th Cir. Certiorari denied. Reported below: 801 F. 2d 834.

No. 86-1308. *BAIANI v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. Reported below: 803 F. 2d 715.

No. 86-1313. *SHAPIRO v. ROSA.* App. Div., Sup. Ct. N. Y., 1st Jud. Dept. Certiorari denied.

No. 86-5629. *JONES v. SMITH ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 788 F. 2d 1.

No. 86-5701. *GRIFFIN v. MARTIN, WARDEN, ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 795 F. 2d 22.

No. 86-5702. *HALCZYCAK ET AL. v. OHIO.* Sup. Ct. Ohio. Certiorari denied. Reported below: 25 Ohio St. 3d 301, 496 N. E. 2d 925.

No. 86-5775. *HERSHIPS v. CALIFORNIA.* Ct. App. Cal., 1st App. Dist. Certiorari denied.

No. 86-5837. *LEE v. UNITED STATES.* C. A. D. C. Cir. Certiorari denied.

No. 86-5872. *ROSENTHAL v. UNITED STATES;*

No. 86-5917. *STEWART v. UNITED STATES;* and

No. 86-6143. *JUNKER v. UNITED STATES.* C. A. 11th Cir. Certiorari denied. Reported below: 793 F. 2d 1214 and 801 F. 2d 378.

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No. 86-5880. *LEMMONS v. CALIFORNIA*. Ct. App. Cal., 1st App. Dist. Certiorari denied.

No. 86-5889. *BOYD v. OHIO*. Sup. Ct. Ohio. Certiorari denied.

No. 86-5900. *ATWELL v. BLACKBURN, WARDEN, ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 800 F. 2d 502.

No. 86-5930. *GRANADO v. COMMISSIONER OF INTERNAL REVENUE*. C. A. 7th Cir. Certiorari denied. Reported below: 792 F. 2d 91.

No. 86-5952. *TRUNZO v. OHIO*. Ct. App. Ohio, Cuyahoga County. Certiorari denied.

No. 86-5974. *OWENS v. QUINLAN ET AL.* C. A. 2d Cir. Certiorari denied.

No. 86-6009. *GREGG v. UNITED STATES*. C. A. 10th Cir. Certiorari denied. Reported below: 803 F. 2d 568.

No. 86-6057. *ROJAS v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 805 F. 2d 392.

No. 86-6067. *NUNLEY v. JOHNSON, ATTORNEY GENERAL OF OKLAHOMA*. C. A. 10th Cir. Certiorari denied.

No. 86-6179. *MATTHEWS v. SCULLY, WARDEN, ET AL.* C. A. 2d Cir. Certiorari denied.

No. 86-6180. *BURNS v. TRICKEY*. C. A. 8th Cir. Certiorari denied.

No. 86-6184. *ROSARIO v. THOMAS*. C. A. 7th Cir. Certiorari denied.

No. 86-6185. *VINCENT v. BROWN, JUDGE*. Ct. App. La., 1st Cir. Certiorari denied.

No. 86-6190. *CRAIG v. FLEMING ET AL.* C. A. 3d Cir. Certiorari denied.

No. 86-6196. *HUMPHREY v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 806 F. 2d 263.

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No. 86-6200. *STRANGE v. BROWN, WARDEN, ET AL.* C. A. 10th Cir. Certiorari denied.

No. 86-6206. *MAHDAVI v. SHIRANI.* Ct. App. Cal., 1st App. Dist. Certiorari denied.

No. 86-6210. *OLIVER v. DUGGER, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS.* C. A. 11th Cir. Certiorari denied. Reported below: 795 F. 2d 1524.

No. 86-6215. *CAZARES v. ROCKWELL INTERNATIONAL CORP.* C. A. 9th Cir. Certiorari denied. Reported below: 800 F. 2d 263.

No. 86-6219. *KOENIG v. SOLEM, WARDEN, ET AL.* C. A. 8th Cir. Certiorari denied. Reported below: 802 F. 2d 464.

No. 86-6225. *SHIPLEY v. UNITED STATES.* C. A. 6th Cir. Certiorari denied. Reported below: 811 F. 2d 608.

No. 86-6226. *SIGLER v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. Reported below: 803 F. 2d 716.

No. 86-6230. *DREW v. MERIT SYSTEMS PROTECTION BOARD.* C. A. Fed. Cir. Certiorari denied. Reported below: 809 F. 2d 790.

No. 86-6236. *STANTON v. YOUNG, SUPERINTENDENT, WAUPUN CORRECTIONAL INSTITUTION.* C. A. 7th Cir. Certiorari denied.

No. 86-6237. *SAAR v. UNITED STATES.* C. A. 2d Cir. Certiorari denied. Reported below: 801 F. 2d 392.

No. 86-6238. *ZULU, AKA ROBINSON v. BLACKBURN, WARDEN.* C. A. 5th Cir. Certiorari denied. Reported below: 807 F. 2d 994.

No. 86-6246. *HANNER v. MISSISSIPPI ET AL.* C. A. 5th Cir. Certiorari denied.

No. 86-6249. *HALL v. LANE, DIRECTOR, ILLINOIS DEPARTMENT OF CORRECTIONS, ET AL.* C. A. 7th Cir. Certiorari denied. Reported below: 804 F. 2d 79.

No. 86-6252. *GUNDERSON v. WISCONSIN.* Ct. App. Wis. Certiorari denied. Reported below: 135 Wis. 2d 544, 401 N. W. 2d 28.

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No. 86-6256. *HENRY v. MERIT SYSTEMS PROTECTION BOARD*. C. A. Fed. Cir. Certiorari denied. Reported below: 809 F. 2d 790.

No. 86-6262. *McMICHAEL v. ROUSE, SUPERINTENDENT, LANCASTER CORRECTIONAL INSTITUTION, ET AL.* C. A. 11th Cir. Certiorari denied. Reported below: 805 F. 2d 1041.

No. 86-6264. *WORD v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 806 F. 2d 658.

No. 86-6265. *PEREZ-SANCHEZ v. UNITED STATES*. C. A. 1st Cir. Certiorari denied. Reported below: 806 F. 2d 7.

No. 86-6277. *LANCASTER v. NEW YORK*. Ct. App. N. Y. Certiorari denied. Reported below: 69 N. Y. 2d 20, 503 N. E. 2d 990.

No. 86-6280. *ALLEN v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 804 F. 2d 244.

No. 86-6290. *FREEMAN ET AL. v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 808 F. 2d 1290.

No. 86-6310. *MENDEZ-ORTIZ v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 810 F. 2d 76.

No. 86-6335. *JACKSON ET AL. v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 805 F. 2d 457.

No. 86-6342. *CAPOTE-MONTERREY v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 807 F. 2d 996.

No. 85-1813. *CITY OF RENSSELAER, NEW YORK, ET AL. v. FIACCO*. C. A. 2d Cir. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 783 F. 2d 319.

No. 86-776. *U S WEST, INC. v. UNITED STATES ET AL.* 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. 415, 797 F. 2d 1082.

No. 86-1126. *UNITED CHURCH OF THE MEDICAL CENTER ET AL. v. ILLINOIS MEDICAL CENTER COMMISSION*. App. Ct.

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Ill., 1st Dist. Certiorari denied. JUSTICE BLACKMUN took no part in the consideration or decision of this petition. Reported below: 142 Ill. App. 3d 498, 491 N. E. 2d 1327.

No. 86-1153. FBK REALTY CORP. v. CROTTY, COMMISSIONER, DEPARTMENT OF HOUSING PRESERVATION AND DEVELOPMENT OF THE CITY OF NEW YORK. App. Div., Sup. Ct. N. Y., 1st Jud. Dept. Motion of Associated Builders & Owners of Greater New York Inc. for leave to file a brief as *amicus curiae* granted. Certiorari denied. Reported below: 115 App. Div. 2d 1015, 495 N. Y. S. 2d 878.

No. 86-5307. WILLIAMS v. OHIO. Sup. Ct. Ohio; and

No. 86-6015. BRADLEY v. ALABAMA. Sup. Ct. Ala. Certiorari denied. Reported below: No. 86-5307, 23 Ohio St. 3d 16, 490 N. E. 2d 906; No. 86-6015, 494 So. 2d 772.

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 sentences in these cases.

JUSTICE WHITE, with whom JUSTICE BRENNAN joins, dissenting in No. 86-5307.

In this case, the Ohio Supreme Court rejected petitioner's claim that a statutory aggravating factor that repeats an element of the crime is unconstitutional because it fails to narrow the class of persons eligible for the death penalty. This decision is consistent with *Wingo v. Blackburn*, 783 F. 2d 1046, 1051 (CA5 1986), cert. pending, No. 86-5026, but in conflict with *Collins v. Lockhart*, 754 F. 2d 258, 263-264 (CA8), cert. denied, 474 U. S. 1013 (1985). I would grant certiorari to resolve this conflict.

