

ORDERS FOR OCTOBER 3, 1988, THROUGH  
FEBRUARY 3, 1989

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*Appeals Dismissed*

No. 87-1337. BOERSMA, PERSONAL REPRESENTATIVE OF THE ESTATES OF BOERSMA ET AL. *v.* KARNES, NEBRASKA STATE TAX COMMISSIONER, ET AL. Appeal from Sup. Ct. Neb. dismissed for want of substantial federal question. JUSTICE WHITE and JUSTICE BLACKMUN would note probable jurisdiction and set case for oral argument. Reported below: 227 Neb. 329, 417 N. W. 2d 341.

No. 87-1586. CHALKO *v.* CHALKO. Appeal from Ct. App. Cal., 4th App. Dist. Motion of appellee for leave to proceed *in forma pauperis* granted. Appeal dismissed for want of substantial federal question.

No. 87-1647. ANDERSON *v.* SNO-KING VILLAGE ASSN., INC., ET AL. Appeal from Sup. Ct. Wyo. dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied. Reported below: 745 P. 2d 540.

No. 87-1783. BRACKENRIDGE *v.* AMETEK, INC., ET AL. Appeal from Sup. Ct. Fla. dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied. Reported below: 517 So. 2d 667.

No. 87-1837. PARKVIEW ASSOCIATES *v.* CITY OF NEW YORK ET AL. Appeal from Ct. App. N. Y. dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied. Reported below: 71 N. Y. 2d 274, 519 N. E. 2d 1372.

No. 87-1892. COK *v.* COK. Appeal from Sup. Ct. R. I. dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied. Reported below: 533 A. 2d 534.

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No. 87-1944. *POLYAK v. HULEN ET AL.* Appeal from C. A. 6th Cir. dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied. Reported below: 837 F. 2d 475.

No. 87-1948. *SNYDER v. WILSON.* Appeal from Sup. Ct. Pa. dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied. Reported below: 518 Pa. 52, 540 A. 2d 264.

No. 87-2045. *DOUGLAS v. NEBRASKA EX REL. NEBRASKA STATE BAR ASSN.* Appeal from Sup. Ct. Neb. dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied. Reported below: 227 Neb. 1, 416 N. W. 2d 515.

No. 87-2110. *JONES v. SCHAFFER ET AL.* Appeal from C. A. 3d Cir. dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied. Reported below: 845 F. 2d 1012.

No. 87-2132. *GJESSING ET AL. v. WEST INDIAN CO., LTD., ET AL.; and*

No. 87-2133. *LEGISLATURE OF THE VIRGIN ISLANDS v. WEST INDIAN CO., LTD., ET AL.* Appeals from C. A. 3d Cir. dismissed for want of jurisdiction. Treating the papers whereon the appeals were taken as petitions for writs of certiorari, certiorari denied. Reported below: 844 F. 2d 1007.

No. 87-7036. *LEMONS v. MYERS ET AL.* Appeal from C. A. 5th Cir. dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied. Reported below: 842 F. 2d 327.

No. 87-7084. *WOOL v. HINKEL ET AL.; and WOOL v. HORWITZ ET AL.* Appeals from C. A. 4th Cir. dismissed for want of jurisdiction. Treating the papers whereon the appeals were taken as a petition for writ of certiorari, certiorari denied. Reported below: 833 F. 2d 1006 (first case); 836 F. 2d 1343 (second case).

No. 87-7181. *RAY v. TEXAS.* Appeal from Ct. App. Tex., 1st Dist., dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied.



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No. 87-7216. *MAHLERWEIN v. FEDERAL LAND BANK OF LOUISVILLE*. Appeal from Sup. Ct. Ohio dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied.

No. 87-7293. *MAHLERWEIN v. STITSINGER ET AL.* Appeal from C. A. 6th Cir. dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied. Reported below: 833 F. 2d 1012.

No. 87-7294. *MAHLERWEIN v. BRUEWER ET AL.* Appeal from C. A. 6th Cir. dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied. Reported below: 840 F. 2d 17.

No. 87-7324. *BURGESS v. DIRECTOR, OFFICE OF WORKERS' COMPENSATION PROGRAMS*. Appeal from C. A. 9th Cir. dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied. Reported below: 826 F. 2d 1069.

No. 88-113. *POLYAK v. HAMILTON, JUDGE, CIRCUIT COURT OF LAWRENCE COUNTY, TENNESSEE*. Appeal from C. A. 6th Cir. dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied. Reported below: 840 F. 2d 17.

No. 88-180. *BOWLES v. UNITED STATES ARMY CORPS OF ENGINEERS*. Appeal from C. A. 5th Cir. dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied. Reported below: 841 F. 2d 112.

No. 88-212. *HALL v. HAWAII ET AL.* Appeal from Int. Ct. App. Haw. dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied. Reported below: 7 Haw. App. 274, 756 P. 2d 1048.

No. 88-213. *LOCKSTROM v. LOCKSTROM*. 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. 88-238. *NAVELY v. WATSON*. Appeal from C. A. 11th Cir. dismissed for want of jurisdiction. Treating the papers

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whereon the appeal was taken as a petition for writ of certiorari, certiorari denied. Reported below: 846 F. 2d 754.

No. 88-5033. *BIRGES v. NEVADA*. Appeal from Sup. Ct. Nev. dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied. Reported below: 103 Nev. 796.

No. 88-5084. *MARTIN v. MARYLAND STATE BOARD OF LAW EXAMINERS ET AL.* Appeal from Ct. App. Md. dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied. Reported below: 312 Md. 659, 541 A. 2d 994.

No. 88-5165. *ROTT v. METROPOLITAN FEDERAL SAVINGS & LOAN ASSOCIATION OF JAMES TOWN, NORTH DAKOTA*. Appeal from Sup. Ct. N. D. dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied. Reported below: 422 N. W. 2d 98.

No. 88-5167. *MCALISTER v. ATLANTIC RICHFIELD CO. ET AL.* Appeal from Sup. Ct. Kan. dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied. Reported below: 242 Kan. ix, 763 P. 2d 16.

No. 88-5239. *BOLTON v. CALIFORNIA*. Appeal from Ct. App. Cal., 4th 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. 88-5323. *GAUNCE v. ST. PAUL MERCURY INSURANCE CO. ET AL.* Appeal from C. A. 6th Cir. dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied. Reported below: 844 F. 2d 789.

No. 87-1818. *BADHAM ET AL. v. EU, SECRETARY OF STATE OF CALIFORNIA, ET AL.* Appeal from D. C. N. D. Cal. dismissed for want of jurisdiction. JUSTICE WHITE and JUSTICE STEVENS would note probable jurisdiction and set case for oral argument. Reported below: 694 F. Supp. 664.

No. 87-1842. *KALTSAS ET AL. v. CITY OF NORTH CHICAGO ET AL.* Appeal from App. Ct. Ill., 2d Dist., dismissed for want of substantial federal question. JUSTICE WHITE, JUSTICE BLACK-

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MUN, and JUSTICE O'CONNOR would note probable jurisdiction and set case for oral argument. Reported below: 160 Ill. App. 3d 302, 513 N. E. 2d 438.

No. 87-1889. AMERICAN EXPRESS TRAVEL RELATED SERVICES CO., INC., ET AL. *v.* WASHINGTON PUBLIC POWER SUPPLY SYSTEM ET AL.;

No. 87-1897. HABERMAN ET AL. *v.* WASHINGTON PUBLIC POWER SUPPLY SYSTEM ET AL.; and

No. 87-2109. WOOD DAWSON SMITH & HELLMAN *v.* HABERMAN ET AL. Appeals from Sup. Ct. Wash. dismissed for want of jurisdiction. Reported below: 109 Wash. 2d 107, 744 P. 2d 1032 and 750 P. 2d 254.

No. 87-1896. ROSENTHAL *v.* STATE BAR OF CALIFORNIA. Appeal from Sup. Ct. Cal. dismissed for want of jurisdiction. Reported below: 43 Cal. 3d 612, 738 P. 2d 723.

No. 87-2007. COLONIAL PIPELINE CO. *v.* WRIGHT CONTRACTING CO. Appeal from Sup. Ct. Ga. dismissed for want of jurisdiction. Reported below: 258 Ga. 115, 365 S. E. 2d 827.

No. 87-2088. BLANKEMEYER ET UX. *v.* FEDERAL LAND BANK OF OMAHA. Appeal from Sup. Ct. Neb. dismissed for want of substantial federal question. Reported below: 228 Neb. 249, 422 N. W. 2d 81.

No. 87-2129. WHITE, JUDGE, COURT OF COMMON PLEAS OF PENNSYLVANIA, PHILADELPHIA COUNTY *v.* JUDICIAL INQUIRY AND REVIEW BOARD OF PENNSYLVANIA. Appeal from Sup. Ct. Pa. dismissed for want of substantial federal question. Reported below: 517 Pa. 417, 538 A. 2d 473.

No. 87-6994. LARSON *v.* NORTH DAKOTA. Appeal from Sup. Ct. N. D. dismissed for want of substantial federal question. Reported below: 419 N. W. 2d 897.

No. 88-171. HERZOG ET UX. *v.* COLDING, COLLIER COUNTY PROPERTY APPRAISER, ET AL. Appeal from Dist. Ct. App. Fla., 2d Dist., dismissed for want of substantial federal question. Reported below: 525 So. 2d 888.

No. 88-181. HOUSTON LIGHTING & POWER CO. *v.* PUBLIC UTILITY COMMISSION OF TEXAS. Appeal from Sup. Ct. Tex. dismissed for want of substantial federal question. Reported below: 748 S. W. 2d 439.



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No. 88-230. SAVINGS LEAGUE OF WISCONSIN, LTD., ET AL. v. WISCONSIN DEPARTMENT OF REVENUE ET AL. Appeal from Ct. App. Wis. dismissed for want of substantial federal question. Reported below: 141 Wis. 2d 918, 416 N. W. 2d 650.

No. 87-7100. LARSON v. SHAWANO COUNTY ET AL. Appeal from C. A. 7th Cir. Motion of appellant for sanctions denied. Appeal dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied.

No. 87-7198. SCOTT v. RAINS ET AL. Appeal from Sup. Ct. Tex. dismissed for want of properly presented federal question.

*Certiorari Granted—Vacated and Remanded*

No. 87-1898. BRYANT v. CARLUCCI, SECRETARY OF DEFENSE, ET AL. C. A. 4th Cir. Certiorari granted, judgment vacated, and case remanded for further consideration in light of *Webster v. Doe*, 486 U. S. 592 (1988). Reported below: 838 F. 2d 465.

No. 87-1933. GOLGART ET AL. v. CENTRAL PLASTICS CO. C. A. 10th Cir. Certiorari granted, judgment vacated, and case remanded for further consideration in light of *Budinich v. Becton Dickinson & Co.*, 486 U. S. 196 (1988), and *Buchanan v. Stan-ships, Inc.*, 485 U. S. 265 (1988).

No. 87-2011. WASHINGTON STATE ELECTRICAL CONTRACTORS ASSN., INC., ET AL. v. FORREST ET AL. C. A. 9th Cir. Certiorari granted, judgment vacated, and case remanded for further consideration in light of *Patrick v. Burget*, 486 U. S. 94 (1988). JUSTICE KENNEDY took no part in the consideration or decision of this case. Reported below: 839 F. 2d 547.

No. 87-2079. SHIRK ET UX., DBA OREGON MEAT CUTTING SCHOOL v. McLAUGHLIN, SECRETARY OF LABOR. C. A. 9th Cir. Certiorari granted, judgment vacated, and case remanded for further consideration in light of *McLaughlin v. Richland Shoe Co.*, 486 U. S. 128 (1988). Reported below: 833 F. 2d 1326.

No. 87-6717. JOHNSON v. JOHNSON, WARDEN, ET AL. C. A. 11th Cir. Motion of petitioner for leave to proceed *in forma pauperis* granted. Certiorari granted, judgment vacated, and case remanded for further consideration in light of *Houston v. Lack*, 487 U. S. 266 (1988).



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No. 87-6751. *MILLER v. UNITED STATES*. C. A. 6th Cir. Motion of petitioner for leave to proceed *in forma pauperis* granted. Certiorari granted, judgment vacated, and case remanded for further consideration in light of *Houston v. Lack*, 487 U. S. 266 (1988). Reported below: 836 F. 2d 551.

No. 87-6833. *LLOYD v. NORTH CAROLINA*. Sup. Ct. N. C. Motion of petitioner for leave to proceed *in forma pauperis* granted. Certiorari granted, judgment vacated, and case remanded for further consideration in light of *Mills v. Maryland*, 486 U. S. 367 (1988). Reported below: 321 N. C. 301, 364 S. E. 2d 316.

No. 87-6948. *WOLF v. UNITED STATES*. C. A. 6th Cir. Motion of petitioner for leave to proceed *in forma pauperis* granted. Certiorari granted, judgment vacated, and case remanded for further consideration in light of *Arizona v. Roberson*, 486 U. S. 675 (1988). Reported below: 842 F. 2d 334.

No. 87-7110. *KIMBERLIN v. UNITED STATES*. C. A. 7th Cir. Motion of petitioner for leave to proceed *in forma pauperis* granted. Certiorari granted, judgment vacated, and case remanded for further consideration in light of *Houston v. Lack*, 487 U. S. 266 (1988).

No. 87-7290. *COOK v. TEXAS*. Ct. Crim. App. Tex. Motion of petitioner for leave to proceed *in forma pauperis* granted. Certiorari granted, judgment vacated, and case remanded for further consideration in light of *Satterwhite v. Texas*, 486 U. S. 249 (1988). Reported below: 741 S. W. 2d 928.

#### *Miscellaneous Orders*

No. — — —. *BANK OF SAN MARINO BUILDING, LTD. v. DEFAULT SERVICE CO. ET AL.* Motion of one who is not a member of the Bar of this Court to direct the Clerk to file petition for writ of certiorari denied.

No. — — —. *DRABICK v. DRABICK*. Motion for leave to proceed *in forma pauperis* without an affidavit of indigency executed by petitioner granted.

No. — — —. *FORD v. DUGGER, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS*. Motion for leave to proceed *in forma pauperis* without an affidavit of indigency executed by petitioner granted.

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No. — — —. VALLES *v.* LYNAUGH, DIRECTOR, TEXAS DEPARTMENT OF CORRECTIONS. Motion to direct the Clerk to file petition for writ of certiorari out of time denied.

No. A-239 (No. 114, Orig.). LOUISIANA *v.* MISSISSIPPI ET AL. Application for stay of proceedings in the United States District Court for the Southern District of Mississippi in the case of *Houston et al. v. Thomas et al.*, C. A. No. W86-0080(B), presented to JUSTICE WHITE, and by him referred to the Court, denied.

No. A-260. ARMONTROUT, WARDEN *v.* SMITH. Application of the Attorney General of Missouri for an order to vacate the stay of execution of sentence of death entered by the United States Court of Appeals for the Eighth Circuit, presented to JUSTICE BLACKMUN, and by him referred to the Court, denied.

No. D-717. IN RE DISBARMENT OF ALFIERI. Richard Joseph Alfieri, of Fort Lauderdale, Fla., 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 June 20, 1988 [487 U. S. 1202], is hereby discharged.

No. D-719. IN RE DISBARMENT OF EZRIN. Herbert Stanley Ezrin, of Potomac, Md., 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 June 20, 1988 [487 U. S. 1203], is hereby discharged.

No. D-720. IN RE DISBARMENT OF MACGUIRE. Disbarment entered. [For earlier order herein, see 487 U. S. 1214.]

No. 65, Orig. TEXAS *v.* NEW MEXICO. Motion of the River Master for approval of fees and expenses granted, and the River Master is awarded \$14,085.35 for the period March 28 through June 30, 1988, to be paid equally by the parties. [For earlier decision herein, see, *e. g.*, 485 U. S. 388.]

No. 86-1856. NORTHWEST CENTRAL PIPELINE CORP. *v.* STATE CORPORATION COMMISSION OF KANSAS ET AL. Sup. Ct. Kan. [Probable jurisdiction noted, 486 U. S. 1021.] Motions of Interstate Oil Compact Commission and Council of State Governments et al. for leave to file briefs as *amici curiae* granted.

No. 87-154. DESHANEY, A MINOR, BY HIS GUARDIAN AD LITEM, ET AL. *v.* WINNEBAGO COUNTY DEPARTMENT OF SOCIAL

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SERVICES ET AL. C. A. 7th Cir. [Certiorari granted, 485 U. S. 958.] Motion of the Solicitor General for leave to participate in oral argument as *amicus curiae* and for divided argument granted.

No. 87-163. UNITED STATES ARMY CORPS OF ENGINEERS ET AL. v. AMERON, INC., ET AL. C. A. 3d Cir. [Certiorari granted, 485 U. S. 958.] Motion of respondents for divided argument denied.

No. 87-201. MANSELL v. MANSELL. Ct. App. Cal., 5th App. Dist. [Probable jurisdiction noted, 487 U. S. 1217.] Motion of Retired Officers Association et al. for leave to file a brief as *amici curiae* granted.

No. 87-470. FORT WAYNE BOOKS, INC. v. INDIANA ET AL. Sup. Ct. Ind. [Certiorari granted, 485 U. S. 933.] Motion of James J. Clancy et al. for leave to file a brief as *amici curiae* granted.

No. 87-636. KARAHALIOS v. NATIONAL FEDERATION OF FEDERAL EMPLOYEES, LOCAL 1263. C. A. 9th Cir. [Certiorari granted, 486 U. S. 1041.] Motion of the Solicitor General for leave to participate in oral argument as *amicus curiae* and for divided argument granted.

No. 87-980. MISSISSIPPI BAND OF CHOCTAW INDIANS v. HOLYFIELD ET AL. Sup. Ct. Miss. [Probable jurisdiction postponed, 486 U. S. 1021.] Motion of Swinomish Tribal Community et al. for leave to file a brief as *amici curiae* granted.

No. 87-1020. DAVIS v. MICHIGAN DEPARTMENT OF THE TREASURY. Ct. App. Mich. [Probable jurisdiction noted, 487 U. S. 1217.] Motion of the Solicitor General for leave to participate in oral argument as *amicus curiae* and for divided argument granted.

No. 87-1054. FIRESTONE TIRE & RUBBER CO. ET AL. v. BRUCH ET AL. C. A. 3d Cir. [Certiorari granted, 485 U. S. 986.] Motion of the Solicitor General for leave to participate in oral argument as *amicus curiae* and for divided argument granted.

No. 87-1097. BOWEN, SECRETARY OF HEALTH AND HUMAN SERVICES v. GEORGETOWN UNIVERSITY HOSPITAL ET AL. C. A. D. C. Cir. [Certiorari granted, 485 U. S. 903.] Motion of Ohio Power Co. for leave to file a brief as *amicus curiae* out of time denied.



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No. 87-1165. CALIFORNIA ET AL. *v.* UNITED STATES ET AL. C. A. 9th Cir. [Certiorari granted, 485 U. S. 1020.] Motion of the Solicitor General for divided argument granted.

No. 87-1241. PENNSYLVANIA *v.* UNION GAS CO. C. A. 3d Cir. [Certiorari granted, 485 U. S. 958.] Motion of Pacific Legal Foundation for leave to participate in oral argument as *amicus curiae*, for divided argument, and for additional time for oral argument denied.

No. 87-1372. ARGENTINE REPUBLIC *v.* AMERADA HESS SHIPPING CORP. ET AL. C. A. 2d Cir. [Certiorari granted, 485 U. S. 1005.] Motion of respondents and *amicus curiae*, Republic of Liberia, for divided argument to permit Republic of Liberia to participate in oral argument as *amicus curiae* denied. Motions for leave to file briefs as *amici curiae* filed by the following are granted: Republic of Liberia, American Institute of Marine Underwriters, American Institute of Merchant Shipping et al., Maritime Law Association, International Human Rights Law Group, and International Association of Independent Tanker Owners.

No. 87-1437. BLANTON ET AL. *v.* CITY OF NORTH LAS VEGAS, NEVADA. Sup. Ct. Nev. [Certiorari granted, 487 U. S. 1203.] Motion of the Solicitor General for leave to participate in oral argument as *amicus curiae* and for divided argument denied.

No. 87-1602. CASTILLE, DISTRICT ATTORNEY OF PHILADELPHIA COUNTY, ET AL. *v.* PEOPLES. C. A. 3d Cir. [Certiorari granted, 486 U. S. 1004.] Motion of respondent for leave to proceed further herein *in forma pauperis* granted. Motion for appointment of counsel granted, and it is ordered that Robert E. Welsh, Jr., Esq., of Philadelphia, Pa., be appointed to serve as counsel for respondent in this case.

No. 87-1614. MARTIN ET AL. *v.* WILKS ET AL.;

No. 87-1639. PERSONNEL BOARD OF JEFFERSON COUNTY, ALABAMA, ET AL. *v.* WILKS ET AL.; and

No. 87-1668. ARRINGTON ET AL. *v.* WILKS ET AL. C. A. 11th Cir. [Certiorari granted, 487 U. S. 1204.] Motion of the Solicitor General for divided argument granted. Motion of petitioners for divided argument granted.

No. 87-1703. ROBERTSON, CHIEF OF THE FOREST SERVICE, ET AL. *v.* METHOW VALLEY CITIZENS COUNCIL ET AL.; and

No. 87-1704. MARSH, SECRETARY OF THE ARMY, ET AL. *v.* OREGON NATURAL RESOURCES COUNCIL ET AL. C. A. 9th Cir.



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[Certiorari granted, 487 U. S. 1217.] Motion of the Solicitor General to dispense with printing the joint appendix granted. Motion of Pacific Legal Foundation for leave to file a brief as *amicus curiae* granted.

No. 87-1955. LEWIS, COMPTROLLER OF THE STATE OF FLORIDA *v.* CONTINENTAL BANK CORP. ET AL. Appeal from C. A. 11th Cir.;

No. 87-1979. CHESAPEAKE & OHIO RAILWAY CO. *v.* SCHWALB ET AL. Sup. Ct. Va.;

No. 87-2118. ROJAS ET AL. *v.* VICTORIA INDEPENDENT SCHOOL DISTRICT ET AL. Appeal from D. C. S. D. Tex.;

No. 88-36. BENEFICIAL CORP. ET AL. *v.* DEUTSCHMAN. C. A. 3d Cir.;

No. 88-42. HALLSTROM ET UX. *v.* TILLAMOOK COUNTY. C. A. 9th Cir.;

No. 88-124. BREININGER *v.* SHEET METAL WORKERS INTERNATIONAL ASSOCIATION LOCAL UNION No. 6. C. A. 6th Cir.; and

No. 88-127. NORFOLK & WESTERN RAILWAY CO. *v.* GOODE. Sup. Ct. Va. The Solicitor General is invited to file briefs in these cases expressing the views of the United States.

No. 87-2048. TEXACO INC. *v.* HASBROUCK, DBA RICK'S TEXACO, ET AL. C. A. 9th Cir. Motions of National Association of Texaco Wholesalers, Society of Independent Gasoline Marketers of America et al., Petroleum Marketers Association of America, and National Association of Manufacturers of the United States et al. for leave to file briefs as *amici curiae* granted. The Solicitor General is invited to file a brief in this case expressing the views of the United States.

No. 87-7077. MCDEVITT *v.* CITY OF PHILADELPHIA ET AL. C. A. 3d Cir.;

No. 87-7193. BARTOS *v.* CHICAGO BOARD OF ELECTION ET AL. C. A. 7th Cir.;

No. 87-7240. ORYNICZ *v.* VETERANS ADMINISTRATION. C. A. 3d Cir.;

No. 87-7306. JACKSON *v.* UNITED STATES. C. A. 9th Cir.; and

No. 88-5041. LANDES *v.* DEPARTMENT OF STATE ET AL. C. A. 3d Cir. Motions of petitioners for leave to proceed *in forma pauperis* denied. Petitioners are allowed until October 24,

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1988, within which to pay the docketing fee required by Rule 45(a) and to submit petitions in compliance with Rule 33 of the Rules of this Court.

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

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

No. 87-7273. VEST *v.* UNITED STATES. C. A. 1st Cir.; and

No. 88-5188. BENNETT *v.* CORROON & BLACK CORP. ET AL. C. A. 5th Cir. Motions of petitioners for leave to proceed *in forma pauperis* denied. Petitioners are allowed until October 24, 1988, within which to pay the docketing fee required by Rule 45(a) and to submit petitions in compliance with Rule 33 of the Rules of this Court.

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

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

No. 88-464. RAILWAY LABOR EXECUTIVES' ASSN. ET AL. *v.* CHICAGO & NORTH WESTERN TRANSPORTATION CO. ET AL. C. A. 7th Cir. Motion of petitioner to expedite consideration of the petition for writ of certiorari denied.

No. 88-5054. SULLIVAN *v.* SULLIVAN. Appeal from Sup. Ct. Tex. Motion of appellant for leave to proceed *in forma pauperis* denied. Appellant is allowed until October 24, 1988, within which to pay the docketing fee required by Rule 45(a) and to submit a statement as to jurisdiction in compliance with Rule 33 of the Rules of this Court.

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

For the reasons expressed in *Brown v. Herald Co.*, 464 U. S. 928 (1983), we would dismiss the appeal for want of jurisdiction and, treating the papers whereon the appeal would be taken as a petition for writ of certiorari, deny the petition for writ of certio-

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rari without reaching the merits of the motion to proceed *in forma pauperis*.

No. 88-5126. TALLMAN *v.* NORTHWEST ACUTE CARE CORP., DBA NORTHWEST HOSPITAL. Appeal from Ct. App. Iowa;

No. 88-5141. TALLMAN *v.* ORT ET AL. Appeal from Ct. App. Iowa; and

No. 88-5254. TALLMAN *v.* UNITED STATES ET AL. Appeal from C. A. 8th Cir. Motions of appellant for leave to proceed *in forma pauperis* denied. Appellant is allowed until October 24, 1988, within which to pay the docketing fee required by Rule 45(a) and to submit statements as to jurisdiction in compliance with Rule 33 of the Rules of this Court.

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

For the reasons expressed in *Brown v. Herald Co.*, 464 U. S. 928 (1983), we would dismiss the appeals for want of jurisdiction and, treating the papers whereon the appeals would be taken as petitions for writs of certiorari, deny the petitions for writs of certiorari without reaching the merits of the motions to proceed *in forma pauperis*.

No. 88-5240. BARGET *v.* BARGET. Ct. Sp. App. Md. Motion of petitioner for leave to proceed *in forma pauperis* denied. Petitioner is allowed until October 24, 1988, within which to pay the docketing fee required by Rule 45(a) and to submit a petition in compliance with Rule 33 of the Rules of this Court.

JUSTICE BRENNAN and JUSTICE MARSHALL, dissenting.

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

No. 87-7157. IN RE HYLTON. County Ct. at Law, Liberty County, Tex.;

No. 87-7183. IN RE McDONALD. Sup. Ct. Tenn.;

No. 87-7220. IN RE McDONALD. Sup. Ct. Tenn.;

No. 87-7236. IN RE PEARSON. Super. Ct. Ga., Clarke County; and

No. 88-5006. IN RE McDONALD. Ct. Crim. App. Tenn. Petitions for writs of common-law certiorari denied.



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No. 88-5148. IN RE VELLA. Petition for writ of habeas corpus denied.

No. 87-1989. IN RE GOULD ET AL.;

No. 87-7043. IN RE GRIFFIN;

No. 87-7051. IN RE REDDEN ET UX.;

No. 87-7114. IN RE DAVIS;

No. 87-7115. IN RE GILL;

No. 87-7135. IN RE PHILLIPS ET AL.;

No. 87-7232. IN RE BALAWAJDER;

No. 87-7349. IN RE MINGLEDOLPH;

No. 88-55. IN RE ROBERTS;

No. 88-152. IN RE ALL AMERICAN SERVICES, LTD.; and

No. 88-310. IN RE MASON ET UX. Petitions for writs of mandamus denied.

No. 87-7176. IN RE BALAWAJDER. Petition for writ of mandamus and/or certiorari denied.

No. 87-7002. IN RE SHARIF; and

No. 88-5140. IN RE RADVAN-ZIEMNOWICZ. Petitions for writs of mandamus and/or prohibition denied.

No. 87-7024. IN RE POTE. Motion of petitioner for imposition of sanctions denied. Petition for writ of mandamus and/or prohibition denied.

No. 88-260. IN RE DAVIS. Petition for writ of prohibition denied.

*Probable Jurisdiction Noted*

No. 87-1945. FRAZEE *v.* ILLINOIS DEPARTMENT OF EMPLOYMENT SECURITY ET AL. Appeal from App. Ct. Ill., 3d Dist. Probable jurisdiction noted. Reported below: 159 Ill. App. 3d 474, 512 N. E. 2d 789.

No. 87-2098. BURNLEY, SECRETARY OF TRANSPORTATION *v.* MID-AMERICA PIPELINE CO. Appeal from D. C. N. D. Okla. Probable jurisdiction noted.

No. 87-1862. CALIFORNIA ET AL. *v.* ARC AMERICA CORP. ET AL. Appeal from C. A. 9th Cir. Probable jurisdiction noted. JUSTICE STEVENS and JUSTICE O'CONNOR took no part in the consideration or decision of this case. Reported below: 817 F. 2d 1435.



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No. 87-1943. MINNESOTA NEWSPAPER ASSN., INC. *v.* POSTMASTER GENERAL OF THE UNITED STATES ET AL.; and

No. 87-1956. FRANK, POSTMASTER GENERAL OF THE UNITED STATES, ET AL. *v.* MINNESOTA NEWSPAPER ASSN., INC. Appeals from D. C. Minn. Probable jurisdiction noted, cases consolidated, and a total of one hour allotted for oral argument. Reported below: 677 F. Supp. 1400.

*Certiorari Granted*

No. 87-1490. MALLARD *v.* UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF IOWA ET AL. C. A. 8th Cir. Certiorari granted.

No. 87-1759. TEXAS STATE TEACHERS ASSN. ET AL. *v.* GARLAND INDEPENDENT SCHOOL DISTRICT ET AL. C. A. 5th Cir. Certiorari granted. Reported below: 837 F. 2d 190.

No. 87-1848. CITY OF DALLAS ET AL. *v.* STANGLIN, INDIVIDUALLY AND DBA TWILIGHT SKATING RINK. Ct. App. Tex., 5th Dist. Certiorari granted. Reported below: 744 S. W. 2d 165.

No. 87-1855. GILHOOL, SECRETARY OF EDUCATION OF PENNSYLVANIA *v.* MUTH ET AL. C. A. 3d Cir. Certiorari granted. Reported below: 839 F. 2d 113.

No. 87-1865. FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION, AS RECEIVER FOR MANNING SAVINGS & LOAN ASSN. *v.* TICKTIN ET AL. C. A. 7th Cir. Certiorari granted. Reported below: 832 F. 2d 1438.

No. 87-1868. MEAD CORP. *v.* TILLEY ET AL. C. A. 4th Cir. Certiorari granted. Reported below: 815 F. 2d 989.

No. 87-1973. FINLEY *v.* UNITED STATES. C. A. 9th Cir. Certiorari granted.

No. 87-2013. BOARD OF TRUSTEES OF THE STATE UNIVERSITY OF NEW YORK ET AL. *v.* FOX ET AL. C. A. 2d Cir. Certiorari granted. Reported below: 841 F. 2d 1207.

No. 88-1. CONSOLIDATED RAIL CORPORATION *v.* RAILWAY LABOR EXECUTIVES' ASSN. ET AL. C. A. 3d Cir. Certiorari granted. Reported below: 845 F. 2d 1187.

No. 88-32. MASSACHUSETTS *v.* MORASH. Sup. Jud. Ct. Mass. Certiorari granted. Reported below: 402 Mass. 287, 522 N. E. 2d 409.

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No. 88-226. *WARD ET AL. v. ROCK AGAINST RACISM*. C. A. 2d Cir. Certiorari granted. Reported below: 848 F. 2d 367.

No. 88-266. *OKLAHOMA TAX COMMISSION v. GRAHAM ET AL.* C. A. 10th Cir. Certiorari granted. Reported below: 846 F. 2d 1258.

No. 87-1882. *NEITZKE ET AL. v. WILLIAMS*. C. A. 7th Cir. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari granted. Reported below: 837 F. 2d 304.

No. 87-2050. *COUNTY OF ALLEGHENY ET AL. v. AMERICAN CIVIL LIBERTIES UNION, GREATER PITTSBURGH CHAPTER, ET AL.*;

No. 88-90. *CHABAD v. AMERICAN CIVIL LIBERTIES UNION ET AL.*; and

No. 88-96. *CITY OF PITTSBURGH v. AMERICAN CIVIL LIBERTIES UNION, GREATER PITTSBURGH CHAPTER, ET AL.* C. A. 3d Cir. Certiorari granted, cases consolidated, and a total of one hour allotted for oral argument. Reported below: 842 F. 2d 655.

No. 87-6571. *GRAHAM v. CONNOR ET AL.* C. A. 4th Cir. Motion of petitioner for leave to proceed *in forma pauperis* granted. Certiorari granted. Reported below: 827 F. 2d 945.

No. 88-97. *FORD MOTOR CO. v. BRYANT*. C. A. 9th Cir. Motion of American Bar Association for leave to file a brief as *amicus curiae* granted. Certiorari granted.\* Reported below: 844 F. 2d 602.

*Certiorari Denied.* (See also Nos. 87-1647, 87-1783, 87-1837, 87-1892, 87-1944, 87-1948, 87-2045, 87-2110, 87-2132, 87-2133, 87-7036, 87-7084, 87-7181, 87-7216, 87-7293, 87-7294, 87-7324, 88-113, 88-180, 88-212, 88-213, 88-238, 88-5033, 88-5084, 88-5165, 88-5167, 88-5239, 88-5323, 87-7100, 87-7157, 87-7183, 87-7220, 87-7236, 88-5006, and 87-7176, *supra*.)

No. 87-1584. *GELDERMANN, INC. v. COMMODITY FUTURES TRADING COMMISSION*; and

No. 87-1663. *BOARD OF TRADE OF CITY OF CHICAGO v. COMMODITY FUTURES TRADING COMMISSION*. C. A. 7th Cir. Certiorari denied. Reported below: 836 F. 2d 310.

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\*[REPORTER'S NOTE: The portion of this order granting certiorari was subsequently vacated and certiorari was denied. See *post*, p. 986.]

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No. 87-1648. POOLE *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 832 F. 2d 561.

No. 87-1691. ORELLANES *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 809 F. 2d 1526.

No. 87-1707. STAUBER *v.* CLINE ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 837 F. 2d 395.

No. 87-1717. BONILLA ROMERO *v.* UNITED STATES. C. A. 1st Cir. Certiorari denied. Reported below: 836 F. 2d 39.

No. 87-1718. UNSECURED CREDITORS' COMMITTEE ET AL. *v.* FIRST NATIONAL BANK & TRUST COMPANY OF ESCANABA ET AL. C. A. 6th Cir. Certiorari denied. Reported below: 834 F. 2d 599.

No. 87-1722. BARNHART ET UX. *v.* PENNSYLVANIA. Super. Ct. Pa. Certiorari denied. Reported below: 345 Pa. Super. 10, 497 A. 2d 616.

No. 87-1726. EL GAWLI *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied. Reported below: 837 F. 2d 142.

No. 87-1737. BUCKNO *v.* PENNSYLVANIA. Sup. Ct. Pa. Certiorari denied. Reported below: 517 Pa. 361, 537 A. 2d 811.

No. 87-1740. POLLIO *v.* NEW JERSEY. Super. Ct. N. J., App. Div. Certiorari denied.

No. 87-1743. OMNI U. S. A., INC. *v.* UNITED STATES. C. A. Fed. Cir. Certiorari denied. Reported below: 840 F. 2d 912.

No. 87-1755. SOX *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 835 F. 2d 1439.

No. 87-1762. ELLIS *v.* MASSACHUSETTS. App. Ct. Mass. Certiorari denied. Reported below: 25 Mass. App. 1112, 518 N. E. 2d 1166.

No. 87-1769. ANDREWS ET AL. *v.* VETERANS ADMINISTRATION. C. A. 10th Cir. Certiorari denied. Reported below: 838 F. 2d 418.

No. 87-1789. BAKER, SMITH & MILLS, FKA BAKER, MILLER, MILLS & MURRAY *v.* MINEREX ERDOEL, INC., ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 838 F. 2d 781.



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No. 87-1791. *NORTHWESTERN NATIONAL INSURANCE COMPANY OF MILWAUKEE, WISCONSIN v. MELLON BANK*. C. A. 3d Cir. Certiorari denied. Reported below: 838 F. 2d 1207.

No. 87-1797. *JORDAN v. MISSISSIPPI*. Sup. Ct. Miss. Certiorari denied. Reported below: 518 So. 2d 1186.

No. 87-1804. *TRI-BIO LABORATORIES, INC. v. UNITED STATES ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 836 F. 2d 135.

No. 87-1807. *DIAZ v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 834 F. 2d 287.

No. 87-1808. *TERCO, INC. v. FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION*. C. A. 6th Cir. Certiorari denied. Reported below: 839 F. 2d 236.

No. 87-1835. *CALIFORNIA ENERGY RESOURCES CONSERVATION AND DEVELOPMENT COMMISSION v. BONNEVILLE POWER ADMINISTRATION ET AL.*; and

No. 87-1836. *CALIFORNIA PUBLIC UTILITIES COMMISSION v. BONNEVILLE POWER ADMINISTRATION ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 831 F. 2d 1467.

No. 87-1838. *MEDRANO v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 836 F. 2d 861.

No. 87-1845. *CHAISSON v. RUTLAND*. Ct. App. Tex., 5th Dist. Certiorari denied. Reported below: 729 S. W. 2d 923.

No. 87-1847. *ARONSON, A MINOR, BY ARONSON, HER MOTHER v. MASSACHUSETTS*. Sup. Jud. Ct. Mass. Certiorari denied. Reported below: 401 Mass. 244, 516 N. E. 2d 137.

No. 87-1852. *LOPEZ v. FLORIDA*. Dist. Ct. App. Fla., 1st Dist. Certiorari denied. Reported below: 522 So. 2d 390.

No. 87-1858. *WISNIEWSKI v. NEW JERSEY*. Super. Ct. N. J., App. Div. Certiorari denied.

No. 87-1867. *TURNER ET AL. v. MCMAHON, DIRECTOR, DEPARTMENT OF SOCIAL SERVICES OF CALIFORNIA, ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 830 F. 2d 1003.

No. 87-1870. *ESTATE OF O'LEARY ET AL. v. COMMISSIONER OF INTERNAL REVENUE*. C. A. 5th Cir. Certiorari denied. Reported below: 837 F. 2d 1088.



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No. 87-1876. ASSOCIATED CONVALESCENT ENTERPRISES, INC. *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 835 F. 2d 1436.

No. 87-1883. MALONE *v.* FRANK, UNITED STATES POSTMASTER GENERAL, ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 833 F. 2d 128.

No. 87-1885. MAGIC II, INC. *v.* GROPP, COMMISSIONER OF REVENUE SERVICES OF CONNECTICUT. Sup. Ct. Conn. Certiorari denied. Reported below: 206 Conn. 253, 537 A. 2d 998.

No. 87-1886. GREENBERG *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 842 F. 2d 1293.

No. 87-1890. LUCIANO PISONI FABBRICA ACCESSORI INSTRUMENTI MUSICALI ET AL. *v.* UNITED STATES. C. A. Fed. Cir. Certiorari denied. Reported below: 837 F. 2d 465.

No. 87-1891. DRUID HILLS CIVIC ASSN., INC., ET AL. *v.* FEDERAL HIGHWAY ADMINISTRATION ET AL. C. A. 11th Cir. Certiorari denied. Reported below: 833 F. 2d 1545.

No. 87-1893. MILLER *v.* CALIFORNIA. Ct. App. Cal., 1st App. Dist. Certiorari denied.

No. 87-1894. PET, INC. *v.* BUCKNER. Ct. App. Okla. Certiorari denied.

No. 87-1895. EILRICH *v.* REMAS ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 839 F. 2d 630.

No. 87-1900. FEDERICO ET AL. *v.* LINGL ET AL. Ct. App. Cal., 2d App. Dist. Certiorari denied.

No. 87-1901. TRANSAMERICAN NATURAL GAS CORP. *v.* UNITED STATES DEPARTMENT OF THE INTERIOR ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 841 F. 2d 394.

No. 87-1902. ALLIED-GENERAL NUCLEAR SERVICES ET AL. *v.* UNITED STATES. C. A. Fed. Cir. Certiorari denied. Reported below: 839 F. 2d 1572.

No. 87-1903. FITGER BREWING CO. *v.* MINNESOTA. Ct. App. Minn. Certiorari denied. Reported below: 416 N. W. 2d 200.

No. 87-1906. MORRISON ET UX. *v.* COUNTY OF SAN DIEGO. Ct. App. Cal., 4th App. Dist. Certiorari denied.

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No. 87-1909. *HOULTON v. NEBRASKA*. Sup. Ct. Neb. Certiorari denied. Reported below: 227 Neb. 215, 416 N. W. 2d 588.

No. 87-1910. *WESTMORELAND v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 841 F. 2d 572.

No. 87-1912. *WARD v. UNITED STATES*. C. A. 10th Cir. Certiorari denied.

No. 87-1915. *GARCIA-CABAN ET AL. v. UNIVERSITY OF PUERTO RICO ET AL.* Sup. Ct. P. R. Certiorari denied. Reported below: 120 D. P. R. 167.

No. 87-1917. *LOVE BOX CO., INC. v. COMMISSIONER OF INTERNAL REVENUE*. C. A. 10th Cir. Certiorari denied. Reported below: 842 F. 2d 1213.

No. 87-1918. *TRANS WORLD AIRLINES, INC. v. NATIONAL MEDIATION BOARD ET AL.*;

No. 87-2069. *INTERNATIONAL ASSOCIATION OF MACHINISTS & AEROSPACE WORKERS, AFL-CIO v. TRANS WORLD AIRLINES, INC.*; and

No. 87-2101. *BOLLER ET AL. v. NATIONAL MEDIATION BOARD ET AL.* C. A. D. C. Cir. Certiorari denied. Reported below: 268 U. S. App. D. C. 130, 839 F. 2d 809, and 270 U. S. App. D. C. 175, 848 F. 2d 232.

No. 87-1919. *YUKON ENERGY CORP. v. HAGERMAN*. C. A. 8th Cir. Certiorari denied. Reported below: 839 F. 2d 407.

No. 87-1920. *CHOLODENKO v. CALIFORNIA*. Ct. App. Cal., 2d App. Dist. Certiorari denied.