JUSTICE MARSHALL, dissenting.

In these cases, petitioners' death sentences were founded on statutory aggravating factors that repeat elements of the underlying capital offenses. For reasons stated in *Wiley v. Mississippi*, 479 U. S. 906 (1986) (MARSHALL, J., dissenting from denial of certiorari), I would grant the petitions for review.

No. 86-5953. SCOTT v. OHIO. Sup. Ct. Ohio. Certiorari denied. Reported below: 26 Ohio St. 3d 92, 497 N. E. 2d 55.

MARSHALL, J., dissenting

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JUSTICE MARSHALL, with whom JUSTICE BRENNAN joins, dissenting.

Petitioner was convicted and sentenced to death by a jury that heard the trial judge indicate that, on the basis of newspaper accounts he had read, he believed petitioner was involved in the crime. Because the judge's statement deprived petitioner of a fair trial, I would grant certiorari in this case.

During *voir dire*, the trial judge stated to the jury:

"Not only was Mr. Scott—at least from the newspaper reports that I think that I had read—was involved in this, there were three other . . . individuals who . . ." 26 Ohio St. 3d 92, 95, 497 N. E. 2d 55, 59 (1986).

Defense counsel interrupted to object to this comment on petitioner's involvement in the crime. He subsequently made a motion for a mistrial, in which the prosecutor joined. The trial court denied the motion, but delivered a cautionary instruction admonishing the jury to base its verdict only on the evidence introduced at trial. The judge also told the jury, "you must not take any impression from anything I have done or said as to what your decision should be." App. to Pet. for Cert. 26-27.

The Ohio Supreme Court attempted to excuse the remark. The court insisted that "[t]he judge's comment did not concern [petitioner's] guilt or innocence, but, rather, noted the fact that the news media had reported [petitioner's] involvement with the crime." 26 Ohio St. 3d, at 96, 497 N. E. 2d, at 59. This is a ludicrous reading of the statement. How the jury could reasonably have interpreted and applied the comment determines whether it should be considered prejudicial. See, e. g., *Sandstrom v. Montana*, 442 U. S. 510, 516-519 (1979). In this case, the jury could reasonably take the comment at face value, namely, as a statement that, based on what he had read in the newspapers, the judge believed petitioner was a participant in the crime. Before the jury had even heard any of the evidence, the judge had effectively become a witness against petitioner. See *United States v. Murdock*, 290 U. S. 389, 393 (1933).

Moreover, even under the Ohio Supreme Court's dubious interpretation, the judge's comment deprived petitioner of a fair trial. The only legitimate judicial references to pretrial publicity would have been inquiries about exposure to pretrial publicity or warn-

ings against it. Instead, the judge actually reported to the jurors the media's conclusion that petitioner was guilty. That the source of this prejudicial publicity was the trial judge magnifies, rather than eliminates, the problem. The jury could reasonably assume that, since the judge had read about the crime, it was acceptable for them to do so as well.

The Ohio Supreme Court relied on the cautionary instruction given to the prospective jurors, maintaining that it "minimize[d] any prejudicial effect this comment may have had . . ." 26 Ohio St. 3d, at 96, 497 N. E. 2d, at 59. This reliance is misplaced. Because "the influence of the trial judge on the jury is necessarily and properly of great weight, and . . . his lightest word or intimation is received with deference, and may prove controlling," *Starr v. United States*, 153 U. S. 614, 626 (1894), some errors are so fundamental that no instruction can undo the damage they cause. See *Quercia v. United States*, 289 U. S. 466, 472 (1933). A comment on petitioner's guilt is certainly such a fundamental error; it is "most likely to remain firmly lodged in the memory of the jury and to excite a prejudice which would preclude a fair and dispassionate consideration of the evidence." *Ibid.* Moreover, any reference to extrajudicial evidence by the trial judge destroys the fundamental premise of any trial—that the ultimate decision rests solely upon evidence presented by the parties within the confines of the rules of evidence.

The remedy for this extraordinary error was close at hand. No witness had yet been sworn. The panel of prospective jurors might have been discharged and a new venire called without difficulty. Nonetheless, the trial judge plunged ahead and petitioner was tried by a jury exposed to comments that overwhelmed the presumption of innocence. Because we cannot tolerate such interference with petitioner's right to a fair trial in a capital case, I would grant the petition for certiorari.

In addition, petitioner's death sentence was founded on a statutory aggravating circumstance that repeats an element of the underlying capital offense. As in No. 86-5307, *Williams v. Ohio*, and No. 86-6015, *Bradley v. Alabama*, I would grant review for reasons stated in my dissent from denial of certiorari in *Wiley v. Mississippi*, 479 U. S. 906 (1986).

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No. 86-6082. DUHAMEL *v.* TEXAS. Ct. Crim. App. Tex.;
No. 86-6101. BARNES *v.* OHIO. Sup. Ct. Ohio;
No. 86-6129. ELLIS *v.* TEXAS. Ct. Crim. App. Tex.;
No. 86-6171. O'NEAL *v.* MISSOURI. Sup. Ct. Mo.; and
No. 86-6201. NEELLEY *v.* ALABAMA. Sup. Ct. Ala. Certiorari denied. Reported below: No. 86-6082, 717 S. W. 2d 80; No. 86-6101, 25 Ohio St. 3d 203, 495 N. E. 2d 922; No. 86-6129, 726 S. W. 2d 39; No. 86-6171, 718 S. W. 2d 498; No. 86-6201, 494 So. 2d 697.

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. 86-6285. PIROVOLOS *v.* UNITED STATES. C. A. 7th Cir. Motion of petitioner to consolidate case with No. 86-6009, *Gregg v. United States*, *supra*, denied. Certiorari before judgment denied.

Rehearing Denied

No. 86-631. CITY OF WATSEKA ET AL. *v.* ILLINOIS PUBLIC ACTION COUNCIL ET AL., 479 U. S. 1048;

No. 86-860. WALKER *v.* ACTION INDUSTRIES, INC., ET AL., 479 U. S. 1065;

No. 86-5654. BARR *v.* UNITED STATES, 479 U. S. 1055;

No. 86-5799. IN RE JOHL, 479 U. S. 1028; and

No. 86-5816. JAMES *v.* GEORGIA, 479 U. S. 1040. Petitions for rehearing denied.

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Affirmed on Appeal

No. 86-1125. WILKINSON, ATTORNEY GENERAL OF THE STATE OF UTAH *v.* JONES ET AL. Affirmed on appeal from C. A. 10th Cir. THE CHIEF JUSTICE and JUSTICE O'CONNOR would note probable jurisdiction and set case for oral argument. Reported below: 800 F. 2d 989.

Appeals Dismissed

No. 86-1252. O'KELLEY ET AL. *v.* HOSPITAL AUTHORITY OF GWINNETT COUNTY, DBA GWINNETT AMBULANCE SERVICE,

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ET AL. Appeal from Sup. Ct. Ga. dismissed for want of substantial federal question. Reported below: 256 Ga. 373, 349 S. E. 2d 382.

No. 86-1272. STICH *v.* SUPERIOR COURT OF CALIFORNIA, SOLANO COUNTY, ET AL. 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.

No. 86-6228. MACKIE *v.* OLSEN, DISTRICT JUDGE, ET AL. Appeal from Sup. Ct. Mont. dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied.

No. 86-1300. REARDON *v.* UNITED STATES POSTAL SERVICE ET AL. Appeal from D. C. N. J. dismissed for want of jurisdiction.

Certiorari Granted—Vacated and Remanded

No. 86-997. PENNSYLVANIA *v.* LUTZ. Sup. Ct. Pa. Certiorari granted, judgment vacated, and case remanded for further consideration in light of *United States v. Dunn*, *ante*, p. 294. Reported below: 512 Pa. 192, 516 A. 2d 339.

No. 86-1007. UNITED STATES *v.* MESSINA BUILDERS & CONTRACTORS CO. C. A. 8th Cir. Certiorari granted, judgment vacated, and case remanded for further consideration in light of *Jersey Shore State Bank v. United States*, 479 U. S. 442 (1987). Reported below: 801 F. 2d 1029.

Certiorari Granted—Reversed. (See No. 86-5504, *ante*, p. 522; and No. 86-5530, *ante*, p. 527.)

Miscellaneous Orders

No. ——. DAWSON ET AL. *v.* LENNON, WARDEN, ET AL. Motion to direct the Clerk to file the petition for writ of certiorari out of time denied.

No. A-626. KAVANAGH *v.* COVEN. Sup. Ct. N. Y., New York County. Application for stay, addressed to JUSTICE O'CONNOR and referred to the Court, denied.

No. A-651. McDONALD WELDING & MACHINE CO., INC., ET AL. *v.* LEHMAN, SECRETARY OF THE NAVY. C. A. 6th Cir.

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Application to vacate stay, addressed to THE CHIEF JUSTICE and referred to the Court, denied.

No. D-600. IN RE DISBARMENT OF TUCKER. Robert L. Tucker, 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 January 12, 1987 [479 U. S. 1026], is hereby discharged.

No. D-617. IN RE DISBARMENT OF CASLER. It is ordered that William Franklin Casler, of Saint Petersburg, 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-618. IN RE DISBARMENT OF WHITTEN. It is ordered that David Rock Whitten, of Wilmington, N. 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-619. IN RE DISBARMENT OF STOKES. It is ordered that Rhodes Cherry Stokes, of Greenville, N. 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. 85-2068. RANKIN ET AL. *v.* MCPHERSON. C. A. 5th Cir. [Certiorari granted, 479 U. S. 913.] Motion of the Solicitor General to permit Glen D. Nager, Esquire, to present oral argument *pro hac vice* granted.

No. 86-228. KUNGYS *v.* UNITED STATES. C. A. 3d Cir. [Certiorari granted, 479 U. S. 947.] Motions of World Jewish Congress 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, 479 U. S. 948.] Motion of N. Patrick Flanagan III, Esquire, to withdraw as counsel and to substitute M. Daniel Markoff, Esquire, granted.

No. 86-357. AMERICAN TRUCKING ASSNS., INC., ET AL. *v.* SCHEINER, SECRETARY, DEPARTMENT OF REVENUE OF PENN-

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SYLVANIA, ET AL. Sup. Ct. Pa. [Probable jurisdiction noted, 479 U. S. 947.] Motion of Canadian Trucking Association for leave to file a brief as *amicus curiae* granted.

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, 479 U. S. 1005.] Motion of the Solicitor General for divided argument granted.

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. Sup. Ct. Kan. [Probable jurisdiction noted, 479 U. S. 1082.] Motion of appellants to dispense with printing the joint appendix granted. JUSTICE POWELL took no part in the consideration or decision of this motion.

No. 86-877. UNITED STATES *v.* OWENS. C. A. 9th Cir. [Certiorari granted, 479 U. S. 1084.] Motion for appointment of counsel granted, and it is ordered that Allan Ides, Esquire, of Los Angeles, Cal., be appointed to serve as counsel for respondent in this case.

No. 86-964. THOMPSON *v.* THOMPSON, AKA CLAY. C. A. 9th Cir. [Certiorari granted, 479 U. S. 1063.] Motion of Sacramento County, California, et al. for leave to file a brief as *amici curiae* granted.

No. 86-1102. MANUFACTURERS ASSOCIATION OF TRI-COUNTY ET AL. *v.* KNEPPER ET AL. C. A. 3d Cir. The Solicitor General is invited to file a brief in this case expressing the views of the United States.

No. 86-6169. THOMPSON *v.* OKLAHOMA. Ct. Crim. App. Okla. [Certiorari granted, 479 U. S. 1084.] Motion for appointment of counsel granted, and it is ordered that Harry F. Tepker, Jr., Esquire, of Norman, Okla., be appointed to serve as counsel for petitioner in this case.

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Certiorari Granted

No. 86-751. ARKANSAS BEST CORP. *v.* COMMISSIONER OF INTERNAL REVENUE. C. A. 8th Cir. Certiorari granted. Reported below: 800 F. 2d 215.

No. 86-1128. IMMIGRATION AND NATURALIZATION SERVICE *v.* ABUDU. C. A. 9th Cir. Certiorari granted. Reported below: 802 F. 2d 1096.

Certiorari Denied. (See also Nos. 86-1272 and 86-6228, *supra*.)

No. 86-388. IMMIGRATION AND NATURALIZATION SERVICE *v.* GUEVARA FLORES. C. A. 5th Cir. Certiorari denied. Reported below: 786 F. 2d 1242.

No. 86-784. CROSS ET AL. *v.* UNITED STATES ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 792 F. 2d 849.

No. 86-876. STAR-KIST FOODS, INC. *v.* COUNTY OF LOS ANGELES ET AL. Sup. Ct. Cal. Certiorari denied. Reported below: 42 Cal. 3d 1, 719 P. 2d 987.

No. 86-913. HEINEMANN *v.* UNITED STATES. C. A. Fed. Cir. Certiorari denied. Reported below: 796 F. 2d 451.

No. 86-932. NIELSEN *v.* UTAH. Sup. Ct. Utah. Certiorari denied. Reported below: 727 P. 2d 188.

No. 86-996. MCKENZIE COUNTY SOCIAL SERVICES BOARD ET AL. *v.* V. G. Sup. Ct. N. D. Certiorari denied. Reported below: 392 N. W. 2d 399.

No. 86-1015. TROXLER HOSIERY Co., INC., ET AL. *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 796 F. 2d 723.

No. 86-1020. GREEN *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 802 F. 2d 466.

No. 86-1023. BLUE CROSS ASSN. ET AL. *v.* DEPARTMENT OF HEALTH AND HUMAN SERVICES ET AL. C. A. 2d Cir. Certiorari denied. Reported below: 793 F. 2d 491.

No. 86-1032. THIGPEN, COMMISSIONER, MISSISSIPPI DEPARTMENT OF CORRECTIONS, ET AL. *v.* WHEAT. C. A. 5th Cir. Certiorari denied. Reported below: 793 F. 2d 621.

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No. 86-1033. *JAFFE ET AL. v. GRANT, TRUSTEE IN BANKRUPTCY FOR CONTINENTAL SOUTHEAST LAND CORP. AND AS RECEIVER.* C. A. 11th Cir. Certiorari denied. Reported below: 793 F. 2d 1182.

No. 86-1040. *SCOTT v. UNITED STATES.* Ct. Mil. App. Certiorari denied. Reported below: 22 M. J. 297.

No. 86-1045. *WHORTON ET AL. v. SURTRAN TAXICABS, INC., ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 801 F. 2d 159.

No. 86-1051. *MONTELEONE v. UNITED STATES.* C. A. 7th Cir. Certiorari denied. Reported below: 804 F. 2d 1004.

No. 86-1060. *HEIMBACH ET AL. v. VILLAGE OF LYONS ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 802 F. 2d 443.

No. 86-1061. *TRIBUNE CO. v. UNITED STATES.* C. A. 11th Cir. Certiorari denied. Reported below: 799 F. 2d 1438.

No. 86-1063. *RAFSKY v. UNITED STATES.* C. A. 3d Cir. Certiorari denied. Reported below: 803 F. 2d 105.

No. 86-1068. *DUNCAN ET UX. v. GEORGIA;* and

No. 86-1081. *VAN NICE ET AL. v. GEORGIA.* Ct. App. Ga. Certiorari denied. Reported below: 180 Ga. App. 112, 348 S. E. 2d 515.

No. 86-1098. *DUNN v. UNITED STATES.* C. A. 2d Cir. Certiorari denied. Reported below: 802 F. 2d 646.

No. 86-1104. *LESHOURE v. ILLINOIS.* App. Ct. Ill., 4th Dist. Certiorari denied. Reported below: 143 Ill. App. 3d 839, 493 N. E. 2d 687.

No. 86-1105. *JACKSON v. UNITED STATES.* C. A. 4th Cir. Certiorari denied. Reported below: 802 F. 2d 712.

No. 86-1110. *ENTERPRISE TOOLS, INC., ET AL. v. EXPORT-IMPORT BANK OF THE UNITED STATES.* C. A. 8th Cir. Certiorari denied. Reported below: 799 F. 2d 437.

No. 86-1162. *McCALLA v. UNITED STATES.* C. A. 4th Cir. Certiorari denied. Reported below: 803 F. 2d 1181.

No. 86-1168. *MITCHELL v. GREINER.* C. A. 6th Cir. Certiorari denied. Reported below: 803 F. 2d 721.

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No. 86-1184. *BATEY v. CALIFORNIA*. Ct. App. Cal., 4th App. Dist. Certiorari denied. Reported below: 183 Cal. App. 3d 1281, 228 Cal. Rptr. 787.

No. 86-1185. *KETTELSON v. MCI TELECOMMUNICATIONS CORP.* App. Ct. Ill., 2d Dist. Certiorari denied. Reported below: 144 Ill. App. 3d 1181, 510 N. E. 2d 1334.

No. 86-1192. *KERR v. EL PASO TIMES, INC.* Ct. App. Tex., 8th Dist. Certiorari denied. Reported below: 706 S. W. 2d 797.

No. 86-1194. *FEGURGUR v. TERRITORY OF GUAM*. C. A. 9th Cir. Certiorari denied. Reported below: 800 F. 2d 1470.

No. 86-1202. *WILSON v. CALIFORNIA*. Ct. App. Cal., 2d App. Dist. Certiorari denied.