No. 87-1921. *WINSLOW ET UX. v. WILLIAMS ET AL.* Ct. App. Colo. Certiorari denied. Reported below: 749 P. 2d 433.

No. 87-1922. *NL INDUSTRIES, INC. v. UNITED STATES*. C. A. Fed. Cir. Certiorari denied. Reported below: 839 F. 2d 1578.

No. 87-1923. *GARVER v. UNITED STATES ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 846 F. 2d 1029.

No. 87-1925. *PATH-SCIENCE LABORATORIES, INC., ET AL. v. GREENE COUNTY HOSPITAL*. C. A. 5th Cir. Certiorari denied. Reported below: 835 F. 2d 589.

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No. 87-1928. *SINGER ET AL. v. SHANNON & LUCHS CO.*  
C. A. D. C. Cir. Certiorari denied.

No. 87-1930. *SMITH v. FIRST NATIONAL BANK OF ATLANTA.*  
C. A. 11th Cir. Certiorari denied. Reported below: 837 F. 2d 1575.

No. 87-1931. *FITZSIMMONS v. FITZSIMMONS ET AL.* C. A. 7th Cir. Certiorari denied.

No. 87-1934. *GLASSBORO SERVICE ASSN., INC. v. MCCLAUGHLIN, SECRETARY OF LABOR.* C. A. 3d Cir. Certiorari denied. Reported below: 841 F. 2d 1119.

No. 87-1935. *PALAZZOLO v. UNITED STATES*; and  
No. 87-7224. *EVOLA v. UNITED STATES.* C. A. 6th Cir. Certiorari denied. Reported below: 838 F. 2d 158.

No. 87-1936. *OIL, CHEMICAL & ATOMIC WORKERS INTERNATIONAL UNION ET AL. v. SINCLAIR OIL CORP. ET AL.* Sup. Ct. Wyo. Certiorari denied. Reported below: 748 P. 2d 283.

No. 87-1938. *INTERSTATE COMMERCE COMMISSION v. TEXAS ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 837 F. 2d 184.

No. 87-1940. *FUDGE ET AL. v. PENTHOUSE INTERNATIONAL, LTD., ET AL.* C. A. 1st Cir. Certiorari denied. Reported below: 840 F. 2d 1012.

No. 87-1946. *PERHOLTZ v. UNITED STATES*;  
No. 87-7011. *JACKSON v. UNITED STATES.* C. A. D. C. Cir. Certiorari denied. Reported below: 268 U. S. App. D. C. 347, 842 F. 2d 343.

No. 87-1947. *VITALE ET AL. v. SNAIDER ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 842 F. 2d 1288.

No. 87-1949. *VACANTI v. UNITED STATES.* C. A. 9th Cir. Certiorari denied. Reported below: 840 F. 2d 22.

No. 87-1953. *MISSOURI v. CONTINENTAL INSURANCE COS. ET AL.* C. A. 8th Cir. Certiorari denied. Reported below: 842 F. 2d 977.

No. 87-1958. *GIARDINA v. UNITED STATES.* C. A. 2d Cir. Certiorari denied. Reported below: 842 F. 2d 1380.



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No. 87-1959. *PHILLIPS PETROLEUM CO. ET AL. v. BROWN ET AL.* C. A. 10th Cir. Certiorari denied. Reported below: 838 F. 2d 451.

No. 87-1960. *SPOOR v. BIGFORD.* C. A. 5th Cir. Certiorari denied. Reported below: 834 F. 2d 1213.

No. 87-1963. *KOZIARA ET AL. v. COMMISSIONER OF INTERNAL REVENUE.* C. A. 6th Cir. Certiorari denied. Reported below: 841 F. 2d 1126.

No. 87-1964. *MELNICK v. STATE FARM MUTUAL AUTOMOBILE INSURANCE CO. ET AL.* Sup. Ct. N. M. Certiorari denied. Reported below: 106 N. M. 726, 749 P. 2d 1105.

No. 87-1966. *JENSEN v. HAINES, WARDEN.* C. A. 8th Cir. Certiorari denied.

No. 87-1967. *BARROW v. HOOD ET AL.* C. A. 11th Cir. Certiorari denied. Reported below: 842 F. 2d 337.

No. 87-1969. *BOROUGH OF BERWICK ET AL. v. NEIDERHISER ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 840 F. 2d 213.

No. 87-1970. *OHAI v. NEVADA.* Sup. Ct. Nev. Certiorari denied. Reported below: 104 Nev. 867, 809 P. 2d 614.

No. 87-1971. *GRIFFIN, BY AND THROUGH HER NEXT FRIEND AND NATURAL FATHER, GRIFFIN, ET AL. v. FORD MOTOR CO.* C. A. 11th Cir. Certiorari denied. Reported below: 835 F. 2d 1369.

No. 87-1974. *ROUSSELLE v. LOUISIANA.* Ct. App. La., 4th Cir. Certiorari denied. Reported below: 514 So. 2d 577.

No. 87-1976. *ALUMAX INC. v. U. S. ALUMINUM CORPORATION/TEXAS.* C. A. 9th Cir. Certiorari denied. Reported below: 831 F. 2d 878.

No. 87-1977. *MARINE BANK OF SPRINGFIELD, SPECIAL ADMINISTRATOR OF THE ESTATE OF WELLER v. HENDRICKSON ET AL.* C. A. 7th Cir. Certiorari denied. Reported below: 843 F. 2d 500.

No. 87-1978. *MEHTA ET AL. v. BOARD OF TRUSTEES OF THE CONNECTICUT STATE UNIVERSITIES ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 838 F. 2d 1203.

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No. 87-1980. *JIMENEZ-NETTLESHIP ET AL. v. CORTES-QUINONES*. C. A. 1st Cir. Certiorari denied. Reported below: 842 F. 2d 556.

No. 87-1981. *HARRIS v. REFINERS TRANSPORT & TERMINAL CORP. ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 836 F. 2d 549.

No. 87-1983. *JOHNSON v. UNITED STATES*. Ct. Mil. App. Certiorari denied. Reported below: 26 M. J. 222.

No. 87-1984. *THOMAS v. SEABOARD SYSTEM RAILROAD, INC.* Sup. Ct. Va. Certiorari denied.

No. 87-1986. *COLZIE v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 843 F. 2d 1388.

No. 87-1987. *MOORE v. CONSOLIDATED RAIL CORPORATION*. C. A. 3d Cir. Certiorari denied. Reported below: 845 F. 2d 1013.

No. 87-1988. *MIAMI CENTER LIMITED PARTNERSHIP ET AL. v. BANK OF NEW YORK*. C. A. 11th Cir. Certiorari denied. Reported below: 838 F. 2d 1547.

No. 87-1990. *BODDIE v. FAISON ET UX.* C. A. D. C. Cir. Certiorari denied. Reported below: 268 U. S. App. D. C. 1, 839 F. 2d 680.

No. 87-1991. *GUINNANE ET AL. v. CITY AND COUNTY OF SAN FRANCISCO ET AL.* Ct. App. Cal., 1st App. Dist. Certiorari denied. Reported below: 197 Cal. App. 3d 862, 241 Cal. Rptr. 787.

No. 87-1992. *KERO v. MOREL ET AL.* Super. Ct. N. J., App. Div. Certiorari denied.

No. 87-1995. *HOOVER v. MUSOLINO ET AL.* Sup. Ct. Va. Certiorari denied. Reported below: 234 Va. 558, 364 S. E. 2d 207.

No. 87-2000. *LAST CHANCE MINING CO., INC., ET AL. v. UNITED STATES*. C. A. Fed. Cir. Certiorari denied. Reported below: 846 F. 2d 77.

No. 87-2001. *SCHIFFERLY v. COMMISSIONER OF PATENTS*. C. A. Fed. Cir. Certiorari denied. Reported below: 845 F. 2d 1033.

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No. 87-2002. *RIGHT TO LIFE ADVOCATES, INC., ET AL. v. AARON WOMEN'S CLINIC*. Ct. App. Tex., 14th Dist. Certiorari denied. Reported below: 737 S. W. 2d 564.

No. 87-2009. *GREENMAN v. UNITED STATES*. C. A. Fed. Cir. Certiorari denied. Reported below: 845 F. 2d 1034.

No. 87-2010. *CALIFORNIA ET AL. v. UNITED STATES ET AL.* Sup. Ct. Cal. Certiorari denied. Reported below: 44 Cal. 3d 448, 749 P. 2d 324.

No. 87-2014. *RHINEBARGER ET AL. v. ORR, GOVERNOR OF INDIANA, ET AL.* C. A. 7th Cir. Certiorari denied. Reported below: 839 F. 2d 387.

No. 87-2015. *PRINCE v. ILLINOIS*. App. Ct. Ill., 1st Dist. Certiorari denied. Reported below: 162 Ill. App. 3d 1166, 528 N. E. 2d 1114.

No. 87-2017. *BINTZ v. RIDDICK ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 836 F. 2d 1342.

No. 87-2018. *REINISCH ET UX. v. UNITED STATES ET AL.* C. A. 10th Cir. Certiorari denied.

No. 87-2019. *PINEMAN ET AL. v. FALLON, CHAIRMAN OF THE CONNECTICUT STATE EMPLOYEES RETIREMENT COMMISSION, ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 842 F. 2d 598.

No. 87-2020. *MANN v. UNITED STATES*. Ct. Mil. App. Certiorari denied. Reported below: 26 M. J. 1.

No. 87-2021. *WCCO RADIO, INC., A DIVISION OF MIDWEST COMMUNICATIONS, INC. v. NATIONAL LABOR RELATIONS BOARD*. C. A. 8th Cir. Certiorari denied. Reported below: 844 F. 2d 511.

No. 87-2024. *KORD v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 836 F. 2d 368.

No. 87-2026. *SOCHIN v. COMMISSIONER OF INTERNAL REVENUE*. C. A. 9th Cir. Certiorari denied. Reported below: 843 F. 2d 351.

No. 87-2028. *COCHRANE v. CONTE ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 838 F. 2d 473.



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No. 87-2029. *HILL v. DEPARTMENT OF THE AIR FORCE ET AL.* C. A. 10th Cir. Certiorari denied. Reported below: 844 F. 2d 1407.

No. 87-2031. *LONG v. LARAMIE COUNTY COMMUNITY COLLEGE DISTRICT ET AL.* C. A. 10th Cir. Certiorari denied. Reported below: 840 F. 2d 743.

No. 87-2032. *LILLY v. EBSCO INDUSTRIES, INC.* C. A. 6th Cir. Certiorari denied. Reported below: 840 F. 2d 333.

No. 87-2033. *MICHIGAN v. TULLOCK.* Ct. App. Mich. Certiorari denied.

No. 87-2035. *GORDON ET UX. v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. Reported below: 835 F. 2d 96.

No. 87-2036. *HEROLD v. BURLINGTON NORTHERN INC.* C. A. 8th Cir. Certiorari denied. Reported below: 838 F. 2d 296.

No. 87-2040. *MISSOURI ET AL. v. ROCKWOOD SCHOOL DISTRICT ET AL.* C. A. 8th Cir. Certiorari denied. Reported below: 839 F. 2d 400.

No. 87-2041. *JONES v. NIAGARA FRONTIER TRANSPORTATION AUTHORITY ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 836 F. 2d 731.

No. 87-2042. *WARNER CABLE COMMUNICATIONS, INC. v. CITY OF NICEVILLE, FLORIDA, ET AL.* Sup. Ct. Fla. Certiorari denied. Reported below: 520 So. 2d 245.

No. 87-2043. *MOORE v. FLORIDA.* Dist. Ct. App. Fla., 5th Dist. Certiorari denied. Reported below: 525 So. 2d 899.

No. 87-2044. *THRUSH ET AL. v. THRUSH.* C. A. 3d Cir. Certiorari denied. Reported below: 845 F. 2d 1016.

No. 87-2046. *UNIROYAL, INC., ET AL. v. RUDKIN-WILEY CORP.* C. A. Fed. Cir. Certiorari denied. Reported below: 837 F. 2d 1044.

No. 87-2053. *LIBERTY LOBBY, INC. v. DOW JONES & Co., INC., ET AL.* C. A. D. C. Cir. Certiorari denied. Reported below: 267 U. S. App. D. C. 337, 838 F. 2d 1287.

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No. 87-2055. *UNIVERSITY OF MEDICINE AND DENTISTRY OF NEW JERSEY ET AL. v. FUCHILLA*. Sup. Ct. N. J. Certiorari denied. Reported below: 109 N. J. 319, 537 A. 2d 652.

No. 87-2059. *MIRRO v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 838 F. 2d 1210.

No. 87-2060. *MORAN v. MONTANA*. Sup. Ct. Mont. Certiorari denied. Reported below: 231 Mont. 387, 753 P. 2d 333.

No. 87-2061. *COLLINS v. BARRY, DIRECTOR, OHIO DEPARTMENT OF HUMAN SERVICES*. C. A. 6th Cir. Certiorari denied. Reported below: 841 F. 2d 1297.

No. 87-2062. *HARGROVE v. UNITED STATES*. Ct. Mil. App. Certiorari denied. Reported below: 25 M. J. 68.

No. 87-2063. *DANIEL v. EATON CORP. ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 839 F. 2d 263.

No. 87-2064. *B. F. GOODRICH CO. v. LAKE*. C. A. 11th Cir. Certiorari denied. Reported below: 837 F. 2d 449.

No. 87-2065. *RUZA v. PENNSYLVANIA*. Super. Ct. Pa. Certiorari denied. Reported below: 371 Pa. Super. 648, 534 A. 2d 134.

No. 87-2071. *RODRIGUEZ DIAZ ET AL. v. MEXICANA DE AVION, S. A., ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 843 F. 2d 498.

No. 87-2074. *A. H. ROBINS CO., INC. v. MARESSA*. C. A. 4th Cir. Certiorari denied. Reported below: 839 F. 2d 220.

No. 87-2075. *BOARD OF TRUSTEES OF THE UNIVERSITY OF ALABAMA ET AL. v. MEDICAL LAUNDRY SERVICE, A DIVISION OF OPLCO, INC.* C. A. 11th Cir. Certiorari denied. Reported below: 840 F. 2d 840.

No. 87-2076. *J & C, INC., ET AL. v. COMBINED COMMUNICATIONS CORPORATION OF KENTUCKY, INC., ET AL.* Ct. App. Ky. Certiorari denied.

No. 87-2077. *STERN v. NIX, CHIEF JUSTICE, SUPREME COURT OF PENNSYLVANIA, ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 840 F. 2d 208.

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No. 87-2078. *PANTER ET AL. v. AMERICAN SYNTHETIC RUBBER CORP. ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 845 F. 2d 327.

No. 87-2081. *SPERRAZZA v. UNITED STATES.* Ct. Mil. App. Certiorari denied. Reported below: 26 M. J. 282.

No. 87-2087. *SITKA v. UNITED STATES.* C. A. 2d Cir. Certiorari denied. Reported below: 845 F. 2d 43.

No. 87-2089. *CARLISLE v. COUNTY OF SAN MATEO ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 841 F. 2d 1128.

No. 87-2090. *JAIN v. UNIVERSITY OF TENNESSEE AT MARTIN.* C. A. 6th Cir. Certiorari denied. Reported below: 843 F. 2d 1391.

No. 87-2091. *ALLIED VAN LINES INC. v. WILKERSON ET AL.* Super. Ct. Pa. Certiorari denied. Reported below: 360 Pa. Super. 523, 521 A. 2d 25.

No. 87-2092. *ANDERSON v. ALABAMA STATE PERSONNEL BOARD ET AL.* C. A. 11th Cir. Certiorari denied. Reported below: 844 F. 2d 796.

No. 87-2097. *CARDIN v. MARYLAND.* Ct. Sp. App. Md. Certiorari denied. Reported below: 73 Md. App. 200, 533 A. 2d 928.

No. 87-2100. *LORETTO v. GROUP W CABLE, INC., ET AL.* App. Div., Sup. Ct. N. Y., 1st Jud. Dept. Certiorari denied. Reported below: 135 App. Div. 2d 444, 522 N. Y. S. 2d 543.

No. 87-2103. *BARREN, AN INCOMPETENT, BY HIS GUARDIAN, BARREN v. UNITED STATES.* C. A. 3d Cir. Certiorari denied. Reported below: 839 F. 2d 987.

No. 87-2104. *LAKE NACIMIENTO RANCH CO. v. COUNTY OF SAN LUIS OBISPO, CALIFORNIA.* C. A. 9th Cir. Certiorari denied. Reported below: 841 F. 2d 872.

No. 87-2105. *LINER ET AL. v. TERREBONNE PARISH SCHOOL BOARD ET AL.* Ct. App. La., 1st Cir. Certiorari denied. Reported below: 519 So. 2d 777.

No. 87-2106. *KASCHAK v. SUPERIOR COURT OF CALIFORNIA, KERN COUNTY (PINE MOUNTAIN CLUB PROPERTY OWNERS'*



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ASSN., REAL PARTY IN INTEREST). Ct. App. Cal., 5th App. Dist. Certiorari denied.

No. 87-2107. *LEWIS v. ANCLOTE MANOR HOSPITAL, INC., ET AL.* C. A. 11th Cir. Certiorari denied. Reported below: 837 F. 2d 1093.

No. 87-2108. *BLACKFEET INDIAN TRIBE v. MONTANA POWER CO. ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 838 F. 2d 1055.

No. 87-2112. *BURAK v. GENERAL AMERICAN LIFE INSURANCE CO.* C. A. 10th Cir. Certiorari denied. Reported below: 836 F. 2d 1287.

No. 87-2113. *JACKSON v. ALASKA.* Ct. App. Alaska. Certiorari denied. Reported below: 750 P. 2d 821.

No. 87-2115. *BAIRD ET VIR v. BOHLE ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 841 F. 2d 1125.

No. 87-2116. *GILBERT v. OFFICE OF BAR COUNSEL OF THE DISTRICT OF COLUMBIA.* Ct. App. D. C. Certiorari denied. Reported below: 538 A. 2d 742.

No. 87-2117. *JAMESBURY CORP. v. LITTON INDUSTRIAL PRODUCTS, INC.* C. A. Fed. Cir. Certiorari denied. Reported below: 839 F. 2d 1544.

No. 87-2119. *MOLENAAR v. NEW JERSEY.* Super. Ct. N. J., App. Div. Certiorari denied.

No. 87-2121. *DOBARD v. OSCAR DASTE & SONS, INC.* Ct. App. La., 4th Cir. Certiorari denied. Reported below: 516 So. 2d 1331.

No. 87-2122. *FERGUSON v. BERRY ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 836 F. 2d 546.

No. 87-2124. *UNIMET CORP. v. UNITED STEELWORKERS OF AMERICA, AFL-CIO-CLC.* C. A. 6th Cir. Certiorari denied. Reported below: 842 F. 2d 879.

No. 87-2125. *MILES v. GENERAL MOTORS CORP.* C. A. 6th Cir. Certiorari denied. Reported below: 843 F. 2d 1391.

No. 87-2126. *STAR COLOR PLATE SERVICE, DIVISION OF EINHORN ENTERPRISES, INC. v. NATIONAL LABOR RELATIONS BOARD*

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ET AL. C. A. 2d Cir. Certiorari denied. Reported below: 843 F. 2d 1507.

No. 87-2128. CHAIRES *v.* UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 835 F. 2d 1431.

No. 87-2130. NEAL *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied.

No. 87-2131. WALDHART ET AL. *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 837 F. 2d 1519.

No. 87-2134. SCHNECKENBURGER *v.* LOUISIANA COMMISSION ON ETHICS FOR PUBLIC EMPLOYEES. Sup. Ct. La. Certiorari denied. Reported below: 518 So. 2d 497.

No. 87-2135. ISLAMIC REPUBLIC OF IRAN BROADCASTING *v.* BEHROOZIAN ET AL. C. A. D. C. Cir. Certiorari denied. Reported below: 268 U. S. App. D. C. 101, 839 F. 2d 780.

No. 87-2136. CITIZENS BANK OF CLOVIS ET AL. *v.* McLAUGHLIN, SECRETARY OF LABOR. C. A. 10th Cir. Certiorari denied. Reported below: 841 F. 2d 344.

No. 87-2137. VALERO ENERGY CORP. ET AL. *v.* URRUTIA. C. A. 5th Cir. Certiorari denied. Reported below: 841 F. 2d 123.

No. 87-6291. PINSON *v.* JONES, SUPERINTENDENT, MISSOURI TRAINING CENTER FOR MEN. C. A. 8th Cir. Certiorari denied. Reported below: 830 F. 2d 896.

No. 87-6430. SMITH *v.* YLST, SUPERINTENDENT, CALIFORNIA MEDICAL FACILITY. C. A. 9th Cir. Certiorari denied. Reported below: 826 F. 2d 872.

No. 87-6475. CARUSO *v.* ILLINOIS. Sup. Ct. Ill. Certiorari denied. Reported below: 119 Ill. 2d 376, 519 N. E. 2d 440.

No. 87-6499. LEWIS *v.* LANE, DIRECTOR, ILLINOIS DEPARTMENT OF CORRECTIONS, ET AL. C. A. 7th Cir. Certiorari denied. Reported below: 832 F. 2d 1446.

No. 87-6502. BOWMAN *v.* MISSOURI. Sup. Ct. Mo. Certiorari denied. Reported below: 741 S. W. 2d 10.

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No. 87-6518. *POWELL v. NORTH CAROLINA*. Sup. Ct. N. C. Certiorari denied. Reported below: 321 N. C. 364, 364 S. E. 2d 332.

No. 87-6553. *MCGANN v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 830 F. 2d 197.

No. 87-6558. *JOHNSON v. ILLINOIS*. App. Ct. Ill., 1st Dist. Certiorari denied. Reported below: 159 Ill. App. 3d 991, 513 N. E. 2d 852.

No. 87-6624. *MCCASLIN v. PENNSYLVANIA*. Super. Ct. Pa. Certiorari denied. Reported below: 365 Pa. Super. 644, 526 A. 2d 814.

No. 87-6653. *SCRIBNER v. WARREN*. C. A. 5th Cir. Certiorari denied. Reported below: 831 F. 2d 1060.

No. 87-6656. *WEBB v. OKLAHOMA*. Ct. Crim. App. Okla. Certiorari denied.

No. 87-6690. *HEIRENS v. MIZELL, WARDEN*. Sup. Ct. Ill. Certiorari denied.

No. 87-6698. *BURNETT v. MARTIN, WARDEN, ET AL.* C. A. 10th Cir. Certiorari denied. Reported below: 835 F. 2d 1319.

No. 87-6712. *PARKER v. SMITH ET AL.* C. A. 11th Cir. Certiorari denied. Reported below: 838 F. 2d 1219.

No. 87-6716. *DEMPSEY v. UNITED STATES*. C. A. 9th Cir. Certiorari denied.

No. 87-6723. *SULLIVAN v. FREEMAN, SUPERINTENDENT, STATE CORRECTIONAL INSTITUTION AND DIAGNOSTIC AND CLASSIFICATION CENTER AT CAMP HILL, ET AL.* C. A. 3d Cir. Certiorari denied.

No. 87-6724. *LOUDERMILK v. CALIFORNIA*. Ct. App. Cal., 1st App. Dist. Certiorari denied. Reported below: 195 Cal. App. 3d 996, 241 Cal. Rptr. 208.

No. 87-6730. *HART v. UNITED STATES*. Ct. Mil. App. Certiorari denied. Reported below: 25 M. J. 143.

No. 87-6735. *HICKS v. DARNALL*. C. A. 2d Cir. Certiorari denied.



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No. 87-6757. *AQEEL v. SEITER, DIRECTOR, OHIO DEPARTMENT OF REHABILITATION AND CORRECTION, ET AL.* C. A. 6th Cir. Certiorari denied.

No. 87-6782. *MATTIAS v. TEXAS.* Ct. App. Tex., 11th Dist. Certiorari denied.

No. 87-6791. *BRUNDAGE v. UNITED STATES.* C. A. D. C. Cir. Certiorari denied. Reported below: 268 U. S. App. D. C. 145, 839 F. 2d 824.

No. 87-6793. *ZAVALA v. UNITED STATES.* C. A. 9th Cir. Certiorari denied. Reported below: 839 F. 2d 523.

No. 87-6797. *KNOX v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. Reported below: 840 F. 2d 14.

No. 87-6800. *JURAS v. PHELPS ET AL.* Ct. App. Cal., 1st App. Dist. Certiorari denied.

No. 87-6807. *WICKS v. UNITED STATES.* C. A. 9th Cir. Certiorari denied. Reported below: 833 F. 2d 192.

No. 87-6813. *WILLIAMS v. UNITED STATES POSTAL SERVICE ET AL.* C. A. 11th Cir. Certiorari denied.

No. 87-6841. *LAWSON v. MURRAY, DIRECTOR, VIRGINIA DEPARTMENT OF CORRECTIONS.* C. A. 4th Cir. Certiorari denied. Reported below: 837 F. 2d 653.

No. 87-6858. *SCHNEIDER v. LYNAUGH, DIRECTOR, TEXAS DEPARTMENT OF CORRECTIONS.* C. A. 5th Cir. Certiorari denied. Reported below: 835 F. 2d 570.

No. 87-6866. *CROWSON v. UNITED STATES.* C. A. 9th Cir. Certiorari denied. Reported below: 828 F. 2d 1427.

No. 87-6867. *HOLMES v. UNITED STATES.* C. A. 4th Cir. Certiorari denied. Reported below: 840 F. 2d 246.

No. 87-6868. *KEENAN v. UNITED STATES.* C. A. 11th Cir. Certiorari denied. Reported below: 838 F. 2d 1220.

No. 87-6878. *AQEEL v. SEITER, DIRECTOR, OHIO DEPARTMENT OF REHABILITATION AND CORRECTION, ET AL.* Sup. Ct. Ohio. Certiorari denied.

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No. 87-6897. *DAVIS v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 816 F. 2d 433.

No. 87-6902. *FRAZIER v. JABE, WARDEN*. C. A. 6th Cir. Certiorari denied. Reported below: 835 F. 2d 878.

No. 87-6908. *ALICEA ET AL. v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 837 F. 2d 103.

No. 87-6931. *SOLER ET AL. v. G & U, INC., ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 833 F. 2d 1104.

No. 87-6940. *LIBERTA v. KELLY, SUPERINTENDENT, ATTICA CORRECTIONAL FACILITY*. C. A. 2d Cir. Certiorari denied. Reported below: 839 F. 2d 77.

No. 87-6941. *KRZYSKE v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 836 F. 2d 1013.

No. 87-6942. *FERNANDEZ v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 839 F. 2d 639.

No. 87-6943. *THOMPSON v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 837 F. 2d 673.

No. 87-6949. *MUHAMMAD v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 838 F. 2d 475.

No. 87-6950. *WILEY v. CALIFORNIA*. Ct. App. Cal., 5th App. Dist. Certiorari denied. Reported below: 195 Cal. App. 3d 398, 240 Cal. Rptr. 717.

No. 87-6974. *RICKS ET AL. v. MARYLAND*. Ct. App. Md. Certiorari denied. Reported below: 312 Md. 11, 537 A. 2d 612.

No. 87-6978. *NERON v. TIERNEY, ATTORNEY GENERAL OF MAINE, ET AL.* C. A. 1st Cir. Certiorari denied. Reported below: 841 F. 2d 1197.

No. 87-6982. *RIZK v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 833 F. 2d 523 and 842 F. 2d 111.

No. 87-6986. *ALSTON v. NEW YORK*. App. Div., Sup. Ct. N. Y., 2d Jud. Dept. Certiorari denied. Reported below: 134 App. Div. 2d 433, 521 N. Y. S. 2d 56.

No. 87-6989. *BISHOP v. OSBORN TRANSPORTATION, INC., ET AL.* C. A. 11th Cir. Certiorari denied. Reported below: 838 F. 2d 1173.

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No. 87-6993. *GILLESPIE v. RYAN*, SUPERINTENDENT, STATE CORRECTIONAL INSTITUTION AT DALLAS, ET AL. C. A. 3d Cir. Certiorari denied. Reported below: 837 F. 2d 628.

No. 87-6995. *DUFFY v. TEASE*, JUDGE, ET AL. C. A. 3d Cir. Certiorari denied. Reported below: 845 F. 2d 1010.

No. 87-6996. *JONES v. DUGGER*, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS. C. A. 11th Cir. Certiorari denied. Reported below: 839 F. 2d 1441.

No. 87-6998. *DUNSMORE v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 845 F. 2d 1028.

No. 87-7001. *SHERIDAN v. LANE*, DIRECTOR, ILLINOIS DEPARTMENT OF CORRECTIONS. C. A. 7th Cir. Certiorari denied.

No. 87-7003. *WINFREY v. ARMONTROUT*, WARDEN, ET AL. C. A. 8th Cir. Certiorari denied. Reported below: 836 F. 2d 406.

No. 87-7004. *MYER v. WEEKS*. C. A. 5th Cir. Certiorari denied. Reported below: 835 F. 2d 1431.

No. 87-7005. *MARTIN v. SHANK ET AL.* C. A. D. C. Cir. Certiorari denied. Reported below: 268 U. S. App. D. C. 306, 841 F. 2d 428.

No. 87-7006. *TORRES v. DUGGER*, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS, ET AL. C. A. 11th Cir. Certiorari denied.

No. 87-7009. *MATTOX v. DUGGER*, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS. C. A. 11th Cir. Certiorari denied. Reported below: 839 F. 2d 1523.

No. 87-7012. *KELLY v. BOWEN*, SECRETARY OF HEALTH AND HUMAN SERVICES. C. A. 2d Cir. Certiorari denied. Reported below: 842 F. 2d 1288.

No. 87-7013. *COLGATE v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 842 F. 2d 333.

No. 87-7016. *SANDERS v. CAMPBELL*, SHERIFF OF LEAVENWORTH COUNTY, KANSAS, ET AL. C. A. 10th Cir. Certiorari denied.



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No. 87-7020. *JORDAN v. KYLE*, CLERK OF COURTS, ALLEGHENY COUNTY, PENNSYLVANIA. C. A. 3d Cir. Certiorari denied. Reported below: 849 F. 2d 601.

No. 87-7025. *SYME v. WECKESSER*. Ct. Sp. App. Md. Certiorari denied.

No. 87-7026. *WEST v. PUNG*, COMMISSIONER, MINNESOTA DEPARTMENT OF CORRECTIONS. C. A. 8th Cir. Certiorari denied. Reported below: 845 F. 2d 1027.

No. 87-7027. *TAYLOR v. SMITH*, WARDEN. C. A. 6th Cir. Certiorari denied. Reported below: 843 F. 2d 1392.

No. 87-7031. *ROBINSON ET AL. v. UNITED STATES*. C. A. 1st Cir. Certiorari denied. Reported below: 843 F. 2d 1.

No. 87-7033. *YOUNG v. ALABAMA*. Ct. Crim. App. Ala. Certiorari denied. Reported below: 518 So. 2d 822.

No. 87-7034. *EDWARDS v. LYNAUGH*, DIRECTOR, TEXAS DEPARTMENT OF CORRECTIONS. C. A. 5th Cir. Certiorari denied.

No. 87-7035. *BENTLEY v. LOUISIANA*. Ct. App. La., 4th Cir. Certiorari denied. Reported below: 522 So. 2d 628.

No. 87-7039. *DAVENPORT v. GEORGIA*. Ct. App. Ga. Certiorari denied. Reported below: 185 Ga. App. XXVIII.

No. 87-7042. *DICKEY v. BOWEN*, SECRETARY OF HEALTH AND HUMAN SERVICES. C. A. 9th Cir. Certiorari denied.

No. 87-7048. *THOMPSON v. ALABAMA*. Ct. Crim. App. Ala. Certiorari denied. Reported below: 525 So. 2d 816.

No. 87-7049. *QUANSAH v. DEPARTMENT OF JUSTICE ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 838 F. 2d 474.

No. 87-7050. *NELSON v. METROPOLITAN LIFE INSURANCE CO. ET AL.* C. A. 2d Cir. Certiorari denied.

No. 87-7053. *KING v. UNITED STATES ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 841 F. 2d 1123.

No. 87-7055. *LAAMAN v. MASSACHUSETTS*. App. Ct. Mass. Certiorari denied. Reported below: 25 Mass. App. 354, 518 N. E. 2d 861.

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No. 87-7056. CUERO-FLORES *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. Reported below: 847 F. 2d 836.

No. 87-7057. JACKSON *v.* DOUGLAS ET AL. C. A. 10th Cir. Certiorari denied.

No. 87-7058. JOHNSON *v.* CHRANS, WARDEN, ET AL. C. A. 7th Cir. Certiorari denied. Reported below: 844 F. 2d 482.

No. 87-7059. BARCUME *v.* BARCUME, NKA HAGER (two cases). Sup. Ct. Haw. Certiorari denied.

No. 87-7060. HUNTER *v.* CAMPBELL ET AL. C. A. 11th Cir. Certiorari denied.

No. 87-7061. FORBES ET UX. *v.* UNITED STATES DISTRICT COURT FOR THE CENTRAL DISTRICT OF CALIFORNIA ET AL. C. A. 9th Cir. Certiorari denied.

No. 87-7062. GULLEY *v.* UNITED STATES POSTAL SERVICE ET AL. C. A. 6th Cir. Certiorari denied. Reported below: 827 F. 2d 769.

No. 87-7063. BROWN *v.* MISSOURI BOARD OF PROBATION AND PAROLE ET AL. C. A. 8th Cir. Certiorari denied.

No. 87-7066. SMITH *v.* CALIFORNIA. Ct. App. Cal., 1st App. Dist. Certiorari denied.

No. 87-7067. WALKER *v.* BOWEN, SECRETARY OF HEALTH AND HUMAN SERVICES. C. A. 2d Cir. Certiorari denied. Reported below: 847 F. 2d 837.

No. 87-7068. GRANT ET AL. *v.* SILVA. Ct. App. Cal., 6th App. Dist. Certiorari denied. Reported below: 196 Cal. App. 3d 675, 241 Cal. Rptr. 869.

No. 87-7069. BOROM *v.* LACY ET AL. C. A. 8th Cir. Certiorari denied. Reported below: 845 F. 2d 1025.

No. 87-7070. GAMBLE *v.* OKLAHOMA. Ct. Crim. App. Okla. Certiorari denied. Reported below: 751 P. 2d 751.

No. 87-7071. CLEMONS *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied. Reported below: 843 F. 2d 741.

No. 87-7072. BRADFORD *v.* LOUISIANA. Ct. App. La., 3d Cir. Certiorari denied. Reported below: 514 So. 2d 534.

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No. 87-7075. *BALAWAJDER v. CARPENTER ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 837 F. 2d 1088.

No. 87-7078. *PRIOLEAU v. UNITED STATES.* C. A. 2d Cir. Certiorari denied. Reported below: 847 F. 2d 836.

No. 87-7079. *THOMPSON v. KENTUCKY.* Cir. Ct. Ky., Kenton County. Certiorari denied.

No. 87-7081. *WATTS v. UNITED STATES MARINE CORPS ET AL.* C. A. 11th Cir. Certiorari denied. Reported below: 840 F. 2d 24.

No. 87-7085. *PAREZ v. JONES, COUNTY TREASURER/TAX COLLECTOR.* Ct. App. Cal., 4th App. Dist. Certiorari denied.

No. 87-7086. *PAREZ v. LOPEZ ET AL.* Ct. App. Cal., 4th App. Dist. Certiorari denied.

No. 87-7089. *GRAYS v. CABANA, SUPERINTENDENT, MISSISSIPPI STATE PENITENTIARY.* C. A. 5th Cir. Certiorari denied.

No. 87-7092. *FLEEK v. WARDEN, FEDERAL CORRECTIONAL INSTITUTE, LEWISBURG, PENNSYLVANIA.* C. A. 4th Cir. Certiorari denied. Reported below: 838 F. 2d 466.

No. 87-7093. *HEADLEY v. ZON ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 836 F. 2d 546.

No. 87-7095. *CRUMMEY v. UNITED STATES.* C. A. 10th Cir. Certiorari denied.

No. 87-7096. *KINSEY v. UNITED STATES.* C. A. 9th Cir. Certiorari denied. Reported below: 843 F. 2d 383.

No. 87-7097. *JOHNS v. BOSTWICK (three cases).* Sup. Ct. Haw. Certiorari denied. Reported below: 69 Haw. 662 (first case).

No. 87-7099. *DENNIS v. MILLER, WARDEN, ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 845 F. 2d 1010.

No. 87-7102. *MIRANDA-ENRIQUEZ v. UNITED STATES.* C. A. 10th Cir. Certiorari denied. Reported below: 842 F. 2d 1211.

No. 87-7105. *DAVIS ET AL. v. TRENTON RESINS CREDIT UNION.* C. A. 6th Cir. Certiorari denied. Reported below: 841 F. 2d 1125.



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No. 87-7108. *RINGO v. REES, SUPERINTENDENT, KENTUCKY STATE REFORMATORY, ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 842 F. 2d 333.

No. 87-7109. *TORRES v. DUGGER, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS.* C. A. 11th Cir. Certiorari denied. Reported below: 844 F. 2d 795.

No. 87-7112. *ARCHER v. UNITED STATES.* C. A. 7th Cir. Certiorari denied. Reported below: 843 F. 2d 1019.

No. 87-7120. *JIMENEZ v. TEXAS.* Ct. App. Tex., 13th Dist. Certiorari denied. Reported below: 739 S. W. 2d 499.

No. 87-7121. *TARPLEY, AKA TOPLEY v. DUGGER, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS.* C. A. 11th Cir. Certiorari denied. Reported below: 841 F. 2d 359.

No. 87-7122. *TAYLOR v. SUMNER, DIRECTOR, NEVADA DEPARTMENT OF PRISONS.* C. A. 9th Cir. Certiorari denied.

No. 87-7123. *SATTERFIELD v. PENNSYLVANIA.* Super. Ct. Pa. Certiorari denied. Reported below: 369 Pa. Super. 652, 531 A. 2d 528.

No. 87-7124. *SMALL v. HARRIS ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 838 F. 2d 468.

No. 87-7126. *MURR v. NELSON.* C. A. 6th Cir. Certiorari denied. Reported below: 842 F. 2d 332.

No. 87-7127. *SHAFFER v. UNITED STATES.* C. A. 6th Cir. Certiorari denied. Reported below: 843 F. 2d 1392.

No. 87-7131. *SAMM v. SOUTHEASTERN UNIVERSITY.* Ct. App. D. C. Certiorari denied.

No. 87-7132. *PORTER v. ILLINOIS.* Sup. Ct. Ill. Certiorari denied. Reported below: 122 Ill. 2d 64, 521 N. E. 2d 1158.

No. 87-7134. *PERRERA v. UNITED STATES.* C. A. 4th Cir. Certiorari denied. Reported below: 842 F. 2d 73.

No. 87-7138. *CALHOUN v. CALIFORNIA.* Ct. App. Cal., 2d App. Dist. Certiorari denied.

No. 87-7139. *GANEN v. UNITED STATES.* C. A. 2d Cir. Certiorari denied. Reported below: 847 F. 2d 837.

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No. 87-7140. *FERNANDEZ v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 837 F. 2d 1031.

No. 87-7141. *GOMEZ v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 844 F. 2d 795.

No. 87-7142. *DOLENC v. OWENS, SUPERINTENDENT OF PHILADELPHIA PRISONS*. C. A. 3d Cir. Certiorari denied.

No. 87-7146. *MEDINA v. HENDERSON, SUPERINTENDENT, AUBURN CORRECTIONAL FACILITY, ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 847 F. 2d 835.

No. 87-7147. *MUTH v. CENTRAL BUCKS SCHOOL DISTRICT ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 839 F. 2d 113.

No. 87-7148. *OQUELI-HERNANDEZ v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 838 F. 2d 311.

No. 87-7149. *NIKRASCH v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 844 F. 2d 792.

No. 87-7151. *WIGGINS v. MURRAY, DIRECTOR, VIRGINIA DEPARTMENT OF CORRECTIONS, ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 840 F. 2d 12.

No. 87-7152. *SMITH v. WASHINGTON*. Sup. Ct. Wash. Certiorari denied.

No. 87-7153. *SYDNOR, AKA BEY v. ZIMMERMAN, ATTORNEY GENERAL OF PENNSYLVANIA, ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 845 F. 2d 1015.

No. 87-7154. *SVEE v. WISCONSIN*. Ct. App. Wis. Certiorari denied. Reported below: 143 Wis. 2d 892, 421 N. W. 2d 117.

No. 87-7156. *MAY v. OHIO UNEMPLOYMENT COMPENSATION BOARD OF REVIEW*. Ct. App. Ohio, Franklin County. Certiorari denied.

No. 87-7160. *HOLLOWAY v. LYNAUGH, DIRECTOR, TEXAS DEPARTMENT OF CORRECTIONS*. C. A. 5th Cir. Certiorari denied. Reported below: 838 F. 2d 792.

No. 87-7161. *FORREST v. FULCOMER ET AL.* C. A. 3d Cir. Certiorari denied.

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No. 87-7162. *BILAL v. LITTLE ROCK SCHOOL DISTRICT ET AL.* C. A. 8th Cir. Certiorari denied. Reported below: 845 F. 2d 1026.

No. 87-7163. *EMBREY v. UNITED STATES.* C. A. 8th Cir. Certiorari denied. Reported below: 845 F. 2d 1027.

No. 87-7164. *BUCHAN v. DUGGER, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS, ET AL.* C. A. 11th Cir. Certiorari denied. Reported below: 838 F. 2d 1219.

No. 87-7166. *WHITE v. WARDEN, JAMES RIVER CORRECTIONAL CENTER, ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 836 F. 2d 548.

No. 87-7167. *VANMATRE v. ILLINOIS.* App. Ct. Ill., 5th Dist. Certiorari denied. Reported below: 164 Ill. App. 3d 201, 517 N. E. 2d 768.

No. 87-7169. *PATTERSON v. KNIGHT.* Sup. Ct. Ala. Certiorari denied. Reported below: 519 So. 2d 469.

No. 87-7171. *BOOKER v. TOWNSHIP OF GENEVA.* Cir. Ct. Mich., County of Van Buren. Certiorari denied.

No. 87-7172. *GLAUDE v. REGIONAL POSTMASTER GENERAL ET AL.* C. A. 9th Cir. Certiorari denied.

No. 87-7173. *JOHNSON v. KAISER, WARDEN, ET AL.* Ct. Crim. App. Okla. Certiorari denied.

No. 87-7175. *ECKHARDT v. UNITED STATES.* C. A. 7th Cir. Certiorari denied. Reported below: 843 F. 2d 989.

No. 87-7177. *KING v. UNITED STATES.* C. A. 11th Cir. Certiorari denied. Reported below: 842 F. 2d 311.

No. 87-7178. *BROWN v. MARYLAND ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 842 F. 2d 1289.