No. 86-1204. *CITY OF BATON ROUGE ET AL. v. ACHORD ET AL.* Ct. App. La., 1st Cir. Certiorari denied. Reported below: 489 So. 2d 1373.

No. 86-1209. *POLUR v. NEW YORK ET AL.* Ct. App. N. Y. Certiorari denied. Reported below: 66 N. Y. 2d 915, 489 N. E. 2d 773.

No. 86-1214. *KNIGHT v. U. S. FIRE INSURANCE CO. ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 804 F. 2d 9.

No. 86-1215. *MISSOURI PACIFIC RAILROAD CO. v. MALDONADO*. C. A. 5th Cir. Certiorari denied. Reported below: 798 F. 2d 764.

No. 86-1216. *REDIEHS EXPRESS, INC. v. MAPLE ET AL.* Ct. App. Ind. Certiorari denied. Reported below: 491 N. E. 2d 1006.

No. 86-1221. *HARNETT v. BILLMAN ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 800 F. 2d 1308.

No. 86-1222. *COUNTY OF PIERCE ET AL. v. KRAUS ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 793 F. 2d 1105.

No. 86-1223. *PENNSYLVANIA v. POTTS*. Super. Ct. Pa. Certiorari denied. Reported below: 345 Pa. Super. 621, 496 A. 2d 853.

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No. 86-1225. *KRAUSE v. KIM ET AL.* Ct. App. Minn. Certiorari denied.

No. 86-1227. *BAVISOTTO v. NEW YORK.* App. Div., Sup. Ct. N. Y., 4th Jud. Dept. Certiorari denied. Reported below: 120 App. Div. 2d 985, 502 N. Y. S. 2d 867.

No. 86-1228. *MORALES v. MACK TRUCKS, INC.* C. A. 3d Cir. Certiorari denied. Reported below: 806 F. 2d 253.

No. 86-1230. *HODGES ET AL. v. EVISEA MARITIME CO., S. A.* C. A. 4th Cir. Certiorari denied. Reported below: 801 F. 2d 678.

No. 86-1231. *McCOURT v. McCOURT ET AL.* App. Div., Sup. Ct. N. Y., 4th Jud. Dept. Certiorari denied. Reported below: 122 App. Div. 2d 539, 504 N. Y. S. 2d 906.

No. 86-1233. *KUNTZ v. WINTERS NATIONAL BANK & TRUST CO. ET AL.* Ct. App. Ohio, Montgomery County. Certiorari denied.

No. 86-1237. *BAY AREA RAPID TRANSIT SYSTEM v. PAPERLESS ACCOUNTING, INC.* C. A. Fed. Cir. Certiorari denied. Reported below: 804 F. 2d 659.

No. 86-1243. *GOLDEN v. GOLDEN.* Ct. App. Ariz. Certiorari denied.

No. 86-1245. *HUGHES v. LOUISIANA STATE BOARD OF DENTISTRY.* Ct. App. La., 4th Cir. Certiorari denied. Reported below: 490 So. 2d 1097.

No. 86-1246. *OLD ORCHARD BRANDS, INC., ET AL. v. MICHIGAN DEPARTMENT OF AGRICULTURE ET AL.* Ct. App. Mich. Certiorari denied. Reported below: 152 Mich. App. 274, 393 N. W. 2d 608.

No. 86-1250. *TERRY v. TEXAS.* Ct. Crim. App. Tex. Certiorari denied. Reported below: 722 S. W. 2d 408.

No. 86-1251. *ASSOCIATED FILM DISTRIBUTION CORP. ET AL. v. CASEY, GOVERNOR OF PENNSYLVANIA, ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 800 F. 2d 369.

No. 86-1253. *FLEMING v. GRIEVANCE COMMITTEE COUNCIL OF COLORADO.* Sup. Ct. Colo. Certiorari denied.

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No. 86-1255. *OLYMPIA EQUIPMENT LEASING CO. ET AL. v. WESTERN UNION TELEGRAPH CO.* C. A. 7th Cir. Certiorari denied. Reported below: 797 F. 2d 370.

No. 86-1256. *JONES ET AL. v. CLARK EQUIPMENT CO.* C. A. 6th Cir. Certiorari denied. Reported below: 803 F. 2d 878.

No. 86-1258. *HAGEMANN v. AMERICAN SAVINGS & LOAN ASSN.* C. A. 9th Cir. Certiorari denied. Reported below: 804 F. 2d 1252.

No. 86-1259. *SPRATT v. COUNTY OF KENT ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 810 F. 2d 203.

No. 86-1262. *DEPARTMENT OF TRANSPORTATION, FEDERAL AVIATION ADMINISTRATION v. FITZGERALD ET AL.* C. A. Fed. Cir. Certiorari denied. Reported below: 798 F. 2d 461.

No. 86-1265. *GRASS ET AL. v. CREDITO MEXICANO, S. A.* C. A. 5th Cir. Certiorari denied. Reported below: 797 F. 2d 220.

No. 86-1266. *KILKENNY, PERSONAL REPRESENTATIVE OF THE ESTATE OF MARMION v. ATLANTIC RICHFIELD CO. ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 800 F. 2d 853.

No. 86-1267. *ARDREY ET AL. v. UNITED PARCEL SERVICE.* C. A. 4th Cir. Certiorari denied. Reported below: 798 F. 2d 679.

No. 86-1269. *NEAL, ADMINISTRATOR OF THE ESTATE OF STROH v. MIDWESTERN DISTRIBUTION, INC.* C. A. 11th Cir. Certiorari denied. Reported below: 800 F. 2d 266.

No. 86-1271. *RUIZ ET AL. v. PEOPLE EXPRESS AIRLINES, INC.* C. A. 4th Cir. Certiorari denied. Reported below: 802 F. 2d 1508.

No. 86-1273. *CUMBIE v. ALABAMA.* Ct. Crim. App. Ala. Certiorari denied. Reported below: 497 So. 2d 855.

No. 86-1276. *CITY OF WILMINGTON v. WILMINGTON STEVEDORES, INC.* C. A. 3d Cir. Certiorari denied. Reported below: 801 F. 2d 152.

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No. 86-1279. CINCINNATI FIREFIGHTERS UNION, LOCAL UNION NO. 48 *v.* YOUNGBLOOD ET AL. C. A. 6th Cir. Certiorari denied. Reported below: 804 F. 2d 360.

No. 86-1282. BROOKSIDE LIMITED PARTNERSHIP *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied. Reported below: 806 F. 2d 255.

No. 86-1285. JODELE *v.* COMMISSIONER OF INTERNAL REVENUE. C. A. 9th Cir. Certiorari denied. Reported below: 797 F. 2d 978.

No. 86-1293. MALICK *v.* SANDIA CORP. C. A. 9th Cir. Certiorari denied. Reported below: 800 F. 2d 263.

No. 86-1299. SYRE *v.* PENNSYLVANIA. Sup. Ct. Pa. Certiorari denied. Reported below: 513 Pa. 1, 518 A. 2d 535.

No. 86-1309. APONTE CARATINE *v.* BOWEN, SECRETARY OF HEALTH AND HUMAN SERVICES. C. A. 1st Cir. Certiorari denied. Reported below: 802 F. 2d 441.

No. 86-1319. VAN SANT *v.* UNITED STATES POSTAL SERVICE ET AL. C. A. 4th Cir. Certiorari denied. Reported below: 805 F. 2d 141.

No. 86-1320. SWIFT TEXTILES, INC. *v.* WATKINS MOTOR LINES, INC. C. A. 11th Cir. Certiorari denied. Reported below: 799 F. 2d 697.

No. 86-1321. ALPHIN *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 809 F. 2d 236.

No. 86-1325. CHESNEY ET UX. *v.* SPRAGGINS. Super. Ct. N. J., App. Div. Certiorari denied.

No. 86-1326. STEELEY ET AL. *v.* BURTON ET AL. C. A. 11th Cir. Certiorari denied. Reported below: 803 F. 2d 1184.

No. 86-1335. BARNETTE ET AL. *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 800 F. 2d 1558.

No. 86-1347. SHELL OIL CO. *v.* PIAMCO, INC. C. A. 7th Cir. Certiorari denied. Reported below: 799 F. 2d 262.

No. 86-1352. MONTGOMERY *v.* PENNSYLVANIA. Sup. Ct. Pa. Certiorari denied. Reported below: 513 Pa. 138, 518 A. 2d 1197.

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No. 86-1356. *LEA v. MYERS, JUDGE, MARION COUNTY MUNICIPAL COURT, ET AL.* C. A. 7th Cir. Certiorari denied.

No. 86-1394. *MARK A., AS PARENT AND NEXT FRIEND OF ALLEAH A. v. GRANT WOOD AREA EDUCATION AGENCY ET AL.* C. A. 8th Cir. Certiorari denied. Reported below: 795 F. 2d 52.