No. 87-7179. *BROWN v. SOUTHERN MARYLAND HOSPITAL CENTER ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 841 F. 2d 1122.

No. 87-7180. *MULAZIM v. BURNETT ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 838 F. 2d 1215.



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No. 87-7182. *SHAW v. NEW YORK*. App. Term, Sup. Ct. N. Y., 9th and 10th Jud. Dists. Certiorari denied.

No. 87-7184. *CONNER v. BOWEN, WARDEN*. C. A. 11th Cir. Certiorari denied. Reported below: 842 F. 2d 279.

No. 87-7186. *RIVERA v. RAFFERTY, SUPERINTENDENT, RAHWAY STATE PRISON, ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 845 F. 2d 1014.

No. 87-7187. *MOORE v. ILLINOIS*. App. Ct. Ill., 1st Dist. Certiorari denied. Reported below: 159 Ill. App. 3d 1169, 526 N. E. 2d 213.

No. 87-7188. *MONTGOMERY v. INDIANA*. Sup. Ct. Ind. Certiorari denied. Reported below: 521 N. E. 2d 1306.

No. 87-7194. *JOHNSON v. LYNAUGH, DIRECTOR, TEXAS DEPARTMENT OF CORRECTIONS*. C. A. 5th Cir. Certiorari denied. Reported below: 842 F. 2d 818.

No. 87-7195. *BURNS v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 831 F. 2d 293.

No. 87-7196. *BURNS v. UNITED STATES*. C. A. D. C. Cir. Certiorari denied. Reported below: 269 U. S. App. D. C. 398, 846 F. 2d 1384.

No. 87-7197. *BROWN v. HOKE, SUPERINTENDENT, EASTERN CORRECTIONAL FACILITY*. C. A. 2d Cir. Certiorari denied.

No. 87-7200. *JACKSON v. CALIFORNIA ET AL.* C. A. 9th Cir. Certiorari denied.

No. 87-7202. *LYNCH v. HUTCHENSON, SHERIFF, MISSISSIPPI COUNTY, ET AL.* C. A. 8th Cir. Certiorari denied.

No. 87-7204. *DORROUGH v. UNITED STATES*. C. A. D. C. Cir. Certiorari denied. Reported below: 271 U. S. App. D. C. 274, 851 F. 2d 1501.

No. 87-7206. *HOLMES v. BARTON, SUPERINTENDENT, FLORIDA STATE PRISON*. C. A. 11th Cir. Certiorari denied. Reported below: 835 F. 2d 1438.

No. 87-7207. *BROADEN v. CITY OF MONTGOMERY, ALABAMA, ET AL.* C. A. 11th Cir. Certiorari denied. Reported below: 838 F. 2d 1220.

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No. 87-7210. *KLUVER v. O'BRIEN, WARDEN*. C. A. 11th Cir. Certiorari denied.

No. 87-7211. *DE YOUNG v. REPUBLICAN PARTY OF IOWA ET AL.* C. A. 8th Cir. Certiorari denied. Reported below: 845 F. 2d 1028.

No. 87-7212. *SPENCER v. ILLINOIS*. C. A. 7th Cir. Certiorari denied.

No. 87-7213. *SPEARMAN, AKA RAMIREZ v. LYNAUGH, DIRECTOR, TEXAS DEPARTMENT OF CORRECTIONS, ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 842 F. 2d 327.

No. 87-7214. *MITCHELL v. THORNBURGH, ATTORNEY GENERAL OF THE UNITED STATES, ET AL.* C. A. 10th Cir. Certiorari denied.

No. 87-7215. *ORTEGA v. O'LEARY, WARDEN*. C. A. 7th Cir. Certiorari denied. Reported below: 843 F. 2d 258.

No. 87-7218. *LHOTKA v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 855 F. 2d 856.

No. 87-7219. *LOVE v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 845 F. 2d 1030.

No. 87-7221. *SLAUGHTER v. KENTUCKY*. Sup. Ct. Ky. Certiorari denied.

No. 87-7222. *SAFIR v. INTERSTATE COMMERCE COMMISSION ET AL.* C. A. 2d Cir. Certiorari denied.

No. 87-7225. *COLLINS v. BALL, SECRETARY OF THE NAVY*. C. A. 9th Cir. Certiorari denied. Reported below: 843 F. 2d 501.

No. 87-7227. *FAISON v. NESBITT, JUDGE, UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF FLORIDA, ET AL.* C. A. 11th Cir. Certiorari denied. Reported below: 840 F. 2d 23.

No. 87-7229. *BROWN v. ILLINOIS*. App. Ct. Ill., 4th Dist. Certiorari denied. Reported below: 162 Ill. App. 3d 528, 515 N. E. 2d 1285.

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No. 87-7230. *HARRIS v. ILLINOIS*. App. Ct. Ill., 4th Dist. Certiorari denied. Reported below: 162 Ill. App. 3d 618, 515 N. E. 2d 1272.

No. 87-7231. *BURNHAM v. FIREMEN'S AND POLICEMEN'S CIVIL SERVICE COMMISSION, CITY OF AUSTIN, TEXAS*. Ct. App. Tex., 3d Dist. Certiorari denied. Reported below: 715 S. W. 2d 809.

No. 87-7233. *AMMERMAN v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 855 F. 2d 855.

No. 87-7234. *WILLIAMS v. ABSHIRE, WARDEN*. C. A. 6th Cir. Certiorari denied. Reported below: 842 F. 2d 334.

No. 87-7237. *SMITH v. FLORIDA*. Sup. Ct. Fla. Certiorari denied. Reported below: 531 So. 2d 168.

No. 87-7239. *WHITE v. JONES, WARDEN, ET AL.* C. A. 11th Cir. Certiorari denied.

No. 87-7241. *RODRIGUEZ v. JOHNSON, SUPERINTENDENT, ORLEANS CORRECTIONAL FACILITY*. C. A. 2d Cir. Certiorari denied. Reported below: 847 F. 2d 836.

No. 87-7242. *HICKS v. CHRISTOPHER ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 842 F. 2d 1294.

No. 87-7245. *GOVANTES v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 841 F. 2d 1235.

No. 87-7246. *HUGLEY v. JONES, WARDEN, ET AL.* C. A. 11th Cir. Certiorari denied. Reported below: 844 F. 2d 795.

No. 87-7247. *CORTEZ v. MONDRAGON, WARDEN*. C. A. 10th Cir. Certiorari denied.

No. 87-7248. *KLEINSCHMIDT v. FLORIDA COMMISSION ON HUMAN RELATIONS ET AL.* Dist. Ct. App. Fla., 3d Dist. Certiorari denied. Reported below: 519 So. 2d 996.

No. 87-7250. *LAKES v. UNITED STATES FIDELITY & GUARANTY CO.* C. A. 5th Cir. Certiorari denied.

No. 87-7251. *FRAZIER v. WILKINSON, WARDEN, ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 842 F. 2d 42.

No. 87-7252. *CRUMB v. SACHS, GREENEBAUM & TAYLER ET AL.* C. A. D. C. Cir. Certiorari denied. Reported below: 266 U. S. App. D. C. 489, 836 F. 2d 653.



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No. 87-7253. SMITH *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 844 F. 2d 793.

No. 87-7256. LAWSON *v.* BOWEN, SECRETARY OF HEALTH AND HUMAN SERVICES. C. A. 2d Cir. Certiorari denied.

No. 87-7257. BURTON *v.* REPPOND ET AL. C. A. 8th Cir. Certiorari denied.

No. 87-7258. GRAVES *v.* THURMAN, WARDEN. C. A. 9th Cir. Certiorari denied.

No. 87-7259. HAMM *v.* MARYLAND. Ct. Sp. App. Md. Certiorari denied. Reported below: 72 Md. App. 176, 527 A. 2d 1326.

No. 87-7260. JOHNSON *v.* HARDCASTLE, SHERIFF OF SARASOTA COUNTY. C. A. 11th Cir. Certiorari denied. Reported below: 845 F. 2d 1030.

No. 87-7261. COLEMAN, DBA CYCLE LOGIC *v.* LADD; and IN RE COLEMAN. Sup. Ct. N. H. Certiorari denied.

No. 87-7262. DE YOUNG *v.* SOENS ET AL. C. A. 8th Cir. Certiorari denied. Reported below: 855 F. 2d 858.

No. 87-7266. CURRO *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 847 F. 2d 325.

No. 87-7267. MCQUARIE *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 846 F. 2d 754.

No. 87-7268. MARKHAM *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 844 F. 2d 366.

No. 87-7269. PHILLIPS *v.* OKLAHOMA. Ct. Crim. App. Okla. Certiorari denied.

No. 87-7271. SZAREWICZ *v.* FLAHERTY ET AL. C. A. 3d Cir. Certiorari denied.

No. 87-7274. BARLOW *v.* ESSELTE PENDAFLEX CORP. C. A. 4th Cir. Certiorari denied. Reported below: 838 F. 2d 1209.

No. 87-7275. HOOPER *v.* GARRAGHTY, WARDEN. C. A. 4th Cir. Certiorari denied. Reported below: 845 F. 2d 471.

No. 87-7277. KOPLOW *v.* CITY OF PORTLAND ET AL. Super. Ct. Me., Cumberland County. Certiorari denied.

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No. 87-7278. *LOVINGOOD v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 842 F. 2d 1293.

No. 87-7279. *CERELLO v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 840 F. 2d 21.

No. 87-7280. *LIBARIOS v. OFFICE OF PERSONNEL MANAGEMENT*. C. A. Fed. Cir. Certiorari denied. Reported below: 826 F. 2d 1072.

No. 87-7281. *BUCCI v. UNITED STATES*. C. A. 1st Cir. Certiorari denied. Reported below: 839 F. 2d 825.

No. 87-7283. *THOMAS v. UNITED STATES POSTAL SERVICE*. C. A. 2d Cir. Certiorari denied. Reported below: 847 F. 2d 837.

No. 87-7285. *TROCHE v. HOFFA*. C. A. 3d Cir. Certiorari denied.

No. 87-7286. *THOMPSON v. CALIFORNIA*. Ct. App. Cal., 5th App. Dist. Certiorari denied.

No. 87-7287. *SHIBLES v. WISCONSIN*. Ct. App. Wis. Certiorari denied. Reported below: 142 Wis. 2d 945, 419 N. W. 2d 574.

No. 87-7288. *REUMONT v. CALIFORNIA*. Ct. App. Cal., 2d App. Dist. Certiorari denied.

No. 87-7289. *SIMS v. ILLINOIS*. App. Ct. Ill., 1st Dist. Certiorari denied. Reported below: 166 Ill. App. 3d 289, 519 N. E. 2d 921.

No. 87-7291. *PALACIOS-MARTINEZ v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 845 F. 2d 89.

No. 87-7292. *MORONIHAAH, AKA NASH v. PARKE, WARDEN*. C. A. 6th Cir. Certiorari denied. Reported below: 835 F. 2d 878.

No. 87-7295. *MALTBY v. KIER CORP.* Sup. Ct. Utah. Certiorari denied.

No. 87-7296. *GIBSON v. BUTLER, WARDEN, ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 835 F. 2d 286.

No. 87-7297. *RODRIGUEZ v. BEYER, SUPERINTENDENT, NEW JERSEY STATE PRISON AT TRENTON, ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 841 F. 2d 1120.

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No. 87-7299. *WHITFIELD v. LYNAGH, DIRECTOR, TEXAS DEPARTMENT OF CORRECTIONS*. C. A. 5th Cir. Certiorari denied.

No. 87-7300. *KING v. ZIMMERMAN, SUPERINTENDENT, STATE CORRECTIONAL INSTITUTION AT GRATERFORD, ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 845 F. 2d 1012.

No. 87-7301. *CESPEDES v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 846 F. 2d 754.

No. 87-7302. *DOLENC v. OWENS, COMMISSIONER, DEPARTMENT OF CORRECTIONS*. C. A. 3d Cir. Certiorari denied. Reported below: 845 F. 2d 1010.

No. 87-7304. *CROSS v. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT*. C. A. 9th Cir. Certiorari denied. Reported below: 833 F. 2d 1015.

No. 87-7305. *GARRETT v. STICKRATH, SUPERINTENDENT, ORIENT CORRECTIONAL INSTITUTION*. C. A. 6th Cir. Certiorari denied.

No. 87-7307. *WATSON v. UNITED STATES*. Ct. App. D. C. Certiorari denied.

No. 87-7308. *WALLACE v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 845 F. 2d 1471.

No. 87-7309. *SMALL v. BENNERSON ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 842 F. 2d 710.

No. 87-7310. *SANCHEZ v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 846 F. 2d 751.

No. 87-7312. *ROBERTS ET AL. v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 845 F. 2d 226.

No. 87-7313. *PHILLIPS v. OKLAHOMA*. Ct. Crim. App. Okla. Certiorari denied.

No. 87-7314. *RODRIGUEZ DIAZ v. FLORIDA ET AL.* Sup. Ct. Fla. Certiorari denied.

No. 87-7315. *CARR v. REDMAN, WARDEN, ET AL.* C. A. 3d Cir. Certiorari denied.

No. 87-7316. *LAWRENCE v. OAO CORP.* Ct. Sp. App. Md. Certiorari denied.



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No. 87-7317. *WOLFSON v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 846 F. 2d 753.

No. 87-7318. *DOZIER v. UNITED STATES*. C. A. 10th Cir. Certiorari denied.

No. 87-7319. *TREADWELL v. WITHROW, SUPERINTENDENT, MICHIGAN DUNES CORRECTIONAL FACILITY*. C. A. 6th Cir. Certiorari denied. Reported below: 848 F. 2d 194.

No. 87-7321. *AARON v. GRADDICK ET AL.* C. A. 11th Cir. Certiorari denied.

No. 87-7323. *GISRIEL v. DEPARTMENT OF EMPLOYMENT AND TRAINING OF MARYLAND ET AL.* Ct. Sp. App. Md. Certiorari denied. Reported below: 72 Md. App. 718.

No. 87-7325. *FILIPAS v. WORKMEN'S COMPENSATION OF THE INDUSTRIAL COMMISSION OF OHIO ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 843 F. 2d 1391.

No. 87-7326. *PRUNTY v. WALTERS ET AL.* C. A. 9th Cir. Certiorari denied.

No. 87-7327. *SEALS, AKA CREWS v. UNITED STATES*. Ct. App. D. C. Certiorari denied.

No. 87-7328. *WATERHOUSE v. FLORIDA*. Sup. Ct. Fla. Certiorari denied. Reported below: 522 So. 2d 341.

No. 87-7329. *TYDINGS v. VIRGINIA*. Sup. Ct. Va. Certiorari denied.

No. 87-7330. *JONES v. BUTLER, WARDEN*. C. A. 5th Cir. Certiorari denied. Reported below: 837 F. 2d 691.

No. 87-7331. *CONTRERAS v. NEWTON, WARDEN*. C. A. 10th Cir. Certiorari denied.

No. 87-7332. *HUGHES v. HUGHES*. Sup. Ct. Ohio. Certiorari denied. Reported below: 35 Ohio St. 3d 165, 518 N. E. 2d 1213.

No. 87-7333. *SWARTZ v. RICKLEFS ET AL.* C. A. 8th Cir. Certiorari denied.

No. 87-7336. *HINTZ v. KINCHELOE, SUPERINTENDENT, WASHINGTON STATE PENITENTIARY, ET AL.* C. A. 9th Cir. Certiorari denied.

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No. 87-7337. *CARROLL v. CENTRAL PRISON ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 846 F. 2d 69.

No. 87-7338. *ARANDA-RODRIGUEZ v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. Reported below: 845 F. 2d 100.

No. 87-7339. *HALL v. ROGERS, SUPERINTENDENT, CASWELL UNIT.* C. A. 4th Cir. Certiorari denied. Reported below: 846 F. 2d 71.

No. 87-7340. *CASELL v. TEXAS ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 841 F. 2d 394.

No. 87-7341. *ALVARADO v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. Reported below: 841 F. 2d 394.

No. 87-7342. *MOORE v. JAWORSKY ET AL.* C. A. 10th Cir. Certiorari denied.

No. 87-7343. *ROSE v. OKLAHOMA.* Ct. Crim. App. Okla. Certiorari denied.

No. 87-7344. *SKIBINSKI v. NEW YORK CITY COMMISSION ON HUMAN RIGHTS.* C. A. 2d Cir. Certiorari denied.

No. 87-7345. *SIMPSON v. UPPER PROVIDENCE TOWNSHIP POLICE DEPARTMENT ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 845 F. 2d 1015.

No. 87-7348. *WILLIAMS v. DUTTON, WARDEN, ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 844 F. 2d 790.

No. 87-7350. *LAROQUE v. UNITED STATES BUREAU OF PRISONS ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 848 F. 2d 185.

No. 87-7351. *HILL v. UNITED STATES.* C. A. 3d Cir. Certiorari denied. Reported below: 845 F. 2d 1017.

No. 88-2. *MISLIVECEK v. WISCONSIN.* Ct. App. Wis. Certiorari denied. Reported below: 143 Wis. 2d 896, 422 N. W. 2d 463.

No. 88-3. *CAMPBELL ET AL. v. FAIR, COMMISSIONER, MASSACHUSETTS DEPARTMENT OF CORRECTION.* C. A. 1st Cir. Certiorari denied. Reported below: 838 F. 2d 1.

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No. 88-4. *VAN VOORHIS & SKAGGS v. FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION*. C. A. 9th Cir. Certiorari denied. Reported below: 838 F. 2d 395.

No. 88-6. *CORR ET AL. v. HINDS*. Sup. Jud. Ct. Me. Certiorari denied. Reported below: 536 A. 2d 1130.

No. 88-8. *FERRY v. DEPARTMENT OF THE NAVY*. C. A. Fed. Cir. Certiorari denied. Reported below: 846 F. 2d 78.

No. 88-9. *PHONE-MATE, INC. v. FORTTEL CORP.* C. A. Fed. Cir. Certiorari denied. Reported below: 846 F. 2d 78.

No. 88-11. *O'MALLEY v. XEROX CORP. ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 846 F. 2d 75.

No. 88-13. *EISENHAUER v. TEXAS*. Ct. Crim. App. Tex. Certiorari denied. Reported below: 754 S. W. 2d 159.

No. 88-15. *CHIPMAN FREIGHT SERVICES, A DIVISION OF CHIPMAN CORP. v. NATIONAL LABOR RELATIONS BOARD (BROTHERHOOD OF TEAMSTERS & AUTO TRUCKDRIVERS LOCAL 70 OF ALAMEDA COUNTY, REAL PARTY IN INTEREST)*. C. A. 9th Cir. Certiorari denied. Reported below: 843 F. 2d 1224.

No. 88-17. *HERMAN BROTHERS, INC., ET AL. v. TEAMSTERS LOCAL UNION No. 430*. C. A. 3d Cir. Certiorari denied. Reported below: 841 F. 2d 66.

No. 88-18. *CITY OF NEW HAVEN, CONNECTICUT v. MARSH, SECRETARY OF THE ARMY, ET AL.* C. A. 1st Cir. Certiorari denied. Reported below: 841 F. 2d 440.

No. 88-19. *KALVANS v. COURT OF APPEALS OF MICHIGAN*. Sup. Ct. Mich. Certiorari denied.

No. 88-21. *HENDRICKSON BROTHERS, INC. v. NEW YORK*; and  
No. 88-43. *LIZZA INDUSTRIES, INC. v. NEW YORK*. C. A. 2d Cir. Certiorari denied. Reported below: 840 F. 2d 1065.

No. 88-26. *CARMOUCHE v. AUSTER OIL & GAS, INC.* C. A. 5th Cir. Certiorari denied. Reported below: 835 F. 2d 597.

No. 88-29. *BOSCIO v. UNITED STATES*. C. A. 1st Cir. Certiorari denied. Reported below: 843 F. 2d 1384.



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No. 88-30. *HORN & HARDART CO. v. NATIONAL RAILROAD PASSENGER CORPORATION*. C. A. D. C. Cir. Certiorari denied. Reported below: 269 U. S. App. D. C. 53, 843 F. 2d 546.

No. 88-31. *LEWIS v. MIDWESTERN STATE UNIVERSITY ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 837 F. 2d 197.

No. 88-33. *BLEDSON v. UNITED STATES*. Ct. Mil. App. Certiorari denied. Reported below: 26 M. J. 97.

No. 88-35. *FEISS v. VETERANS ADMINISTRATION*. C. A. Fed. Cir. Certiorari denied. Reported below: 847 F. 2d 841.

No. 88-38. *NORTHWESTERN BELL TELEPHONE CO. v. MINNESOTA PUBLIC UTILITIES COMMISSION*. Ct. App. Minn. Certiorari denied. Reported below: 417 N. W. 2d 274.

No. 88-44. *CHILD, INC. v. TEXAS EMPLOYMENT COMMISSION*. Ct. App. Tex., 3d Dist. Certiorari denied. Reported below: 738 S. W. 2d 56.

No. 88-45. *SPILLANE v. SPILLANE*. Sup. Ct. Nev. Certiorari denied. Reported below: 103 Nev. 820.

No. 88-46. *BEHNING ET UX. v. CAMELBACK SKI CORP.* Ct. App. Md. Certiorari denied. Reported below: 312 Md. 330, 539 A. 2d 1107.

No. 88-48. *PRAET v. KINGSLEY*. Ct. App. Cal., 4th App. Dist. Certiorari denied.

No. 88-51. *MALLEN v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 843 F. 2d 1096.

No. 88-54. *VITIELLO ET AL. v. I. KAHLOWSKY & CO. ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 843 F. 2d 1537.

No. 88-56. *KANE v. EMRANI ET AL.* Ct. App. Colo. Certiorari denied.

No. 88-57. *FRIEDMAN v. HALL ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 843 F. 2d 1391.

No. 88-59. *UNITED STEEL & WIRE CO. v. STALLWORTH ET AL.* Ct. App. Mich. Certiorari denied.

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No. 88-62. *OLSON v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 846 F. 2d 1103.

No. 88-65. *GREEN v. COMMISSIONER OF INTERNAL REVENUE*. C. A. 2d Cir. Certiorari denied. Reported below: 846 F. 2d 870.

No. 88-67. *ALLEN ORGAN CO. v. KIMBALL INTERNATIONAL, INC., ET AL.* C. A. Fed. Cir. Certiorari denied. Reported below: 839 F. 2d 1556.

No. 88-68. *DELAY v. GEORGIA*. Sup. Ct. Ga. Certiorari denied. Reported below: 258 Ga. 229, 367 S. E. 2d 806.

No. 88-69. *GREANIAS v. WRIGLEY*. C. A. 7th Cir. Certiorari denied. Reported below: 842 F. 2d 955.

No. 88-71. *WEDINGER ET UX. v. GOLDBERGER, ASSISTANT REGIONAL ATTORNEY, DEPARTMENT OF ENVIRONMENTAL CONSERVATION, ET AL.* Ct. App. N. Y. Certiorari denied. Reported below: 71 N. Y. 2d 428, 522 N. E. 2d 25.

No. 88-75. *ELLIS v. TEXAS*. Ct. App. Tex., 1st Dist. Certiorari denied.

No. 88-77. *URESTE v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 846 F. 2d 750.

No. 88-78. *DOE, BY HER PARENT AND NATURAL GUARDIAN, DOE v. SOBOL, COMMISSIONER, NEW YORK STATE EDUCATION DEPARTMENT*. C. A. 2d Cir. Certiorari denied. Reported below: 838 F. 2d 635.

No. 88-79. *\$173,081.04 IN UNITED STATES CURRENCY ET AL. v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 835 F. 2d 1141.

No. 88-80. *HOLYWELL CORP. ET AL. v. SMITH, TRUSTEE OF THE MIAMI CENTER LIQUIDATING TRUST, ET AL.* C. A. 11th Cir. Certiorari denied. Reported below: 843 F. 2d 503.

No. 88-83. *ECONOMOU ET UX. v. UNITED STATES SECURITIES AND EXCHANGE COMMISSION*. C. A. 2d Cir. Certiorari denied.

No. 88-84. *JOHN v. CITY OF SALAMANCA ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 845 F. 2d 37.

No. 88-85. *PILAROWSKI v. MACOMB COUNTY*. C. A. 6th Cir. Certiorari denied. Reported below: 841 F. 2d 1281.

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No. 88-86. *SHELTER CREEK DEVELOPMENT CORP. ET AL. v. CITY OF OXNARD*. C. A. 9th Cir. Certiorari denied. Reported below: 838 F. 2d 375.

No. 88-87. *PRODUCTION CREDIT ASSOCIATION OF NORTHERN OHIO ET AL. v. FARM CREDIT ADMINISTRATION ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 846 F. 2d 373.

No. 88-88. *ILLINOIS v. STRUEBIN, ANCILLARY ADMINISTRATOR OF THE ESTATE OF STRUEBIN, ET AL.* Sup. Ct. Iowa. Certiorari denied. Reported below: 421 N. W. 2d 874.

No. 88-91. *WALKER ET AL. v. BELLO ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 840 F. 2d 1124.

No. 88-92. *KHALIL v. UNIVERSITY OF MEDICINE AND DENTISTRY OF NEW JERSEY-NEW JERSEY MEDICAL SCHOOL*. C. A. 3d Cir. Certiorari denied. Reported below: 841 F. 2d 1119.

No. 88-98. *PERKINSON ET AL. v. MANION ET AL.* App. Ct. Ill., 5th Dist. Certiorari denied. Reported below: 163 Ill. App. 3d 262, 516 N. E. 2d 977.

No. 88-99. *WILLIAMS v. HEPTING ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 844 F. 2d 138.

No. 88-100. *POLYCHRON v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 841 F. 2d 833.

No. 88-101. *BLACKWELDER v. VIRGINIA*. Ct. App. Va. Certiorari denied.

No. 88-103. *BIGFORD v. TAYLOR, INDIVIDUALLY AND AS SHERIFF OF GALVESTON COUNTY, TEXAS, ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 834 F. 2d 1213.

No. 88-104. *EISCHEN v. KANEY, CIRCUIT JUDGE, ORANGE COUNTY, FLORIDA, ET AL.* C. A. 11th Cir. Certiorari denied.

No. 88-105. *ALABAMA v. WEEKS*. Sup. Ct. Ala. Certiorari denied. Reported below: 531 So. 2d 643.

No. 88-107. *CIRCUIT COURT OF THE 19TH JUDICIAL CIRCUIT, LAKE COUNTY, ILLINOIS v. LOVINGER*. C. A. 7th Cir. Certiorari denied. Reported below: 845 F. 2d 739.

No. 88-108. *NORTH SAN DIEGO COUNTY TRANSIT DEVELOPMENT BOARD, DBA NORTH COUNTY TRANSIT DISTRICT, ET AL.*

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*v. HAYNES ET AL.* Ct. App. Cal., 4th App. Dist. Certiorari denied.

No. 88-109. *AMERICAN PROTEIN CORP. v. AB VOLVO ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 844 F. 2d 56.

No. 88-111. *AUSTIN ET AL. v. CITY AND COUNTY OF HONOLULU.* C. A. 9th Cir. Certiorari denied. Reported below: 840 F. 2d 678.

No. 88-112. *MCDOWELL ET UX. v. CREDIT BUREAUS OF SOUTHEAST MISSOURI, INC.* Sup. Ct. Mo. Certiorari denied. Reported below: 747 S. W. 2d 630.

No. 88-114. *QURESHI v. COMMISSIONER OF INTERNAL REVENUE.* C. A. 4th Cir. Certiorari denied. Reported below: 843 F. 2d 1388.

No. 88-116. *STERN v. LEUCADIA NATIONAL CORP. ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 844 F. 2d 997.

No. 88-117. *TONY AND SUSAN ALAMO FOUNDATION v. RAGLAND, COMMISSIONER OF THE ARKANSAS DEPARTMENT OF FINANCE AND ADMINISTRATION, ET AL.* Sup. Ct. Ark. Certiorari denied. Reported below: 295 Ark. 12, 746 S. W. 2d 45.

No. 88-119. *LEVIN, DBA LEVIN BEAUTY SUPPLY ET AL. v. REDKEN LABORATORIES, INC.* C. A. 6th Cir. Certiorari denied. Reported below: 843 F. 2d 226.

No. 88-123. *COLLINS v. ASSOCIATED PATHOLOGISTS, LTD., ET AL.* C. A. 7th Cir. Certiorari denied. Reported below: 844 F. 2d 473.

No. 88-125. *SIMON ET AL. v. F/S AIRLEASE II, INC., ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 844 F. 2d 99.

No. 88-126. *MARSHALL ET AL. v. WESTERN GRAIN CO., INC., ET AL.* C. A. 11th Cir. Certiorari denied. Reported below: 838 F. 2d 1165.

No. 88-128. *CINCOTTI v. UNITED STATES.* C. A. 1st Cir. Certiorari denied. Reported below: 847 F. 2d 956.

No. 88-129. *COOPER v. AMSTER ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 845 F. 2d 1010.



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No. 88-132. SCOTT ET AL. *v.* DEMENNA. C. A. 11th Cir. Certiorari denied. Reported below: 840 F. 2d 8.

No. 88-133. MCCARRON *v.* UNITED STATES. C. A. Fed. Cir. Certiorari denied. Reported below: 846 F. 2d 78.

No. 88-134. THARP *v.* THARP. Ct. App. Wash. Certiorari denied. Reported below: 50 Wash. App. 1050.

No. 88-135. DESIMONE ET UX. *v.* BOVE. C. A. 3d Cir. Certiorari denied. Reported below: 845 F. 2d 1010.

No. 88-136. HORNER *v.* TENNESSEE. Ct. Crim. App. Tenn. Certiorari denied.

No. 88-138. LIBERIS ET AL. *v.* CRAIG, TRUSTEE IN BANKRUPTCY. C. A. 6th Cir. Certiorari denied. Reported below: 845 F. 2d 326.

No. 88-140. COUSINS *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 842 F. 2d 1245.

No. 88-142. ESTATE OF PAYNE, BY PAYNE, PERSONAL REPRESENTATIVE *v.* GRANT COUNTY COURT ET AL. Ct. App. Ind. Certiorari denied. Reported below: 508 N. E. 2d 1331.

No. 88-143. CITY OF PHILADELPHIA ET AL. *v.* CONCERNED CITIZENS OF BRIDESBURG ET AL. C. A. 3d Cir. Certiorari denied. Reported below: 843 F. 2d 679.

No. 88-144. SYRE *v.* PENNSYLVANIA ET AL. C. A. 3d Cir. Certiorari denied. Reported below: 845 F. 2d 1015.

No. 88-145. DIXON *v.* PENROD DRILLING Co. C. A. 5th Cir. Certiorari denied. Reported below: 844 F. 2d 786.

No. 88-149. SUMMA CORP. ET AL. *v.* TRANS WORLD AIRLINES, INC. Sup. Ct. Del. Certiorari denied. Reported below: 540 A. 2d 403.

No. 88-151. MANZO *v.* MANZO. Ct. Sp. App. Md. Certiorari denied. Reported below: 73 Md. App. 765.

No. 88-154. BYRD, DBA KILGORE REAL ESTATE *v.* GARDINIER, INC., ET AL. C. A. 11th Cir. Certiorari denied. Reported below: 831 F. 2d 974.

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No. 88-156. *DAVISON ET AL. v. LOWERY ET AL.* Sup. Ct. Ala. Certiorari denied. Reported below: 526 So. 2d 2.

No. 88-159. *UNISYS CORP. v. UNITED STATES.* C. A. Fed. Cir. Certiorari denied. Reported below: 845 F. 2d 321.

No. 88-164. *WEYERHAEUSER CO. v. BRACAMONTES ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 840 F. 2d 271.

No. 88-165. *ROMANN v. SECURITIES AND EXCHANGE COMMISSION ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 835 F. 2d 1429.

No. 88-166. *LEVERT v. LEVERT.* C. A. 5th Cir. Certiorari denied. Reported below: 843 F. 2d 498.

No. 88-167. *FINNEGAN v. MARYLAND.* Cir. Ct. Md., Montgomery County. Certiorari denied.

No. 88-172. *SKAW ET AL. v. UNITED STATES.* C. A. Fed. Cir. Certiorari denied. Reported below: 847 F. 2d 842.

No. 88-174. *LOEBNER ET UX. v. FRANCHISE TAX BOARD OF CALIFORNIA.* Ct. App. Cal., 1st App. Dist. Certiorari denied.

No. 88-175. *WADE v. GOODWIN, DIRECTOR OF ARKANSAS STATE POLICE.* C. A. 8th Cir. Certiorari denied. Reported below: 843 F. 2d 1150.

No. 88-178. *BROZYNA v. UNITED STATES.* C. A. 3d Cir. Certiorari denied. Reported below: 845 F. 2d 1016.

No. 88-184. *DOUGLAS v. MAPOTHER & MAPOTHER ET AL.* Sup. Ct. Ky. Certiorari denied. Reported below: 750 S. W. 2d 430.

No. 88-185. *LINK MANUFACTURING CO. v. NATIONAL LABOR RELATIONS BOARD.* C. A. 6th Cir. Certiorari denied. Reported below: 840 F. 2d 17.

No. 88-186. *TEW v. ARKY, FREED, STEARNS, WATSON, GREER, WEAVER & HARRIS, P. A., ET AL.* C. A. 11th Cir. Certiorari denied. Reported below: 846 F. 2d 753.

No. 88-187. *GROSS v. ILLINOIS.* App. Ct. Ill., 1st Dist. Certiorari denied. Reported below: 166 Ill. App. 3d 413, 519 N. E. 2d 1043.

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No. 88-188. *PALUGHI v. CITY OF MOBILE ET AL.* Sup. Ct. Ala. Certiorari denied. Reported below: 526 So. 2d 1.

No. 88-193. *SCIAMBRA, DBA PERIODICAL MARKETING & CONSULTING CO. v. ARA SERVICES, INC.* C. A. 5th Cir. Certiorari denied. Reported below: 841 F. 2d 651.

No. 88-194. *WEAVER ET AL. v. ANDERSON COUNTY FISCAL COURT ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 838 F. 2d 1216.

No. 88-199. *BELL v. UNITED STATES.* C. A. 7th Cir. Certiorari denied. Reported below: 836 F. 2d 334.

No. 88-200. *MORGENSTERN ET AL. v. UNITED STATES.* C. A. 6th Cir. Certiorari denied. Reported below: 842 F. 2d 333.

No. 88-203. *WESTINGHOUSE ELECTRIC CORP. v. WEST VIRGINIA DEPARTMENT OF HIGHWAYS.* C. A. 4th Cir. Certiorari denied. Reported below: 845 F. 2d 468.

No. 88-204. *SCHIAVONE CONSTRUCTION Co. v. MEROLA, ADMINISTRATRIX OF THE ESTATE OF MEROLA, ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 848 F. 2d 43.

No. 88-207. *ROBERTS v. UNITED STATES.* C. A. 4th Cir. Certiorari denied. Reported below: 846 F. 2d 73.

No. 88-208. *WARDELL v. DIAMOND FARMS CONDOMINIUM.* Ct. Sp. App. Md. Certiorari denied. Reported below: 73 Md. App. 773.

No. 88-209. *AUTORINO v. CONNECTICUT.* Sup. Ct. Conn. Certiorari denied. Reported below: 207 Conn. 403, 541 A. 2d 110.

No. 88-211. *LEHMAN v. PENNSYLVANIA.* Super. Ct. Pa. Certiorari denied. Reported below: 372 Pa. Super. 639, 534 A. 2d 1119.

No. 88-216. *ANDRE v. BENDIX CORP.* C. A. 7th Cir. Certiorari denied. Reported below: 841 F. 2d 172.

No. 88-221. *MILLER v. KANSAS.* Ct. App. Kan. Certiorari denied. Reported below: 12 Kan. App. 2d 19, 761 P. 2d 334.

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No. 88-222. *O'REILLY ET AL. v. NEW YORK TIMES CO.* C. A. 2d Cir. Certiorari denied. Reported below: 842 F. 2d 612.

No. 88-223. *REILLY ET VIR v. BLUE CROSS & BLUE SHIELD UNITED OF WISCONSIN.* C. A. 7th Cir. Certiorari denied. Reported below: 846 F. 2d 416.

No. 88-224. *HULL v. ATTLEBORO SAVINGS BANK.* App. Ct. Mass. Certiorari denied. Reported below: 25 Mass. App. 960, 519 N. E. 2d 775.

No. 88-225. *SHAVER v. F. W. WOOLWORTH CO.* C. A. 7th Cir. Certiorari denied. Reported below: 840 F. 2d 1361.

No. 88-227. *FERGUSON v. NORFOLK SOUTHERN CORP.* C. A. 4th Cir. Certiorari denied. Reported below: 836 F. 2d 546.

No. 88-231. *N & C PROPERTIES ET AL. v. PRITCHARD ET AL.* Sup. Ct. Ala. Certiorari denied. Reported below: 525 So. 2d 1346.

No. 88-233. *KERPELMAN v. MARYLAND.* Ct. Sp. App. Md. Certiorari denied. Reported below: 73 Md. App. 764.

No. 88-262. *DEERMAN ET AL. v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. Reported below: 837 F. 2d 684.

No. 88-270. *FOSTER ET UX. v. MILLIKEN.* Ct. App. Ky. Certiorari denied.

No. 88-275. *WHITE INDUSTRIES, INC., ET AL. v. CESSNA AIRCRAFT CO. ET AL.* C. A. 8th Cir. Certiorari denied. Reported below: 845 F. 2d 1497.

No. 88-289. *CANNON v. ROWEN ET VIR.* C. A. 9th Cir. Certiorari denied.

No. 88-292. *REINHARD ET AL. v. CONNER.* C. A. 7th Cir. Certiorari denied. Reported below: 847 F. 2d 384.

No. 88-303. *WEST COAST TRUCK LINES, INC. v. ARCATA COMMUNITY RECYCLING CENTER.* C. A. 9th Cir. Certiorari denied. Reported below: 846 F. 2d 1239.

No. 88-312. *LEDBETTER ET UX. v. COMMISSIONER OF INTERNAL REVENUE.* C. A. 5th Cir. Certiorari denied. Reported below: 837 F. 2d 708.



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No. 88-341. *GILLIES v. UNITED STATES*. C. A. 1st Cir. Certiorari denied. Reported below: 851 F. 2d 492.

No. 88-5002. *EASTHAM v. OKLAHOMA ET AL.* Ct. Crim. App. Okla. Certiorari denied.

No. 88-5003. *PIROVOLOS v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 844 F. 2d 415.

No. 88-5008. *LYNCH v. SEYBERT NICHOLAS PRINTING CORP.* C. A. 2d Cir. Certiorari denied. Reported below: 847 F. 2d 835.

No. 88-5010. *MARSHALL v. AMERICAN MOTORIST INSURANCE CO.* C. A. 5th Cir. Certiorari denied. Reported below: 841 F. 2d 395.

No. 88-5012. *CARPENTER v. REED*. C. A. 10th Cir. Certiorari denied.

No. 88-5013. *HAEDO v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 849 F. 2d 1478.

No. 88-5016. *FEASTER v. MIKSCH ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 846 F. 2d 21.

No. 88-5018. *WREN v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 842 F. 2d 338.

No. 88-5019. *DOMBY v. UNITED STATES*. C. A. Fed. Cir. Certiorari denied. Reported below: 847 F. 2d 842.

No. 88-5020. *JACKSON v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 845 F. 2d 880.

No. 88-5021. *WASHINGTON v. BUTLER, WARDEN*. C. A. 5th Cir. Certiorari denied. Reported below: 846 F. 2d 750.

No. 88-5023. *SEAU v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 850 F. 2d 690.

No. 88-5025. *TOWNES v. THOMPSON, WARDEN*. Sup. Ct. Va. Certiorari denied.

No. 88-5026. *SHEWCHUN v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 843 F. 2d 503.

No. 88-5027. *PRENZLER v. ORANGE COUNTY BOARD OF SUPERVISORS*. C. A. 9th Cir. Certiorari denied. Reported below: 842 F. 2d 1294.

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No. 88-5028. *SMITH v. UNITED STATES*. C. A. D. C. Cir. Certiorari denied.

No. 88-5029. *WEST v. MARYLAND*. C. A. 4th Cir. Certiorari denied. Reported below: 843 F. 2d 1389.

No. 88-5030. *WITHERSPOON, INDIVIDUALLY, AND AS MOTHER AND NEXT FRIEND ON BEHALF OF GAINES, ET AL. v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 838 F. 2d 803.

No. 88-5036. *BYRD v. CALIFORNIA*. Ct. App. Cal., 1st App. Dist. Certiorari denied.

No. 88-5037. *COSTANZO v. CALIFORNIA*. Ct. App. Cal., 3d App. Dist. Certiorari denied.

No. 88-5038. *KINNARD v. OKLAHOMA ET AL.* C. A. 10th Cir. Certiorari denied.

No. 88-5039. *JEFFERS v. DUCKWORTH, SUPERINTENDENT, INDIANA STATE PRISON, ET AL.* C. A. 7th Cir. Certiorari denied.

No. 88-5045. *PATTERSON v. KELLEY, SUPERINTENDENT, AT-TICA CORRECTIONAL FACILITY*. C. A. 2d Cir. Certiorari denied. Reported below: 847 F. 2d 835.

No. 88-5046. *DOZIER v. DEPARTMENT OF EDUCATION*. C. A. Fed. Cir. Certiorari denied. Reported below: 847 F. 2d 841.

No. 88-5047. *ENGLERT v. SMALL BUSINESS ADMINISTRATION*. C. A. Fed. Cir. Certiorari denied. Reported below: 848 F. 2d 1245.

No. 88-5051. *GREENO v. UNITED STATES*. C. A. 10th Cir. Certiorari denied.

No. 88-5056. *TRIPATI v. BRIMMER*. C. A. 10th Cir. Certiorari denied.

No. 88-5058. *RODRIGUEZ v. ILLINOIS*. App. Ct. Ill., 1st Dist. Certiorari denied. Reported below: 161 Ill. App. 3d 1158, 526 N. E. 2d 1147.

No. 88-5059. *SOCEY ET AL. v. UNITED STATES*. C. A. D. C. Cir. Certiorari denied. Reported below: 269 U. S. App. D. C. 453, 846 F. 2d 1439.

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No. 88-5060. *FORNINO v. NEW JERSEY*. Super. Ct. N. J., App. Div. Certiorari denied. Reported below: 223 N. J. Super. 531, 539 A. 2d 301.

No. 88-5063. *FAIRCHILDE v. MOYLAN ET AL.* C. A. 3d Cir. Certiorari denied.

No. 88-5065. *INGRAM v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 846 F. 2d 75.

No. 88-5067. *DUNCAN v. LYNAUGH, DIRECTOR, TEXAS DEPARTMENT OF CORRECTIONS*. C. A. 5th Cir. Certiorari denied. Reported below: 843 F. 2d 498.