No. 86-5600. *BOWDEN v. PULLEY.* C. A. 9th Cir. Certiorari denied. Reported below: 730 F. 2d 764.

No. 86-5862. *AMHAZ v. UNITED STATES.* C. A. 2d Cir. Certiorari denied. Reported below: 802 F. 2d 443.

No. 86-5866. *KING v. ZIMMERMAN, SUPERINTENDENT, STATE CORRECTIONAL INSTITUTION AND CORRECTIONAL DIAGNOSTIC CLASSIFICATION CENTER AT GRATERFORD.* C. A. 3d Cir. Certiorari denied.

No. 86-5915. *MEYER v. UNITED STATES.* C. A. 6th Cir. Certiorari denied. Reported below: 803 F. 2d 246.

No. 86-5920. *MCNEIL v. RICE, WARDEN.* C. A. 4th Cir. Certiorari denied. Reported below: 802 F. 2d 451.

No. 86-5923. *PINION v. UNITED STATES.* C. A. 9th Cir. Certiorari denied. Reported below: 800 F. 2d 976.

No. 86-5940. *SCOTT v. OKLAHOMA.* Ct. Crim. App. Okla. Certiorari denied.

No. 86-5943. *SPENCER v. DEPARTMENT OF HUMAN RESOURCES ET AL.* C. A. 11th Cir. Certiorari denied. Reported below: 791 F. 2d 171.

No. 86-6050. *REASONOVER v. MISSOURI.* Ct. App. Mo., Eastern Dist. Certiorari denied. Reported below: 714 S. W. 2d 706.

No. 86-6134. *MEADOWS v. OHIO.* Sup. Ct. Ohio. Certiorari denied. Reported below: 28 Ohio St. 3d 43 and 354, 503 N. E. 2d 697.

No. 86-6145. *CARPENTER v. LEONARD.* C. A. 6th Cir. Certiorari denied. Reported below: 791 F. 2d 931.

No. 86-6199. *WEBSTER v. UNITED STATES.* C. A. 8th Cir. Certiorari denied.

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No. 86-6212. *MOORE v. JONES, WARDEN.* C. A. 6th Cir. Certiorari denied. Reported below: 810 F. 2d 202.

No. 86-6214. *WESTFALL v. BOWEN, SECRETARY OF HEALTH AND HUMAN SERVICES, ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 806 F. 2d 258.

No. 86-6231. *CLIFTON v. COOK, WARDEN, ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 810 F. 2d 200.

No. 86-6232. *WHITE v. OHIO.* Ct. App. Ohio, Gallia County. Certiorari denied.

No. 86-6239. *MARTIN v. LEWIS ET AL.* C. A. 10th Cir. Certiorari denied.

No. 86-6240. *JACKMAN v. REES, WARDEN, ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 803 F. 2d 720.

No. 86-6242. *GRAVES v. OHIO.* Ct. App. Ohio, Cuyahoga County. Certiorari denied.

No. 86-6245. *BENEDICT v. NEW YORK.* App. Div., Sup. Ct. N. Y., 3d Jud. Dept. Certiorari denied. Reported below: 115 App. Div. 2d 795, 495 N. Y. S. 2d 735.

No. 86-6254. *COLLATT v. LOUISIANA.* Sup. Ct. La. Certiorari denied. Reported below: 497 So. 2d 1001.

No. 86-6257. *COLE v. CHRANS, WARDEN.* C. A. 7th Cir. Certiorari denied. Reported below: 808 F. 2d 837.

No. 86-6258. *DITSCH v. BUCKLEY.* C. A. 1st Cir. Certiorari denied.

No. 86-6260. *MAGEE v. BORG, WARDEN, ET AL.* Sup. Ct. Cal. Certiorari denied.

No. 86-6267. *SATTERWHITE v. LYNAUGH, INTERIM DIRECTOR, TEXAS DEPARTMENT OF CORRECTIONS, ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 807 F. 2d 994.

No. 86-6268. *STARKEY v. LYNAUGH, INTERIM DIRECTOR, TEXAS DEPARTMENT OF CORRECTIONS.* C. A. 5th Cir. Certiorari denied.

No. 86-6271. *BERTRAM v. CALIFORNIA.* Ct. App. Cal., 2d App. Dist. Certiorari denied.

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No. 86-6274. *HAEFNER v. COUNTY OF LOS ANGELES ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 804 F. 2d 145.

No. 86-6276. *CURTIS v. ILLINOIS.* App. Ct. Ill., 2d Dist. Certiorari denied. Reported below: 141 Ill. App. 3d 827, 491 N. E. 2d 134.

No. 86-6278. *GILREATH v. ARMONTROUT, WARDEN.* C. A. 8th Cir. Certiorari denied. Reported below: 802 F. 2d 465.

No. 86-6281. *CARTEE v. NIX, WARDEN, ET AL.* C. A. 7th Cir. Certiorari denied. Reported below: 803 F. 2d 296.

No. 86-6282. *SCHANDELMEIER v. CUNNINGHAM, WARDEN, ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 808 F. 2d 1518.

No. 86-6283. *THOMPSON v. UNITED STATES.* C. A. 7th Cir. Certiorari denied. Reported below: 807 F. 2d 585.

No. 86-6286. *SAMPLE v. BOWEN, SECRETARY OF HEALTH AND HUMAN SERVICES.* C. A. 9th Cir. Certiorari denied. Reported below: 803 F. 2d 725.

No. 86-6287. *TEDDER v. UNITED STATES.* C. A. 4th Cir. Certiorari denied. Reported below: 801 F. 2d 1437.

No. 86-6288. *MATHIS v. NEW JERSEY.* Super. Ct. N. J., App. Div. Certiorari denied.

No. 86-6292. *COVINGTON v. SCROGGY, WARDEN.* C. A. 6th Cir. Certiorari denied. Reported below: 805 F. 2d 1033.

No. 86-6301. *ORTEGA v. CALIFORNIA.* Ct. App. Cal., 1st App. Dist. Certiorari denied.

No. 86-6302. *MULLEN v. NEW YORK.* App. Div., Sup. Ct. N. Y., 3d Jud. Dept. Certiorari denied. Reported below: 122 App. Div. 2d 300, 504 N. Y. S. 2d 270.

No. 86-6304. *RASHED v. DELAWARE COUNTY, PENNSYLVANIA, ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 806 F. 2d 254.

No. 86-6306. *WARNER v. ILLINOIS.* App. Ct. Ill., 1st Dist. Certiorari denied. Reported below: 146 Ill. App. 3d 370, 496 N. E. 2d 1010.

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No. 86-6308. *SHERWOOD v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 806 F. 2d 264.

No. 86-6311. *RANDOLPH v. MURRAY, DIRECTOR, VIRGINIA DEPARTMENT OF CORRECTIONS*. C. A. 4th Cir. Certiorari denied. Reported below: 803 F. 2d 1181.

No. 86-6313. *MONTEIRO v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 810 F. 2d 1165.

No. 86-6315. *SELLNER v. FEDERAL BUREAU OF INVESTIGATION ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 801 F. 2d 394.

No. 86-6316. *MOORE v. LYNAUGH, INTERIM DIRECTOR, TEXAS DEPARTMENT OF CORRECTIONS*. C. A. 5th Cir. Certiorari denied.

No. 86-6318. *THOMPSON v. SOUTHEASTERN TOYOTA ET AL.* Sup. Ct. Ala. Certiorari denied. Reported below: 494 So. 2d 624.

No. 86-6324. *TYSON v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 808 F. 2d 54.

No. 86-6341. *HILL v. LYNAUGH, INTERIM DIRECTOR, TEXAS DEPARTMENT OF CORRECTIONS*. C. A. 5th Cir. Certiorari denied. Reported below: 803 F. 2d 715.

No. 86-6343. *HIMES ET UX. v. UNITED STATES ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 802 F. 2d 458.

No. 86-6345. *MONTGOMERY v. INTERNAL REVENUE SERVICE*. C. A. 7th Cir. Certiorari denied.

No. 86-6347. *TAYLOR v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 807 F. 2d 178.

No. 86-6379. *PATTERSON v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 808 F. 2d 836.

No. 86-6388. *HURST v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 812 F. 2d 1409.

No. 86-6409. *BULLEN v. DEREGO ET AL.* Sup. Ct. Haw. Certiorari denied. Reported below: 68 Haw. 587, 724 P. 2d 106.

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No. 86-6418. *WHITLEY v. LECUREUX, SUPERINTENDENT, KINROSS CORRECTIONAL FACILITY.* C. A. 6th Cir. Certiorari denied. Reported below: 811 F. 2d 608.

No. 85-1864. *RANDALL BOOK CORP. v. MARYLAND.* Ct. Sp. App. Md. Certiorari denied. JUSTICE BRENNAN and JUSTICE MARSHALL would grant the petition for writ of certiorari and reverse the judgment of conviction. Reported below: 64 Md. App. 589, 497 A. 2d 1174.

No. 85-6272. *DEPUTY v. DELAWARE.* Sup. Ct. Del.;
No. 86-6003. *MCCOY v. TEXAS.* Ct. Crim. App. Tex.;
No. 86-6013. *BURDINE v. TEXAS.* Ct. Crim. App. Tex.;
No. 86-6108. *WILKERSON v. TEXAS.* Ct. Crim. App. Tex.;
No. 86-6121. *GRiffin v. PENNSYLVANIA.* Sup. Ct. Pa.;
No. 86-6195. *CAPE v. KEMP, WARDEN.* Sup. Ct. Ga.;
No. 86-6222. *BREWER v. INDIANA.* Sup. Ct. Ind.;
No. 86-6243. *HUBBARD v. ALABAMA.* Ct. Crim. App. Ala.;
No. 86-6247. *KORNAHRENS v. SOUTH CAROLINA.* Sup. Ct. S. C.;
No. 86-6365. *HARRIS v. WASHINGTON.* Sup. Ct. Wash.; and
No. 86-6380. *PARKER v. GEORGIA.* Sup. Ct. Ga. Certiorari denied. Reported below: No. 85-6272, 500 A. 2d 581; No. 86-6003, 713 S. W. 2d 940; No. 86-6013, 719 S. W. 2d 309; No. 86-6108, 726 S. W. 2d 542; No. 86-6121, 511 Pa. 553, 515 A. 2d 865; No. 86-6222, 496 N. E. 2d 371; No. 86-6243, 500 So. 2d 1204; No. 86-6247, 290 S. C. 281, 350 S. E. 2d 180; No. 86-6365, 106 Wash. 2d 784, 725 P. 2d 975; No. 86-6380, 256 Ga. 543, 350 S. E. 2d 570.

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. 86-980. *KELLY v. WAUCONDA PARK DISTRICT.* C. A. 7th Cir. Certiorari denied. JUSTICE WHITE would grant certiorari. Reported below: 801 F. 2d 269.

No. 86-1006. *MARATHON OIL Co. v. UNITED STATES ET AL.* C. A. 9th Cir. Motion of American Petroleum Institute for leave

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to file a brief as *amicus curiae* granted. Certiorari denied. JUSTICE STEVENS took no part in the consideration or decision of this motion and this petition. Reported below: 807 F. 2d 759.

No. 86-1057. DRUMMOND CO., INC. *v.* HODEL, SECRETARY OF THE INTERIOR. C. A. D. C. Cir. Certiorari denied. JUSTICE POWELL took no part in the consideration or decision of this petition. Reported below: 254 U. S. App. D. C. 212, 796 F. 2d 503.

No. 86-1260. MAJOR LEAGUE BASEBALL PLAYERS ASSN. ET AL. *v.* BALTIMORE ORIOLES, INC., ET AL. C. A. 7th Cir. Motions of National Football League Players Association et al. and Associated Actors & Artistes of America, AFL-CIO, for leave to file briefs as *amici curiae* granted. Certiorari denied. Reported below: 805 F. 2d 663.

No. 86-6055. MURPHY *v.* SOWDERS, WARDEN. C. A. 6th Cir. Certiorari denied. JUSTICE WHITE and JUSTICE POWELL would grant certiorari. Reported below: 801 F. 2d 205.

No. 86-6371 (A-655). SHAHID *v.* TEXAS. Ct. App. Tex., 14th Dist. Application for stay, presented to JUSTICE WHITE, and by him referred to the Court, denied. Certiorari denied.

Rehearing Denied

No. 86-558. YAMAMOTO *v.* KLENSKE ET AL., 479 U. S. 1064;
No. 86-814. WHITE MOUNTAIN APACHE TRIBE ET AL. *v.* ARIZONA STATE TRANSPORTATION BOARD ET AL., 479 U. S. 1060;
No. 86-827. JAIN *v.* ITT GRINNELL CORP., 479 U. S. 1065;
No. 86-5647. BERCAW *v.* MANDAK, JUDGE, 479 U. S. 992;
No. 86-5681. KOVACS *v.* MERIT SYSTEMS PROTECTION BOARD, 479 U. S. 1038;
No. 86-5901. FUGITT *v.* GEORGIA, 479 U. S. 1070;
No. 86-5939. THOMAS *v.* LINCOLN UNIVERSITY, 479 U. S. 1068;
No. 86-5973. SELLNER *v.* PANAGOULIS ET AL., 479 U. S. 1069;
No. 86-6037. SELLNER *v.* PANAGOULIS ET AL., 479 U. S. 1069; and
No. 86-6128. JACKSON *v.* NEWSOME, WARDEN, 479 U. S. 1099. Petitions for rehearing denied.

No. 85-685. ESCHLER ET AL. *v.* BOEING CO., 474 U. S. 1082. Motion for leave to file petition for rehearing denied.

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Dismissal Under Rule 53

No. 86-1328. SPARKS *v.* KANSAS ET AL. Ct. App. Kan. Certiorari dismissed under this Court's Rule 53. Reported below: 11 Kan. App. 2d xxxiii, 761 P. 2d 325.

Certiorari Granted—Reversed and Remanded. (See No. 85-1200, *ante*, p. 572.)

Certiorari Granted—Vacated and Remanded. (See No. 85-1608, *ante*, at 555.)

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Dismissal Under Rule 53

No. 86-1377. ANCOR HOLDINGS, N. V. *v.* REPUBLIC OF THE PHILIPPINES. C. A. 2d Cir. Certiorari dismissed under this Court's Rule 53. Reported below: 806 F. 2d 344.

Appeals Dismissed

No. 86-701. COOPER *v.* EUGENE SCHOOL DISTRICT NO. 4J ET AL. Appeal from Sup. Ct. Ore. dismissed for want of substantial federal question. JUSTICE BRENNAN, JUSTICE MARSHALL, and JUSTICE O'CONNOR would note probable jurisdiction and set case for oral argument. Reported below: 301 Ore. 358, 723 P. 2d 298.

No. 86-1286. K MART CORP. *v.* IDAHO STATE TAX COMMISSION. Appeal from Sup. Ct. Idaho dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied. JUSTICE STEVENS took no part in the consideration or decision of this case. Reported below: 111 Idaho 719, 727 P. 2d 1147.

No. 86-1291. MONTANO *v.* PRINCE GEORGE'S COUNTY, MARYLAND, ET AL. Appeal from C. A. 4th 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: 801 F. 2d 394.

Certiorari Granted—Vacated and Remanded

No. 85-1099. ADKINS *v.* CHESAPEAKE & OHIO RAILWAY CO. ET AL. C. A. 4th Cir. Certiorari granted, judgment vacated,

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and case remanded for further consideration in light of *Atchison, T. & S. F. R. Co. v. Buell, ante*, p. 557.

No. 86-303. *HODEL, SECRETARY OF THE INTERIOR, ET AL. v. TRIBAL VILLAGE OF AKUTAN ET AL.*; and

No. 86-304. *AMOCO PRODUCTION CO. ET AL. v. TRIBAL VILLAGE OF AKUTAN ET AL.* C. A. 9th Cir. Certiorari granted, judgment vacated, and cases remanded for further consideration in light of *Amoco Production Co. v. Gambell, ante*, p. 531. Reported below: 792 F. 2d 1376.

No. 86-6059. *PATTERSON v. AIKEN, WARDEN, ET AL.* Ct. Common Pleas of York County, S. 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 *Truesdale v. Aiken, ante*, p. 527.

No. 86-6071. *KOON v. AIKEN, WARDEN.* Ct. Common Pleas of Aiken County, S. 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 *Truesdale v. Aiken, ante*, p. 527.

*Miscellaneous Orders**

No. D-586. *IN RE DISBARMENT OF SELIGMAN.* Disbarment entered. [For earlier order herein, see 479 U. S. 927.]

No. D-598. *IN RE DISBARMENT OF GORIN.* Disbarment entered. [For earlier order herein, see 479 U. S. 1026.]

No. D-603. *IN RE DISBARMENT OF WEINSOFF.* Disbarment entered. [For earlier order herein, see 479 U. S. 1051.]

No. D-620. *IN RE DISBARMENT OF DECELLO.* It is ordered that Anthony V. DeCello, of Pittsburgh, Pa., be suspended from the practice of law in this Court and that a rule issue, returnable within 40 days, requiring him to show cause why he should not be disbarred from the practice of law in this Court.

No. D-621. *IN RE DISBARMENT OF FOLAN.* It is ordered that Thomas J. Folan, of Pittsburgh, Pa., be suspended from the practice of law in this Court and that a rule issue, returnable within 40

*For the Court's order prescribing amendments to the Bankruptcy Rules, see *post*, p. 1079.