No. 88-5068. *DICKENS v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 845 F. 2d 1017.

No. 88-5069. *LINDQUIST v. KELLEY, SUPERINTENDENT, ATTICA CORRECTIONAL FACILITY*. C. A. 2d Cir. Certiorari denied. Reported below: 847 F. 2d 835.

No. 88-5072. *BARRERA v. UNITED STATES*. C. A. 10th Cir. Certiorari denied. Reported below: 843 F. 2d 1576.

No. 88-5076. *CAUSEY v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 847 F. 2d 839.

No. 88-5079. *SHANNON v. KLINCAR, CHAIRMAN, ILLINOIS PRISON REVIEW BOARD, ET AL.* C. A. 7th Cir. Certiorari denied.

No. 88-5080. *NIETO v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 848 F. 2d 1243.

No. 88-5081. *SMITH v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 840 F. 2d 886.

No. 88-5083. *MCKIBBON v. TEXAS*. Ct. Crim. App. Tex. Certiorari denied. Reported below: 749 S. W. 2d 83.

No. 88-5085. *MARTIN v. CUNNINGHAM ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 837 F. 2d 476.

No. 88-5086. *MARTINEZ v. NEW MEXICO*. Dist. Ct. N. M., 9th Jud. Dist. Certiorari denied.

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No. 88-5087. *GOWIN v. ILLINOIS*. App. Ct. Ill., 5th Dist. Certiorari denied. Reported below: 158 Ill. App. 3d 1105, 525 N. E. 2d 601.

No. 88-5090. *HALL v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 845 F. 2d 1281.

No. 88-5093. *RICH v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 842 F. 2d 1295.

No. 88-5094. *LITTLEFIELD v. UNITED STATES*. C. A. 1st Cir. Certiorari denied. Reported below: 840 F. 2d 143.

No. 88-5095. *CHAVEZ v. TAYLOR, WARDEN*. C. A. 4th Cir. Certiorari denied. Reported below: 848 F. 2d 184.

No. 88-5096. *BROWN v. RYAN, SUPERINTENDENT, STATE CORRECTIONAL INSTITUTION AT DALLAS, PENNSYLVANIA, ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 849 F. 2d 599.

No. 88-5097. *JONES v. UNITED STATES*. Ct. App. D. C. Certiorari denied.

No. 88-5100. *BEASLEY v. HEDRICK, WARDEN*. C. A. 4th Cir. Certiorari denied. Reported below: 841 F. 2d 1122.

No. 88-5101. *IBEKWE v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 848 F. 2d 186.

No. 88-5102. *NICOLAU v. UNITED STATES*. C. A. 2d Cir. Certiorari denied.

No. 88-5103. *BIRTH v. UNITED STATES*. Ct. App. D. C. Certiorari denied.

No. 88-5105. *BURY v. HERRINGTON, SECRETARY OF ENERGY*. C. A. D. C. Cir. Certiorari denied.

No. 88-5106. *LOGARUSIC v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 849 F. 2d 1467.

No. 88-5108. *HUTCH v. HAWAII*. Sup. Ct. Haw. Certiorari denied. Reported below: 69 Haw. 667.

No. 88-5109. *KUSEK v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 844 F. 2d 942.



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No. 88-5110. *BRYCE v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 851 F. 2d 361.

No. 88-5111. *WASHINGTON v. LANE, DIRECTOR, ILLINOIS DEPARTMENT OF CORRECTIONS, ET AL.* C. A. 7th Cir. Certiorari denied. Reported below: 840 F. 2d 443.

No. 88-5116. *WOOLSTRUM v. OREGON STATE BOARD OF PAROLE*. Ct. App. Ore. Certiorari denied. Reported below: 89 Ore. App. 600, 750 P. 2d 509.

No. 88-5117. *NOTTINGHAM v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 843 F. 2d 1388.

No. 88-5118. *SIMON v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 839 F. 2d 1461.

No. 88-5119. *SWINSON v. UNITED STATES PAROLE COMMISSION*. C. A. 4th Cir. Certiorari denied. Reported below: 849 F. 2d 606.

No. 88-5120. *TAYLOR v. DESMOND ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 845 F. 2d 1015.

No. 88-5121. *SYKES v. SULLIVAN, SUPERINTENDENT, SING SING CORRECTIONAL FACILITY*. C. A. 2d Cir. Certiorari denied. Reported below: 847 F. 2d 836.

No. 88-5122. *RICHTER v. INTERNAL REVENUE SERVICE*. C. A. 2d Cir. Certiorari denied. Reported below: 854 F. 2d 1315.

No. 88-5123. *PRANTIL v. CALIFORNIA*. C. A. 9th Cir. Certiorari denied. Reported below: 843 F. 2d 314.

No. 88-5124. *NASH v. MAYFIELD*. C. A. 4th Cir. Certiorari denied. Reported below: 846 F. 2d 72.

No. 88-5129. *KELLY v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 849 F. 2d 603.

No. 88-5130. *AMOS v. MINNESOTA ET AL.* C. A. 8th Cir. Certiorari denied. Reported below: 849 F. 2d 1070.

No. 88-5132. *COUTURE v. LOPES, WARDEN, ET AL.* C. A. 2d Cir. Certiorari denied.

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No. 88-5134. *BURROWS v. ILLINOIS*. App. Ct. Ill., 4th Dist. Certiorari denied. Reported below: 165 Ill. App. 3d 1166, 536 N. E. 2d 1021.

No. 88-5137. *KOPLOW v. CITY OF PORTLAND, MAINE, ET AL.* Sup. Jud. Ct. Me. Certiorari denied.

No. 88-5139. *CROSS v. SAN MATEO COUNTY TRANSIT DISTRICT ET AL.* Ct. App. Cal., 1st App. Dist. Certiorari denied. Reported below: 198 Cal. App. 3d 576, 243 Cal. Rptr. 799.

No. 88-5142. *RIVERA-MEDINA v. UNITED STATES*. C. A. 1st Cir. Certiorari denied. Reported below: 845 F. 2d 12.

No. 88-5144. *WHITESHIELD v. TOOMBS ET AL.* C. A. 9th Cir. Certiorari denied.

No. 88-5145. *SAMAD v. ZIMMERMAN, SUPERINTENDENT, STATE INSTITUTION (AND DIAGNOSTIC AND CLASSIFICATION CENTER) AT GRATERFORD, PENNSYLVANIA*. C. A. 3d Cir. Certiorari denied.

No. 88-5146. *JOHNSON v. IRBY*. Sup. Ct. Ala. Certiorari denied.

No. 88-5149. *SPENCER v. DANVILLE POLICE DEPARTMENT*. C. A. 7th Cir. Certiorari denied.

No. 88-5150. *TURNER v. HOFFMAN ET AL.* C. A. 10th Cir. Certiorari denied.

No. 88-5153. *SANCHEZ v. WYOMING*. Sup. Ct. Wyo. Certiorari denied. Reported below: 755 P. 2d 245.

No. 88-5154. *PRENZLER v. DEPARTMENT OF HEALTH AND HUMAN SERVICES ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 843 F. 2d 502.

No. 88-5155. *CITRON v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 842 F. 2d 333.

No. 88-5156. *BEACH v. FLORIDA*. C. A. 11th Cir. Certiorari denied.

No. 88-5161. *DOTSON v. BOHTE ET AL.* Ct. App. Cal., 1st App. Dist. Certiorari denied.

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No. 88-5163. *ASHBY v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 846 F. 2d 74.

No. 88-5170. *MATTHEWS v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 848 F. 2d 1243.

No. 88-5171. *NUBINE v. TEXAS BOARD OF CORRECTIONS ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 846 F. 2d 750.

No. 88-5172. *MARTIN v. TYSON ET AL.* C. A. 7th Cir. Certiorari denied. Reported below: 845 F. 2d 1451.

No. 88-5175. *PALELLA v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 846 F. 2d 977.

No. 88-5177. *JAMES v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 846 F. 2d 75.

No. 88-5181. *MARTIN v. GRAMLEY ET AL.* C. A. 7th Cir. Certiorari denied.

No. 88-5183. *AGUAS v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 846 F. 2d 995.

No. 88-5184. *SHAMLIN v. ARKANSAS*. Ct. App. Ark. Certiorari denied. Reported below: 23 Ark. App. 39, 743 S. W. 2d 1.

No. 88-5185. *PRATT v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 848 F. 2d 1239.

No. 88-5186. *OUIMETTE v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 798 F. 2d 47.

No. 88-5187. *HENDERSON v. MCKELLAR, WARDEN, ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 838 F. 2d 466.

No. 88-5191. *CULVERHOUSE v. TEXAS*. Ct. Crim. App. Tex. Certiorari denied. Reported below: 755 S. W. 2d 856.

No. 88-5192. *LITCHFIELD v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 846 F. 2d 754.

No. 88-5195. *WATSON v. ILLINOIS*. C. A. 7th Cir. Certiorari denied. Reported below: 848 F. 2d 89.

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No. 88-5196. *WATSON v. ALABAMA ET AL.* C. A. 11th Cir. Certiorari denied. Reported below: 841 F. 2d 1074.

No. 88-5200. *DOPICO-FERNANDEZ v. GRAND UNION SUPERMARKET ET AL.* C. A. 1st Cir. Certiorari denied. Reported below: 841 F. 2d 11.

No. 88-5201. *CONNER v. BOWEN, WARDEN.* C. A. 11th Cir. Certiorari denied. Reported below: 842 F. 2d 279.

No. 88-5202. *GLENNA v. CALIFORNIA.* Ct. App. Cal., 4th App. Dist. Certiorari denied.

No. 88-5204. *SZAREWICZ v. GARDNER.* C. A. 3d Cir. Certiorari denied. Reported below: 856 F. 2d 184.

No. 88-5205. *OAKLEY v. WILSON ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 848 F. 2d 193.

No. 88-5206. *STRADER v. DOE ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 848 F. 2d 186.

No. 88-5207. *ERVIN v. BOWEN ET AL.* C. A. 11th Cir. Certiorari denied.

No. 88-5208. *FIXEL v. WHITLEY, WARDEN.* Sup. Ct. Nev. Certiorari denied. Reported below: 104 Nev. 857, 809 P. 2d 603.

No. 88-5209. *WESTOVER v. UNITED STATES.* C. A. 9th Cir. Certiorari denied.

No. 88-5210. *SAVARESE v. UNITED STATES.* C. A. 1st Cir. Certiorari denied. Reported below: 852 F. 2d 563.

No. 88-5212. *RILEY v. WISCONSIN.* Ct. App. Wis. Certiorari denied. Reported below: 142 Wis. 2d 947, 419 N. W. 2d 575.

No. 88-5214. *LECHIARA v. SOUTHERN OHIO COAL CO.* Cir. Ct. W. Va., Marion County. Certiorari denied.

No. 88-5217. *JOHNSON v. LYNAUGH, DIRECTOR, TEXAS DEPARTMENT OF CORRECTIONS.* C. A. 5th Cir. Certiorari denied.

No. 88-5218. *BONDZIE v. LIVELY ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 835 F. 2d 873.

No. 88-5219. *REDDING v. ALLEN, WARDEN, ET AL.* C. A. 10th Cir. Certiorari denied.



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No. 88-5220. *GALBERTH v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 846 F. 2d 983.

No. 88-5221. *LEPISCOPO v. TRAUB*. Sup. Ct. N. M. Certiorari denied.

No. 88-5224. *HARRIATT v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 849 F. 2d 601.

No. 88-5225. *AIMONE v. SCULLY, SUPERINTENDENT, GREEN HAVEN CORRECTIONAL FACILITY*. C. A. 2d Cir. Certiorari denied. Reported below: 849 F. 2d 87.

No. 88-5226. *HOWARD v. JOHNSON, WARDEN, ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 842 F. 2d 1291.

No. 88-5227. *LEVISTON v. BLACK, WARDEN*. C. A. 8th Cir. Certiorari denied. Reported below: 843 F. 2d 302.

No. 88-5229. *BROWN v. BOEING CO.* C. A. 9th Cir. Certiorari denied. Reported below: 843 F. 2d 501.

No. 88-5232. *ABDUL MATIYN v. EDWIN GOULD SERVICES FOR CHILDREN ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 847 F. 2d 835.

No. 88-5233. *KRAMER v. BUTLER, WARDEN*. C. A. 5th Cir. Certiorari denied. Reported below: 845 F. 2d 1291.

No. 88-5236. *BATTLE v. O'KEEFE ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 842 F. 2d 330.

No. 88-5238. *FRANCOIS v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 847 F. 2d 839.

No. 88-5242. *BEACH v. HUMPHREYS, SUPERINTENDENT, HOCKING CORRECTIONAL FACILITY, NELSONVILLE, OHIO*. C. A. 6th Cir. Certiorari denied. Reported below: 845 F. 2d 325.

No. 88-5243. *EVANS v. FULCOMER, SUPERINTENDENT, STATE CORRECTIONAL INSTITUTION AT HUNTINGDON, PENNSYLVANIA*. C. A. 3d Cir. Certiorari denied.

No. 88-5244. *VALENZUELA v. GOLDSMITH, WARDEN*. C. A. 9th Cir. Certiorari denied. Reported below: 841 F. 2d 1130.

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No. 88-5245. *SMITH v. SOWDERS, WARDEN*. C. A. 6th Cir. Certiorari denied. Reported below: 848 F. 2d 735.

No. 88-5248. *POWELL v. FULCOMER, WARDEN*. C. A. 3d Cir. Certiorari denied.

No. 88-5251. *NICHOLS v. CITY OF ERIE POLICE DEPARTMENT ET AL.* C. A. 3d Cir. Certiorari denied.

No. 88-5256. *WADE v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 841 F. 2d 398.

No. 88-5258. *THOMPSON v. HOUSEWRIGHT, DIRECTOR, ARKANSAS DEPARTMENT OF CORRECTION*. C. A. 8th Cir. Certiorari denied. Reported below: 855 F. 2d 856.

No. 88-5259. *MAULICK v. TAYLOR*. Sup. Ct. Va. Certiorari denied.

No. 88-5261. *CITRO v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 842 F. 2d 1149.

No. 88-5264. *DAVIS v. FLORIDA*. Dist. Ct. App. Fla., 2d Dist. Certiorari denied. Reported below: 526 So. 2d 77.

No. 88-5275. *DE YOUNG v. CAMPBELL ET AL.* C. A. 8th Cir. Certiorari denied. Reported below: 855 F. 2d 858.

No. 88-5278. *YARBROUGH v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 852 F. 2d 1522.

No. 88-5280. *SZEMBORSKI v. FIRST WISCONSIN NATIONAL BANK OF MILWAUKEE*. Ct. App. Wis. Certiorari denied. Reported below: 143 Wis. 2d 897, 422 N. W. 2d 463.

No. 88-5284. *SPINELLI v. LYNAUGH, DIRECTOR, TEXAS DEPARTMENT OF CORRECTIONS*. C. A. 5th Cir. Certiorari denied.

No. 88-5285. *RICHARDSON v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 849 F. 2d 439.

No. 88-5288. *ALCAZAR v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 845 F. 2d 329.

No. 88-5296. *GRAY v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 855 F. 2d 858.

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No. 88-5302. *LUMBAR v. UNITED STATES*; and  
No. 88-5324. *GOODSKY v. UNITED STATES*. C. A. 8th Cir.  
Certiorari denied. Reported below: 844 F. 2d 537.

No. 88-5303. *LARKINS v. ZIMMERMAN, ATTORNEY GENERAL  
OF PENNSYLVANIA, ET AL.* C. A. 3d Cir. Certiorari denied.

No. 88-5304. *LUN WOON TAM v. UNITED STATES*. C. A. 9th  
Cir. Certiorari denied. Reported below: 849 F. 2d 1477.

No. 88-5306. *LANDI v. UNITED STATES*. C. A. 2d Cir. Cer-  
tiorari denied. Reported below: 838 F. 2d 1203.

No. 88-5309. *PENNINGTON v. GOSSELIN ET AL.* C. A. 6th  
Cir. Certiorari denied. Reported below: 848 F. 2d 193.

No. 88-5320. *HERRMANN v. THORNBURGH, ATTORNEY GEN-  
ERAL, ET AL.* C. A. 3d Cir. Certiorari denied. Reported  
below: 849 F. 2d 101.

No. 88-5321. *GONZALES v. UNITED STATES*. C. A. 10th Cir.  
Certiorari denied.

No. 88-5327. *GABRIEL v. UNITED STATES*. Ct. App. D. C.  
Certiorari denied.

No. 88-5337. *BLACKSTON v. UNITED STATES*. C. A. 4th Cir.  
Certiorari denied. Reported below: 846 F. 2d 74.

No. 88-5350. *KLEIN v. UNITED STATES*. C. A. 8th Cir.  
Certiorari denied. Reported below: 850 F. 2d 404.

No. 88-5356. *WALLACE v. UNITED STATES*. C. A. 3d Cir.  
Certiorari denied. Reported below: 853 F. 2d 923.

No. 88-5358. *VENCE v. UNITED STATES*. C. A. 2d Cir. Cer-  
tiorari denied. Reported below: 850 F. 2d 927.

No. 88-5361. *TARANTINO v. UNITED STATES*. C. A. D. C.  
Cir. Certiorari denied. Reported below: 269 U. S. App. D. C.  
398, 846 F. 2d 1384.

No. 88-5375. *HALL ET AL. v. ILLINOIS*. App. Ct. Ill., 1st  
Dist. Certiorari denied. Reported below: 164 Ill. App. 3d 770,  
518 N. E. 2d 275.

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No. 88-5376. *ELLERBE v. UNITED STATES*. Ct. App. D. C. Certiorari denied. Reported below: 545 A. 2d 1197.

No. 88-5379. *HEFNER v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 842 F. 2d 731.

No. 88-5380. *ZUKOWSKI v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 851 F. 2d 174.

No. 88-5398. *GIBSON v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 848 F. 2d 1240.

No. 87-1646. *SEQUOIA BOOKS, INC. v. ILLINOIS*. App. Ct. Ill., 2d Dist. Certiorari denied. JUSTICE BRENNAN and JUSTICE MARSHALL would grant the petition for writ of certiorari and reverse the judgments of conviction. Reported below: 160 Ill. App. 3d 315, 513 N. E. 2d 468.

No. 87-1660. *ILLINOIS v. MARINEZ ET UX*. App. Ct. Ill., 3d Dist. Motion of respondents for leave to proceed *in forma pauperis* granted. Certiorari denied. JUSTICE WHITE would grant certiorari. Reported below: 160 Ill. App. 3d 349, 513 N. E. 2d 607.

No. 87-1869. *ARCTIC SLOPE REGIONAL CORP. v. FEDERAL ENERGY REGULATORY COMMISSION ET AL.* C. A. D. C. Cir. Motion of Alaska Federation of Natives for leave to file a brief as *amicus curiae* granted. Certiorari denied. Reported below: 265 U. S. App. D. C. 390, 832 F. 2d 158.

No. 87-1962. *UNTERMAYER v. VALHI, INC., ET AL.* C. A. 2d Cir. Certiorari denied. JUSTICE WHITE took no part in the consideration or decision of this petition. Reported below: 841 F. 2d 25.

No. 87-2082. *MACARTHUR CO. ET AL. v. JOHNS-MANVILLE CORP. ET AL.* C. A. 2d Cir. Certiorari denied. JUSTICE WHITE took no part in the consideration or decision of this petition. Reported below: 837 F. 2d 89.

No. 88-5199. *GRAVES v. BIDNET, INC.* C. A. 4th Cir. Certiorari denied. JUSTICE WHITE took no part in the consideration or decision of this petition. Reported below: 836 F. 2d 1342.

No. 87-1968. *BELLO ET AL. v. WALKER ET AL.* C. A. 3d Cir. Motion of Pacific Legal Foundation for leave to file a brief as



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*amicus curiae* granted. Certiorari denied. Reported below: 840 F. 2d 1124.

No. 87-1972. BOUNDS, COMMISSIONER, NORTH CAROLINA DEPARTMENT OF CORRECTIONS, ET AL. *v.* SMITH ET AL. C. A. 4th Cir. Motion of respondents for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 841 F. 2d 77.

No. 87-1975. SEQUOIA BOOKS, INC. *v.* ILLINOIS. App. Ct. Ill., 2d Dist. Certiorari denied. JUSTICE BRENNAN and JUSTICE MARSHALL would grant the petition for writ of certiorari and reverse the judgment of conviction. Reported below: 162 Ill. App. 3d 1169, 528 N. E. 2d 1115.

No. 87-1997. BLINDER, ROBINSON & CO., INC., ET AL. *v.* SECURITIES AND EXCHANGE COMMISSION. C. A. D. C. Cir. Certiorari denied. JUSTICE MARSHALL took no part in the consideration or decision of this petition. Reported below: 267 U. S. App. D. C. 96, 837 F. 2d 1099.

No. 87-2085. ARKANSAS STATE BOARD OF EDUCATION ET AL. *v.* LITTLE ROCK SCHOOL DISTRICT ET AL. C. A. 8th Cir. Certiorari denied. JUSTICE MARSHALL took no part in the consideration or decision of this petition. Reported below: 839 F. 2d 1296.

No. 87-2003. ILLINOIS *v.* HERNANDEZ; and

No. 87-2004. ILLINOIS *v.* CRUZ. Sup. Ct. Ill. Motions of respondents for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: No. 87-2003, 121 Ill. 2d 293, 521 N. E. 2d 25; No. 87-2004, 121 Ill. 2d 321, 521 N. E. 2d 18.

No. 87-2080. DUCKWORTH ET AL. *v.* MAURICIO. C. A. 7th Cir. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 840 F. 2d 454.

No. 87-2102. INDIANA *v.* JONES. C. A. 7th Cir. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied.

No. 88-147. DUGGER, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS *v.* WATERHOUSE. Sup. Ct. Fla. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 522 So. 2d 341.

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No. 88-196. *FLORIDA v. POTTS*. Sup. Ct. Fla. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 526 So. 2d 63.

No. 88-201. *FLORIDA v. CASO*. Sup. Ct. Fla. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 524 So. 2d 422.

No. 87-2016. *BRANDT v. BRANDT*. Ct. App. Minn. Certiorari denied. JUSTICE BLACKMUN took no part in the consideration or decision of this petition.

No. 87-2093. *INDIANA HOSPITAL ET AL. v. MILLER*. C. A. 3d Cir. Certiorari denied. JUSTICE BLACKMUN took no part in the consideration or decision of this petition. Reported below: 843 F. 2d 139.

No. 87-7238. *MARTIN v. SHUGHART ET AL.* C. A. 4th Cir. Certiorari denied. JUSTICE BLACKMUN took no part in the consideration or decision of this petition. Reported below: 846 F. 2d 72.

No. 87-2025. *PEREZ v. SCRIPPS-HOWARD BROADCASTING CO. ET AL.* Sup. Ct. Ohio. Certiorari denied. THE CHIEF JUSTICE took no part in the consideration or decision of this petition. Reported below: 35 Ohio St. 3d 215, 520 N. E. 2d 198.

No. 87-2027. *COLORADO v. WESTERN PAVING CONSTRUCTION CO.* C. A. 10th Cir. Certiorari denied. JUSTICE BLACKMUN would grant certiorari. Reported below: 841 F. 2d 1025.

No. 87-2083. *MOZART CO. v. MERCEDES-BENZ OF NORTH AMERICA, INC.* C. A. 9th Cir. Certiorari denied. JUSTICE WHITE would grant certiorari. Reported below: 833 F. 2d 1342.

No. 87-2094. *TAUB v. KENTUCKY ET AL.* C. A. 6th Cir. Certiorari denied. JUSTICE BRENNAN, JUSTICE WHITE, and JUSTICE MARSHALL would grant certiorari. Reported below: 842 F. 2d 912.

No. 87-2096. *OAHU GAS SERVICE, INC. v. PACIFIC RESOURCES, INC., ET AL.* C. A. 9th Cir. Certiorari denied. JUSTICE BRENNAN and JUSTICE WHITE would grant certiorari. Reported below: 838 F. 2d 360.

No. 87-2123. *DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES v. MID-FLORIDA GROWERS, INC., ET AL.* Sup. Ct. Fla. Motion of Lykes Bros., Inc., et al. for leave to file a brief as *amici*

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*curiae* granted. Certiorari denied. Reported below: 521 So. 2d 101.

- No. 87-6745. THOMPSON *v.* LOUISIANA. Sup. Ct. La.;  
No. 87-6830. COKER *v.* TENNESSEE. Sup. Ct. Tenn.;  
No. 87-6956. HAMILTON *v.* ALABAMA. Sup. Ct. Ala.;  
No. 87-6962. CONE *v.* TENNESSEE. Ct. Crim. App. Tenn.;  
No. 87-6979. WALLS *v.* MISSOURI. Sup. Ct. Mo.;  
No. 87-6981. MURRAY *v.* MISSOURI. Sup. Ct. Mo.;  
No. 87-7018. HARDING *v.* LEWIS, DIRECTOR, ARIZONA DE-  
PARTMENT OF CORRECTIONS. C. A. 9th Cir.;  
No. 87-7047. REMETA *v.* FLORIDA. Sup. Ct. Fla.;  
No. 87-7088. JONES *v.* ALABAMA. Sup. Ct. Ala.;  
No. 87-7117. ANDREWS *v.* TEXAS. Ct. Crim. App. Tex.;  
No. 87-7145. BLANKENSHIP *v.* GEORGIA. Sup. Ct. Ga.;  
No. 87-7158. CORRELL *v.* FLORIDA. Sup. Ct. Fla.;  
No. 87-7190. BATTLE *v.* MISSOURI. Ct. App. Mo., Eastern  
Dist.;  
No. 87-7217. JACKSON *v.* FLORIDA. Sup. Ct. Fla.;  
No. 87-7235. WHITE *v.* DUGGER, SECRETARY, FLORIDA DE-  
PARTMENT OF CORRECTIONS. Sup. Ct. Fla.;  
No. 87-7264. CADE *v.* ALABAMA. Sup. Ct. Ala.;  
No. 87-7265. PUIATTI *v.* FLORIDA. Sup. Ct. Fla.;  
No. 87-7335. WALDROP *v.* ALABAMA. Ct. Crim. App. Ala.;  
No. 87-7352. HARDWICK *v.* FLORIDA. Sup. Ct. Fla.;  
No. 88-271. POYNER *v.* BAIR, WARDEN. Sup. Ct. Va.;  
No. 88-272. POYNER *v.* BAIR, WARDEN. Sup. Ct. Va.;  
No. 88-273. POYNER *v.* BAIR, WARDEN. Sup. Ct. Va.;  
No. 88-5007. O'DELL *v.* VIRGINIA. Sup. Ct. Va.;  
No. 88-5009. JONES *v.* MISSOURI. Sup. Ct. Mo.;  
No. 88-5032. RUIZ *v.* CALIFORNIA. Sup. Ct. Cal.;  
No. 88-5034. MINCEY *v.* GEORGIA. Sup. Ct. Ga.;  
No. 88-5049. JENKINS *v.* OHIO. Ct. App. Ohio, Cuyahoga  
County;  
No. 88-5052. THOMPSON *v.* ILLINOIS. Sup. Ct. Ill.;  
No. 88-5066. BUEHL *v.* PENNSYLVANIA. Sup. Ct. Pa.;  
No. 88-5075. DAUGHERTY *v.* DUGGER, SECRETARY, FLORIDA  
DEPARTMENT OF CORRECTIONS, ET AL. C. A. 11th Cir.;  
No. 88-5091. HOVEY *v.* CALIFORNIA. Sup. Ct. Cal.;  
No. 88-5107. HOWARD *v.* CALIFORNIA. Sup. Ct. Cal.;  
No. 88-5112. KIMBLE *v.* CALIFORNIA. Sup. Ct. Cal.;  
No. 88-5114. MAK *v.* WASHINGTON. Sup. Ct. Wash.;



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No. 88-5138. *FLEENOR v. INDIANA*. Sup. Ct. Ind.;  
No. 88-5147. *MIDDLETON v. SOUTH CAROLINA*. Sup. Ct. S. C.;  
No. 88-5178. *STEPHENS v. KEMP, WARDEN*. C. A. 11th Cir.;  
No. 88-5190. *JOHNSON v. OKLAHOMA*. Ct. Crim. App. Okla.;

and

No. 88-5194. *FREE v. ILLINOIS*. Sup. Ct. Ill. Certiorari denied. Reported below: No. 87-6745, 516 So. 2d 349; No. 87-6830, 746 S. W. 2d 167; No. 87-6956, 520 So. 2d 167; No. 87-6962, 747 S. W. 2d 353; No. 87-6979, 744 S. W. 2d 791; No. 87-6981, 744 S. W. 2d 762; No. 87-7018, 834 F. 2d 853; No. 87-7047, 522 So. 2d 825; No. 87-7088, 520 So. 2d 553; No. 87-7117, 744 S. W. 2d 40; No. 87-7145, 258 Ga. 43, 365 S. E. 2d 265; No. 87-7158, 523 So. 2d 562; No. 87-7190, 745 S. W. 2d 730; No. 87-7217, 522 So. 2d 802; No. 87-7235, 523 So. 2d 140; No. 87-7264, 521 So. 2d 85; No. 87-7265, 521 So. 2d 1106; No. 87-7335, 523 So. 2d 475; No. 87-7352, 521 So. 2d 1071; No. 88-5007, 234 Va. 672, 364 S. E. 2d 491; No. 88-5009, 749 S. W. 2d 356; No. 88-5032, 44 Cal. 3d 589, 749 P. 2d 854; No. 88-5049, 42 Ohio App. 3d 97, 536 N. E. 2d 667; No. 88-5052, 121 Ill. 2d 401, 521 N. E. 2d 38; No. 88-5066, 510 Pa. 363, 508 A. 2d 1167; No. 88-5075, 839 F. 2d 1426; No. 88-5091, 44 Cal. 3d 543, 749 P. 2d 776; No. 88-5107, 44 Cal. 3d 375, 749 P. 2d 279; No. 88-5112, 44 Cal. 3d 480, 749 P. 2d 803; No. 88-5138, 514 N. E. 2d 80; No. 88-5147, 295 S. C. 318, 368 S. E. 2d 457; No. 88-5178, 846 F. 2d 642; No. 88-5194, 122 Ill. 2d 367, 522 N. E. 2d 1184.

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. 87-6983. *MUNOZ v. CALIFORNIA*. Ct. App. Cal., 6th App. Dist. Certiorari denied. JUSTICE BRENNAN would grant certiorari.

No. 87-6984. *SHARP v. TEXAS*. Ct. Crim. App. Tex. Certiorari denied. Reported below: 707 S. W. 2d 611.

JUSTICE BRENNAN, dissenting.

Adhering to my view that the death penalty is in all circumstances cruel and unusual punishment prohibited by the Eighth



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and Fourteenth Amendments, *Gregg v. Georgia*, 428 U. S. 153, 227 (1976), I would grant certiorari and vacate the death sentence in this case.

JUSTICE MARSHALL, dissenting.

Adhering to my view that the death penalty is in all circumstances cruel and unusual punishment prohibited by the Eighth and Fourteenth Amendments, *Gregg v. Georgia*, 428 U. S. 153, 231-241 (1976) (MARSHALL, J., dissenting), I would grant the petition for writ of certiorari.

Even if I did not hold this view, I would grant the petition to resolve the question whether the Eighth and Fourteenth Amendments preclude the introduction of evidence of unadjudicated criminal conduct at the sentencing phase of a capital case. As I recently argued in *Williams v. Lynaugh*, 484 U. S. 935 (1987), and *Devier v. Kemp*, 484 U. S. 948 (1987), the admission of such evidence cannot be reconciled with the heightened need for reliability in capital cases.

Petitioner Michael Eugene Sharp was convicted of murder and sentenced to death. At the penalty phase, the State, over defense counsel's objections, introduced the testimony of Detective Jerry Smith. Smith testified that petitioner, while in custody, had told him where to find the body of Blanca Arreola, a missing Texas woman. Smith stated that he did not know the cause of Arreola's death. He testified that petitioner had not been indicted for her death and that he did not expect that he would be. The prosecutor's closing statement repeatedly referred to Arreola's murder as evidence of petitioner's future dangerousness. I am troubled that once again a jury faced unproved but highly prejudicial allegations of criminal conduct in a capital sentencing proceeding. I would grant certiorari.

No. 87-6987. LIPHAM v. GEORGIA. Sup. Ct. Ga. Certiorari denied. Reported below: 257 Ga. 808, 364 S. E. 2d 840.

JUSTICE MARSHALL, with whom JUSTICE BRENNAN joins, 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, 231 (1976) (MARSHALL, J., dissenting), I would grant the petition for writ of certiorari and vacate the death sentence in this case.

But even if I did not hold this view, I would still grant the petition and vacate the death sentence. Imposing the death penalty on petitioner is squarely inconsistent with this Court's decision in *Caldwell v. Mississippi*, 472 U. S. 320 (1985), where we held constitutionally unacceptable precisely the sorts of jury arguments employed by the Georgia prosecutor here.

Petitioner was convicted of murder, rape, armed robbery, and burglary, and was sentenced to death for the murder. In his opening statement at the sentencing phase, the prosecutor told the jury it had reached the phase of the proceedings where "you make the decision as to the punishment." Pet. for Cert. 5. But then he continued:

"But how did we get to right here? You got here because the district attorney, that's me, as the agent of the State[,] made the decision to seek the death penalty in this case. Not any of you all but by law the only person who can do that. So you didn't bring us here. No one else did. That was my decision and that's why you can choose not to impose the death penalty if you want to, for any reason or no reason whatsoever. But that decision seeking the death penalty was already made. *So don't feel like it is yours and have it weigh too heavily on you because that was my decision.*" *Id.*, at 5-6 (emphasis added).

In his closing remarks, the prosecutor again informed the jury that "[y]ou are simply one more step in the procedure." He concluded by asserting that by comparison with the victim's suffering, the jury's decision was easy: "To infer or to interfere with justice by saying that your verdict of a proper punishment for William Anthony Lipham is only a life sentence is a joke. A very sad joke." *Id.*, at 8.

Allowing petitioner's death sentence to stand cannot possibly be squared with *Caldwell*. In that case, we overturned the death sentence in a case in which the prosecutor had noted to the jury that "the decision you render is automatically reviewable by the Supreme Court." We stated there that "it is constitutionally impermissible to rest a death sentence on a determination made by a sentencer who has been led to believe that the responsibility for determining the appropriateness of the defendant's death rests elsewhere." 472 U. S., at 328-329. The rationale for that holding was that jurors charged with deciding whether capital punish-

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ment should be imposed should recognize that theirs is a "truly awesome responsibility" and "act with due regard for the consequences of their decision . . . ." *Id.*, at 329-330 (quoting *McGautha v. California*, 402 U. S. 183, 208 (1971)). Dissipating this all-important sense of responsibility, we wrote, could easily result in the jury's deciding to "'send a message' of extreme disapproval for the defendant's acts" without ever having determined that a death sentence was in order. 472 U. S., at 331-332.

The prosecutor's statement here—admonishing the jurors not to "feel like it is you[r] [decision]" and urging them not to "have it weigh too heavily on you because that was my decision"—is designed for only one reason: to dissipate the jury's sense of personal responsibility for this most awesome of decisions. See, *e. g.*, *Tucker v. Kemp*, 802 F. 2d 1293 (CA11 1986) (en banc) (concluding that a "prosecutorial expertise" argument was impermissible under *Caldwell* where the prosecutor suggested that others, including the prosecutor and the police, bore partial responsibility for imposition of the death penalty), cert. denied, 480 U. S. 911 (1987).

Nor am I persuaded by the State's argument that petitioner is barred on direct appeal from raising his *Caldwell* claim either because of his failure to object at trial or because of his failure to object with more specificity on appeal below. In sanctioning the prosecutor's statement that deciding whether to execute petitioner should not "weigh too heavily on you," the judge committed what can only be deemed a plain error. And in his brief to the Georgia Supreme Court, petitioner—though not complaining specifically that *Caldwell* had been violated—sought reversal generally because of the "inflammatory and prejudicial" argumentation of the prosecutor, a description which richly applies to the remarks quoted above.

I therefore dissent.

No. 87-7054. *CHOU v. UNIVERSITY OF CALIFORNIA*. C. A. 9th Cir. Certiorari denied. JUSTICE KENNEDY took no part in the consideration or decision of this petition.

No. 87-7076. *JURAS v. AMAN COLLECTION SERVICE, INC., ET AL.* C. A. 9th Cir. Certiorari denied. JUSTICE KENNEDY took no part in the consideration or decision of this petition. Reported below: 829 F. 2d 739.



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No. 88-321. *DANIELS ET UX. v. COMMISSIONER OF INTERNAL REVENUE*. C. A. 9th Cir. Certiorari denied. JUSTICE KENNEDY took no part in the consideration or decision of this petition.

No. 87-7094. *BROWN v. COVINGTON & BURLING ET AL.* C. A. D. C. Cir. Certiorari before judgment denied.

No. 87-7208. *BROWN v. LURY ET AL.* C. A. D. C. Cir. Certiorari before judgment denied.

No. 87-7098. *JOHNSON v. ALABAMA*. Sup. Ct. Ala. Certiorari denied. Reported below: 521 So. 2d 1018.

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.

I continue to adhere to my view that the death penalty is in all circumstances cruel and unusual punishment forbidden by the Eighth and Fourteenth Amendments. *Gregg v. Georgia*, 428 U. S. 153, 231 (1976) (MARSHALL, J., dissenting). I also continue to believe that the death penalty's cruel and unusual nature is made all the more arbitrary and freakish when it is imposed by a judge in the face of a jury determination that the appropriate penalty is life imprisonment. See *Spaziano v. Florida*, 468 U. S. 447, 467 (1984) (STEVENS, J., concurring in part and dissenting in part). Therefore, I would grant the petition for writ of certiorari and vacate petitioner's death sentence for the reasons I expressed in *Jones v. Alabama*, 470 U. S. 1062, 1063 (1985) (MARSHALL, J., dissenting).

In this case, after a full hearing, the jury determined that life imprisonment, not death, was the punishment which petitioner deserved. Nevertheless, following Alabama law which allows him wide discretion in death sentences, the trial judge overrode the jury's determination and sentenced petitioner to death. I continue to believe that "[i]t approaches the most literal sense of the word 'arbitrary' to put one to death in the face of a contrary jury determination where it is accepted that the jury had indeed responsibly carried out its task." *Jones v. Alabama*, *supra*, at 1065.



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No. 87-7101. MANN v. OKLAHOMA. Ct. Crim. App. Okla. Certiorari denied. Reported below: 749 P. 2d 1151.

JUSTICE MARSHALL, with whom JUSTICE BRENNAN joins, 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, 231 (1976) (MARSHALL, J., dissenting), I would grant the petition for certiorari and vacate the death sentence in this case. Even if I did not take this view, I would grant the petition in order to resolve the question whether inflammatory and prejudicial photographs of the victim's body introduced during the guilt phase of a capital trial, and subsequently reincorporated during the sentencing phase, violate the accused's constitutional right to a reliable sentencing determination. The Court granted certiorari on a very similar question last Term in *Thompson v. Oklahoma*, 487 U. S. 815 (1988), but did not decide it because the Court found that the petitioner in that case, who was 15 years old at the time of the offense, could not be subjected to the death penalty under the Eighth and Fourteenth Amendments. See *id.*, at 838, n. 48 (plurality opinion).

The petitioner here, an adult, was convicted of first-degree murder and sentenced to death for his role in the same murder which gave rise to *Thompson*, *supra*. During the guilt phase of the petitioner's trial, the prosecution introduced two color photographs of the victim's body that were taken after the body had been retrieved from a river one month after the murder. These photographs were reincorporated by the prosecution during the sentencing phase of the trial. On direct appeal, the Oklahoma Court of Criminal Appeals found that the trial court erred in admitting the photographs due to their "gruesome" and "inordinately grisley [*sic*]" nature. 749 P. 2d 1151, 1156 (1988). The court concluded, however, that the error was harmless because "the case against appellant was sufficient" without the photographs and thus the court could "not find this evidence affected the jury's verdict." *Ibid.*

Significantly, the court never considered whether the introduction of the photographic evidence violated the petitioner's "constitutional rights by virtue of its being considered at the penalty phase" of his trial. *Thompson*, *supra*, at 838, n. 48. The state court's analysis is therefore fatally flawed in that it did not accord

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any weight whatsoever to "the qualitative difference of death from all other punishments." *California v. Ramos*, 463 U. S. 992, 998 (1983). As to the specific claim, moreover, the petitioner argues convincingly that the photographic evidence created an impermissible risk that his death sentence was based on considerations that are "totally irrelevant to the sentencing process," *Zant v. Stephens*, 462 U. S. 862, 885 (1983), because it focused the jury's attention on the postmortem decomposition of the victim's body rather than on "the character of the [defendant] and the circumstances of the crime." *Id.*, at 879. Indeed, photographic evidence of this sort seems no less inflammatory or prejudicial than the victim impact statements deemed inadmissible in *Booth v. Maryland*, 482 U. S. 496 (1987).

The introduction in capital trials of ghastly photographs of the victim presents substantial and recurring issues of constitutional dimension, see, e. g., *Tucker v. Kemp*, 480 U. S. 911 (1987) (BRENNAN, J., dissenting from denial of certiorari), that warrant plenary review by the Court. I dissent.

No. 87-7116. *HALE v. OKLAHOMA*. Ct. Crim. App. Okla. Certiorari denied. Reported below: 750 P. 2d 130.

JUSTICE BRENNAN, dissenting.

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

JUSTICE MARSHALL, dissenting.

Adhering to my view that the death penalty is in all circumstances cruel and unusual punishment prohibited by the Eighth and Fourteenth Amendments, *Gregg v. Georgia*, 428 U. S. 153, 231 (1976) (MARSHALL, J., dissenting), I would grant the petition for writ of certiorari and vacate the death sentence in this case. But even if I believed that the death penalty could be constitutionally imposed under certain circumstances, I would grant the petition and vacate petitioner's death sentence for the same reasons that I expressed in *Brecheen v. Oklahoma*, 485 U. S. 909 (1988) (MARSHALL, J., dissenting from denial of certiorari).

Petitioner was convicted for the murder-kidnaping of the son of a prominent local banking family. Pretrial publicity was exten-

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sive. All members of the jury had read or heard of the murder-kidnaping. Some jurors knew petitioner's family and some were acquainted with the victim's family. Six members admitted that they had formed opinions concerning the case. I do not doubt that their representations that they could set aside their opinions and listen to the evidence were sincere. But under the totality of the circumstances, I can only conclude that petitioner Hale, like the petitioner in *Brecheen*, was denied his constitutional right to a fair trial and to impartial sentencing because of Oklahoma's strong presumption against venue changes.