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days, requiring him to show cause why he should not be disbarred from the practice of law in this Court.

No. D-622. *IN RE DISBARMENT OF PASTERNAK.* It is ordered that Barton A. Pasternak, of Philadelphia, Pa., be suspended from the practice of law in this Court and that a rule issue, returnable within 40 days, requiring him to show cause why he should not be disbarred from the practice of law in this Court.

No. D-623. *IN RE DISBARMENT OF CONNELL.* It is ordered that Jerome F. Connell, of Pasadena, 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, 479 U. S. 881.] Oral argument in this case, set for Wednesday, April 1, 1987, is deferred to a later date. Number 85-6725, *Bourjaily v. United States* [certiorari granted, 479 U. S. 881], will be argued in its stead.

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. [Certiorari granted, 479 U. S. 1083.] Motion of petitioners to dispense with printing the joint appendix 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, 479 U. S. 1029.] Motion of National Coal Association for leave to file a brief as *amicus curiae* granted.

No. 86-422. *CARPENTER ET AL. v. UNITED STATES.* C. A. 2d Cir. [Certiorari granted, 479 U. S. 1016.] Motion of petitioners for divided argument denied.

No. 86-964. *THOMPSON v. THOMPSON, AKA CLAY.* C. A. 9th Cir. [Certiorari granted, 479 U. S. 1063.] Motion of Women's Legal Defense Fund et al. for leave to file a brief as *amici curiae* granted.

No. 86-6298. *IN RE GILLETTE.* Petition for writ of mandamus denied.

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Certiorari Granted

No. 86-1278. *HUSTLER MAGAZINE, INC., ET AL. v. FALWELL.* C. A. 4th Cir. Motions of Richmond Newspapers, Inc., et al. and Reporters Committee for Freedom of the Press for leave to file briefs as *amici curiae* granted. Certiorari granted. Reported below: 797 F. 2d 1270.

No. 86-6060. *YATES v. AIKEN, WARDEN, ET AL.* Sup. Ct. S. C. Motion of petitioner for leave to proceed *in forma pauperis* and certiorari granted. Reported below: 290 S. C. 231, 349 S. E. 2d 84.

No. 86-6109. *MATHEWS v. UNITED STATES.* C. A. 7th Cir. Motion of petitioner for leave to proceed *in forma pauperis* granted. Certiorari granted limited to Question I presented by the petition. Reported below: 803 F. 2d 325.

Certiorari Denied. (See also Nos. 86-1286 and 86-1291, *supra*.)

No. 85-1702. *NORFOLK & WESTERN RAILWAY CO. v. LANCAS-TER.* C. A. 7th Cir. Certiorari denied. Reported below: 773 F. 2d 807.

No. 86-898. *PREWITT v. UNITED STATES POSTAL SERVICE.* C. A. 5th Cir. Certiorari denied. Reported below: 792 F. 2d 1119.

No. 86-923. *TOYOTA OF BERKELEY v. AUTOMOBILE SALES-MEN'S UNION, LOCAL 1095, UNITED FOOD & COMMERCIAL WORKERS UNION.* C. A. 9th Cir. Certiorari denied. Reported below: 787 F. 2d 598.

No. 86-925. *BARNES v. UNITED STATES.* C. A. 7th Cir. Certiorari denied. Reported below: 801 F. 2d 984.

No. 86-952. *FIERRO v. BOWEN, SECRETARY, DEPARTMENT OF HEALTH AND HUMAN SERVICES.* C. A. 10th Cir. Certiorari denied. Reported below: 798 F. 2d 1351.

No. 86-1026. *SCHIFF v. UNITED STATES.* C. A. 2d Cir. Certiorari denied. Reported below: 801 F. 2d 108.

No. 86-1071. *ALASKA v. LYNG, SECRETARY OF AGRICUL-TURE, ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 797 F. 2d 1479.

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No. 86-1089. *MERKT ET AL. v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. Reported below: 794 F. 2d 950.

No. 86-1106. *BECK v. DEPARTMENT OF TRANSPORTATION, FEDERAL AVIATION ADMINISTRATION.* C. A. Fed. Cir. Certiorari denied. Reported below: 802 F. 2d 471.

No. 86-1205. *KARASH, AS GUARDIAN AD LITEM FOR LOWE, A MINOR v. COUNTY OF SAN DIEGO.* Ct. App. Cal., 4th App. Dist. Certiorari denied. Reported below: 183 Cal. App. 3d 515, 228 Cal. Rptr. 139.

No. 86-1270. *APRILE ET AL. v. KENTUCKY.* Sup. Ct. Ky. Certiorari denied. Reported below: 720 S. W. 2d 932.

No. 86-1274. *ARTHUR ANDERSEN & CO. v. RUDOLPH ET AL.* C. A. 11th Cir. Certiorari denied. Reported below: 800 F. 2d 1040.

No. 86-1280. *TENNESSEE v. HERRINGTON, SECRETARY OF ENERGY.* C. A. 6th Cir. Certiorari denied. Reported below: 806 F. 2d 642.

No. 86-1290. *WILSON, INDIVIDUALLY, AND AS PERSONAL REPRESENTATIVE OF THE ESTATE OF WILSON, ET AL. v. BURLINGTON NORTHERN RAILROAD Co.* C. A. 10th Cir. Certiorari denied. Reported below: 803 F. 2d 563.

No. 86-1292. *CHUIDIAN v. SUPERIOR COURT OF CALIFORNIA, SANTA CLARA COUNTY (PHILIPPINE EXPORT & FOREIGN LOAN GUARANTEE CORP., REAL PARTY IN INTEREST).* Ct. App. Cal., 6th App. Dist. Certiorari denied.

No. 86-1296. *AIR LINE PILOTS ASSN., INTERNATIONAL v. UNITED AIR LINES, INC.* C. A. 7th Cir. Certiorari denied. Reported below: 802 F. 2d 886.

No. 86-1301. *CHEEK v. BECK ET AL.* C. A. 7th Cir. Certiorari denied. Reported below: 805 F. 2d 1038.

No. 86-1303. *LUBBEHUSEN ET AL. v. INDIANA ET AL.* Ct. App. Ind. Certiorari denied. Reported below: 496 N. E. 2d 139.

No. 86-1305. *CITY OF IRVINE v. COUNTY OF ORANGE ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 799 F. 2d 535.

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No. 86-1306. *ILLINOIS v. WISEMAN*. App. Ct. Ill., 1st Dist. Certiorari denied. Reported below: 146 Ill. App. 3d 1165, 511 N. E. 2d 442.

No. 86-1307. *WINDON THIRD OIL & GAS DRILLING PARTNERSHIP ET AL. v. FEDERAL DEPOSIT INSURANCE CORPORATION ET AL.* C. A. 10th Cir. Certiorari denied. Reported below: 805 F. 2d 342.

No. 86-1310. *KUSTINA v. CITY OF SEATTLE*. C. A. 9th Cir. Certiorari denied. Reported below: 810 F. 2d 205.

No. 86-1314. *HUBBARD v. COMMISSIONER OF PATENTS AND TRADEMARKS*. C. A. Fed. Cir. Certiorari denied. Reported below: 809 F. 2d 789.

No. 86-1315. *CLOUGH ET AL. v. COMMISSIONER OF PATENTS AND TRADEMARKS*. C. A. Fed. Cir. Certiorari denied. Reported below: 809 F. 2d 788.

No. 86-1317. *49ER CHEVROLET, INC., ET AL. v. GENERAL MOTORS CORP. ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 803 F. 2d 1463.

No. 86-1318. *MONOCLONAL ANTIBODIES, INC. v. HYBRITECH, INC.* C. A. Fed. Cir. Certiorari denied. Reported below: 802 F. 2d 1367.

No. 86-1323. *SCHWANDER ET UX. v. CORDOVA*. C. A. 9th Cir. Certiorari denied.

No. 86-1324. *HARDIN v. MCMASTER*. C. A. 5th Cir. Certiorari denied. Reported below: 806 F. 2d 260.

No. 86-1337. *BURNS ET AL. v. CHISUM INDEPENDENT SCHOOL DISTRICT ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 806 F. 2d 259.

No. 86-1341. *CONNECTICUT PERFORMING ARTS FOUNDATION, INC. v. BROWN, TAX COMMISSIONER OF THE STATE OF CONNECTICUT*. C. A. 2d Cir. Certiorari denied. Reported below: 801 F. 2d 566.

No. 86-1362. *LODI ET AL. v. COMMISSIONER OF INTERNAL REVENUE*. C. A. 9th Cir. Certiorari denied. Reported below: 802 F. 2d 466.

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No. 86-1384. *BAKER v. UNITED STATES*. Ct. Mil. App. Certiorari denied. Reported below: 23 M. J. 226.