No. 87-7199. *LEE v. GEORGIA*. Sup. Ct. Ga. Certiorari denied. Reported below: 258 Ga. 82, 365 S. E. 2d 99.

JUSTICE MARSHALL, with whom JUSTICE BRENNAN joins, 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, 231-241 (1976) (MARSHALL, J., dissenting), I would grant the petition for writ of certiorari.

Even if I did not hold this view, I would grant the petition to establish clearly the minimal due process requirements for state change of venue standards. As I recently argued in *Brecheen v. Oklahoma*, 485 U. S. 909 (1988) (MARSHALL, J., dissenting from denial of certiorari), and *Hale v. Oklahoma*, ante, p. 878 (MARSHALL, J., dissenting from denial of certiorari), a defendant's interest in a fundamentally fair trial outweighs the State's interest in holding that trial in a particular district. It is time that this Court consider the constitutional limits on change of venue standards and assist state efforts to ensure jury impartiality. I would grant certiorari.

No. 87-7303. *DOE v. COUGHLIN, COMMISSIONER, NEW YORK STATE DEPARTMENT OF CORRECTIONAL SERVICES, ET AL.* Ct. App. N. Y. Motion of petitioner to seal portions of the petition for writ of certiorari granted. Certiorari denied. Reported below: 71 N. Y. 2d 48, 518 N. E. 2d 536.

No. 88-5. *MCCALL v. CHESAPEAKE & OHIO RAILWAY CO.* C. A. 6th Cir. Motion of American Diabetes Association et al. for leave to file a brief as *amici curiae* granted. Certiorari denied.



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JUSTICE BLACKMUN would grant certiorari. Reported below: 844 F. 2d 294.

No. 88-22. VALLIER ET AL. *v.* UNITED STATES DISTRICT COURT FOR THE CENTRAL DISTRICT OF CALIFORNIA (SOUTHERN PACIFIC TRANSPORTATION CO., REAL PARTY IN INTEREST). C. A. 9th Cir. Petition for writ of certiorari and/or mandamus denied.

No. 88-72. PINNEY DOCK & TRANSPORT CO. *v.* NORFOLK & WESTERN RAILWAY CO. ET AL. C. A. 6th Cir. Motion of C. D. Ambrosia Trucking Co. et al. for leave to file a brief as *amici curiae* granted. Certiorari denied. Reported below: 838 F. 2d 1445.

No. 88-137 (A-95). GRACEY *v.* DAY ET AL. C. A. 3d Cir. Application for stay, addressed to JUSTICE STEVENS and referred to the Court, denied. Certiorari denied. Reported below: 849 F. 2d 601.

#### *Rehearing Denied*

No. 86-1944. KWOUN ET AL. *v.* SOUTHEAST MISSOURI PROFESSIONAL STANDARDS REVIEW ORGANIZATION ET AL., 486 U. S. 1022;

No. 87-6801. DAWNS *v.* CANON U. S. A., INC., 486 U. S. 1045;

No. 87-6933. WILLIAMS *v.* PLANNED PARENTHOOD ASSOCIATION OF THE ATLANTA AREA, INC., ET AL., 487 U. S. 1221; and

No. 87-7038. KINSEY *v.* UNITED STATES, 487 U. S. 1223. Petitions for rehearing denied.

No. 87-6759. GRAVES *v.* BROWN, 486 U. S. 1045. Motion for leave to file petition for rehearing denied.

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#### *Dismissals Under Rule 53*

No. 88-354. UNITED STATES DEPARTMENT OF THE AIR FORCE, SCOTT AIR FORCE BASE, ILLINOIS *v.* FEDERAL LABOR RELATIONS AUTHORITY. C. A. 7th Cir. Certiorari dismissed under this Court's Rule 53. Reported below: 838 F. 2d 229.

No. 88-355. UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES, SOCIAL SECURITY ADMINISTRATION *v.* FEDERAL LABOR RELATIONS AUTHORITY ET AL. C. A. 4th Cir.



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Certiorari dismissed under this Court's Rule 53. Reported below: 833 F. 2d 1129.

No. 88-356. UNITED STATES DEPARTMENT OF THE NAVY, PHILADELPHIA NAVAL SHIPYARD *v.* FEDERAL LABOR RELATIONS AUTHORITY. C. A. 3d Cir. Certiorari dismissed under this Court's Rule 53. Reported below: 840 F. 2d 1131.

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*Dismissals Under Rule 53*

No. 88-283. PARADYNE CORP. *v.* M/A-COM, INC., ET AL. C. A. 4th Cir. Certiorari dismissed under this Court's Rule 53. Reported below: 849 F. 2d 606.

No. 88-243. SHEFTELMAN ET AL. *v.* STANDARD METALS CORP. ET AL. C. A. 10th Cir. Certiorari dismissed under this Court's Rule 53. Reported below: 817 F. 2d 625 and 839 F. 2d 1383.

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*Affirmed on Appeal*

No. 88-295. LOCAL UNION 598, PLUMBERS & PIPEFITTERS INDUSTRY JOURNEYMEN & APPRENTICES TRAINING FUND *v.* J. A. JONES CONSTRUCTION CO. ET AL. Appeal from C. A. 9th Cir. Motion of Foundation for Fair Contracting for leave to file a brief as *amicus curiae* granted. Judgment affirmed. Reported below: 846 F. 2d 1213.

*Appeals Dismissed*

No. 88-76. CROCKER NATIONAL BANK ET AL. *v.* CITY AND COUNTY OF SAN FRANCISCO. Appeal from Sup. Ct. Cal. dismissed for want of substantial federal question. THE CHIEF JUSTICE would note probable jurisdiction and set case for oral argument. Reported below: 44 Cal. 3d 839, 750 P. 2d 324.

No. 88-179. JONATHAN CLUB *v.* CALIFORNIA COASTAL COMMISSION. Appeal from Ct. App. Cal., 2d App. Dist., dismissed for want of substantial federal question.

No. 88-253. PRITCHARD ET UX. *v.* BOARD OF COMMISSIONERS OF CALVERT COUNTY, MARYLAND, ET AL. Appeal from Ct. App. Md. dismissed for want of substantial federal question. Reported below: 312 Md. 522, 540 A. 2d 1139.

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No. 88-298. *MARKET STREET MISSION v. BUREAU OF ROOMING AND BOARDING HOUSE STANDARDS, NEW JERSEY DEPARTMENT OF COMMUNITY AFFAIRS*. Appeal from Sup. Ct. N. J. dismissed for want of substantial federal question. Reported below: 110 N. J. 335, 541 A. 2d 668.

No. 88-219. *MANNHEIM BOOKS, INC. v. COUNTY OF COOK, ILLINOIS*. Appeal from Sup. Ct. Ill. dismissed for want of substantial federal question. JUSTICE BRENNAN and JUSTICE MARSHALL would note probable jurisdiction and set case for oral argument. Reported below: 122 Ill. 2d 123, 522 N. E. 2d 73.

No. 88-258. *RAMPP ET AL. v. GLECO ET AL.* Appeal from C. A. 3d Cir. dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied. Reported below: 845 F. 2d 1014.

No. 88-377. *FRAYCHINEAUD v. CITY OF NEW ORLEANS*. Appeal from Ct. App. La., 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: 519 So. 2d 412.

No. 88-405. *DITMAR v. NEEDHAM HARPER WORLDWIDE, INC., ET AL.* Appeal from C. A. 6th Cir. dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied. Reported below: 848 F. 2d 189.

*Certiorari Granted—Vacated and Remanded*

No. 87-1929. *FORTNEY ET AL. v. UNITED STATES*. C. A. 4th Cir. Certiorari granted, judgment vacated, and case remanded for further consideration in light of *Berkovitz v. United States*, 486 U. S. 531 (1988). Reported below: 841 F. 2d 1122.

JUSTICE SCALIA, with whom THE CHIEF JUSTICE, JUSTICE O'CONNOR, and JUSTICE KENNEDY join, dissenting.

Petitioners in this case were injured by an explosion at an Army munitions plant. They sued the United States under the Federal Tort Claims Act, 28 U. S. C. § 2671 *et seq.*, alleging, *inter alia*, that the explosion was caused by the Army's failure to observe a provision in its safety manual, AMCR 385-100 § 20.4 (1970) (§ 20.4), Pet. for Cert. 4, proscribing the use of certain types of containers for storage of hazardous materials. After a bench

trial, the District Court entered judgment for the Government, 659 F. Supp. 127 (WD Va. 1987); the Court of Appeals affirmed in a brief *per curiam* opinion. 841 F. 2d 1122 (CA4 1988). The Court grants the petition for certiorari, vacates the judgment, and remands the case for further consideration in light of our decision last Term in *Berkovitz v. United States*, 486 U. S. 531 (1988).

In *Berkovitz*, we held that an agency's violation of "a specific mandatory directive"—as opposed to the permissible exercise of policy discretion—is not sheltered within the discretionary function exception to the Federal Tort Claims Act waiver of sovereign immunity, 28 U. S. C. § 2680(a). *Berkovitz, supra*, at 544. The apparent purpose of today's remand is to allow the Fourth Circuit to determine whether § 20.4 is indeed a "specific mandatory directive." In the circumstances of this case, however, that determination cannot make any difference. To be sure, both the District Court and the Fourth Circuit held—erroneously, as *Berkovitz* later established—that the discretionary function exception encompassed violations of mandatory Government regulations. See App. to Pet. for Cert. 18A–19A (District Court); *id.*, at 4A, n. 1 (Court of Appeals). But the District Court also found as an alternative ground, after hearing the testimony of three expert witnesses, that the Army's use of "nonconductive" containers at the plant did not violate § 20.4 at all. *Id.*, at 19A. The Fourth Circuit explicitly affirmed this finding *after* petitioners requested a clarification of the District Court's decision on the issue. *Id.*, at 4A, n. 1. Quite obviously, a *Berkovitz* inquiry into the mandatory or discretionary nature of a provision that has in any event not been violated is fruitless.

Petitioners argue in their reply that a different provision of the safety manual, AMCR 385–100 § 12.33(g) (1970) (§ 12.33), which requires use of a sprinkler system with particular characteristics, was also violated. It is not clear from the papers before us that this contention, which was addressed in neither the District Court's opinion nor the Fourth Circuit's opinion, and which is not reflected by any mention of § 12.33 in petitioners' Memorandum of Clarification Concerning Waivers of Army Safety Regulations filed with the Fourth Circuit, see App. to Pet. for Cert. 24A–26A, was even preserved on appeal. Assuming, however, that it was preserved, it was not properly presented in the petition for certiorari. The petition states that violation of § 12.33 was part of petitioners' "theory below," Pet. for Cert. 12, and reproduces the text



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of § 12.33 in the preliminary section entitled "Statutes and Regulations Involved," *id.*, at 5. In the body of the petition, however, addressed to the "Reasons for Granting the Writ," not a single mention of § 12.33 is to be found, and a section entitled "The Mandatory Regulation At Issue Herein" discusses *only* § 20.4. See *id.*, at 23-24. If this was not an explicit acknowledgment that the § 12.33 claim had subsequently been abandoned, it was at least a plain failure to present that claim to this Court. If the Court's remand rests upon § 12.33 rather than § 20.4, I think it a mischievous departure from this Court's Rule that only issues presented in the petition will be considered, Rule 21.1(a), and our requirement that the issues be presented clearly, *Berkemer v. McCarty*, 468 U. S. 420, 443, n. 38 (1984).

I would deny the petition for certiorari.

No. 88-5215. *FOSTER v. OKLAHOMA*. Ct. Crim. App. Okla. Motion of petitioner for leave to proceed *in forma pauperis* granted. Certiorari granted, judgment vacated, and case remanded for further consideration in light of *Maynard v. Cartwright*, 486 U. S. 356 (1988).

#### *Miscellaneous Orders*

No. A-170 (88-155). *TEXAS v. JOHNSON*. Ct. Crim. App. Tex. Application for stay, addressed to THE CHIEF JUSTICE and referred to the Court, granted, and it is ordered that the mandate of the Court of Criminal Appeals of Texas, case No. 372-86, is recalled and stayed pending this Court's action on the petition for writ of certiorari. In the event the petition for writ of certiorari is denied, this order terminates automatically. Should the petition for writ of certiorari be granted, this order is to remain in effect pending the issuance of the mandate of this Court.

No. A-176. *FORT v. NATIONAL AMERICAN INSURANCE CO. ET AL.* Super. Ct. Cal., County of Los Angeles. Application for stay and other relief, addressed to JUSTICE MARSHALL and referred to the Court, denied.

No. A-242. *METROMEDIA, INC., ET AL. v. APRIL ENTERPRISES, INC.* Application for stay, presented to JUSTICE O'CONNOR, and by her referred to the Court, granted, and it is ordered that the judgment of the Court of Appeal of California, Second Appellate District, case No. B022890, entered June 9, 1988, is stayed pending the timely filing and disposition of a petition for



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writ of certiorari. In the event the petition for writ of certiorari is denied, this order terminates automatically. Should the petition for writ of certiorari be granted, this order is to remain in effect pending the issuance of the mandate of this Court. This order is further conditioned upon the bond presently in force remaining in effect. JUSTICE STEVENS took no part in the consideration or decision of this order.

No. D-686. IN RE DISBARMENT OF WARREN. Disbarment entered. [For earlier order herein, see 485 U. S. 973.]

No. D-691. IN RE DISBARMENT OF NEWHOUSE. Disbarment entered. [For earlier order herein, see 485 U. S. 984.]

No. D-712. IN RE DISBARMENT OF BRILL. Disbarment entered. [For earlier order herein, see 486 U. S. 1030.]

No. D-714. IN RE DISBARMENT OF WATKINS. Disbarment entered. [For earlier order herein, see 486 U. S. 1052.]

No. D-718. IN RE DISBARMENT OF MORALES. Disbarment entered. [For earlier order herein, see 487 U. S. 1202.]

No. D-733. IN RE DISBARMENT OF BUSSEY. It is ordered that Robert N. Bussey, of St. 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-734. IN RE DISBARMENT OF NEWMAN. It is ordered that Marvin A. Newman, of Monticello, 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-735. IN RE DISBARMENT OF STOLL. It is ordered that Peter Richard Stoll, of Los Angeles, Cal., be suspended from the practice of law in this Court and that a rule issue, returnable within 40 days, requiring him to show cause why he should not be disbarred from the practice of law in this Court.

No. D-736. IN RE DISBARMENT OF CHESSEON. It is ordered that Calvin W. Chesson, of Charlotte, 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.

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No. 86-492. *BOYLE, PERSONAL REPRESENTATIVE OF THE HEIRS AND ESTATE OF BOYLE v. UNITED TECHNOLOGIES CORP.*, 487 U. S. 500. Motion of respondent to retax costs granted.

No. 86-1856. *NORTHWEST CENTRAL PIPELINE CORP. v. STATE CORPORATION COMMISSION OF KANSAS ET AL.* Sup. Ct. Kan. [Probable jurisdiction noted, 486 U. S. 1021.] Motion of the Solicitor General for leave to participate in oral argument as *amicus curiae* and for divided argument granted.

No. 86-1879. *NATIONAL TREASURY EMPLOYEES UNION ET AL. v. VON RAAB, COMMISSIONER, UNITED STATES CUSTOMS SERVICE.* C. A. 5th Cir. [Certiorari granted, 485 U. S. 903.] Motion of petitioners for leave to file a reply brief out of time denied.

No. 87-56. *OWENS ET AL. v. OKURE.* C. A. 2d Cir. [Certiorari granted, 485 U. S. 958.] Motion of petitioners for leave to file a reply brief out of time denied.

No. 87-470. *FORT WAYNE BOOKS, INC. v. INDIANA ET AL.* Sup. Ct. Ind. [Certiorari granted, 485 U. S. 933.] Motion of Burke H. Mendenhall for leave to intervene denied.

No. 87-1622. *BRENDALE v. CONFEDERATED TRIBES AND BANDS OF THE YAKIMA INDIAN NATION ET AL.*;

No. 87-1697. *WILKINSON v. CONFEDERATED TRIBES AND BANDS OF THE YAKIMA INDIAN NATION ET AL.*;

No. 87-1711. *COUNTY OF YAKIMA ET AL. v. CONFEDERATED TRIBES AND BANDS OF THE YAKIMA INDIAN NATION ET AL.* C. A. 9th Cir. [Certiorari granted, 487 U. S. 1204.] Motion of petitioner Brendale for divided argument and for additional time for oral argument denied.

No. 87-1703. *ROBERTSON, CHIEF OF THE FOREST SERVICE, ET AL. v. METHOW VALLEY CITIZENS COUNCIL ET AL.*;

No. 87-1704. *MARSH, SECRETARY OF THE ARMY, ET AL. v. OREGON NATURAL RESOURCES COUNCIL ET AL.* C. A. 9th Cir. [Certiorari granted, 487 U. S. 1217.] Motion of respondents Oregon Natural Resources Council et al. for divided argument denied.

No. 87-5666. *HIGH v. ZANT, WARDEN.* C. A. 11th Cir. [Certiorari granted, 487 U. S. 1233.] Motion of West Virginia Council of Churches for leave to file a brief as *amicus curiae* granted.

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No. 87-6026. *WILKINS v. MISSOURI*. Sup. Ct. Mo. [Certiorari granted, 487 U. S. 1233.] Motion of West Virginia Council of Churches for leave to file a brief as *amicus curiae* granted.

No. 88-148. *SOUTHERN NATURAL GAS CO. v. FRITZ ET AL.* Sup. Ct. Miss. The Solicitor General is invited to file a brief in this case expressing the views of the United States.

No. 88-5088. *IN RE HURT*. C. A. 4th Cir. Petition for writ of common-law certiorari and/or mandamus denied.

No. 88-5197. *IN RE AARON, AKA KURAN*. Petition for writ of mandamus denied.

*Probable Jurisdiction Noted*

No. 87-329. *THE FLORIDA STAR v. B. J. F.* Appeal from Dist. Ct. App. Fla., 1st Dist. Probable jurisdiction noted. Reported below: 499 So. 2d 883.

*Certiorari Granted*

No. 87-1428. *LORANCE ET AL. v. AT&T TECHNOLOGIES, INC., ET AL.* C. A. 7th Cir. Certiorari granted. Reported below: 827 F. 2d 163.

No. 88-23. *LAURO LINES S. R. L. v. CHASSER ET AL.* C. A. 2d Cir. Certiorari granted. Reported below: 844 F. 2d 50.

No. 87-1661. *ASARCO INC. ET AL. v. KADISH ET AL.* Sup. Ct. Ariz. Motions of Alaska Miners Association et al. and Clinton Campbell Contractor, Inc., for leave to file briefs as *amici curiae* granted. Certiorari granted. JUSTICE O'CONNOR took no part in the consideration or decision of these motions and this petition. Reported below: 155 Ariz. 484, 747 P. 2d 1183.

No. 87-5765. *STANFORD v. KENTUCKY*. Sup. Ct. Ky. Motion of petitioner for leave to proceed *in forma pauperis* granted. Certiorari granted.\* Reported below: 734 S. W. 2d 781.

No. 87-7023. *HARDIN v. STRAUB*. C. A. 6th Cir. Motion of petitioner for leave to proceed *in forma pauperis* granted. Certiorari granted limited to Question 1 presented by the petition. Reported below: 836 F. 2d 549.

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\*[REPORTER'S NOTE: For amendment of this order, see *post*, p. 906.]



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No. 88-64. MISSOURI ET AL. *v.* JENKINS, BY HER FRIEND, AGYEI, ET AL. C. A. 8th Cir. Certiorari granted limited to Questions 1 and 4 presented by the petition. Reported below: 838 F. 2d 260.

No. 88-305. SOUTH CAROLINA *v.* GATHERS. Sup. Ct. S. C. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari granted. Reported below: 295 S. C. 476, 369 S. E. 2d 140.

No. 88-317. DUCKWORTH *v.* EAGAN. C. A. 7th Cir. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari granted. Reported below: 843 F. 2d 1554.

*Certiorari Denied.* (See also Nos. 88-258, 88-377, 88-405, and 88-5088, *supra*.)

No. 87-2039. FAHMY *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. Reported below: 847 F. 2d 836.

No. 87-2057. SMITH *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. Reported below: 810 F. 2d 996.

No. 87-2067. BANKSTON ET AL. *v.* AMERICAN TELEPHONE & TELEGRAPH CO. ET AL.; and

No. 88-246. BACHE ET AL. *v.* AMERICAN TELEPHONE & TELEGRAPH CO. ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 840 F. 2d 283.

No. 87-2068. ALABAMA POWER CO. ET AL. *v.* THOMAS, ADMINISTRATOR, ENVIRONMENTAL PROTECTION AGENCY, ET AL.; and

No. 88-61. NATIONAL COAL ASSN. ET AL. *v.* NATURAL RESOURCES DEFENSE COUNCIL ET AL. C. A. D. C. Cir. Certiorari denied. Reported below: 267 U. S. App. D. C. 274, 838 F. 2d 1224.

No. 87-2114. RODRIGUEZ ET AL. *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 840 F. 2d 22.

No. 87-7082. PROCTER *v.* BUTLER, WARDEN. C. A. 5th Cir. Certiorari denied. Reported below: 831 F. 2d 1251.

No. 87-7125. STEELE *v.* FELIX CHEVROLET ET AL. Ct. App. Cal., 2d App. Dist. Certiorari denied.

No. 87-7144. CARTER *v.* TURNER, WARDEN, ET AL. C. A. 8th Cir. Certiorari denied. Reported below: 845 F. 2d 1026.

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No. 87-7165. *BASTIDAS v. HENDERSON, SUPERINTENDENT, AUBURN CORRECTIONAL FACILITY, ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 842 F. 2d 1287.

No. 87-7270. *VAUGHN v. WILSON ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 827 F. 2d 770.

No. 88-14. *TOLEDO v. UNITED STATES.* Ct. Mil. App. Certiorari denied. Reported below: 25 M. J. 270 and 26 M. J. 104.

No. 88-24. *CAMPO v. NEW YORK CITY EMPLOYEES' RETIREMENT SYSTEM ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 843 F. 2d 96.

No. 88-25. *CELOTEX CORP. ET AL. v. GRIMES ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 843 F. 2d 815.

No. 88-27. *RUSCO INDUSTRIES, INC. v. McLAUGHLIN, SECRETARY OF LABOR.* C. A. 11th Cir. Certiorari denied. Reported below: 842 F. 2d 270.

No. 88-39. *GARCIA ET AL. v. SAN ANTONIO METROPOLITAN TRANSIT AUTHORITY.* C. A. 5th Cir. Certiorari denied. Reported below: 838 F. 2d 1411.

No. 88-50. *JENKINS ET AL. v. MISSOURI ET AL.* C. A. 8th Cir. Certiorari denied. Reported below: 838 F. 2d 260.

No. 88-52. *BUFFALO WIRE WORKS CO., INC. v. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 847 F. 2d 834.

No. 88-53. *BOEING CO. v. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION.* C. A. 9th Cir. Certiorari denied. Reported below: 843 F. 2d 1213.

No. 88-58. *FULTON v. UNITED STATES.* C. A. 2d Cir. Certiorari denied. Reported below: 847 F. 2d 836.

No. 88-63. *DEPARTMENT OF PUBLIC SAFETY, COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS v. FLEMING.* C. A. 9th Cir. Certiorari denied. Reported below: 837 F. 2d 401.

No. 88-70. *DEKLEWA ET AL., DBA JOHN DEKLEWA & SONS v. NATIONAL LABOR RELATIONS BOARD ET AL.; and*

No. 88-306. *INTERNATIONAL ASSOCIATION OF BRIDGE, STRUCTURAL & ORNAMENTAL IRON WORKERS, LOCAL 3, AFL-CIO v.*

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NATIONAL LABOR RELATIONS BOARD ET AL. C. A. 3d Cir. Certiorari denied. Reported below: 843 F. 2d 770.

No. 88-73. *KIRK v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 844 F. 2d 660.

No. 88-74. *INGERSOLL MILLING MACHINE CO. ET AL. v. HYDRIL Co.* C. A. 5th Cir. Certiorari denied. Reported below: 845 F. 2d 1020.

No. 88-89. *GOLDEN PACIFIC BANCORP. v. CLARKE, COMPTROLLER OF THE CURRENCY, ET AL.* C. A. D. C. Cir. Certiorari denied. Reported below: 267 U. S. App. D. C. 86, 837 F. 2d 509.

No. 88-106. *WYATT v. JOUFLAS ET AL.* C. A. 10th Cir. Certiorari denied.

No. 88-118. *GO AIR, INC. v. ADMINISTRATOR, FEDERAL AVIATION ADMINISTRATION, ET AL.* C. A. D. C. Cir. Certiorari denied. Reported below: 268 U. S. App. D. C. 306, 841 F. 2d 428.

No. 88-122. *COUNTY LINE JOINT VENTURE v. CITY OF GRAND PRAIRIE, TEXAS*. C. A. 5th Cir. Certiorari denied. Reported below: 839 F. 2d 1142.

No. 88-183. *TORRES ET AL. v. J. F. ENTERPRISES, INC., ET AL.; and ARNOLD v. OFFER*. Ct. App. Ohio, Wood County. Certiorari denied.

No. 88-248. *RUBLOFF, INC. v. SMITH*. Ct. App. Ga. Certiorari denied. Reported below: 187 Ga. App. 317, 370 S. E. 2d 159.

No. 88-249. *STITT SPARK PLUG CO. v. CHAMPION SPARK PLUG CO.* C. A. 5th Cir. Certiorari denied. Reported below: 840 F. 2d 1253.

No. 88-251. *SIDMAN v. SUPREME COURT OF FLORIDA ET AL.* Sup. Ct. Fla. Certiorari denied.

No. 88-254. *ANGLICKER v. MILLER*. C. A. 2d Cir. Certiorari denied. Reported below: 848 F. 2d 1312.

No. 88-257. *RZEPKA v. JACOBSEN*. C. A. 7th Cir. Certiorari denied. Reported below: 852 F. 2d 570.



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No. 88-259. ALTON PACKAGING CORP. *v.* POLLUTION CONTROL BOARD ET AL. App. Ct. Ill., 5th Dist. Certiorari denied. Reported below: 162 Ill. App. 3d 731, 516 N. E. 2d 275.

No. 88-264. VOGT *v.* ABISH ET AL. C. A. 2d Cir. Certiorari denied. Reported below: 842 F. 2d 1288.

No. 88-265. BADGER *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 849 F. 2d 1476.

No. 88-267. KELLEY *v.* OHIO. Sup. Ct. Ohio. Certiorari denied.

No. 88-268. WILLIAMS *v.* GEORGIA. Sup. Ct. Ga. Certiorari denied. Reported below: 258 Ga. 305, 369 S. E. 2d 232.

No. 88-269. STOCKTON *v.* LANSIQUOT ET AL. C. A. 11th Cir. Certiorari denied. Reported below: 838 F. 2d 1545.

No. 88-277. SEAWINDS LTD. *v.* NEDLLOYD LINES, B. V., ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 846 F. 2d 586.

No. 88-279. ANTRIM ET AL. *v.* BURLINGTON NORTHERN INC. ET AL. C. A. 7th Cir. Certiorari denied. Reported below: 847 F. 2d 375.

No. 88-281. SHEEHAN ET AL. *v.* PUROLATOR, INC., ET AL. C. A. 2d Cir. Certiorari denied. Reported below: 839 F. 2d 99.

No. 88-282. ALTER ET AL. *v.* SCHROEDER ET AL. C. A. 7th Cir. Certiorari denied. Reported below: 841 F. 2d 770.

No. 88-285. PACINDAT MUTUAL PROTECTION & INDEMNITY ASSN., LTD. *v.* TRAVELERS INDEMNITY CO. C. A. 5th Cir. Certiorari denied. Reported below: 837 F. 2d 187.

No. 88-286. FLYNN *v.* CONNECTICUT. App. Ct. Conn. Certiorari denied. Reported below: 14 Conn. App. 10, 539 A. 2d 1005.

No. 88-288. BECNEL ET AL. *v.* DUPUIS ET AL. C. A. 5th Cir. Certiorari denied.

No. 88-290. CANNON *v.* ROWEN ET VIR. Ct. App. Cal., 3d App. Dist. Certiorari denied.

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No. 88-294. GUYS & DOLLS BILLIARDS, INC. *v.* MCHALE ET AL. C. A. 4th Cir. Certiorari denied. Reported below: 846 F. 2d 71.

No. 88-300. NATIONAL RIFLE ASSOCIATION OF AMERICA ET AL. *v.* MINNESOTA STATE ETHICAL PRACTICES BOARD. C. A. 8th Cir. Certiorari denied. Reported below: 845 F. 2d 1027.

No. 88-301. GILL *v.* MERCY HOSPITAL ET AL. Ct. App. Cal., 5th App. Dist. Certiorari denied. Reported below: 199 Cal. App. 3d 889, 245 Cal. Rptr. 304.

No. 88-307. MORTGAGE MART, INC. *v.* RECHNITZER, TRUSTEE IN BANKRUPTCY, ET AL.; and BERGER *v.* DAVIS, TRUSTEE IN BANKRUPTCY, ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 847 F. 2d 597 (first case); 848 F. 2d 1242 (second case).

No. 88-308. CONSTANT *v.* ADVANCED MICRO-DEVICES, INC., ET AL. C. A. Fed. Cir. Certiorari denied. Reported below: 848 F. 2d 1560.

No. 88-311. EMPIRE LUMBER CO. *v.* WASHINGTON WATER POWER CO. ET AL. Sup. Ct. Idaho. Certiorari denied. Reported below: 114 Idaho 191, 755 P. 2d 1229.

No. 88-314. JACKSON *v.* ST. JOSEPH STATE HOSPITAL. C. A. 8th Cir. Certiorari denied. Reported below: 840 F. 2d 1387.

No. 88-316. PARKS *v.* PARKS. Ct. App. Mo., Eastern Dist. Certiorari denied. Reported below: 747 S. W. 2d 279.

No. 88-319. THORNBURY TOWNSHIP ET AL. *v.* W. D. D., INC. C. A. 3d Cir. Certiorari denied. Reported below: 850 F. 2d 170.

No. 88-343. MURPHY, GUARDIAN OF PRANGE *v.* BENSON, GUARDIAN AD LITEM OF PRANGE. Sup. Ct. Ill. Certiorari denied. Reported below: 121 Ill. 2d 570, 527 N. E. 2d 303.

No. 88-358. THOMPSON *v.* UNITED STATES POSTAL SERVICE. C. A. Fed. Cir. Certiorari denied. Reported below: 847 F. 2d 842.

No. 88-360. BYRON *v.* UNITED STATES ET AL. C. A. 2d Cir. Certiorari denied. Reported below: 849 F. 2d 1467.

No. 88-361. LUCAS *v.* PHILADELPHIA NAVAL SHIPYARD ET AL. C. A. 3d Cir. Certiorari denied. Reported below: 853 F. 2d 919.

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No. 88-362. *WILSON ET AL. v. KUENZI ET AL.* Sup. Ct. Mo. Certiorari denied. Reported below: 751 S. W. 2d 741.

No. 88-366. *LEVIN ET AL. v. PARRILLO ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 845 F. 2d 1016.

No. 88-370. *MATLOCK v. TEXAS.* Ct. App. Tex., 5th Dist. Certiorari denied.

No. 88-378. *BOLING v. UNITED STATES.* C. A. 6th Cir. Certiorari denied. Reported below: 837 F. 2d 477.

No. 88-379. *PHILLIPS v. UNITED STATES.* C. A. 10th Cir. Certiorari denied.

No. 88-383. *DILLON v. UNITED STATES.* C. A. 3d Cir. Certiorari denied. Reported below: 853 F. 2d 922.

No. 88-388. *FAIRNESS IN MEDIA v. FEDERAL COMMUNICATIONS COMMISSION ET AL.* C. A. D. C. Cir. Certiorari denied. Reported below: 271 U. S. App. D. C. 273, 851 F. 2d 1500.

No. 88-397. *KAUSHIVA v. BOARD OF TRUSTEES OF THE UNIVERSITY OF THE DISTRICT OF COLUMBIA ET AL.* C. A. D. C. Cir. Certiorari denied.

No. 88-398. *PENNSYLVANIA PUBLIC UTILITY COMMISSION v. NATIONAL RAILROAD PASSENGER CORPORATION.* C. A. 3d Cir. Certiorari denied. Reported below: 848 F. 2d 436.

No. 88-407. *VANCE v. UNITED STATES.* C. A. 6th Cir. Certiorari denied. Reported below: 851 F. 2d 166.

No. 88-409. *FIRST NATIONAL BANK, LEXINGTON, TENNESSEE v. UNITED STATES.* C. A. Fed. Cir. Certiorari denied. Reported below: 846 F. 2d 740.

No. 88-425. *LEVY v. REGENTS OF THE UNIVERSITY OF CALIFORNIA ET AL.* Ct. App. Cal., 1st App. Dist. Certiorari denied. Reported below: 199 Cal. App. 3d 1334, 245 Cal. Rptr. 576.

No. 88-431. *COMMUNITY FEDERAL SAVINGS & LOAN ASSN. v. DIRECTOR OF REVENUE, STATE OF MISSOURI, ET AL.* Sup. Ct. Mo. Certiorari denied. Reported below: 752 S. W. 2d 794.

No. 88-439. *LEONETTI ET AL. v. UNITED STATES.* C. A. 3d Cir. Certiorari denied.



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No. 88-440. *NEWSOME v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 849 F. 2d 1474.

No. 88-442. *RIVERA-RAMIREZ v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 852 F. 2d 573.

No. 88-5017. *JENKINS v. CALIFORNIA*. Ct. App. Cal., 2d App. Dist. Certiorari denied.

No. 88-5040. *LENA v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 849 F. 2d 603.

No. 88-5044. *LEVASSEUR ET AL. v. UNITED STATES*. C. A. 1st Cir. Certiorari denied. Reported below: 846 F. 2d 786.

No. 88-5048. *BALAWAJDER v. UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA*. C. A. 9th Cir. Certiorari denied.

No. 88-5053. *SPENCER v. UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT*. C. A. 7th Cir. Certiorari denied.

No. 88-5055. *ALEXANDER v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 846 F. 2d 74.

No. 88-5057. *PAREZ v. UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF CALIFORNIA*. C. A. 9th Cir. Certiorari denied.

No. 88-5064. *FAIRCHILDE v. ERICKSON, AKA SCHULLER, ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 849 F. 2d 600.

No. 88-5073. *GALLO v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 846 F. 2d 74.

No. 88-5078. *DOE, A MINOR v. UNITED STATES*. C. A. 10th Cir. Certiorari denied. Reported below: 842 F. 2d 244.

No. 88-5115. *MIXON v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 845 F. 2d 1029.

No. 88-5127. *AQEEL v. UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF OHIO*. C. A. 6th Cir. Certiorari denied.

No. 88-5128. *LEWIS ET AL. v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 840 F. 2d 1276.

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No. 88-5133. *FALKNER v. JONES, WARDEN, ET AL.* C. A. 11th Cir. Certiorari denied.

No. 88-5203. *WALKER v. MARYLAND PUBLIC DEFENDER OFFICE ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 846 F. 2d 75.

No. 88-5230. *CALDWELL v. BUREAU OF FEDERAL PRISONS.* C. A. 4th Cir. Certiorari denied. Reported below: 842 F. 2d 1289.

No. 88-5234. *FLYNN v. FLORIDA.* Dist. Ct. App. Fla., 4th Dist. Certiorari denied.

No. 88-5235. *JAMES v. FEDERAL BUREAU OF INVESTIGATION ET AL.* C. A. D. C. Cir. Certiorari denied.

No. 88-5250. *SHERAZEE v. UNITED STATES.* C. A. 11th Cir. Certiorari denied. Reported below: 838 F. 2d 1220.

No. 88-5253. *STREATER v. WILLIAMS, DIRECTOR, DISTRICT OF COLUMBIA DEPARTMENT OF CORRECTIONS.* C. A. D. C. Cir. Certiorari denied.

No. 88-5257. *WOOD v. CONNECTICUT.* Sup. Ct. Conn. Certiorari denied. Reported below: 208 Conn. 125, 545 A. 2d 1026.

No. 88-5260. *FERENC v. INTERNAL REVENUE SERVICE.* C. A. 11th Cir. Certiorari denied. Reported below: 854 F. 2d 1324.

No. 88-5265. *FLEEGLE v. MARYLAND.* Ct. Sp. App. Md. Certiorari denied. Reported below: 74 Md. App. 743.

No. 88-5268. *KITCHEN v. INDIANA.* Ct. App. Ind. Certiorari denied. Reported below: 517 N. E. 2d 1268.

No. 88-5269. *BELL v. BORG, WARDEN.* C. A. 9th Cir. Certiorari denied.

No. 88-5272. *HINES v. ILLINOIS.* App. Ct. Ill., 4th Dist. Certiorari denied. Reported below: 165 Ill. App. 3d 289, 518 N. E. 2d 1362.

No. 88-5277. *WORLEY v. WEST VIRGINIA.* Sup. Ct. App. W. Va. Certiorari denied. Reported below: — W. Va. —, 369 S. E. 2d 706.

No. 88-5282. *DE YOUNG v. DE KOSTER ET AL.* C. A. 8th Cir. Certiorari denied. Reported below: 855 F. 2d 858.

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No. 88-5283. *DE YOUNG v. O'BRIEN ET AL.* C. A. 8th Cir. Certiorari denied. Reported below: 855 F. 2d 858.

No. 88-5287. *BURRELL v. DUGGER, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS, ET AL.* C. A. 11th Cir. Certiorari denied.

No. 88-5289. *KOEHLER v. REES, WARDEN, ET AL.* C. A. 9th Cir. Certiorari denied.

No. 88-5290. *HINES v. SUPERIOR COURT OF CALIFORNIA, SACRAMENTO COUNTY, ET AL.* Ct. App. Cal., 3d App. Dist. Certiorari denied.

No. 88-5291. *CUTLER v. MUNICIPALITY OF ANCHORAGE, ALASKA.* Ct. App. Alaska. Certiorari denied.

No. 88-5292. *CHATMAN v. COWLEY, WARDEN, ET AL.* C. A. 10th Cir. Certiorari denied.

No. 88-5293. *CHERRY v. CALIFORNIA.* Sup. Ct. Cal. Certiorari denied.

No. 88-5294. *EMPEY v. TEXAS BOARD OF PARDONS AND PAROLES ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 845 F. 2d 1020.

No. 88-5295. *LIPSMAN v. MASON.* App. Term, Sup. Ct. N. Y., 1st Jud. Dept. Certiorari denied.

No. 88-5298. *T. B. v. IOWA DEPARTMENT OF HUMAN SERVICES ET AL.* Ct. App. Iowa. Certiorari denied. Reported below: 432 N. W. 2d 166.

No. 88-5299. *GARZA v. GRAMMER, ASSISTANT DIRECTOR, NEBRASKA DEPARTMENT OF CORRECTIONAL SERVICES, ADULT INSTITUTIONS.* C. A. 8th Cir. Certiorari denied. Reported below: 860 F. 2d 1083.

No. 88-5301. *JUPIN v. STETZER ET AL.* C. A. 3d Cir. Certiorari denied.

No. 88-5308. *SZAREWICZ v. JOYCE ET AL.* C. A. 3d Cir. Certiorari denied.

No. 88-5311. *ROGERS v. PETSOCK, SUPERINTENDENT, STATE CORRECTIONAL INSTITUTION AND DIAGNOSTIC AND CLASSIFICATION CENTER AT PITTSBURGH.* C. A. 3d Cir. Certiorari denied.



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No. 88-5313. *NASH v. ERVIN*. C. A. 4th Cir. Certiorari denied. Reported below: 846 F. 2d 72.

No. 88-5316. *TWITTY v. MAASS*. C. A. 9th Cir. Certiorari denied.

No. 88-5317. *POLLOCK v. MARSHALL*. C. A. 6th Cir. Certiorari denied. Reported below: 845 F. 2d 656.

No. 88-5329. *CASAMENTO v. NORTHERN VIRGINIA MENTAL HEALTH INSTITUTE*. Cir. Ct. Va., Fairfax County. Certiorari denied.

No. 88-5331. *SHEFFIELD v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 851 F. 2d 362.

No. 88-5333. *MCCLAIN v. CAPUTO ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 849 F. 2d 602.

No. 88-5335. *FISHER v. RIDDICK, JUDGE, MADISON COUNTY, ALABAMA, PROBATE COURT, ET AL.* C. A. 11th Cir. Certiorari denied. Reported below: 849 F. 2d 1478.

No. 88-5338. *GRAVES v. THURMAN, WARDEN, ET AL.* C. A. 9th Cir. Certiorari denied.

No. 88-5340. *HEMPHILL v. DAILY GAZETTE CO., INC., ET AL.* Cir. Ct. W. Va., Kanawha County. Certiorari denied.

No. 88-5341. *BROWN v. NEW YORK*. App. Div., Sup. Ct. N. Y., 2d Jud. Dept. Certiorari denied. Reported below: 136 App. Div. 2d 1, 525 N. Y. S. 2d 618.

No. 88-5348. *BELL v. FREEMAN, SUPERINTENDENT, STATE CORRECTIONAL INSTITUTION AT CAMP HILL, PENNSYLVANIA, ET AL.* C. A. 3d Cir. Certiorari denied.

No. 88-5351. *DAVIS v. McLAUGHLIN, SECRETARY OF LABOR*. C. A. D. C. Cir. Certiorari denied.

No. 88-5357. *PERALES v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 851 F. 2d 358.

No. 88-5359. *PLYLER ET AL. v. EVATT, COMMISSIONER, SOUTH CAROLINA DEPARTMENT OF CORRECTIONS, ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 846 F. 2d 208.

No. 88-5371. *LANGLEY v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 848 F. 2d 152.

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No. 88-5374. *JONES v. HABERLAIN, WARDEN*. C. A. 6th Cir. Certiorari denied. Reported below: 848 F. 2d 191.

No. 88-5385. *PAYNE v. ROBINSON, WARDEN*. Sup. Ct. Conn. Certiorari denied. Reported below: 207 Conn. 565, 541 A. 2d 504.

No. 88-5389. *OCHOA-OCHOA v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 852 F. 2d 573.

No. 88-5395. *BERMUDEZ v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 852 F. 2d 572.

No. 88-5426. *DALOIA v. ROSE, ASSISTANT UNITED STATES ATTORNEY, ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 849 F. 2d 74.

No. 88-5436. *MANN v. ADAMS ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 846 F. 2d 589.

No. 88-5500. *FREIWALD v. JABE, WARDEN*. C. A. 6th Cir. Certiorari denied. Reported below: 848 F. 2d 190.

No. 87-1565. *TEXAS v. MODGLING*. Ct. Crim. App. Tex. Certiorari denied. JUSTICE WHITE and JUSTICE KENNEDY would grant certiorari.

No. 87-1649. *BOYLE v. ILLINOIS*. App. Ct. Ill., 5th Dist. Certiorari denied. JUSTICE WHITE would grant certiorari. Reported below: 161 Ill. App. 3d 1054, 514 N. E. 2d 1169.

No. 87-1853. *LAURITZEN ET UX., INDIVIDUALLY AND DBA LAURITZEN FARMS v. McLAUGHLIN, SECRETARY OF LABOR*. C. A. 7th Cir. Certiorari denied. JUSTICE WHITE would grant certiorari. Reported below: 835 F. 2d 1529.

No. 87-1907. *YOUNG v. LANGLEY ET AL.* C. A. 6th Cir. Certiorari denied. JUSTICE WHITE would grant certiorari. Reported below: 840 F. 2d 19.

No. 87-2037. *KAHN v. AVNET, INC.* C. A. 2d Cir. Certiorari denied. JUSTICE WHITE would grant certiorari. Reported below: 841 F. 2d 1116.

No. 87-2047. *FEASTER v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. JUSTICE WHITE would grant certiorari. Reported below: 843 F. 2d 1392.

No. 87-7111. *GRUENHOLZ ET AL. v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. JUSTICE WHITE would grant certiorari. Reported below: 837 F. 2d 1404.

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No. 88-93. *UNION PACIFIC RAILROAD CO. ET AL. v. MORITZ, TRUSTEE OF IOWA RAILROAD CO.* C. A. 7th Cir. Certiorari denied. JUSTICE WHITE would grant certiorari. Reported below: 840 F. 2d 535.

No. 88-195. *KREISHER v. MOBIL OIL CORP.* Ct. App. Cal., 1st App. Dist. Certiorari denied. JUSTICE WHITE would grant certiorari. Reported below: 198 Cal. App. 3d 389, 243 Cal. Rptr. 662.

No. 88-338. *ROBINSON v. CONNECTICUT.* App. Ct. Conn. Certiorari denied. JUSTICE WHITE would grant certiorari. Reported below: 14 Conn. App. 40, 539 A. 2d 606.

No. 88-339. *STAMLER ET AL. v. ZAMBONI.* C. A. 3d Cir. Certiorari denied. JUSTICE WHITE would grant certiorari. Reported below: 847 F. 2d 73.

No. 87-1800. *ROBERTSON, EXECUTOR OF THE WILL OF HAND v. UNITED STATES.* C. A. 6th Cir. Certiorari denied. Reported below: 838 F. 2d 1215.

JUSTICE BLACKMUN, with whom JUSTICE O'CONNOR joins, dissenting.

This case concerns the deductibility, under §§ 170 and 2055 of the Internal Revenue Code of 1954, 26 U. S. C. §§ 170 and 2055, of a testamentary disposition to a nonprofit cemetery, which enjoys tax-exempt status under § 501(c)(13) of the Code. The Solicitor General concedes that such a donation is deductible for federal income tax purposes, but he resists deductibility for federal estate tax purposes. Whether this distinction is legally sound is, I feel, an issue deserving plenary consideration by this Court.

I therefore dissent and would grant the petition for a writ of certiorari. I adhere to the reasons set forth by JUSTICE O'CONNOR in her opinion (which Justice Powell and I joined) dissenting from the denial of certiorari in *Mellon Bank, N. A. v. United States*, 475 U. S. 1032 (1986).

No. 87-1864. *CLEVELAND NEWSPAPER GUILD, LOCAL 1, ET AL. v. PLAIN DEALER PUBLISHING CO.* C. A. 6th Cir. Certiorari denied. JUSTICE WHITE and JUSTICE BLACKMUN would grant certiorari. Reported below: 839 F. 2d 1147.

No. 87-1877. *HARTENSTINE v. SUPERIOR COURT OF CALIFORNIA FOR THE COUNTY OF SAN BERNARDINO, NORTH DESERT*



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DISTRICT (BLUE CROSS OF SOUTHERN CALIFORNIA ET AL., REAL PARTIES IN INTEREST). Ct. App. Cal., 4th App. Dist. Certiorari denied. JUSTICE WHITE would grant certiorari. JUSTICE O'CONNOR took no part in the consideration or decision of this petition. Reported below: 196 Cal. App. 3d 206, 241 Cal. Rptr. 756.

- No. 87-7118. ASHFORD *v.* ILLINOIS. Sup. Ct. Ill.;
- No. 87-7119. STEWART *v.* ILLINOIS. Sup. Ct. Ill.;
- No. 87-7136. EMERSON *v.* ILLINOIS. Sup. Ct. Ill.;
- No. 87-7137. ORANGE *v.* ILLINOIS. Sup. Ct. Ill.;
- No. 87-7174. GREEN *v.* NORTH CAROLINA. Sup. Ct. N. C.;
- No. 88-5074. HENDRICKS *v.* CALIFORNIA. Sup. Ct. Cal.;
- No. 88-5131. HAWKINS *v.* LYNAUGH, DIRECTOR, TEXAS DEPARTMENT OF CORRECTIONS. C. A. 5th Cir.;
- No. 88-5198. LANDRY *v.* LYNAUGH, DIRECTOR, TEXAS DEPARTMENT OF CORRECTIONS. C. A. 5th Cir.;
- No. 88-5300. BARBER *v.* TENNESSEE. Sup. Ct. Tenn.;
- No. 88-5310. PARKUS *v.* MISSOURI. Sup. Ct. Mo.;
- No. 88-5314. WADE *v.* CALIFORNIA. Sup. Ct. Cal.;
- No. 88-5330. WILLIAMS *v.* CALIFORNIA. Sup. Ct. Cal.;
- No. 88-5383. ROJEM *v.* OKLAHOMA. Ct. Crim. App. Okla.;
- No. 88-5393. MERCER *v.* ARMONTROUT, WARDEN. C. A. 8th Cir.; and
- No. 88-5440. COLEMAN *v.* OHIO. Sup. Ct. Ohio. Certiorari denied. Reported below: No. 87-7118, 121 Ill. 2d 55, 520 N. E. 2d 332; No. 87-7119, 121 Ill. 2d 93, 520 N. E. 2d 348; No. 87-7136, 122 Ill. 2d 411, 522 N. E. 2d 1109; No. 87-7137, 121 Ill. 2d 364, 521 N. E. 2d 69; No. 87-7174, 321 N. C. 594, 365 S. E. 2d 587; No. 88-5074, 44 Cal. 3d 635, 749 P. 2d 836; No. 88-5131, 844 F. 2d 1132; No. 88-5198, 844 F. 2d 1117; No. 88-5300, 753 S. W. 2d 659; No. 88-5310, 753 S. W. 2d 881; No. 88-5314, 44 Cal. 3d 975, 750 P. 2d 794; No. 88-5330, 44 Cal. 3d 883, 751 P. 2d 395; No. 88-5383, 753 P. 2d 359; No. 88-5393, 844 F. 2d 582; No. 88-5440, 37 Ohio St. 3d 286, 525 N. E. 2d 792.

JUSTICE BRENNAN and JUSTICE MARSHALL, dissenting.

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



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No. 88-60. OHIO POWER CO. *v.* THOMAS, ADMINISTRATOR, UNITED STATES ENVIRONMENTAL PROTECTION AGENCY, ET AL. C. A. D. C. Cir. Motion of petitioner to defer consideration of the petition for certiorari denied. Certiorari denied. Reported below: 267 U. S. App. D. C. 274, 838 F. 2d 1224.

No. 88-182. GENERAL ELECTRIC CO. *v.* UNITED STATES ET AL. C. A. 6th Cir. Certiorari denied. JUSTICE WHITE and JUSTICE O'CONNOR would grant certiorari. Reported below: 848 F. 2d 190.

No. 88-5135. TORRES-ARBOLEDO *v.* FLORIDA. Sup. Ct. Fla. Certiorari denied. JUSTICE WHITE would grant certiorari. Reported below: 524 So. 2d 403.

JUSTICE BRENNAN and JUSTICE MARSHALL, dissenting.

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

No. 88-5276. MCKENZIE *v.* MCCORMICK, WARDEN, ET AL. C. A. 9th Cir. Certiorari denied. JUSTICE KENNEDY took no part in the consideration or decision of this petition. Reported below: 842 F. 2d 1525.

JUSTICE BRENNAN, dissenting.

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

JUSTICE MARSHALL, dissenting.

Adhering to my view that the death penalty is in all circumstances cruel and unusual punishment prohibited by the Eighth and Fourteenth Amendments, *Gregg v. Georgia*, 428 U. S. 153, 231 (1976) (MARSHALL, J., dissenting), I would grant the petition for writ of certiorari and vacate the death sentence in this case. But even if I believed that the death penalty could be constitutionally imposed under certain circumstances, I would grant the petition and vacate petitioner's death sentence for the reasons I expressed in *McKenzie v. Montana*, 449 U. S. 1050 (1980) (MARSHALL, J., dissenting from denial of certiorari).

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No. 88-5281. *WILLIAMS v. BARWICK*. C. A. 11th Cir. Certiorari before judgment denied.

No. 88-5315. *WILSON v. ILLINOIS*. Sup. Ct. Ill. Certiorari denied. Reported below: 123 Ill. 2d 113, 526 N. E. 2d 335.

JUSTICE MARSHALL, with whom JUSTICE BRENNAN joins, dissenting.

For the reasons stated in *Lego v. Illinois*, *post* this page (MARSHALL, J., dissenting), I would grant the petition in order to resolve the question whether a state court, when recognizing a new federal constitutional rule governing criminal procedure, is bound by the retroactivity principles fashioned by this Court, and if so, whether the principle of retroactivity announced in *Griffith v. Kentucky*, 479 U. S. 314 (1987), applies to a state-court decision recognizing such a rule, notwithstanding the state court's pre-*Griffith* determination that, under the retroactivity decisions of this Court then in force, the new rule would be given prospective application only. I dissent.

No. 88-5319. *LEGO v. ILLINOIS*. Sup. Ct. Ill. Certiorari denied. Reported below: 116 Ill. 2d 323, 507 N. E. 2d 800.

JUSTICE MARSHALL, with whom JUSTICE BRENNAN joins, dissenting.

## I

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, 231 (1976) (MARSHALL J., dissenting), I would grant the petition for certiorari and vacate the death sentence in this case. Even if I did not take this view, I would grant the petition in order to resolve the question whether a state court, when recognizing a new federal constitutional rule governing criminal procedure, is bound by the retroactivity principles fashioned by this Court, and if so, whether the principle of retroactivity announced in *Griffith v. Kentucky*, 479 U. S. 314 (1987), applies to a state-court decision recognizing such a rule, notwithstanding the state court's pre-*Griffith* determination that, under the retroactivity decisions of this Court then in force, the new rule would be given prospective application only.

## II

In March 1984, the petitioner was tried in state court for murder. During *voir dire*, the petitioner proposed that the trial court ask the venirepersons whether they "believe[d] in the presumption of innocence as it applies to a person charged with a crime." The trial court refused. The petitioner was subsequently convicted and, after a death penalty hearing, sentenced to death. In his direct appeal to the Illinois Supreme Court, the petitioner argued that the trial court's refusal to ask the proposed question violated *People v. Zehr*, 103 Ill. 2d 472, 469 N. E. 2d 1062 (1984), which was issued approximately six months after the petitioner's trial concluded. *Zehr* held that a criminal defendant is deprived of his right to "a fair and impartial jury" by a trial court's refusal to question prospective jurors on their view on the presumption of innocence. *Id.*, at 477, 469 N. E. 2d, at 1064.

The Illinois Supreme Court rejected the petitioner's claim, noting that in *People v. Britz*, 112 Ill. 2d 314, 493 N. E. 2d 575 (1986), it had held that *Zehr* would not be applied retroactively because it "represented a change in Illinois law." 116 Ill. 2d 323, 338, 507 N. E. 2d 800, 805 (1987) (quoting *Britz*, *supra*, at 319, 493 N. E. 2d, at 577). Justice Simon dissented, finding that *Britz* could not be squared with this Court's subsequent decision in *Griffith*. In *Griffith*, the Court held that decisions announcing new constitutional rules governing criminal procedure are "to be applied retroactively to all cases, state or federal, pending on direct review or not yet final." 479 U. S., at 328. In so doing, the Court explicitly abandoned the "clear break" exception, under which a new constitutional rule would not be applied retroactively if it represented a substantial departure from past precedent or accepted practice. *Ibid.*

As noted above, the Illinois Supreme Court's *Britz* decision is based on this now-discredited "clear break" exception, but the state court nonetheless insisted on applying it in the petitioner's case for reasons not made clear until *People v. Harris*, 123 Ill. 2d 113, 526 N. E. 2d 335 (1988), cert. denied *sub nom. Wilson v. Illinois*, *ante*, at 902. There, the state court explained: "*Griffith* was not the law on retroactivity at the time this court decided *Britz*. We do not read *Griffith* as requiring us to recon-



sider our earlier holding in *Britz*.” *Harris, supra*, at 130, 526 N. E. 2d, at 341 (emphasis in original). In other words, the state court believes that it need not apply *Griffith*’s retroactivity rule retroactively.

The difficulty with this view, in my judgment, is that it appears to contradict the very premise of the *Griffith* decision, namely, that “failure to apply a newly declared constitutional rule to criminal cases pending on direct review violates basic norms of constitutional adjudication.” 479 U. S., at 322. Not the least, it “creates the . . . problem of not treating similarly situated defendants the same.” *Id.*, at 327.

I am unpersuaded by the respondent’s contention that the Illinois Supreme Court was free to ignore this Court’s retroactivity principles because *Zehr* was a ruling on state, rather than federal, law. This assertion is belied by the fact that, in *Harris*, the state court understood itself to be bound by federal retroactivity precedents. 123 Ill. 2d, at 129, 526 N. E. 2d, at 341 (“[A]t the time *Britz* was decided this court correctly followed the applicable law on retroactivity as articulated by the United States Supreme Court”).\* And, as explained in *People v. Erickson*, 117 Ill. 2d 271, 513 N. E. 2d 367 (1987), the state court looks to this Court’s retroactivity precedents *only* when the rule announced is of federal constitutional dimension. See *id.*, at 289, 513 N. E. 2d, at 374 (“Because *Griffith* addresses a rule which pertains to a constitutional right and the defendant herein seeks retroactive application of a rule which pertains to a statutory right, we do not deem *Griffith* controlling”). It is proper to assume, therefore, that *Zehr* recognizes a federal right.

In any event, this Court typically retains a role when the state court “has been influenced by an accompanying interpretation of federal law.” *Three Affiliated Tribes v. Wold Engineering, P. C.*, 467 U. S. 138, 152 (1984). Indeed, where it appears, as it does here, that the “state court has proceeded on an incorrect perception of federal law,” this Court has stepped in and “reviewed the federal question on which the state-law determination appears to have been premised.” *Ibid.* Thus, even if *Zehr* is premised

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\*Indeed, the only question for the state court in *Harris* was whether the applicable retroactivity precedent for a post-*Griffith* claim based on *Zehr* is *Griffith* itself or a series of cases beginning with *Linkletter v. Walker*, 381 U. S. 618 (1965), and culminating with *United States v. Johnson*, 457 U. S. 537 (1982).

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on state law, the Court may consider the retroactivity of that decision because the Illinois Supreme Court looked solely to our precedents in making its retroactivity determination.

Because the instant case and *People v. Harris*, *supra*, raise a substantial issue of federal retroactivity law, I would grant the petitions for certiorari in both cases. I dissent.

*Rehearing Denied*

No. 87-6489. HOWARD *v.* CITY OF FORT MYERS, FLORIDA, ET AL., 486 U. S. 1044. Petition for rehearing denied.

No. 87-1149. REAGIN *v.* TERRY ET AL., 485 U. S. 906 and 1015. Motion of petitioner for leave to file second petition for rehearing denied.

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*Miscellaneous Order*

No. A-289. BELL *v.* LYNAUGH, DIRECTOR, TEXAS DEPARTMENT OF CORRECTIONS. Application for stay of execution of sentence of death, presented to JUSTICE WHITE, and by him referred to the Court, granted pending the timely filing and disposition by this Court of a petition for writ of certiorari. Should the petition for writ of certiorari be denied, this stay terminates automatically. In the event the petition for writ of certiorari is granted, this stay shall continue pending the sending down of the judgment of this Court.

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*Vacated and Remanded After Probable Jurisdiction Noted*

No. 86-1034. VIRGINIA *v.* AMERICAN BOOKSELLERS ASSN., INC., ET AL. C. A. 4th Cir. [Probable jurisdiction noted, 479 U. S. 1082; questions certified, 484 U. S. 383.] Judgment vacated and case remanded for further consideration in light of *Virginia v. American Booksellers Assn., Inc.*, 236 Va. 168, 372 S. E. 2d 618 (1988).

*Certiorari Granted—Reversed.* (See No. 88-139, *ante*, p. 1.)

*Miscellaneous Orders*

No. D-710. IN RE DISBARMENT OF FORD. Disbarment entered. [For earlier order herein, see 486 U. S. 1030.]

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No. D-715. *IN RE DISBARMENT OF YOUTS*. Disbarment entered. [For earlier order herein, see 486 U. S. 1052.]

No. D-737. *IN RE DISBARMENT OF WEATHERLY*. It is ordered that Gerald Weatherly, of Dallas, Tex., be suspended from the practice of law in this Court and that a rule issue, returnable within 40 days, requiring him to show cause why he should not be disbarred from the practice of law in this Court.

No. D-738. *IN RE DISBARMENT OF BURKE*. It is ordered that Jerome Joseph Burke, Jr., of West Hempstead, 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-739. *IN RE DISBARMENT OF BENJAMIN*. Motion of Ronald R. Benjamin to be suspended from the practice of law in this Court for six months, *nunc pro tunc*, denied. It is ordered that Ronald R. Benjamin, of Binghamton, 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. 87-201. *MANSELL v. MANSELL*. Ct. App. Cal., 5th App. Dist. [Probable jurisdiction noted, 487 U. S. 1217.] Motion of the Solicitor General for leave to file a brief as *amicus curiae* out of time granted.

No. 87-1245. *TEXAS MONTHLY, INC. v. BULLOCK, COMPTROLLER OF PUBLIC ACCOUNTS OF THE STATE OF TEXAS, ET AL.* Ct. App. Tex., 3d Dist. [Probable jurisdiction noted, 485 U. S. 958.] Motion of appellant for leave to file a reply brief out of time denied.

No. 87-1383. *UNITED STATES v. HALPER*. D. C. S. D. N. Y. [Probable jurisdiction noted, 486 U. S. 1053.] John G. Roberts, Jr., Esq., of Alexandria, Va., 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. 87-1868. *MEAD CORP. v. TILLEY ET AL.* C. A. 4th Cir. [Certiorari granted, *ante*, p. 815.] Motion of respondents to substitute Richard H. Wall, Executor of the Estate of David H. Wall, in place of David H. Wall, deceased, denied.

No. 87-5765. *STANFORD v. KENTUCKY*. Sup. Ct. Ky. The order of October 11, 1988 [*ante*, p. 887], granting the petition for writ of certiorari is amended to read as follows: Motion of peti-



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tioner for leave to proceed *in forma pauperis* granted. Certiorari granted limited to Question VIII presented by the petition and case set for oral argument in tandem with No. 87-6026, *Wilkins v. Missouri* [certiorari granted, 487 U. S. 1233], in place of No. 87-5666, *High v. Zant, Warden* [certiorari granted, 487 U. S. 1233].

No. 88-348. *NEW ORLEANS PUBLIC SERVICE INC. v. COUNCIL OF THE CITY OF NEW ORLEANS ET AL.* C. A. 5th Cir. The Solicitor General is invited to file a brief in this case expressing the views of the United States.

No. 88-5270. *IN RE DENNIS.* Petition for writ of mandamus and/or prohibition denied.

*Probable Jurisdiction Noted*

No. 88-389. *PUBLIC EMPLOYEES RETIREMENT SYSTEM OF OHIO v. BETTS.* Appeal from C. A. 6th Cir. Motion of appellee for leave to proceed *in forma pauperis* granted. Probable jurisdiction noted. Reported below: 848 F. 2d 692.

*Certiorari Granted*

No. 88-10. *HARTE-HANKS COMMUNICATIONS, INC. v. CON-NAUGHTON.* C. A. 6th Cir. Certiorari granted. Reported below: 842 F. 2d 825.

No. 88-155. *TEXAS v. JOHNSON.* Ct. Crim. App. Tex. Certiorari granted. Reported below: 755 S. W. 2d 92.

No. 88-40. *UNITED STATES v. ZOLIN ET AL.* C. A. 9th Cir. Certiorari granted. JUSTICE BRENNAN took no part in the consideration or decision of this petition. Reported below: 809 F. 2d 1411, 842 F. 2d 1135, and 850 F. 2d 610.

*Certiorari Denied*

No. 87-2006. *ILLINOIS v. MADISON.* Sup. Ct. Ill. Certiorari denied. Reported below: 121 Ill. 2d 195, 520 N. E. 2d 374.

No. 87-2111. *EASTER HOUSE v. UNITED STATES.* C. A. Fed. Cir. Certiorari denied. Reported below: 846 F. 2d 78.

No. 87-7203. *BURTON v. EVANS.* C. A. 8th Cir. Certiorari denied.

No. 87-7226. *GIBBONS v. UNITED STATES.* C. A. 4th Cir. Certiorari denied. Reported below: 842 F. 2d 1293.

No. 87-7244. *AARON v. SULLIVAN, WARDEN, ET AL.* C. A. 10th Cir. Certiorari denied.

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No. 87-7254. *MURPHY v. HEDRICK, WARDEN*. C. A. 4th Cir. Certiorari denied. Reported below: 845 F. 2d 83.

No. 87-7282. *MACIOCE v. CALIFORNIA*. Ct. App. Cal., 6th App. Dist. Certiorari denied. Reported below: 197 Cal. App. 3d 262, 242 Cal. Rptr. 771.

No. 88-121. *BARNETTE ET AL. v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 846 F. 2d 753.

No. 88-146. *MATOS v. LEFEVRE, SUPERINTENDENT, CLINTON CORRECTIONAL FACILITY*. C. A. 2d Cir. Certiorari denied.

No. 88-158. *PHOENIX CANADA OIL CO. LTD. v. TEXACO PETROLEUM CO. ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 842 F. 2d 1466.

No. 88-169. *MORISON v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 844 F. 2d 1057.

No. 88-173. *LINQUIST v. BOWEN, SECRETARY OF HEALTH AND HUMAN SERVICES, ET AL.* C. A. 8th Cir. Certiorari denied. Reported below: 839 F. 2d 1321.

No. 88-205. *CAMPBELL ET AL. v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 845 F. 2d 1374.

No. 88-255. *GARRETT v. GENERAL MOTORS CORP.* C. A. 8th Cir. Certiorari denied. Reported below: 844 F. 2d 559.

No. 88-313. *HALLMARK CARDS, INC., ET AL. v. HARTFORD HOUSE, LTD., DBA BLUE MOUNTAIN ARTS, ET AL.* C. A. 10th Cir. Certiorari denied. Reported below: 846 F. 2d 1268.

No. 88-329. *BODNAR ET AL. v. SYNPOL, INC.* C. A. 5th Cir. Certiorari denied. Reported below: 843 F. 2d 190.

No. 88-330. *AMERICAN CYANAMID CO. v. ABBOT, A MINOR, WHO SUES BY HER MOTHER AND NEXT FRIEND, ABBOT*. C. A. 4th Cir. Certiorari denied. Reported below: 844 F. 2d 1108.

No. 88-331. *LANE ET AL. v. DAVENPORT ET AL.* C. A. 7th Cir. Certiorari denied. Reported below: 844 F. 2d 1310.

No. 88-332. *REED v. MANNHALT*. C. A. 9th Cir. Certiorari denied. Reported below: 847 F. 2d 576.

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No. 88-335. FLIP SIDE PRODUCTIONS, INC., ET AL. *v.* JAM PRODUCTIONS, LTD., ET AL. C. A. 7th Cir. Certiorari denied. Reported below: 843 F. 2d 1024.

No. 88-337. PIERCE COUNTY DISTRICT COURT PROBATION OFFICE ET AL. *v.* ELLIOTT ET AL. C. A. 9th Cir. Certiorari denied.

No. 88-344. OSCAR *v.* CLOVERVALE FOODS PROCESSING, INC. C. A. 4th Cir. Certiorari denied. Reported below: 833 F. 2d 310.

No. 88-346. MINIZZA ET AL. *v.* STONE CONTAINER CORP., CORRUGATED CONTAINER DIVISION, EAST PLANT, ET AL. C. A. 3d Cir. Certiorari denied. Reported below: 842 F. 2d 1456.

No. 88-351. DRINKWATER *v.* METROPOLITAN LIFE INSURANCE CO. C. A. 1st Cir. Certiorari denied. Reported below: 846 F. 2d 821.

No. 88-359. BUTTON ET UX. *v.* CONNECTICUT GENERAL LIFE INSURANCE CO. ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 847 F. 2d 584.

No. 88-363. FOURNIER ET UX. *v.* PETROLEUM HELICOPTERS, INC., ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 845 F. 2d 1020.

No. 88-365. RIVARD ET AL. *v.* CHICAGO FIRE FIGHTERS UNION, LOCAL NO. 2, ET AL. Sup. Ct. Ill. Certiorari denied. Reported below: 122 Ill. 2d 303, 522 N. E. 2d 1195.

No. 88-368. KOCH *v.* CITY OF HUTCHINSON, KANSAS, ET AL. C. A. 10th Cir. Certiorari denied. Reported below: 847 F. 2d 1436.

No. 88-430. DRASEN ET AL. *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied. Reported below: 845 F. 2d 731.

No. 88-457. NELSON ET AL. *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied. Reported below: 852 F. 2d 706.

No. 88-471. MARTIN ET UX. *v.* COMMISSIONER OF INTERNAL REVENUE. C. A. 5th Cir. Certiorari denied. Reported below: 848 F. 2d 1239.

No. 88-475. DE IZAGUIRRE *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 851 F. 2d 363.



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No. 88-498. *SCARFO v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 850 F. 2d 1015.

No. 88-501. *LEIGH v. UNITED STATES*. C. A. 11th Cir. Certiorari denied.

No. 88-509. *GIACALONE ET AL. v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 853 F. 2d 470.

No. 88-5004. *HILL v. MURRAY, DIRECTOR, VIRGINIA DEPARTMENT OF CORRECTIONS*. C. A. 4th Cir. Certiorari denied. Reported below: 842 F. 2d 1291.

No. 88-5104. *HARDEN v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 846 F. 2d 1229.

No. 88-5160. *SITTING HOLY v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 855 F. 2d 856.

No. 88-5222. *GACHO v. ILLINOIS*. Sup. Ct. Ill. Certiorari denied. Reported below: 122 Ill. 2d 221, 522 N. E. 2d 1146.

No. 88-5266. *LEWIS v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 848 F. 2d 186.

No. 88-5344. *BOBO v. OHIO*. Sup. Ct. Ohio. Certiorari denied. Reported below: 37 Ohio St. 3d 177, 524 N. E. 2d 489.

No. 88-5352. *BOWENS v. SNOW, CHAIRMAN, GEORGIA BOARD OF PARDONS AND PAROLES, ET AL.* C. A. 11th Cir. Certiorari denied. Reported below: 853 F. 2d 930.

No. 88-5364. *SULLIVAN ET UX. v. CRAWFORD ET AL.* Super. Ct. N. J., App. Div. Certiorari denied.

No. 88-5365. *SZEMBORSKI v. BONANZA INVESTMENT CO.* Ct. App. Wis. Certiorari denied.

No. 88-5366. *TAYLOR v. BUNGE CORP.* C. A. 5th Cir. Certiorari denied. Reported below: 843 F. 2d 498.

No. 88-5367. *ROSS v. TEXAS ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 849 F. 2d 1470.

No. 88-5369. *THOMAS v. OKLAHOMA*. Ct. Crim. App. Okla. Certiorari denied.

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No. 88-5370. *SIMMONS v. VOGLE ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 849 F. 2d 606.

No. 88-5372. *JONES v. NEWSOME, SUPERINTENDENT, GEORGIA STATE PRISON.* C. A. 11th Cir. Certiorari denied. Reported below: 846 F. 2d 62.

No. 88-5386. *SINDRAM v. TAYLOR.* Ct. App. D. C. Certiorari denied.

No. 88-5387. *WHITE v. UNITED STATES.* C. A. 4th Cir. Certiorari denied. Reported below: 850 F. 2d 691.

No. 88-5401. *COWLING v. UNITED STATES.* C. A. 11th Cir. Certiorari denied. Reported below: 856 F. 2d 198.

No. 88-5402. *OPPEL v. MEACHUM, COMMISSIONER, CONNECTICUT DEPARTMENT OF CORRECTION.* C. A. 2d Cir. Certiorari denied. Reported below: 851 F. 2d 34.

No. 88-5405. *IDDEEN v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. Reported below: 851 F. 2d 359.

No. 88-5409. *PACHECO v. UNITED STATES.* C. A. 9th Cir. Certiorari denied.

No. 88-5413. *PEPPARD v. UNITED STATES.* C. A. 1st Cir. Certiorari denied. Reported below: 860 F. 2d 1072.

No. 88-5417. *BRUNOT v. UNITED STATES.* C. A. 11th Cir. Certiorari denied. Reported below: 853 F. 2d 929.

No. 88-5423. *KELLEY v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. Reported below: 850 F. 2d 212.

No. 88-5427. *COLLIN v. UNITED STATES.* C. A. 9th Cir. Certiorari denied. Reported below: 852 F. 2d 1290.

No. 88-5431. *WISSEH v. UNITED STATES.* C. A. 4th Cir. Certiorari denied. Reported below: 846 F. 2d 75.

No. 88-5444. *LARA v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. Reported below: 851 F. 2d 1419.

No. 88-5453. *RODRIGUEZ-QUINONES v. UNITED STATES.* C. A. 11th Cir. Certiorari denied. Reported below: 853 F. 2d 930.

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No. 88-5456. HURTADO *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 845 F. 2d 1020.

No. 88-5457. BAUER *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied.

No. 88-5458. DUTY *v.* LYNAUGH, DIRECTOR, TEXAS DEPARTMENT OF CORRECTIONS. C. A. 5th Cir. Certiorari denied. Reported below: 849 F. 2d 1470.

No. 88-5460. SERVIDIO *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied. Reported below: 853 F. 2d 923.

No. 88-5463. LITTLE *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 849 F. 2d 610.

No. 88-5466. PARKER *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 852 F. 2d 569.

No. 88-5476. MADAMBA *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 842 F. 2d 1090.

No. 88-5484. MADRID *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 842 F. 2d 1090.

No. 88-5485. SCATES *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 846 F. 2d 75.

No. 88-5490. GORDON *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 849 F. 2d 607.

No. 88-5494. RODRIGUEZ-DELGADO *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 852 F. 2d 1290.

No. 88-5499. SANDOVAL VARGAS *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 854 F. 2d 1132.

No. 88-5502. LOCKE *v.* ALABAMA. Sup. Ct. Ala. Certiorari denied. Reported below: 527 So. 2d 1347.

No. 87-1942. FLORIDA *v.* BROWN. Sup. Ct. Fla. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 521 So. 2d 110.

No. 88-345. FLORIDA *v.* BELCHER. Dist. Ct. App. Fla., 3d Dist. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 520 So. 2d 303.



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No. 87-6703. METHENY v. HAMBY, WARDEN, ET AL. C. A. 6th Cir. Certiorari denied. Reported below: 835 F. 2d 672.

JUSTICE WHITE, dissenting.

This case and one other in which the Court denies certiorari today—*Bryant v. United States*, No. 87-7322, *post*, p. 916—present the question whether violations of the Interstate Agreement on Detainers (IAD) are cognizable in federal habeas corpus proceedings.

## I

The IAD question is one that has divided the Courts of Appeals. Most of the Circuits have held that violations of the IAD, without more, do not make out a claim for relief under either 28 U. S. C. § 2254 or § 2255.<sup>1</sup> In this case, the Sixth Circuit found that petitioner could not obtain habeas relief for an IAD violation in a proceeding brought under § 2254; in the other case disposed of today, *Bryant*, *supra*, the Fourth Circuit reached a similar conclusion with respect to a § 2255 action. This majority position among the Courts of Appeals, however, has been rejected by at least two Circuits, with a third also somewhat in disagreement.<sup>2</sup> This issue has been presented to the Court for its consideration on several occasions in the past; the Court has, unfortunately, refused to resolve this persistent conflict among the lower federal courts. See, *e. g.*, *Haskins v. Virginia*, 484 U. S. 1037 (1988) (WHITE, J., dissenting); *Kerr v. Finkbeiner*, 474 U. S. 929 (1985) (WHITE, J., dissenting).

Once again, I dissent from this Court's denial of review on this question. There is nothing to commend having habeas corpus

<sup>1</sup>The majority rule, holding that IAD violations, without more, do not state a claim for habeas relief, has been adopted by the Fourth and Sixth Circuits (as illustrated by these two cases) as well as the First Circuit, *Fasano v. Hall*, 615 F. 2d 555, 558, cert. denied, 449 U. S. 867 (1980); the Second, *Edwards v. United States*, 564 F. 2d 652, 654 (1977); the Eighth, *Shigemura v. United States*, 726 F. 2d 380, 381 (1984); the Tenth, *Greathouse v. United States*, 655 F. 2d 1032, 1034 (1981), cert. denied, 455 U. S. 926 (1982); and the Eleventh, *Seymore v. Alabama*, 846 F. 2d 1355, 1356-1357 (1988).

<sup>2</sup>The Seventh Circuit has held that violations of the IAD are cognizable in federal habeas proceedings, *Webb v. Keohane*, 804 F. 2d 413, 414 (1986), as has the Third Circuit, *United States v. Williams*, 615 F. 2d 585, 590-591 (1980). The Ninth Circuit has found that certain IAD violations are cognizable in federal habeas, while others are not. Compare *Carlson v. Hong*, 707 F. 2d 367, 368 (1983), with *Cody v. Morris*, 623 F. 2d 101, 102 (1980).

available in some Circuits and not in others. I would grant certiorari in this case to resolve the split of authority among the Courts of Appeals.

## II

These two IAD cases, however, are not the only two presenting conflicts among the courts over the interpretation of federal statutes (or constitutional provisions), on which the Court has denied review already this Term. In 14 other cases this Term, the Court has declined to review judgments which created or exacerbated existing splits in authority among the state and/or federal courts. See, e. g., *Texas v. Modgling*, ante, p. 898; *Boyle v. Illinois*, ante, p. 898; *Lauritzen v. McLaughlin*, ante, p. 898; *Cleveland Newspaper Guild v. Plain Dealer Publishing Co.*, ante, p. 899; *Hartenstine v. Superior Court*, ante, p. 899; *Young v. Langley*, ante, p. 898; *Kahn v. Avnet, Inc.*, ante, p. 898; *Feaster v. United States*, ante, p. 898; *Gruenholz v. United States*, ante, p. 898; *Union Pacific R. Co. v. Moritz*, ante, p. 899; *Kreisher v. Mobil Oil Corp.*, ante, p. 899; *Robinson v. Connecticut*, ante, p. 899; *Stamler v. Zamboni*, ante, p. 899; and *Torres-Arboledo v. Florida*, ante, p. 901.

I noted my dissent from the denial of review in all of these cases. Most of them present questions of the proper interpretation of federal statutes and a few involve questions of constitutional interpretation. These questions concern issues that have divided the Courts of Appeals (or, in some instances, the state courts), and require our attention when it is so apparent that some persons are being protected or being sanctioned by the federal law and others are not.

I also note that the Court granted certiorari (or noted probable jurisdiction) so far this Term in at least 12 cases which, like these, raise questions of federal statutory interpretation that had divided the lower courts. See, e. g., *Lorance v. AT&T Technologies, Inc.*, ante, p. 887; *Texas State Teachers Assn. v. Garland Independent School Dist.*, ante, p. 815; *California v. ARC America Corp.*, ante, p. 814; *Federal Savings & Loan Insurance Corp. v. Ticktin*, ante, p. 815; *Mead Corp. v. Tilley*, ante, p. 815; *Neitzke v. Williams*, ante, p. 816; *Finley v. United States*, ante, p. 815; *Hardin v. Straub*, ante, p. 887; *Lauro Lines s. r. l. v.*

*Chasser*, ante, p. 887; *Massachusetts v. Morash*, ante, p. 815; *Missouri v. Jenkins*, ante, p. 888; and *Duckworth v. Eagan*, ante, p. 888. It is not immediately apparent to me—as it must not be to litigants in the cases in which certiorari was denied, or to judges in the federal and state court systems—why the Court granted certiorari in these 12 cases, but not in the previously listed 16 in which I have dissented or am dissenting from the denial of review.

This is not to say that review should not have been granted in the 12 cases that will be reviewed. To the contrary: where cases present issues over which the federal and state courts have divided, this Court has a special obligation to intercede and provide some definitive resolution of the issues. Cf. this Court's Rule 17. Rather, my point is that this Court is only fulfilling this role with respect to some of the cases brought here on review, and not others—and the method by which it distinguishes between the two is elusive, to say the least. This is the principal reason why I have dissented from so many of the Court's decisions to deny certiorari in the past: almost 200 times in the past three Terms.

As I see it, the reason the Court grants review in some of these cases, but does not do so in many others, is the limitation placed on the Court's docket by its resources: its finite ability to hear arguments and issue decisions in only a given number of cases in each Term. The Court would rather give prompt attention to all cases in which it grants review than grant review in a larger number of cases in any Term than it can hear in a single Term, for to do the latter would necessarily afford only delayed review in every case in which plenary consideration is granted. That may well be a justifiable course of action, but it does tend to conceal the fact that many cases that deserve review are being denied review.

It is also clear that, so far this Term, the Court has limited its argument intake to a modest number. In our first two conferences this Term, we denied review in 1,074 cases, and granted review in 32.<sup>3</sup> We thus granted review in 2.8% of the petitions acted upon. Should we continue to grant review at this rate for the rest of the Term, and if the applications for review acted upon this Term total 4,650 (3% more than last Term), we will have

<sup>3</sup>Of the cases in which review was denied, 460 were "paid" cases while 614 were brought *in forma pauperis*. Among the granted cases, 29 were "paid" and 3 were *in forma pauperis*.



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granted review in only 130 cases—considerably less than the 170 cases we have been deciding each Term (which would likely be disposed of in approximately 150 hours of argument time and 150 opinions).

No. 87-7311. *POINDEXTER v. OHIO*. Sup. Ct. Ohio. Certiorari denied. Reported below: 36 Ohio St. 3d 1, 520 N. E. 2d 568.

JUSTICE MARSHALL, with whom JUSTICE BRENNAN joins, 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, 231 (1976) (MARSHALL J., dissenting), I would grant the petition for certiorari and vacate the death sentence in this case. Even if I did not take this view, I believe the Court should reserve judgment on this petition pending our disposition of *Dugger v. Adams* No. 87-121, cert. granted, 485 U. S. 933 (1988). The petitioner here, like the petitioner in *Adams*, claims that a jury instruction stressing the preliminary nature of the jury's decision so minimized the jury's sense of responsibility for its decision and so increased the likelihood of a recommendation of death as to be unconstitutional under *Caldwell v. Mississippi*, 472 U. S. 320 (1985), despite the accuracy of the instruction. Notwithstanding the similarity of the petitioners' claims, the Court denies certiorari in the instant case without waiting to consider what light the *Adams* case will shed on the issues here. Because I consider such haste inappropriate, particularly when a man's life hangs in the balance, I dissent.

No. 87-7322. *BRYANT v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. JUSTICE WHITE would grant certiorari for the reasons set forth in his dissent in No. 87-6703, *Metheny v. Hamby, Warden, et al.*, *supra*. Reported below: 846 F. 2d 74.

No. 88-115. *UNITED KINGDOM MUTUAL STEAMSHIP ASSURANCE ASSN. (BERMUDA) LTD. ET AL. v. STATE ESTABLISHMENT FOR AGRICULTURAL PRODUCT TRADING*. C. A. 11th Cir. Motion of Maritime Law Association of the United States for leave to file a brief as *amicus curiae* granted. Certiorari denied. Reported below: 838 F. 2d 1576.

No. 88-153. *TEXACO PETROLEUM CO. ET AL. v. PHOENIX CANADA OIL CO. LTD.* C. A. 3d Cir. Motion of Rule of Law Commit-

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tee for leave to file a brief as *amicus curiae* granted. Certiorari denied. Reported below: 842 F. 2d 1466.

No. 88-191. UNITED GAS PIPE LINE CO. *v.* LOUISIANA POWER & LIGHT CO. ET AL. Ct. App. La., 4th Cir. Motion of Interstate Natural Gas Association of America for leave to file a brief as *amicus curiae* granted. Certiorari denied. Reported below: 517 So. 2d 145.

No. 88-220. VIELLE *v.* BAISLEY. Ct. App. Colo. Motion of Blackfeet Tribe of the Blackfeet Reservation in Montana for leave to file a brief as *amicus curiae* granted. Certiorari denied. Reported below: 749 P. 2d 446.

No. 88-247. PRUDENTIAL-BACHE SECURITIES, INC. *v.* FINN ET UX. Dist. Ct. App. Fla., 4th Dist. Motion of respondents for award of attorney's fees and costs denied. Certiorari denied. Reported below: 523 So. 2d 617.

No. 88-274. WILSON *v.* HARELSON ET AL. C. A. 9th Cir. Motion of petitioner to defer consideration of the petition for certiorari denied. Certiorari denied. Reported below: 854 F. 2d 1141.

No. 88-5173. SPREITZER *v.* ILLINOIS. Sup. Ct. Ill.;

No. 88-5193. ENOCH *v.* ILLINOIS. Sup. Ct. Ill.; and

No. 88-5432. ODLE *v.* CALIFORNIA. Sup. Ct. Cal. Certiorari denied. Reported below: No. 88-5173, 123 Ill. 2d 1, 525 N. E. 2d 30; No. 88-5193, 122 Ill. 2d 176, 522 N. E. 2d 1124; No. 88-5432, 45 Cal. 3d 386, 754 P. 2d 184.

JUSTICE BRENNAN and JUSTICE MARSHALL, dissenting.

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

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*Miscellaneous Order*

No. 65, Orig. TEXAS *v.* NEW MEXICO. It is ordered that D. Monte Pascoe, Esq., of Denver, Colo., be appointed Special Master in place of Charles J. Meyers, deceased.

The Special Master shall have authority to fix the time and conditions for the filing of additional pleadings and to direct subse-

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quent proceedings, and with authority to summon witnesses, issue subpoenas, and take such evidence as may be introduced and such as he may deem it necessary to call for. The Special Master is directed to submit such reports as he may deem appropriate.