No. 86-1389. *MYSLAKOWSKI, INDIVIDUALLY AND AS NEXT FRIEND OF MYSLAKOWSKI, A MINOR, ET AL. v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 806 F. 2d 94.

No. 86-1395. *BROOKS ET AL. v. DEPARTMENT OF HEALTH AND HUMAN SERVICES*. C. A. Fed. Cir. Certiorari denied.

No. 86-5979. *MORGAN v. UNITED STATES POSTAL SERVICE ET AL.* C. A. 8th Cir. Certiorari denied. Reported below: 798 F. 2d 1162.

No. 86-6032. *GELB v. ROYAL GLOBE INSURANCE CO.* C. A. 2d Cir. Certiorari denied. Reported below: 798 F. 2d 38.

No. 86-6034. *WORSLEY v. ROGERS, WARDEN*. C. A. 4th Cir. Certiorari denied. Reported below: 804 F. 2d 678.

No. 86-6044. *JONES v. TENNESSEE ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 805 F. 2d 1034.

No. 86-6063. *THOMAS v. NEW YORK*. Ct. App. N. Y. Certiorari denied. Reported below: 68 N. Y. 2d 194, 500 N. E. 2d 293.

No. 86-6090. *PASSMAN v. BLACKBURN, WARDEN, ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 797 F. 2d 1335.

No. 86-6120. *JONES v. WILSON, SECRETARY, KENTUCKY DEPARTMENT OF CORRECTIONS, ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 805 F. 2d 1034.

No. 86-6297. *HITCHCOCK v. PENNSYLVANIA*. Sup. Ct. Pa. Certiorari denied.

No. 86-6307. *WILCHER v. ILLINOIS*. App. Ct. Ill., 1st Dist. Certiorari denied. Reported below: 145 Ill. App. 3d 309, 495 N. E. 2d 1001.

No. 86-6321. *SHAW v. GARRISON, WARDEN, ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 813 F. 2d 403.

No. 86-6323. *VELILLA v. UNITED TECHNOLOGIES CORP., HAMILTON STANDARD DIVISION, ET AL.* Sup. Ct. Conn. Certiorari denied. Reported below: 201 Conn. 815, 518 A. 2d 73.

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No. 86-6325. *PERRY v. GRESK ET AL.* C. A. 7th Cir. Certiorari denied. Reported below: 805 F. 2d 1038.

No. 86-6327. *HOOVER v. GARFIELD HEIGHTS MUNICIPAL COURT ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 802 F. 2d 168.

No. 86-6328. *BEEZLEY v. FREMONT INDEMNITY CO. ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 804 F. 2d 530.

No. 86-6332. *DUNHAM v. TAR HEEL CONTAINER CORP.* C. A. 4th Cir. Certiorari denied. Reported below: 803 F. 2d 1181.

No. 86-6333. *PERRY v. ASTRIKE ET AL.* Ct. App. Ind. Certiorari denied. Reported below: 495 N. E. 2d 560.

No. 86-6338. *JACKSON v. ZIMMERMAN, SUPERINTENDENT, STATE CORRECTIONAL INSTITUTION AND CORRECTIONAL DIAGNOSTIC AND CLASSIFICATION CENTER AT GRATERFORD, ET AL.* C. A. 3d Cir. Certiorari denied.

No. 86-6339. *CARLOCK v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. Reported below: 806 F. 2d 535.

No. 86-6340. *ADAMS ET AL. v. DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONS, HUNT CORRECTIONAL CENTER.* Sup. Ct. La. Certiorari denied. Reported below: 494 So. 2d 334.

No. 86-6344. *REED v. CARLSON.* C. A. D. C. Cir. Certiorari denied.

No. 86-6348. *WILLIAMS v. UNITED STATES.* C. A. 4th Cir. Certiorari denied. Reported below: 804 F. 2d 1251.

No. 86-6349. *MORGAN v. UNITED STATES.* C. A. 9th Cir. Certiorari denied. Reported below: 805 F. 2d 1372.

No. 86-6352. *SAMMONS v. DUGGER, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS.* C. A. 11th Cir. Certiorari denied.

No. 86-6353. *MUNFORD v. HAWAII.* Sup. Ct. Haw. Certiorari denied.

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No. 86-6354. *WILEY v. CARPENTER*. C. A. 5th Cir. Certiorari denied.

No. 86-6368. *CARLOCK v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 806 F. 2d 535.

No. 86-6385. *LAMBERT v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 806 F. 2d 1068.

No. 86-6386. *GOLDHAMMER v. PENNSYLVANIA*. Sup. Ct. Pa. Certiorari denied. Reported below: 512 Pa. 587, 517 A. 2d 1280.

No. 86-6389. *FERRIS v. UNITED STATES*. C. A. 1st Cir. Certiorari denied. Reported below: 807 F. 2d 269.

No. 86-6399. *KNOST v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 812 F. 2d 1409.

No. 86-6400. *CLARK v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 807 F. 2d 412.

No. 86-6403. *ACOSTA v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 807 F. 2d 178.

No. 86-6404. *HARRIS v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 808 F. 2d 57.

No. 86-6405. *MATUSAVAGE v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 800 F. 2d 1136.

No. 86-6411. *WAGNER v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 812 F. 2d 1409.

No. 86-6412. *MUSA v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 807 F. 2d 178.

No. 86-6413. *STEPHENS v. UNITED STATES*; and

No. 86-6414. *PATTON v. UNITED STATES*. C. A. 10th Cir. Certiorari denied.

No. 86-6415. *SWIERSKI v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 811 F. 2d 610.

No. 86-6419. *LEE v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 811 F. 2d 1506.

No. 86-6432. *BOURGEOIS v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 810 F. 2d 1161.

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No. 86-6435. ADKINS ET AL. *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 801 F. 2d 397.

No. 86-857. BURLINGTON NORTHERN RAILROAD CO. *v.* GULATI. Sup. Ct. Minn. Motion of National Railway Labor Conference for leave to file a brief as *amicus curiae* granted. Certiorari denied. Reported below: 390 N. W. 2d 743.

No. 86-999. NEW YORK ET AL. *v.* DOLE, SECRETARY OF TRANSPORTATION, ET AL. 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. 398, 802 F. 2d 474.

No. 86-1070. MOUNTAIN STATES LEGAL FOUNDATION ET AL. *v.* HODEL, SECRETARY OF THE INTERIOR, ET AL. C. A. 10th Cir. Certiorari denied. JUSTICE O'CONNOR took no part in the consideration or decision of this petition. Reported below: 799 F. 2d 1423.

No. 86-1171. DUGGER, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS *v.* DORMAN. C. A. 11th Cir. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 798 F. 2d 1358.

No. 86-6035. SMITH *v.* PENNSYLVANIA. Sup. Ct. Pa.;

No. 86-6087. ALBRECHT *v.* PENNSYLVANIA. Sup. Ct. Pa.;

No. 86-6203. POPE *v.* DUGGER, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS. Sup. Ct. Fla.;

No. 86-6293. HALL *v.* ILLINOIS. Sup. Ct. Ill.;

No. 86-6294. JOHNSON *v.* ILLINOIS. Sup. Ct. Ill.;

No. 86-6309. WHITLEY *v.* BAIR, WARDEN. C. A. 4th Cir.; and

No. 86-6479. JOHNSON *v.* THIGPEN, COMMISSIONER, MISSISSIPPI DEPARTMENT OF CORRECTIONS. C. A. 5th Cir. Certiorari denied. Reported below: No. 86-6035, 511 Pa. 343, 518 A. 2d 1371; No. 86-6087, 510 Pa. 603, 511 A. 2d 764; No. 86-6203, 496 So. 2d 798; No. 86-6293, 114 Ill. 2d 376, 499 N. E. 2d 1335; No. 86-6294, 114 Ill. 2d 170, 499 N. E. 2d 1355; No. 86-6309, 802 F. 2d 1487; No. 86-6479, 806 F. 2d 1243.

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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. 86-6370. *RAITPORT v. IBM ET AL.* C. A. 2d Cir. Certiorari denied. JUSTICE BLACKMUN took no part in the consideration or decision of this petition. Reported below: 805 F. 2d 391.

Rehearing Denied

No. 86-5982. *FALCON v. UNITED STATES*, 479 U. S. 1094;

No. 86-5989. *WILSON v. DENTON ET AL.*, 479 U. S. 1095;

No. 86-6078. *LEAL v. DAHLBERG, SUPERINTENDENT, OHIO STATE REFORMATORY*, 479 U. S. 1097; and

No. 86-6119. *JONES v. HOWARD ET AL.*, 479 U. S. 1099. Petitions for rehearing denied.

No. 86-6074. *GORMONG v. CLEVELAND ELECTRIC COMPANY OF GEORGIA, INC.*, 479 U. S. 1103. Petition for rehearing denied. JUSTICE BLACKMUN took no part in the consideration or decision of this petition.