The compensation of the Special Master, the allowances to him, the compensation paid to his legal, technical, stenographic, and clerical assistants, the cost of printing his report, and all other proper expenses, including travel expenses, shall be charged against and be borne by the parties in such proportion as the Court may hereafter direct. [For earlier order herein, see, *e. g.*, *ante*, p. 808.]

OCTOBER 19, 1988

*Dismissal Under Rule 53*

No. 87-163. UNITED STATES ARMY CORPS OF ENGINEERS ET AL. *v.* AMERON, INC., ET AL. C. A. 3d Cir. [Certiorari granted, 485 U. S. 958.] Writ of certiorari dismissed under this Court's Rule 53.

*Miscellaneous Order*

No. A-317. ARMONTROUT, WARDEN *v.* MERCER. Application of the Attorney General of Missouri for an order to vacate the stay of execution of sentence of death entered by the United States Court of Appeals for the Eighth Circuit, presented to JUSTICE BLACKMUN, and by him referred to the Court, denied.

OCTOBER 25, 1988

*Miscellaneous Order*

No. A-305 (88-5687). EDWARDS *v.* SCROGGY, COMMISSIONER, MISSISSIPPI DEPARTMENT OF CORRECTIONS, ET AL. C. A. 5th Cir. Application for stay of execution of sentence of death, presented to JUSTICE WHITE, and by him referred to the Court, granted pending the disposition by this Court of the petition for writ of certiorari. Should the petition for writ of certiorari be denied, this stay terminates automatically. In the event the petition for writ of certiorari is granted, this stay shall continue pending the sending down of the judgment of this Court. JUSTICE SCALIA took no part in the consideration or decision of this application.



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*Miscellaneous Order*

No. A-319. *WOODS v. FLORIDA*. Application for stay of execution of sentence of death, presented to JUSTICE KENNEDY, and by him referred to the Court, denied. JUSTICE BLACKMUN and JUSTICE STEVENS would grant the application.

JUSTICE BRENNAN and JUSTICE MARSHALL, dissenting.

Adhering to our views that the death penalty is in all circumstances cruel and unusual punishment prohibited by the Eighth and Fourteenth Amendments, *Gregg v. Georgia*, 428 U. S. 153, 227, 231 (1976), we would grant the application for stay of execution in order to give the applicant time to file a petition for writ of certiorari and would grant the petition and vacate the death sentence in this case.

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*Appeals Dismissed*

No. 87-2058. *CORNHUSKER CHRISTIAN CHILDRENS HOME, INC. v. DEPARTMENT OF SOCIAL SERVICES OF NEBRASKA ET AL.* Appeal from Sup. Ct. Neb. dismissed for want of substantial federal question. Reported below: 227 Neb. 94, 416 N. W. 2d 551.

No. 88-177. *VECO INTERNATIONAL, INC., ET AL. v. ALASKA PUBLIC OFFICES COMMISSION*. Appeal from Sup. Ct. Alaska dismissed for want of substantial federal question. Reported below: 753 P. 2d 703.

No. 88-228. *ST. HILAIRE v. MAINE*. Appeal from Sup. Jud. Ct. Me. dismissed for want of substantial federal question. Reported below: 543 A. 2d 824.

No. 88-320. *KAMMER v. YOUNG*. Appeal from Ct. Sp. App. Md. dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied. Reported below: 73 Md. App. 565, 535 A. 2d 936.

No. 88-413. *BOVINO v. MIDDLESEX COUNTY BOARD OF SOCIAL SERVICES*. Appeal from Super. Ct. N. J., App. Div., dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied.

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No. 88-5439. *IKENI v. CALIFORNIA SUPERIOR COURT OF FRESNO COUNTY ET AL.* Appeal from Ct. App. Cal., 5th App. Dist., dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied.

No. 88-5464. *BULLER ET AL. v. HURLEY STATE BANK.* Appeal from Sup. Ct. S. D. dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied. Reported below: 428 N. W. 2d 545.

No. 88-381. *GEEVER ET UX. v. ILLINOIS.* Appeal from Sup. Ct. Ill. dismissed for want of jurisdiction. JUSTICE BRENNAN, JUSTICE MARSHALL, and JUSTICE STEVENS would note probable jurisdiction and set case for oral argument. Reported below: 122 Ill. 2d 313, 522 N. E. 2d 1200.

*Vacated and Remanded After Certiorari Granted*

No. 87-1467. *EXXON Co., U. S. A. v. BANQUE DE PARIS ET DES PAYS-BAS.* C. A. 5th Cir. [Certiorari granted, 485 U. S. 1020.] Judgment vacated and case remanded for further consideration in light of *Kerr Construction Co. v. Plains National Bank*, 753 S. W. 2d 181 (Tex. App. 1987).

*Certiorari Granted—Reversed.* (See No. 88-161, *ante*, p. 9.)

*Certiorari Granted—Vacated and Remanded*

No. 88-28. *ONWUASOANYA v. UNITED STATES.* C. A. D. C. Cir. Certiorari granted, judgment vacated, and case remanded to the Court of Appeals with instructions to dismiss the proceedings arising out of petitioner's Rule 41(3) motion as moot. *United States v. Munsingwear, Inc.*, 340 U. S. 36, 38-39 (1950). Reported below: 265 U. S. App. D. C. 224, 830 F. 2d 372.

No. 88-41. *BOARD OF GOVERNORS OF STATE COLLEGES AND UNIVERSITIES ET AL. v. AKINS ET AL.* C. A. 7th Cir. Certiorari granted, judgment vacated, and case remanded for further consideration in light of *Torres v. Oakland Scavenger Co.*, 487 U. S. 312 (1988). Reported below: 840 F. 2d 1371.

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*Miscellaneous Orders*

No. A-253. *ROGGIO v. UNITED STATES*. Application for release pending appeal, addressed to JUSTICE BRENNAN and referred to the Court, denied.

No. 65, Orig. *TEXAS v. NEW MEXICO*. Motion for allowance of fees and disbursements on behalf of the late Charles J. Meyers, Special Master, granted, and the allocation for total services and disbursements set forth in the motion approved. This amount is to be paid equally by the parties. JUSTICE STEVENS took no part in the consideration or decision of this motion. [For earlier order herein, see, *e. g.*, *ante*, p. 917.]

\* No. 112, Orig. *WYOMING v. OKLAHOMA*. Motion of defendant to dismiss the complaint denied. Defendant is allowed 30 days within which to file an answer. [For earlier order herein, see 487 U. S. 1231.]

No. 87-201. *MANSELL v. MANSELL*. Ct. App. Cal., 5th App. Dist. [Probable jurisdiction noted, 487 U. S. 1217.] Motion of Women's Equity Action League et al. for leave to file a brief as *amici curiae* granted.

No. 87-1855. *GILHOOL, SECRETARY OF EDUCATION OF PENNSYLVANIA v. MUTH ET AL.* C. A. 3d Cir. [Certiorari granted, *ante*, p. 815.] Motion of respondent Russell A. Muth for leave to proceed further herein *in forma pauperis* granted.

No. 87-1939. *BARNARD, CHAIRMAN OF THE COMMITTEE OF BAR EXAMINERS OF THE VIRGIN ISLANDS v. THORSTENN ET AL.*; and

No. 87-2008. *VIRGIN ISLANDS BAR ASSN. v. THORSTENN ET AL.* C. A. 3d Cir. [Certiorari granted, 487 U. S. 1232.] Motion of Paul Hoffman et al. for leave to file a brief as *amici curiae* granted.

No. 87-2066. *W. S. KIRKPATRICK & CO., INC., ET AL. v. ENVIRONMENTAL TECTONICS CORP., INTERNATIONAL.* C. A. 3d Cir.; and

No. 88-399. *HAMMOND v. TERMINAL RAILROAD ASSOCIATION OF ST. LOUIS.* C. A. 7th Cir. The Solicitor General is invited to file briefs in these cases expressing the views of the United States.

No. 88-317. *DUCKWORTH v. EAGAN.* C. A. 7th Cir. [Certiorari granted, *ante*, p. 888.] Motion for appointment of counsel



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granted, and it is ordered that Howard B. Eisenberg, Esq., of Carbondale, Ill., be appointed to serve as counsel for respondent in this case.

No. 88-5412. *FOY ET VIR v. NORTHEAST SUBURBAN LIFE*. Ct. App. Ohio, Hamilton County. Motion of petitioners for leave to proceed *in forma pauperis* denied. Petitioners are allowed until November 21, 1988, within which to pay the docketing fee required by Rule 45(a) and to submit a petition in compliance with Rule 33 of the Rules of this Court.

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

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

No. 88-5416. *CHRISTIAN v. BOWEN*, SECRETARY OF HEALTH AND HUMAN SERVICES. C. A. 6th Cir. Motion of petitioner for leave to proceed *in forma pauperis* denied. Petitioner is allowed until November 21, 1988, within which to pay the docketing fee required by Rule 45(a) and to submit a petition in compliance with Rule 33 of the Rules of this Court.

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

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

No. 88-5480. *WEIGANG v. PEARL RIVER COUNTY BOARD OF SUPERVISORS ET AL.* Appeal from Cir. Ct. Pearl River County, Miss. Motion of appellant for leave to proceed *in forma pauperis* denied. Appellant is allowed until November 21, 1988, within which to pay the docketing fee required by Rule 45(a) and to submit a statement as to jurisdiction in compliance with Rule 33 of the Rules of this Court.

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

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

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No. 88-5487. IN RE BALAWAJDER. Petition for writ of mandamus denied.

No. 88-5318. IN RE YOUNGS-SETTLE;

No. 88-5354. IN RE DOUGLASS; and

No. 88-5400. IN RE RADVAN-ZIEMNOWICZ. Petitions for writs of mandamus and/or prohibition denied.

*Probable Jurisdiction Noted*

No. 87-2127. AMERICAN FOREIGN SERVICE ASSN. ET AL. *v.* GARFINKEL, DIRECTOR, INFORMATION SECURITY OVERSIGHT OFFICE, ET AL. Appeal from D. C. D. C. Probable jurisdiction noted. Reported below: 688 F. Supp. 671.

*Certiorari Granted*

No. 88-411. MURRAY, DIRECTOR, VIRGINIA DEPARTMENT OF CORRECTIONS, ET AL. *v.* GIARRATANO ET AL. C. A. 4th Cir. Certiorari granted. Reported below: 847 F. 2d 1118.

*Certiorari Denied.* (See also Nos. 88-320, 88-413, 88-5439, and 88-5464, *supra.*)

No. 87-1350. O. N. E. SHIPPING, LTD. *v.* FLOTA MERCANTE GRANCOLOMBIANA, S. A., ET AL. C. A. 2d Cir. Certiorari denied. Reported below: 830 F. 2d 449.

No. 87-7129. SCARTZ *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 838 F. 2d 876.

No. 87-7143. COSENTINO *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. Reported below: 844 F. 2d 30.

No. 87-7159. CLAWSON *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 831 F. 2d 909.

No. 87-7168. WOLF ET AL. *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. Reported below: 839 F. 2d 1387.

No. 87-7170. WHITTINGTON *v.* MISSISSIPPI. Sup. Ct. Miss. Certiorari denied. Reported below: 523 So. 2d 966.

No. 87-7223. LEWIS *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 837 F. 2d 415.

No. 87-7228. DAILEY *v.* WEST VIRGINIA DEPARTMENT OF WELFARE. C. A. 4th Cir. Certiorari denied. Reported below: 842 F. 2d 1290.

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No. 87-7243. *LEMERON v. POWERS, WARDEN, ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 842 F. 2d 1291.

No. 87-7276. *BAGLEY v. UNITED STATES.* C. A. 9th Cir. Certiorari denied. Reported below: 837 F. 2d 371.

No. 87-7284. *MARTIN v. MORRIS.* C. A. 6th Cir. Certiorari denied. Reported below: 838 F. 2d 1215.

No. 87-7347. *SOSA v. UNITED STATES.* C. A. 3d Cir. Certiorari denied. Reported below: 843 F. 2d 155.

No. 88-12. *MORTON ET UX. v. GARDNER, EXECUTIVE DIRECTOR, DEPARTMENT OF NATURAL RESOURCES OF FLORIDA.* Dist. Ct. App. Fla., 3d Dist. Certiorari denied. Reported below: 513 So. 2d 725.

No. 88-20. *BRADSHAW v. UNITED STATES.* C. A. 11th Cir. Certiorari denied. Reported below: 840 F. 2d 871.

No. 88-37. *CARLIN COMMUNICATIONS, INC., ET AL. v. FEDERAL COMMUNICATIONS COMMISSION ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 837 F. 2d 546.

No. 88-120. *VANCASPEL ET AL. v. CORWIN ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 843 F. 2d 194.

No. 88-168. *KANSAS v. CLOTHIER.* Sup. Ct. Kan. Certiorari denied. Reported below: 243 Kan. 81, 753 P. 2d 1267.

No. 88-170. *BENGIVENGA v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. Reported below: 845 F. 2d 593.

No. 88-189. *BELL ATLANTIC v. AMERICAN TELEPHONE & TELEGRAPH CO. ET AL.* C. A. D. C. Cir. Certiorari denied. Reported below: 269 U. S. App. D. C. 436, 846 F. 2d 1422.

No. 88-197. *ITHACA INDUSTRIES, INC. v. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION.* C. A. 4th Cir. Certiorari denied. Reported below: 849 F. 2d 116.

No. 88-202. *HERRERA-DIAZ, A MINOR, BY AND THROUGH HIS GUARDIAN, HERRERA-DIAZ v. UNITED STATES.* C. A. 9th Cir. Certiorari denied. Reported below: 845 F. 2d 1534.

No. 88-210. *MURPHY v. UNITED STATES.* C. A. 6th Cir. Certiorari denied. Reported below: 836 F. 2d 248.



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No. 88-215. *HOHRI ET AL. v. UNITED STATES*. C. A. Fed. Cir. Certiorari denied. Reported below: 847 F. 2d 779.

No. 88-218. *PIERSON v. ILLINOIS*. App. Ct. Ill., 1st Dist. Certiorari denied. Reported below: 166 Ill. App. 3d 558, 519 N. E. 2d 1185.

No. 88-237. *NOEL v. DEPARTMENT OF SANITATION OF CITY OF NEW YORK*. App. Term, Sup. Ct. N. Y., 1st Jud. Dept. Certiorari denied.

No. 88-244. *OLITSKY v. SPENCER GIFTS, INC.* C. A. 5th Cir. Certiorari denied. Reported below: 842 F. 2d 123.

No. 88-245. *CLARIDGE HOTEL & CASINO v. McLAUGHLIN, SECRETARY OF LABOR*. C. A. 3d Cir. Certiorari denied. Reported below: 846 F. 2d 180.

No. 88-252. *HARTNESS ET AL. v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 845 F. 2d 158.

No. 88-256. *WINTER v. INTERSTATE COMMERCE COMMISSION ET AL.* C. A. 8th Cir. Certiorari denied. Reported below: 851 F. 2d 1056.

No. 88-304. *MAYON v. SOUTHERN PACIFIC TRANSPORTATION Co.* C. A. 5th Cir. Certiorari denied. Reported below: 829 F. 2d 1122.

No. 88-323. *RAKOWSKI v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 845 F. 2d 1018.

No. 88-324. *HASTINGS v. UNITED STATES*. C. A. 1st Cir. Certiorari denied. Reported below: 847 F. 2d 920.

No. 88-364. *LACHMAN ET UX., ON BEHALF OF LACHMAN, A MINOR v. ILLINOIS STATE BOARD OF EDUCATION ET AL.* C. A. 7th Cir. Certiorari denied. Reported below: 852 F. 2d 290.

No. 88-369. *DRAKE PUBLISHERS, INC., DBA HIGH SOCIETY MAGAZINE v. SAMAD ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 845 F. 2d 1015.

No. 88-376. *NELSON v. NELSON, SPECIAL ADMINISTRATOR OF THE ESTATE OF NELSON*. Sup. Ct. Ill. Certiorari denied. Reported below: 122 Ill. 2d 343, 522 N. E. 2d 1214.

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No. 88-382. *WALKER v. ENDELL, DIRECTOR OF ALASKA DEPARTMENT OF CORRECTIONS*. C. A. 9th Cir. Certiorari denied. Reported below: 850 F. 2d 470.

No. 88-384. *LAGOS v. MODESTO CITY SCHOOLS DISTRICT ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 843 F. 2d 347.

No. 88-386. *YELLOW BUS LINES, INC., ET AL. v. DRIVERS, CHAUFFEURS & HELPERS LOCAL UNION No. 639, AFFILIATED WITH INTERNATIONAL BROTHERHOOD OF TEAMSTERS, CHAUFFEURS, WAREHOUSEMEN & HELPERS OF AMERICA, AFL-CIO, ET AL.* C. A. D. C. Cir. Certiorari denied. Reported below: 268 U. S. App. D. C. 103, 839 F. 2d 782.

No. 88-391. *KRAJEWSKI, INDIVIDUALLY AND IN HIS CAPACITY AS JUDGE OF THE LAKE COUNTY COURT, DIVISION III v. KUROWSKI ET AL.* C. A. 7th Cir. Certiorari denied. Reported below: 848 F. 2d 767.

No. 88-392. *STEPHENSON v. PAINE, WEBBER, JACKSON & CURTIS, INC., ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 839 F. 2d 1095.

No. 88-393. *TEAM, INC., ET AL. v. OVERSTREET ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 849 F. 2d 1476.

No. 88-403. *AMERICAN BOARD OF ENDODONTICS ET AL. v. LANIER*. C. A. 6th Cir. Certiorari denied. Reported below: 843 F. 2d 901.

No. 88-404. *DAVIS v. NEVADA*. Sup. Ct. Nev. Certiorari denied. Reported below: 104 Nev. 855, 809 P. 2d 601.

No. 88-408. *MIDDLE SOUTH UTILITIES, INC., ET AL. v. ISQUITH ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 847 F. 2d 186.

No. 88-414. *CLUETT, PEABODY & Co., INC. v. LHLC CORP.* C. A. 7th Cir. Certiorari denied. Reported below: 842 F. 2d 928.

No. 88-416. *BENSON v. BEARB ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 851 F. 2d 359.

No. 88-417. *TEXAS EXTRUSION CORP. ET AL. v. LOCKHEED CORP.* C. A. 5th Cir. Certiorari denied. Reported below: 844 F. 2d 1142.

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No. 88-418. *SHANKS ET AL. v. ESTES PARK BANK*. Ct. App. Colo. Certiorari denied.

No. 88-419. *GRABNER v. CONTI*. C. A. 3d Cir. Certiorari denied. Reported below: 853 F. 2d 918.

No. 88-422. *RADO v. CONNECTICUT*. App. Ct. Conn. Certiorari denied. Reported below: 14 Conn. App. 322, 541 A. 2d 124.

No. 88-426. *AUBURN NATIONAL BANK OF AUBURN v. SANDA ET AL.* Ct. App. Ind. Certiorari denied. Reported below: 514 N. E. 2d 309.

No. 88-432. *GABRIEL ELECTRONICS, INC. v. ANDREW CORP.* C. A. Fed. Cir. Certiorari denied. Reported below: 847 F. 2d 819.

No. 88-433. *TERRYDALE LIQUIDATING TRUST v. BARNES ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 846 F. 2d 845.

No. 88-435. *GEEAR v. BOULDER COMMUNITY HOSPITAL*. C. A. 10th Cir. Certiorari denied. Reported below: 844 F. 2d 764.

No. 88-438. *DOZIER v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 844 F. 2d 701.

No. 88-444. *LOTT v. FIREMEN AND POLICEMEN'S PENSION FUND BOARD OF TRUSTEES OF SAN ANTONIO, TEXAS*. Ct. App. Tex., 4th Dist. Certiorari denied. Reported below: 742 S. W. 2d 730.

No. 88-445. *BROAD ET UX. v. CONWAY ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 849 F. 2d 1467.

No. 88-455. *DE WIEST v. TARLETON STATE UNIVERSITY*. C. A. 5th Cir. Certiorari denied. Reported below: 845 F. 2d 1021.

No. 88-460. *PAYNE v. GANNON*. Ct. App. Tex., 5th Dist. Certiorari denied.

No. 88-466. *TRINSEY v. STATE ETHICS COMMISSION OF PENNSYLVANIA ET AL.* C. A. 3d Cir. Certiorari denied.

No. 88-476. *DELUMEN v. UNITED STATES POSTAL SERVICE*. C. A. Fed. Cir. Certiorari denied.



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No. 88-531. SOLEM, WARDEN, ET AL. *v.* VOSBURG. C. A. 8th Cir. Certiorari denied. Reported below: 845 F. 2d 763.

No. 88-546. MORDEROSIAN *v.* OFFICE OF PERSONNEL MANAGEMENT. C. A. Fed. Cir. Certiorari denied. Reported below: 852 F. 2d 1292.

No. 88-547. WATTS *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 848 F. 2d 134.

No. 88-551. ANGIULO ET AL. *v.* UNITED STATES. C. A. 1st Cir. Certiorari denied. Reported below: 847 F. 2d 956.

No. 88-562. COLE *v.* WELLS. C. A. 6th Cir. Certiorari denied. Reported below: 848 F. 2d 189.

No. 88-563. KRAMER *v.* DEPARTMENT OF COMMERCE. C. A. Fed. Cir. Certiorari denied. Reported below: 852 F. 2d 1293.

No. 88-566. THAME *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied. Reported below: 846 F. 2d 200.

No. 88-574. STRAND *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 846 F. 2d 1383.

No. 88-5005. JAMES *v.* TANSY, WARDEN. C. A. 10th Cir. Certiorari denied.

No. 88-5022. TURNER *v.* ARMONTROUT, WARDEN, ET AL. C. A. 8th Cir. Certiorari denied. Reported below: 845 F. 2d 165.

No. 88-5071. HOLZER *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied. Reported below: 848 F. 2d 822.

No. 88-5092. HOFFMAN *v.* PENNSYLVANIA. Super. Ct. Pa. Certiorari denied. Reported below: 367 Pa. Super. 79, 532 A. 2d 463.

No. 88-5099. FORD *v.* SEABOLD, WARDEN. C. A. 6th Cir. Certiorari denied. Reported below: 841 F. 2d 677.

No. 88-5143. ROBINSON *v.* WILLIAMS, WARDEN, ET AL. C. A. 4th Cir. Certiorari denied. Reported below: 846 F. 2d 73.

No. 88-5164. JOHN LEWIS S. *v.* CALIFORNIA. Ct. App. Cal., 6th App. Dist. Certiorari denied. Reported below: 199 Cal. App. 3d 441, 245 Cal. Rptr. 17.

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No. 88-5211. *SMITH v. ORR, SECRETARY, DEPARTMENT OF THE AIR FORCE, ET AL.* C. A. 8th Cir. Certiorari denied. Reported below: 855 F. 2d 858.

No. 88-5249. *PUNCHARD v. UNITED STATES DISTRICT COURT.* C. A. 10th Cir. Certiorari denied.

No. 88-5273. *REDDY v. COOMBE, SUPERINTENDENT, EASTERN CORRECTIONAL FACILITY.* C. A. 2d Cir. Certiorari denied. Reported below: 846 F. 2d 866.

No. 88-5274. *CATTOUSE v. UNITED STATES.* C. A. 2d Cir. Certiorari denied. Reported below: 846 F. 2d 144.

No. 88-5322. *GLIGORIJEVIC v. KEAN ET AL.* C. A. 2d Cir. Certiorari denied.

No. 88-5325. *FAIRCHILDE v. EARNST ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 856 F. 2d 182.

No. 88-5326. *FAIRCHILDE v. HODEL, SECRETARY OF THE INTERIOR.* C. A. 3d Cir. Certiorari denied.

No. 88-5360. *SHINN v. UNITED STATES DEPARTMENT OF THE ARMY.* C. A. 3d Cir. Certiorari denied. Reported below: 856 F. 2d 184.

No. 88-5368. *STEBBINS v. DISTRICT OF COLUMBIA ET AL.* Ct. App. D. C. Certiorari denied.

No. 88-5377. *FERENC v. DUGGER, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS.* C. A. 11th Cir. Certiorari denied.

No. 88-5378. *COLLIER v. JONES.* C. A. 11th Cir. Certiorari denied. Reported below: 842 F. 2d 338.

No. 88-5388. *WILSON v. MANN, SUPERINTENDENT, SHAWAN-GUNK CORRECTIONAL FACILITY, ET AL.* C. A. 2d Cir. Certiorari denied.

No. 88-5390. *JACKSON v. UNITED STATES.* C. A. 4th Cir. Certiorari denied. Reported below: 849 F. 2d 607.

No. 88-5391. *LINKOUS v. OLINGER.* Cir. Ct. Va., Montgomery County. Certiorari denied.

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No. 88-5394. *KALTENBACH v. STALDER, WARDEN*. C. A. 5th Cir. Certiorari denied.

No. 88-5396. *GILMORE v. KANSAS PAROLE BOARD*. Sup. Ct. Kan. Certiorari denied. Reported below: 243 Kan. 173, 756 P. 2d 410.

No. 88-5399. *O'DELL v. MISSOURI*. Ct. App. Mo., Southern Dist. Certiorari denied.

No. 88-5408. *DELGADILLO v. CALIFORNIA*. Ct. App. Cal., 4th App. Dist. Certiorari denied.

No. 88-5410. *KROHE v. ILLINOIS*. App. Ct. Ill., 4th Dist. Certiorari denied. Reported below: 162 Ill. App. 3d 1172, 528 N. E. 2d 1117.

No. 88-5411. *JOHNSON v. TEXAS*. Ct. App. Tex., 1st Dist. Certiorari denied.

No. 88-5418. *BUTCHER v. JOHNSON, WARDEN, ET AL.* C. A. 10th Cir. Certiorari denied.

No. 88-5419. *SMITH v. SUMNER, ATTORNEY GENERAL*. C. A. 9th Cir. Certiorari denied. Reported below: 843 F. 2d 502.

No. 88-5422. *NEAL v. CITY OF DAYTON, OHIO*. Ct. App. Ohio, Montgomery County. Certiorari denied.

No. 88-5424. *JOHNSON v. MUNCY, WARDEN, ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 849 F. 2d 605.

No. 88-5430. *PRENZLER v. SUPERIOR COURT OF CALIFORNIA ET AL.* Ct. App. Cal., 4th App. Dist. Certiorari denied.

No. 88-5433. *SCRUGGS v. MOELLERING ET AL.* C. A. 7th Cir. Certiorari denied.

No. 88-5434. *SKATZES v. MORRIS, SUPERINTENDENT, SOUTHERN OHIO CORRECTIONAL FACILITY*. C. A. 6th Cir. Certiorari denied. Reported below: 849 F. 2d 1474.

No. 88-5441. *DOLENC v. FULCOMER, SUPERINTENDENT, STATE CORRECTIONAL INSTITUTION AT HUNTINGDON, PENNSYLVANIA, ET AL.* C. A. 3d Cir. Certiorari denied.

No. 88-5448. *ARMSTEAD v. MAYS*. C. A. 5th Cir. Certiorari denied. Reported below: 847 F. 2d 838.



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No. 88-5449. *BROWN v. NEWSOME, WARDEN*. C. A. 11th Cir. Certiorari denied. Reported below: 854 F. 2d 1325.

No. 88-5451. *THOMPSON v. SOUTHEASTERN TOYOTA DISTRIBUTORS, INC., ET AL.* C. A. 11th Cir. Certiorari denied. Reported below: 846 F. 2d 754.

No. 88-5452. *MAY v. WARNER AMEX CABLE COMMUNICATIONS*. C. A. 6th Cir. Certiorari denied. Reported below: 848 F. 2d 192.

No. 88-5455. *HARSTON v. SEABOLD, WARDEN*. C. A. 6th Cir. Certiorari denied. Reported below: 848 F. 2d 191.

No. 88-5467. *TAYLOR v. CALIFORNIA*. Ct. App. Cal., 2d App. Dist. Certiorari denied.

No. 88-5469. *HOLMES, AKA RICHARDS, ET AL. v. HARDY ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 852 F. 2d 151.

No. 88-5471. *JOHNSON v. TEXAS DEPARTMENT OF CORRECTIONS ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 851 F. 2d 1419.

No. 88-5472. *COLLINS ET VIR v. UNITED STATES*. C. A. Fed. Cir. Certiorari denied. Reported below: 854 F. 2d 1327.

No. 88-5474. *ROBERTS v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 848 F. 2d 906.

No. 88-5477. *SMITH v. BARRETT ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 848 F. 2d 186.

No. 88-5479. *SOHMER v. FREEMAN, SUPERINTENDENT, STATE CORRECTION INSTITUTION (AND DIAGNOSTIC AND CLASSIFICATION CENTER) AT CAMP HILL, ET AL.* C. A. 3d Cir. Certiorari denied.

No. 88-5482. *SMITH v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 843 F. 2d 1393.

No. 88-5493. *STEPHENSON v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 838 F. 2d 1212.

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No. 88-5501. *CASTANO ET AL. v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 850 F. 2d 927.

No. 88-5503. *GENSLER v. NEW YORK*. Ct. App. N. Y. Certiorari denied. Reported below: 72 N. Y. 2d 239, 527 N. E. 2d 1209.

No. 88-5511. *BIGG v. OFFICE OF PERSONNEL MANAGEMENT*. C. A. Fed. Cir. Certiorari denied. Reported below: 852 F. 2d 1294.

No. 88-5518. *FERRELL v. TATE, SUPERINTENDENT, CHILLICOTHE CORRECTIONAL INSTITUTION, CHILLICOTHE, OHIO*. C. A. 6th Cir. Certiorari denied. Reported below: 842 F. 2d 331.

No. 88-5525. *KUNTZE v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 847 F. 2d 149.

No. 88-5527. *LEISURE v. UNITED STATES*;  
No. 88-5528. *LEISURE v. UNITED STATES*; and  
No. 88-5529. *LEISURE v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 844 F. 2d 1347.

No. 88-5533. *ANDERSON v. UNITED STATES*. Ct. App. D. C. Certiorari denied.

No. 88-5535. *APODACA v. UNITED STATES*. C. A. 10th Cir. Certiorari denied. Reported below: 843 F. 2d 421.

No. 88-5537. *BOGGS v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 852 F. 2d 1290.

No. 88-5541. *KING v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 856 F. 2d 183.

No. 88-5553. *BUSH v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 853 F. 2d 924.

No. 88-5554. *BIRDSSELL v. SCHMIDT ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 847 F. 2d 839.

No. 88-5564. *FLEMING v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 859 F. 2d 151.

No. 88-5567. *SCHARDAR v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 850 F. 2d 1457.

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No. 88-5571. *ORCHARD v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 854 F. 2d 1315.

No. 88-5585. *WHITTEN v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 848 F. 2d 195.

No. 88-5587. *ZAVALA-SERRA v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 855 F. 2d 864.

No. 88-5637. *BARBER v. COOPER, SUPERINTENDENT, SHADOW MOUNTAIN CORRECTIONAL FACILITY, CANON CITY, COLORADO, ET AL.* C. A. 10th Cir. Certiorari denied.

No. 87-1908. *NOVAK v. MUTUAL OF OMAHA INSURANCE CO.* C. A. 8th Cir. Certiorari denied. Reported below: 836 F. 2d 397.

JUSTICE WHITE, dissenting.

A question presented in this case is whether a district court's finding of a likelihood of confusion in a trademark infringement matter under § 43(a) of the Lanham Trade-Mark Act, 60 Stat. 441, 15 U. S. C. § 1125(a), is reviewable under the "clearly erroneous" standard, as a finding of fact, or *de novo*, as a conclusion of law. I have noted before that federal courts disagree over this question. See *Euroquilt, Inc. v. Scandia Down Corp.*, 475 U. S. 1147 (1986) (WHITE, J., dissenting from denial of certiorari); *Elby's Big Boy of Steubenville, Inc. v. Frisch's Restaurants, Inc.*, 459 U. S. 916 (1982) (same). I would grant certiorari to resolve the conflict.

No. 87-1951. *MICHIGAN v. BROWER*. Ct. App. Mich. Certiorari denied. JUSTICE WHITE would grant certiorari. Reported below: 164 Mich. App. 242, 416 N. W. 2d 397.

No. 88-242. *COOLEY v. FEDERAL ENERGY REGULATORY COMMISSION ET AL.* C. A. D. C. Cir. Certiorari denied. JUSTICE BLACKMUN took no part in the consideration or decision of this petition. Reported below: 269 U. S. App. D. C. 136, 843 F. 2d 1464.

No. 88-340. *PERUMAL ET AL. v. SADDLEBACK VALLEY UNIFIED SCHOOL DISTRICT ET AL.* Ct. App. Cal., 4th App. Dist. Certiorari denied. JUSTICE BRENNAN, JUSTICE MARSHALL, and JUSTICE BLACKMUN would grant certiorari. Reported below: 198 Cal. App. 3d 64, 243 Cal. Rptr. 545.



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No. 88-371. VERMONT *v.* PRESTON. Sup. Ct. Vt. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 150 Vt. 511, 555 A. 2d 360.

No. 88-387. ALCAN ALUMINIO DO BRASIL, S. A. *v.* HERNANDEZ. Dist. Ct. App. Fla., 3d Dist. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 525 So. 2d 892.

No. 88-427. HARMON ET AL. *v.* THORNBURGH, ATTORNEY GENERAL OF THE UNITED STATES, ET AL. C. A. D. C. Cir. Certiorari before judgment denied.

No. 88-441. KOZAKIEWICZ ET AL. *v.* BORING ET AL. C. A. 3d Cir. Motion of respondents for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 853 F. 2d 916.

No. 88-5519. SALINAS *v.* UNITED STATES. C. A. 5th Cir. Motion of petitioner to file portions of petition for writ of certiorari under seal granted. Certiorari denied. Reported below: 853 F. 2d 924.

No. 88-5001. DUNCAN *v.* TENNESSEE. Ct. Crim. App. Tenn.;  
No. 88-5162. LITTLE *v.* TEXAS. Ct. Crim. App. Tex.;  
No. 88-5342. LIGHTBOURNE *v.* DUGGER, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS, ET AL. C. A. 11th Cir.;  
No. 88-5382. MELTON *v.* CALIFORNIA. Sup. Ct. Cal.;  
No. 88-5406. HOLIDAY *v.* GEORGIA. Sup. Ct. Ga.;  
No. 88-5420. HARRELL *v.* ALABAMA. Ct. Crim. App. Ala.;  
No. 88-5443. SMITH *v.* INDIANA. Sup. Ct. Ind.;  
No. 88-5445. DYER *v.* CALIFORNIA. Sup. Ct. Cal.; and  
No. 88-5446. COLE *v.* MISSISSIPPI. Sup. Ct. Miss. Certiorari denied. Reported below: No. 88-5162, 758 S. W. 2d 551; No. 88-5342, 829 F. 2d 1012; No. 88-5382, 44 Cal. 3d 713, 750 P. 2d 741; No. 88-5406, 258 Ga. 393, 369 S. E. 2d 241; No. 88-5420, 526 So. 2d 646; No. 88-5443, 516 N. E. 2d 1055; No. 88-5445, 45 Cal. 3d 26, 753 P. 2d 1; No. 88-5446, 525 So. 2d 365.

JUSTICE BRENNAN and JUSTICE MARSHALL, dissenting.

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

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*Rehearing Denied*

No. 87-2097. *CARDIN v. MARYLAND*, ante, p. 827. Petition for rehearing denied.

No. 87-5734. *SINDRAM v. READING*, 484 U. S. 1013. Motion for leave to file petition for rehearing denied. JUSTICE KENNEDY took no part in the consideration or decision of this motion.

NOVEMBER 2, 1988

*Dismissal Under Rule 53*

No. 88-5498. *QUINCY v. UNITED STATES*. C. A. 9th Cir. Certiorari dismissed under this Court's Rule 53. Reported below: 852 F. 2d 1290.

*Certiorari Denied*

No. 88-5815 (A-359). *FRANKLIN v. LYNAUGH*, DIRECTOR, TEXAS DEPARTMENT OF CORRECTIONS. C. A. 5th Cir. Application for stay of execution of sentence of death, presented to JUSTICE WHITE, and by him referred to the Court, denied. Certiorari denied. Reported below: 860 F. 2d 165.

JUSTICE BRENNAN and JUSTICE MARSHALL, dissenting.

Adhering to our views that the death penalty is in all circumstances cruel and unusual punishment prohibited by the Eighth and Fourteenth Amendments, *Gregg v. Georgia*, 428 U. S. 153, 227, 231 (1976), we would grant the application for stay of execution and the petition for writ of certiorari and would vacate the death sentence in this case.

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*Dismissal Under Rule 53*

No. 87-451. *FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION, AS RECEIVER FOR WESTSIDE FEDERAL SAVINGS & LOAN ASSN. v. STEVENSON ASSOCIATES ET AL.* C. A. 9th Cir. Certiorari dismissed under this Court's Rule 53. Reported below: 811 F. 2d 1209.

*Affirmed on Appeal.* (See No. 87-1961, ante, p. 15.)

*Appeals Dismissed*

No. 88-461. *KIMBER PETROLEUM CORP. v. DAGGETT*, ACTING COMMISSIONER, NEW JERSEY DEPARTMENT OF ENVIRONMENTAL

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PROTECTION. Appeal from Sup. Ct. N. J. dismissed for want of substantial federal question. Reported below: 110 N. J. 69, 539 A. 2d 1181.

No. 88-477. *MONASTERO ET AL. v. NEBRASKA*. Appeal from Sup. Ct. Neb. dismissed for want of jurisdiction. Reported below: 228 Neb. 818, 424 N. W. 2d 837.

No. 88-478. *STERNER ET AL. v. JONES ET AL.* Appeal from Sup. Ct. Va. dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied.

#### *Miscellaneous Orders*

No. A-363. *DAUGHERTY v. FLORIDA ET AL.*; and

No. A-366. *DAUGHERTY v. DUGGER, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS*. Applications for stay of execution of sentence of death, presented to JUSTICE KENNEDY, and by him referred to the Court, denied. JUSTICE STEVENS would grant the applications.

JUSTICE BRENNAN, with whom JUSTICE MARSHALL joins, and with whom JUSTICE BLACKMUN joins as to Part II, dissenting.

### I

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 the stay of execution.

### II

Even were I not of the foregoing view, I would vote to grant Mr. Daugherty's applications for a stay of execution and hold his case pending our decision in *Adams v. Dugger*, No. 87-121, cert. granted, 485 U. S. 933 (1988). I reach this conclusion not only because of the similarity of the claims raised by Adams and Daugherty, but also because I do not see a basis for distinguishing Daugherty's case from others that we already have agreed to hold for *Adams*.

In September of this year, we granted a stay of execution in *Preston v. Florida*, 487 U. S. 1265, on the assumption that we would hold Preston's case pending decision in *Adams*. In *Preston*, the prosecutor and trial judge had made statements empha-



sizing that the jury's sentence was merely advisory and that the judge remained responsible for the sentence ultimately imposed. Since we granted the stay without knowing the precise nature of those remarks (neither party quoted them to us), we do not know whether the statements made at Daugherty's sentencing hearing were any different from those made at Preston's. Given this uncertainty, we are hardly in a position to deny Daugherty's application for a stay on the ground that Preston's *Caldwell* claim, *Caldwell v. Mississippi*, 472 U. S. 320 (1985), was more substantial than Daugherty's.

In this case, the prosecutor told that jury that its verdict was "advisory," that the trial judge had the "final say" as to the sentence, and that the judge "is the last person who will consider what the penalty is going to be" and thus serves as a "buffer" to make sure that mistakes do not occur. Application 17. Several cases that we have held for *Adams* present facts strikingly similar to these. In *Ford v. Dugger*, No. 88-5582, for example, the judge told the jury several times that its sentence was "advisory" and "not binding on the court." Pet. for Cert. in No. 88-5582, p. 11. In *Spisak v. Ohio*, No. 88-5169, the judge stated that the jury's recommendation was "just that, a recommendation," and that "the final decision is placed by law upon the court." Pet. for Cert. in No. 88-5169, p. 15. The jury in *Grossman v. Florida*, No. 88-5136, learned from the prosecutor that the "judge is the one" who makes the sentencing decision and "ultimately passes sentence," that the jury's "recommendation to him is that only, a recommendation," and that "the judge will do that" (that is, impose the sentence of death), Pet. for Cert. in No. 88-5136, p. 10; in response, the judge told the jury: "As you have been told, the final decision as to what punishment shall be imposed is the responsibility of the judge." *Id.*, at 11. Finally, in *Harich v. Dugger*, No. 88-5216, the judge told the jury that its verdict was merely a "recommendation to the Court," that the court "pronounces whatever sentence it sees fit," that "the penalty is for the court to decide," and that the "final decision as to . . . punishment . . . rests solely upon the judge." Brief in Opposition in No. 88-5216, p. 3. I am unable to conclude that the jury in Daugherty's case received a message significantly different from that received by the juries in *Ford*, *Spisak*, *Grossman*, and *Harich*.

The difference between those four cases and this one is that a warrant has been issued for Mr. Daugherty's execution whereas

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none had been issued in those other cases. I hope, however, that this does not count for us as a relevant difference. We held *Ford*, *Spisak*, *Grossman*, and *Harich* for a reason; we held them because our decision in *Adams* might shed new light on, or destroy altogether, the conclusions of the courts below. We did not refuse to hold them because their results were unlikely to change after *Adams*. I should think that, where the question is whether a man lives or dies, we should be if anything more willing to allow that a pending case might shed new light on his case.

In any event, *Preston*, like this case, involved an application for a stay—and we granted it.

No. D-699. *IN RE DISBARMENT OF HOPKINS*. Disbarment entered. [For earlier order herein, see 485 U. S. 1002.]

No. D-726. *IN RE DISBARMENT OF CHOWANIEC*. Disbarment entered. [For earlier order herein, see 487 U. S. 1249.]

No. D-727. *IN RE DISBARMENT OF BLUMTHAL*. Disbarment entered. [For earlier order herein, see 487 U. S. 1249.]

No. D-740. *IN RE DISBARMENT OF SMITH*. It is ordered that Russell B. Smith III, of Houston, Tex., be suspended from the practice of law in this Court and that a rule issue, returnable within 40 days, requiring him to show cause why he should not be disbarred from the practice of law in this Court.

No. 87-1022. *BOARD OF ESTIMATE OF CITY OF NEW YORK ET AL. v. MORRIS ET AL.*; and

No. 87-1112. *PONTERIO v. MORRIS ET AL.* C. A. 2d Cir. [Probable jurisdiction noted, 485 U. S. 986.] Motion of appellant Frank V. Ponterio for divided argument and for additional time for oral argument denied.

No. 87-1437. *BLANTON ET AL. v. CITY OF NORTH LAS VEGAS, NEVADA*. Sup. Ct. Nev. [Certiorari granted, 487 U. S. 1203.] Motion of City of Las Vegas, Nev., for leave to participate in oral argument as *amicus curiae* and for divided argument denied.

No. 87-1614. *MARTIN ET AL. v. WILKS ET AL.*;

No. 87-1639. *PERSONNEL BOARD OF JEFFERSON COUNTY, ALABAMA, ET AL. v. WILKS ET AL.*; and

No. 87-1668. *ARRINGTON ET AL. v. WILKS ET AL.* C. A. 11th Cir. [Certiorari granted, 487 U. S. 1204.] Motion of petitioners for leave to file a reply brief out of time granted.

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No. 87-1622. *BRENDALE v. CONFEDERATED TRIBES AND BANDS OF THE YAKIMA INDIAN NATION ET AL.*;

No. 87-1697. *WILKINSON v. CONFEDERATED TRIBES AND BANDS OF THE YAKIMA INDIAN NATION ET AL.*; and

No. 87-1711. *COUNTY OF YAKIMA ET AL. v. CONFEDERATED TRIBES AND BANDS OF THE YAKIMA INDIAN NATION ET AL.* C. A. 9th Cir. [Certiorari granted, 487 U. S. 1204.] Motion of petitioner Philip Brendale for reconsideration of order denying motion for additional time for oral argument and for divided argument [*ante*, p. 886] denied.

No. 87-1848. *CITY OF DALLAS ET AL. v. STANGLIN, INDIVIDUALLY AND DBA TWILIGHT SKATING RINK.* Ct. App. Tex., 5th Dist. [Certiorari granted, *ante*, p. 815.] Motion of petitioners to dispense with printing the joint appendix granted.

No. 87-1882. *NEITZKE ET AL. v. WILLIAMS.* C. A. 7th Cir. [Certiorari granted, *ante*, p. 816.] Motion for appointment of counsel granted, and it is ordered that George A. Rutherglen, Esq., of Charlottesville, Va., be appointed to serve as counsel for respondent in this case.

No. 88-5054. *SULLIVAN v. SULLIVAN*, *ante*, p. 812. Motion of appellant for reconsideration of order denying leave to proceed *in forma pauperis* denied.

No. 88-5526. *BETKA v. A-T INDUSTRIES, INC., ET AL.* Appeal from Ct. App. Ore. Motion of appellant for leave to proceed *in forma pauperis* denied. Appellant is allowed until November 28, 1988, within which to pay the docketing fee required by Rule 45(a) and to submit a statement as to jurisdiction in compliance with Rule 33 of the Rules of this Court.

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

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

No. 88-5563. *JOHNSON v. UNITED STATES.* C. A. 7th Cir. Motion of petitioner for leave to proceed *in forma pauperis* denied. Petitioner is allowed until November 28, 1988, within which to pay



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the docketing fee required by Rule 45(a) and to submit a petition in compliance with Rule 33 of the Rules of this Court.

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

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

No. 88-5546. IN RE MITCHELL. Petition for writ of mandamus denied.

No. 88-5397. IN RE McDONALD;

No. 88-5428. IN RE McDONALD; and

No. 88-5429. IN RE McDONALD. Petitions for writs of mandamus and/or prohibition denied.

*Probable Jurisdiction Noted*

No. 87-6997. CARELLA *v.* CALIFORNIA. Appeal from App. Dept., Super. Ct. Cal., Los Angeles County. Motion of appellant for leave to proceed *in forma pauperis* granted. Probable jurisdiction noted.\*

*Certiorari Granted*

No. 88-293. COMMUNITY FOR CREATIVE NON-VIOLENCE ET AL. *v.* REID. C. A. D. C. Cir. Certiorari granted. Reported below: 270 U. S. App. D. C. 26, 846 F. 2d 1485.

No. 87-1729. CAPLIN & DRYSDALE, CHARTERED *v.* UNITED STATES. C. A. 4th Cir. Certiorari granted and case set for oral argument in tandem with No. 88-454, *United States v. Monsanto*, *infra*. Reported below: 837 F. 2d 637.

No. 87-2084. JETT *v.* DALLAS INDEPENDENT SCHOOL DISTRICT; and

No. 88-214. DALLAS INDEPENDENT SCHOOL DISTRICT *v.* JETT. C. A. 5th Cir. Certiorari granted in No. 87-2084 limited to Question 1 presented by the petition. Certiorari granted in No. 88-214. Cases consolidated and a total of one hour allotted for oral argument. Reported below: 798 F. 2d 748 and 837 F. 2d 1244.

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\*[REPORTER'S NOTE: For amendment of this order, see *post*, p. 964.]

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No. 88-357. MALENG, KING COUNTY PROSECUTING ATTORNEY, ET AL. *v.* COOK. C. A. 9th Cir. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari granted. Reported below: 847 F. 2d 616.

No. 88-454. UNITED STATES *v.* MONSANTO. C. A. 2d Cir. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari granted and case set for oral argument in tandem with No. 87-1729, *Caplin & Drysdale, Chartered v. United States, supra*. Reported below: 852 F. 2d 1400.

*Certiorari Denied.* (See also No. 88-478, *supra*.)

No. 87-2099. LOUDERMILL *v.* CLEVELAND BOARD OF EDUCATION. C. A. 6th Cir. Certiorari denied. Reported below: 844 F. 2d 304.

No. 87-6947. MINER *v.* NEW YORK STATE DEPARTMENT OF CORRECTIONAL SERVICES. Ct. App. N. Y. Certiorari denied. Reported below: 70 N. Y. 2d 909, 519 N. E. 2d 301.

No. 87-7150. PROWS *v.* KASTNER ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 842 F. 2d 138.

No. 87-7189. WOHLFORD ET UX. *v.* UNITED STATES DEPARTMENT OF AGRICULTURE ET AL. C. A. 4th Cir. Certiorari denied. Reported below: 842 F. 2d 1293.

No. 87-7263. EVANS *v.* HENMAN, WARDEN. C. A. 7th Cir. Certiorari denied.

No. 87-7272. TINGLING *v.* UNITED STATES; and

No. 88-5042. ARCHER *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied. Reported below: 840 F. 2d 567.

No. 87-7334. SILVA ET AL. *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 846 F. 2d 352.

No. 88-81. VOGUE *v.* UNITED STATES. C. A. Fed. Cir. Certiorari denied. Reported below: 844 F. 2d 776.

No. 88-94. KENTUCKY WEST VIRGINIA GAS CO. ET AL. *v.* PENNSYLVANIA PUBLIC UTILITY COMMISSION ET AL. C. A. 3d Cir. Certiorari denied. Reported below: 837 F. 2d 600.

No. 88-131. WASHINGTON *v.* HOOPER. Ct. App. Wash. Certiorari denied. Reported below: 50 Wash. App. 1072.

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No. 88-160. *CRONK v. UNITED STATES*. C. A. Fed. Cir. Certiorari denied. Reported below: 845 F. 2d 1034.

No. 88-235. *WOLFE v. MARSH, SECRETARY OF THE ARMY, ET AL.* C. A. D. C. Cir. Certiorari denied. Reported below: 266 U. S. App. D. C. 290, 835 F. 2d 354.

No. 88-241. *NATIONAL GYPSUM CO. v. UNITED STATES ENVIRONMENTAL PROTECTION AGENCY*. C. A. D. C. Cir. Certiorari denied. Reported below: 269 U. S. App. D. C. 366, 846 F. 2d 79.

No. 88-261. *ARONS v. NEW JERSEY BOARD OF EDUCATION ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 842 F. 2d 58.

No. 88-296. *SHOSTAK v. FEDERAL ENERGY REGULATORY COMMISSION*. C. A. 2d Cir. Certiorari denied. Reported below: 842 F. 2d 1288.

No. 88-443. *TAYLOR ET VIR v. OHIO*. Ct. App. Ohio, Lucas County. Certiorari denied.

No. 88-448. *WILLIAMS v. GEORGIA*. Ct. App. Ga. Certiorari denied. Reported below: 187 Ga. App. 409, 370 S. E. 2d 497.

No. 88-450. *DUDOSH, ADMINISTRATOR OF THE ESTATE OF DUDOSH v. WARG ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 853 F. 2d 917.

No. 88-453. *RUSKIN HARDWARE, INC., ET AL. v. FLEMING COS., INC.* C. A. 8th Cir. Certiorari denied. Reported below: 849 F. 2d 352.

No. 88-456. *MANCE v. UNITED STATES*. Ct. Mil. App. Certiorari denied. Reported below: 26 M. J. 244.

No. 88-465. *HURON VALLEY HOSPITAL, INC., ET AL. v. CITY OF PONTIAC ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 849 F. 2d 262.

No. 88-469. *RICHARDSON v. PEOPLES NATURAL GAS CO. ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 849 F. 2d 602.

No. 88-470. *MELIN ET UX. v. NORTH DAKOTA*. Sup. Ct. N. D. Certiorari denied. Reported below: 428 N. W. 2d 227.



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No. 88-474. NEVILLE *v.* MOLLEN, PRESIDING JUSTICE, APPELLATE DIVISION, SUPREME COURT OF NEW YORK, SECOND JUDICIAL DEPARTMENT, ET AL. C. A. 2d Cir. Certiorari denied. Reported below: 847 F. 2d 835.

No. 88-480. HAMMOCK ET AL. *v.* PLUNKETT, JUDGE, ET AL. C. A. 8th Cir. Certiorari denied. Reported below: 845 F. 2d 1027.

No. 88-482. HOWELL ET AL. *v.* UNITED STATES FIRE INSURANCE Co. Ct. App. Ga. Certiorari denied. Reported below: 185 Ga. App. 154, 363 S. E. 2d 560.

No. 88-490. CROSS *v.* STATE INSURANCE FUND OF NEW YORK. C. A. 2d Cir. Certiorari denied. Reported below: 837 F. 2d 1086.

No. 88-529. YOUNGBERG, DBA MAKI *v.* UNITED STATES. C. A. Fed. Cir. Certiorari denied. Reported below: 852 F. 2d 1293.

No. 88-552. ARKO *v.* UNITED STATES DEPARTMENT OF THE AIR FORCE ET AL. C. A. 10th Cir. Certiorari denied.

No. 88-561. SAVINOVICH *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 845 F. 2d 834.

No. 88-570. BROOKSIDE VENEERS, LTD. *v.* UNITED STATES. C. A. Fed. Cir. Certiorari denied. Reported below: 847 F. 2d 786.

No. 88-583. TEXARKANA TRAWLERS ET AL. *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 846 F. 2d 297.

No. 88-584. RAMIREZ *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 851 F. 2d 1420.

No. 88-591. VANDERWEYST ET AL. *v.* FIRST STATE BANK OF BENSON ET AL. Sup. Ct. Minn. Certiorari denied. Reported below: 425 N. W. 2d 803.

No. 88-600. RAMOS *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied. Reported below: 856 F. 2d 185.

No. 88-601. CONWAY ET AL. *v.* UNITED STATES ET AL. C. A. 6th Cir. Certiorari denied. Reported below: 852 F. 2d 187.

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No. 88-620. *BADDOUR, INC. v. NATIONAL LABOR RELATIONS BOARD*. C. A. 6th Cir. Certiorari denied. Reported below: 848 F. 2d 193.

No. 88-634. *KRUGMAN v. PALMER COLLEGE OF CHIROPRACTIC ET AL.* Sup. Ct. Iowa. Certiorari denied. Reported below: 422 N. W. 2d 470.

No. 88-5031. *QUINTANA v. UNITED STATES*. C. A. 11th Cir. Certiorari denied.

No. 88-5089. *GAITAN v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 847 F. 2d 839.

No. 88-5151. *WHALEY v. RODRIGUEZ, CHAIRMAN, NEW YORK BOARD OF PAROLE*. C. A. 2d Cir. Certiorari denied. Reported below: 840 F. 2d 1046.

No. 88-5166. *WASHINGTON v. ELECTRICAL JOINT APPRENTICESHIP AND TRAINING COMMITTEE OF NORTHERN INDIANA*. C. A. 7th Cir. Certiorari denied. Reported below: 845 F. 2d 710.

No. 88-5267. *JOHNSON v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 846 F. 2d 1383.

No. 88-5286. *ALLEN ET AL. v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 847 F. 2d 138.

No. 88-5349. *ANDERSON v. DEPARTMENT OF DEFENSE ET AL.* C. A. D. C. Cir. Certiorari denied.

No. 88-5470. *BROWN v. FLORIDA*. Sup. Ct. Fla. Certiorari denied. Reported below: 526 So. 2d 903.

No. 88-5483. *GILLEY v. TEXAS*. Ct. App. Tex., 11th Dist. Certiorari denied.

No. 88-5488. *DE YOUNG v. NELSON ET AL.* C. A. 8th Cir. Certiorari denied. Reported below: 860 F. 2d 1083.

No. 88-5489. *DE YOUNG v. O'BRIEN*. C. A. 8th Cir. Certiorari denied. Reported below: 860 F. 2d 1086.

No. 88-5491. *CROSS v. MORGAN ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 856 F. 2d 193.

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No. 88-5496. *YOUNGS v. LAWYERS SURETY CORP. ET AL.* C. A. 5th Cir. Certiorari denied.

No. 88-5497. *FLEMING v. DEAK ET AL.* C. A. 3d Cir. Certiorari denied.

No. 88-5504. *CIROCCO v. UNITED STATES POSTAL SERVICE.* C. A. Fed. Cir. Certiorari denied. Reported below: 852 F. 2d 1293.

No. 88-5505. *HOLLEY v. BULL ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 851 F. 2d 356.

No. 88-5506. *FOLIO v. UNITED STATES.* C. A. 4th Cir. Certiorari denied. Reported below: 851 F. 2d 357.

No. 88-5507. *BRADSHAW v. ZOOLOGICAL SOCIETY OF SAN DIEGO.* C. A. 9th Cir. Certiorari denied. Reported below: 844 F. 2d 791.

No. 88-5512. *NOLL v. TURNER ET AL.* C. A. 8th Cir. Certiorari denied. Reported below: 855 F. 2d 858.

No. 88-5513. *HARRIS v. PATUXENT INSTITUTION.* C. A. 4th Cir. Certiorari denied. Reported below: 849 F. 2d 605.

No. 88-5514. *BRATTON v. MONROE COUNTY ET AL.* C. A. 2d Cir. Certiorari denied.

No. 88-5515. *GREEN v. SCULLY, SUPERINTENDENT, GREEN HAVEN CORRECTIONAL FACILITY, STORMVILLE, NEW YORK.* C. A. 2d Cir. Certiorari denied. Reported below: 850 F. 2d 894.

No. 88-5531. *REDMAN v. MICHIGAN STATE UNIVERSITY ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 845 F. 2d 327.

No. 88-5540. *BROWN v. GEORGIA.* Sup. Ct. Ga. Certiorari denied. Reported below: 258 Ga. 315, 368 S. E. 2d 481.

No. 88-5543. *ERNST v. UNITED STATES.* C. A. 11th Cir. Certiorari denied. Reported below: 854 F. 2d 1324.

No. 88-5552. *SAFARI v. UNITED STATES.* C. A. 4th Cir. Certiorari denied. Reported below: 849 F. 2d 891.

No. 88-5566. *TRIPLETT v. UNITED STATES.* C. A. 9th Cir. Certiorari denied. Reported below: 855 F. 2d 864.



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No. 88-5595. *ULMER v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 856 F. 2d 199.

No. 88-5596. *CROSS v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 854 F. 2d 1319.

No. 88-5604. *ROGERS v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 853 F. 2d 249.

No. 88-5608. *BREWER v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 853 F. 2d 1319.

No. 88-5613. *BERGER v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 853 F. 2d 921.

No. 88-5618. *MANDELL ET UX. v. UNITED STATES ARMY*. C. A. 2d Cir. Certiorari denied. Reported below: 849 F. 2d 1467.

No. 88-5626. *RANKIN v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 853 F. 2d 922.

No. 88-5627. *SPENCE v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 854 F. 2d 1319.

No. 88-5634. *KENDRICK v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 853 F. 2d 492.

No. 88-5638. *LIVINGSTON v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 857 F. 2d 1479.

No. 88-82. *STARRETT CITY ASSOCIATES ET AL. v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. JUSTICE WHITE would grant certiorari. Reported below: 840 F. 2d 1096.

No. 88-162. *CLEVELAND BOARD OF EDUCATION v. LOUDERMILL*. C. A. 6th Cir. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 844 F. 2d 304.

No. 88-229. *DOW JONES & CO., INC., ET AL. v. SIMON ET AL.* C. A. 2d Cir. Certiorari denied. JUSTICE STEVENS took no part in the consideration or decision of this petition. Reported below: 842 F. 2d 603.

JUSTICE WHITE, with whom JUSTICE BRENNAN and JUSTICE MARSHALL join, dissenting.

In *Nebraska Press Assn. v. Stuart*, 427 U. S. 539 (1976), we held that an order restraining the news media from reporting or

commenting on public judicial proceedings was a prior restraint on speech and that the State had not in that case overcome the high barriers to the use of a prior restraint. *Id.*, at 570. The restraining order in this case is directed against the participants in the trial, not against the media, but it is likewise challenged by various news agencies as an unconstitutional prior restraint.

This case arises out of the trial of several criminal defendants, including Representative Mario Biaggi and former Bronx Borough President Stanley Simon, on federal racketeering charges based on their involvement with Wedtech, a South Bronx military contractor. On April 23, 1987, at the request of the defendants, the District Court entered an order restraining the prosecutors, defendants, and defense counsel from making extrajudicial statements to the press. The Government initially concurred in the order but eventually joined with petitioners, the news agencies, in seeking to have the order vacated. On July 10, 1987, the District Court modified its order to allow the parties to state, without elaboration, matters of public record and to explain, without characterization, the substance of any motion or step in the proceedings. Otherwise, however, the court continued the order in force.

Petitioners appealed to the United States Court of Appeals for the Second Circuit, which affirmed the July 10 order. After finding that petitioners had standing to complain, the court stated that "there is a fundamental difference between a gag order challenged by the individual gagged and one challenged by a third party; an order objected to by the former is properly characterized as a prior restraint, one opposed solely by the latter is not." *In re Application of Dow Jones & Co.*, 842 F. 2d 603, 609 (1988). Because only the news agencies opposed the restraining order, the court concluded that a prior restraint had not been imposed. The court then held that the restraining order was justified because there was a "reasonable likelihood" that pretrial publicity would otherwise have prejudiced the defendants' rights to a fair trial. *Id.*, at 610.

By so holding, the Second Circuit joined the Ninth Circuit, which had previously refused to treat as a prior restraint a restraining order directed against the parties and challenged only by the media. Compare *Radio & Television News Assn. v. United States District Court*, 781 F. 2d 1443, 1446 (CA9 1986) (order challenged by media), with *Levine v. United States District Court*, 764

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F. 2d 590, 595 (CA9 1985) (order challenged by trial participants), cert. denied, 476 U. S. 1158 (1986). That approach conflicts directly with the approach taken by the Sixth Circuit, which held in *CBS Inc. v. Young*, 522 F. 2d 234, 239 (1975), that "the conclusion is inevitable that [such a restraining order] constitutes a prior direct restraint upon freedom of expression." Moreover, the Second Circuit's adoption of a "reasonable likelihood" standard conflicts with the Sixth Circuit's "clear and present danger" standard. *Id.*, at 238. Because of the importance of this issue and the conflicting resolutions given it by the Courts of Appeals, I would grant the petition for certiorari.

No. 88-263. *GENERAL MOTORS CORP. v. GLENN ET AL.* C. A. 11th Cir. Certiorari denied. JUSTICE BRENNAN and JUSTICE WHITE would grant certiorari. Reported below: 841 F. 2d 1567.

No. 88-452. *TENNECO OIL CO. v. KERN OIL & REFINING CO.* C. A. 9th Cir. Certiorari denied. JUSTICE STEVENS took no part in the consideration or decision of this petition. Reported below: 840 F. 2d 730.

No. 88-5011. *JEFFRIES v. WASHINGTON.* Sup. Ct. Wash.;  
No. 88-5336. *GONZALEZ v. CALIFORNIA.* Sup. Ct. Cal.;  
No. 88-5461. *CAMPBELL v. KINCHELOE, SUPERINTENDENT, WASHINGTON STATE PENITENTIARY.* C. A. 9th Cir.;  
No. 88-5544. *CLEMMONS v. MISSOURI.* Sup. Ct. Mo.; and  
No. 88-5593. *HEISHMAN v. CALIFORNIA.* Sup. Ct. Cal. Certiorari denied. Reported below: No. 88-5011, 110 Wash. 2d 326, 752 P. 2d 1338; No. 88-5461, 829 F. 2d 1453; No. 88-5544, 753 S. W. 2d 901; No. 88-5593, 45 Cal. 3d 147, 753 P. 2d 629.

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. 88-5347. *PATILLO v. GEORGIA.* Sup. Ct. Ga. Certiorari denied. Reported below: 258 Ga. 255, 368 S. E. 2d 493.

JUSTICE BRENNAN, dissenting.

Adhering to my view that the death penalty is in all circumstances cruel and unusual punishment prohibited by the Eighth



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and Fourteenth Amendments, *Gregg v. Georgia*, 428 U. S. 153, 227 (1976), I would grant certiorari and vacate the death sentence in this case.

JUSTICE MARSHALL, dissenting.

Adhering to my view that the death penalty is in all circumstances cruel and unusual punishment prohibited by the Eighth and Fourteenth Amendments, *Gregg v. Georgia*, 428 U. S. 153, 231 (1976) (MARSHALL J., dissenting), I would grant the petition for certiorari and vacate the death sentence in this case.

Even if I did not hold this view, I would still grant the petition for certiorari. Petitioner was convicted of malice murder in connection with the death of a teenaged woman. The record in this case shows that at petitioner's sentencing hearing, the State's only witness against him was a prisoner by the name of David Chatman. Chatman related to the jury highly damning statements which he asserted petitioner had made to him. These included petitioner's alleged assertion that "he hated women," that "he just had nothing in him but hatred," and that he had harbored a desire to obtain revenge towards women ever since early childhood.

After petitioner was sentenced to death, however, Chatman wrote a series of letters to Georgia prosecutors claiming that he had been promised that his probation would be reinstated if he testified—and threatening to renege on his testimony against petitioner if the State did not live up to its end of the alleged agreement. The prosecution told petitioner's counsel about Chatman's claims, and acknowledged for the first time that while the State had not promised to recommend that Chatman's parole be reinstated, the prosecution had promised to inform the judge who had revoked Chatman's probation of his cooperation.

Based upon this information, petitioner moved for a new trial. The trial court and the Georgia Supreme Court both denied his motion, however. The State Supreme Court concluded that the prosecution's failure to disclose its deal with Chatman was error under *Giglio v. United States*, 405 U. S. 150 (1972). However, it concluded that the prosecution's failure so to inform petitioner's counsel was harmless error. In support of this conclusion, it noted that the prosecutors' agreement with Chatman was modest and was "of a non-promising nature"; it also noted that Chatman had been otherwise impeached by the revelation at the penalty

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phase of his own criminal record. 258 Ga. 255, 261, 368 S. E. 2d 493, 497-498 (1988).

I believe this factual record raises grave questions about whether the Georgia Supreme Court has correctly applied this Court's standards for finding harmless-error standards in capital cases, as outlined most recently in *Satterwhite v. Texas*, 486 U. S. 249 (1988). In *Satterwhite*, handed down shortly after the Georgia Supreme Court's decision in this case, we emphasized again the importance of avoiding error in capital cases; we stated that the proper standard of review is "whether the State has proved 'beyond a reasonable doubt that the error complained of did not contribute to the verdict obtained.'" *Id.*, at 258-259 (quoting *Chapman v. California*, 386 U. S. 18, 24 (1967)). I believe it is far from clear that Georgia has satisfied this daunting standard, and therefore I would grant this petition.

### *Rehearing Denied*

- No. 87-6807. *WICKS v. UNITED STATES*, *ante*, p. 831;
- No. 87-7005. *MARTIN v. SHANK ET AL.*, *ante*, p. 833;
- No. 87-7033. *YOUNG v. ALABAMA*, *ante*, p. 834;
- No. 87-7097. *JOHNS v. BOSTWICK* (three cases), *ante*, p. 836;
- No. 87-7135. *IN RE PHILLIPS ET AL.*, *ante*, p. 814;
- No. 87-7188. *MONTGOMERY v. INDIANA*, *ante*, p. 840;
- No. 87-7190. *BATTLE v. MISSOURI*, *ante*, p. 871;
- No. 87-7212. *SPENCER v. ILLINOIS*, *ante*, p. 841;
- No. 87-7227. *FAISON v. NESBITT, JUDGE, UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF FLORIDA, ET AL.*, *ante*, p. 841;
- No. 87-7237. *SMITH v. FLORIDA*, *ante*, p. 842;
- No. 87-7316. *LAWRENCE v. OAO CORP.*, *ante*, p. 845;
- No. 88-137. *GRACEY v. DAY ET AL.*, *ante*, p. 880;
- No. 88-5084. *MARTIN v. MARYLAND STATE BOARD OF LAW EXAMINERS ET AL.*, *ante*, p. 804;
- No. 88-5140. *IN RE RADVAN-ZIEMNOWICZ*, *ante*, p. 814;
- No. 88-5146. *JOHNSON v. IRBY*, *ante*, p. 862;
- No. 88-5171. *NUBINE v. TEXAS BOARD OF CORRECTIONS ET AL.*, *ante*, p. 863;
- No. 88-5313. *NASH v. ERVIN*, *ante*, p. 897; and
- No. 88-5323. *GAUNCE v. ST. PAUL MERCURY INSURANCE CO. ET AL.*, *ante*, p. 804. Petitions for rehearing denied.

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No. 87-7238. MARTIN *v.* SHUGHART ET AL., *ante*, p. 870. Petition for rehearing denied. JUSTICE BLACKMUN took no part in the consideration or decision of this petition.

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*Dismissal Under Rule 53*

No. 88-34. ROVEDA ET UX. *v.* HUGHES AIRCRAFT CO. ET AL. C. A. 9th Cir. Certiorari dismissed under this Court's Rule 53. Reported below: 844 F. 2d 792.

*Appeals Dismissed*

No. 88-534. SHOULDERS ET AL. *v.* MCCracken COUNTY, KENTUCKY, ET AL. Appeal from Sup. Ct. Ky. Motion of appellees for award of costs denied. Appeal dismissed for want of substantial federal question.

No. 88-560. MITAN *v.* MITAN. Appeal from Ct. App. Mich. dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied.

No. 88-5510. BARTA *v.* TEXAS. Appeal from 227th Jud. Dist. Ct. Tex., Bexar County, dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied.

No. 88-5549. MARTIN *v.* C. ITOH & Co. (AMERICA), INC., ET AL. Appeal from Sup. Ct. Pa. dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied. Reported below: 519 Pa. 666, 548 A. 2d 256.

No. 88-5642. ROWE *v.* DEPARTMENT OF THE ARMY. Appeal from C. A. D. C. Cir. dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied.

No. 88-5643. ROWE *v.* DEPARTMENT OF THE ARMY. Appeal from C. A. D. C. Cir. dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied.

*Vacated and Remanded on Appeal*

No. 86-1593. SHELL OIL Co. *v.* DEPARTMENT OF REVENUE OF FLORIDA. Appeal from Sup. Ct. Fla. Judgment vacated and



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case remanded for further consideration in light of *Shell Oil Co. v. Iowa Dept. of Revenue*, ante, p. 19. Reported below: 496 So. 2d 789.

### *Miscellaneous Orders*

No. — — —. BRATHWAITE v. HENDERSON, SUPERINTENDENT, AUBURN CORRECTIONAL FACILITY; and

No. — — —. IOWA SOUTHERN UTILITIES CO. ET AL. v. UNITED STATES. Motions to direct the Clerk to file petitions for writs of certiorari out of time denied.

No. — — —. VALLES v. LYNAGH, DIRECTOR, TEXAS DEPARTMENT OF CORRECTIONS, ante, p. 808. Motion of petitioner for reconsideration of order denying leave to file petition for writ of certiorari out of time denied.

No. — — —. KUNTZ ET AL. v. SHAWMUT BANK OF BOSTON ET AL. Treating the petition for writ of mandamus as a motion to direct the Clerk to file petition for writ of certiorari out of time, motion denied.

No. A-332 (88-567). MONACO v. UNITED STATES. C. A. 9th Cir. Application for stay, addressed to JUSTICE STEVENS and referred to the Court, denied.

No. A-346. HOWELL v. HOMECRAFT LAND DEVELOPMENT ET AL. Sup. Ct. Tex. Application for stay, addressed to JUSTICE BRENNAN and referred to the Court, denied.

No. A-361. MARCOS ET UX. v. UNITED STATES. C. A. 2d Cir. Application for stay, presented to JUSTICE MARSHALL, and by him referred to the Court, denied. The order heretofore entered by JUSTICE MARSHALL on November 8, 1988, is vacated.

No. D-728. IN RE DISBARMENT OF LORENZ. Disbarment entered. [For earlier order herein, see 487 U. S. 1249.]

No. D-741. IN RE DISBARMENT OF WEINBERG. It is ordered that Samuel Weinberg, of Roslyn Harbor, 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. 87-201. MANSELL v. MANSELL. Ct. App. Cal., 5th App. Dist. [Probable jurisdiction noted, 487 U. S. 1217.] Motion of

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American Retirees Association for leave to file a brief as *amicus curiae* denied. Motion of Retired Officers Association et al. for leave to participate in oral argument as *amici curiae* and for divided argument denied.

No. 87-1818. *BADHAM ET AL. v. EU, SECRETARY OF STATE OF CALIFORNIA, ET AL.*, ante, p. 804. Petition for rehearing granted. Request to proceed upon the papers already filed in this case granted. Appellees are allowed 30 days within which to file supplemental motions to dismiss or affirm.

No. 87-7023. *HARDIN v. STRAUB*. C. A. 6th Cir. [Certiorari granted, ante, p. 887.] Motion of petitioner for appointment of counsel granted, and it is ordered that Douglas R. Mullkoff, Esq., of Ann Arbor, Mich., be appointed as counsel for petitioner in this case.

No. 88-535. *LOCAL FREIGHT DRIVERS, LOCAL 208, INTERNATIONAL BROTHERHOOD OF TEAMSTERS, CHAUFFEURS, WAREHOUSEMEN & HELPERS OF AMERICA v. ROZAY'S TRANSFER*. C. A. 9th Cir. The Solicitor General is invited to file a brief in this case expressing the views of the United States.

No. 88-556. *BROWNING-FERRIS INDUSTRIES OF VERMONT, INC., ET AL. v. KELCO DISPOSAL, INC., ET AL.* C. A. 2d Cir. Motion of Motor Vehicle Manufacturers Association of the United States et al. for leave to file a brief as *amici curiae* granted.

No. 88-5403. *HAYES v. WESTERN WEIGHING AND INSPECTION BUREAU*. C. A. 5th Cir. Motion of petitioner for leave to proceed *in forma pauperis* denied. Petitioner is allowed until December 5, 1988, within which to pay the docketing fee required by Rule 45(a) and to submit a petition in compliance with Rule 33 of the Rules of this Court.

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

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

No. 88-5570. *IN RE PHILLIPS*. Ct. Crim. App. Okla. Petition for writ of common-law certiorari denied.

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No. 88-5569. *IN RE SMITH*. Petition for writ of mandamus denied.

No. 88-5640. *IN RE SHEFFIELD*. Petition for writ of mandamus and/or prohibition denied.

*Probable Jurisdiction Noted*

No. 88-449. *HEALY ET AL. v. THE BEER INSTITUTE ET AL.*; and

No. 88-513. *WINE & SPIRITS WHOLESALERS OF CONNECTICUT, INC. v. THE BEER INSTITUTE ET AL.* Appeals from C. A. 2d Cir. Probable jurisdiction noted, cases consolidated, and a total of one hour allotted for oral argument. Reported below: 849 F. 2d 753.

*Certiorari Granted*

No. 88-192. *McKESSON CORP. v. DIVISION OF ALCOHOLIC BEVERAGES AND TOBACCO, DEPARTMENT OF BUSINESS REGULATION OF FLORIDA, ET AL.* Sup. Ct. Fla.; and

No. 88-325. *AMERICAN TRUCKING ASSNS., INC., ET AL. v. SMITH, DIRECTOR, ARKANSAS HIGHWAY AND TRANSPORTATION DEPARTMENT, ET AL.* Sup. Ct. Ark. Certiorari granted, cases consolidated, and a total of one hour allotted for oral argument. Reported below: No. 88-192, 524 So. 2d 1000; No. 88-325, 295 Ark. 43, 746 S. W. 2d 377.

No. 88-385. *RODRIGUEZ DE QUIJAS ET AL. v. SHEARSON/AMERICAN EXPRESS, INC.* C. A. 5th Cir. Certiorari granted. Reported below: 845 F. 2d 1296.

*Certiorari Denied.* (See also Nos. 88-560, 88-5510, 88-5549, 88-5642, 88-5643, and 88-5570, *supra*.)

No. 88-280. *MCCARTHY ET AL. v. UNITED STATES.* C. A. 9th Cir. Certiorari denied. Reported below: 840 F. 2d 1441.

No. 88-299. *SMITH ET AL. v. REAGAN, PRESIDENT OF THE UNITED STATES, ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 844 F. 2d 195.

No. 88-302. *GORDON, SPECIAL DEPUTY STATE INSURANCE COMMISSIONER OF MARYLAND v. UNITED STATES DEPARTMENT OF THE TREASURY ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 846 F. 2d 272.



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No. 88-315. NATIONAL-SOUTHWIRE ALUMINUM CO. *v.* UNITED STATES ENVIRONMENTAL PROTECTION AGENCY ET AL. C. A. 6th Cir. Certiorari denied. Reported below: 838 F. 2d 835.

No. 88-327. ROEMER, GOVERNOR OF THE STATE OF LOUISIANA, ET AL. *v.* CHISOM ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 839 F. 2d 1056.

No. 88-328. TERRITORIAL COURT OF THE VIRGIN ISLANDS *v.* RICHARDS ET AL. C. A. 3d Cir. Certiorari denied. Reported below: 847 F. 2d 108.

No. 88-347. CONN *v.* CONN. Sup. Ct. Ind. Certiorari denied. Reported below: 526 N. E. 2d 958.

No. 88-373. BOLES *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied.

No. 88-375. MURRAY *v.* NATIONAL BROADCASTING CO., INC., ET AL. C. A. 2d Cir. Certiorari denied. Reported below: 844 F. 2d 988.

No. 88-483. NORTHROP *v.* LEASE FINANCING CORP. ET AL. C. A. 3d Cir. Certiorari denied. Reported below: 853 F. 2d 919.

No. 88-484. CONNECTICUT ET AL. *v.* COUNSEL. C. A. 2d Cir. Certiorari denied. Reported below: 849 F. 2d 731.

No. 88-485. TEAMSTERS PENSION TRUST FUND OF PHILADELPHIA AND VICINITY ET AL. *v.* WOOLEYHAN ET AL. Sup. Ct. Del. Certiorari denied. Reported below: 544 A. 2d 266.

No. 88-486. DIAMOND *v.* REYNOLDS ET AL. C. A. 3d Cir. Certiorari denied. Reported below: 853 F. 2d 917.

No. 88-497. WELLS REAL ESTATE, INC. *v.* GREATER LOWELL BOARD OF REALTORS ET AL. C. A. 1st Cir. Certiorari denied. Reported below: 850 F. 2d 803.

No. 88-499. SHIELDS *v.* PRODUCTION FINISHING CORP. ET AL. Ct. App. Mich. Certiorari denied. Reported below: 158 Mich. App. 479, 405 N. W. 2d 171.

No. 88-503. LEGO SYSTEMS, INC., ET AL. *v.* TYCO INDUSTRIES, INC. C. A. 3d Cir. Certiorari denied. Reported below: 853 F. 2d 921.

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No. 88-506. *ALPHA BETA CO. ET AL. v. NAHM*. Ct. App. Cal., 1st App. Dist. Certiorari denied.

No. 88-507. *WILLIAMS ET AL. v. LYNG, SECRETARY OF AGRICULTURE, ET AL.* C. A. 11th Cir. Certiorari denied. Reported below: 843 F. 2d 1335.

No. 88-508. *BRYSON ET AL. v. CITY OF DERIDDER ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 848 F. 2d 1239.

No. 88-510. *SMITH ET UX. v. NICKLOS DRILLING CO. ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 841 F. 2d 598.

No. 88-511. *MICHIGAN v. EVANS*. Recorder's Court, City of Detroit, Mich. Certiorari denied.

No. 88-516. *LIBERTY NATIONAL BANK & TRUST CO. v. NORTH DAKOTA*. Sup. Ct. N. D. Certiorari denied. Reported below: 427 N. W. 2d 307.

No. 88-523. *JEWEL FOOD STORES v. MERK ET AL.* C. A. 7th Cir. Certiorari denied. Reported below: 848 F. 2d 761.

No. 88-524. *COXSEY v. EMPLOYERS MUTUAL CASUALTY CO.* C. A. 5th Cir. Certiorari denied. Reported below: 842 F. 2d 77.

No. 88-538. *BROWN ET AL. v. 1250 TWENTY-FOURTH STREET ASSOCIATES LIMITED PARTNERSHIP ET AL.* C. A. D. C. Cir. Certiorari denied.

No. 88-540. *VANNELLI v. NATIONAL COLLEGIATE ATHLETIC ASSN.* Ct. App. Minn. Certiorari denied.

No. 88-569. *DIGGS v. HARRIS HOSPITAL-METHODIST, INC.* C. A. 5th Cir. Certiorari denied. Reported below: 847 F. 2d 270.

No. 88-615. *SILVERMAN ET AL. v. BARRY, MAYOR OF THE DISTRICT OF COLUMBIA*. C. A. D. C. Cir. Certiorari denied. Reported below: 269 U. S. App. D. C. 327, 845 F. 2d 1072.

No. 88-619. *DONNELLY v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 853 F. 2d 922.

No. 88-635. *DEMACO CORP. ET AL. v. F. VON LANGSDORFF LICENSING LTD. ET AL.* C. A. Fed. Cir. Certiorari denied. Reported below: 851 F. 2d 1387.

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No. 88-649. *CRAVENS v. WASHINGTON*. C. A. 9th Cir. Certiorari denied. Reported below: 844 F. 2d 791.

No. 88-667. *SIMS v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 845 F. 2d 1564.

No. 88-5179. *GARCIA v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 848 F. 2d 58.

No. 88-5334. *WATKINS v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 853 F. 2d 923.

No. 88-5339. *BITCHERI v. IMMIGRATION AND NATURALIZATION SERVICE ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 844 F. 2d 786.

No. 88-5454. *MUZA v. BUREAU OF ALCOHOL, TOBACCO, AND FIREARMS ET AL.* C. A. 8th Cir. Certiorari denied. Reported below: 855 F. 2d 858.

No. 88-5462. *KRISHNAN v. DEPARTMENT OF THE AIR FORCE*. C. A. Fed. Cir. Certiorari denied.

No. 88-5508. *SATTERFIELD v. ALLSBROOK, ATTORNEY GENERAL OF NORTH CAROLINA*. C. A. 4th Cir. Certiorari denied. Reported below: 850 F. 2d 690.

No. 88-5509. *SHOCKEY v. TATE ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 853 F. 2d 927.

No. 88-5517. *DAVIS v. CITY OF SAN RAMON POLICE DEPARTMENT ET AL.* Ct. App. Cal., 1st App. Dist. Certiorari denied.

No. 88-5520. *PARRES v. FLORIDA*. Dist. Ct. App. Fla., 1st Dist. Certiorari denied. Reported below: 530 So. 2d 310.

No. 88-5521. *WATTS v. BUNNELL, SUPERINTENDENT, CALIFORNIA CORRECTIONAL CENTER*. Ct. App. Cal., 4th App. Dist. Certiorari denied.

No. 88-5523. *GIBSON v. ALABAMA*. Ct. Crim. App. Ala. Certiorari denied. Reported below: 519 So. 2d 1382.

No. 88-5530. *BOLLMAN v. SMITH*. C. A. 11th Cir. Certiorari denied. Reported below: 858 F. 2d 745.

No. 88-5532. *MAXWELL v. GENERAL MOTORS CORP.* Ct. App. Ga. Certiorari denied.



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No. 88-5534. *LoConte v. DUGGER, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS, ET AL.* C. A. 11th Cir. Certiorari denied. Reported below: 847 F. 2d 745.

No. 88-5538. *DAVIS, AKA ABDUL-AKBAR v. PROCTOR ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 856 F. 2d 182.

No. 88-5539. *HAYES v. DUGGER, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS.* C. A. 11th Cir. Certiorari denied.

No. 88-5542. *LEGRAND v. WARD ET AL.* C. A. 2d Cir. Certiorari denied.

No. 88-5545. *PALMER v. BELMONT COUNTY CHILDREN SERVICES.* Ct. App. Ohio, Belmont County. Certiorari denied.

No. 88-5547. *SMITH v. MURRAY, DIRECTOR, VIRGINIA DEPARTMENT OF CORRECTIONS.* C. A. 4th Cir. Certiorari denied. Reported below: 843 F. 2d 1388.

No. 88-5548. *SZAREWICZ v. PENNSYLVANIA SUPREME COURT.* C. A. 3d Cir. Certiorari denied.

No. 88-5551. *SILVAGGIO v. CALIFORNIA.* C. A. 9th Cir. Certiorari denied.

No. 88-5559. *WHITE v. NORTH CAROLINA.* Sup. Ct. N. C. Certiorari denied. Reported below: 322 N. C. 770, 370 S. E. 2d 390.

No. 88-5562. *DE YOUNG v. O'KEEFE.* C. A. 8th Cir. Certiorari denied.

No. 88-5592. *DRABICK v. DRABICK.* Ct. App. Cal., 6th App. Dist. Certiorari denied. Reported below: 200 Cal. App. 3d 185, 245 Cal. Rptr. 840.

No. 88-5597. *MAHDAVI v. FEDERAL BUREAU OF INVESTIGATION.* C. A. 9th Cir. Certiorari denied. Reported below: 848 F. 2d 199.

No. 88-5605. *GABRIEL v. UNITED STATES.* C. A. 4th Cir. Certiorari denied. Reported below: 856 F. 2d 187.

No. 88-5606. *IVERS v. UNITED STATES.* C. A. 9th Cir. Certiorari denied. Reported below: 851 F. 2d 361.

No. 88-5609. *HINES v. UNITED STATES.* C. A. 11th Cir. Certiorari denied. Reported below: 856 F. 2d 198.

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No. 88-5612. *JONES v. LYNAUGH, DIRECTOR, TEXAS DEPARTMENT OF CORRECTIONS*. C. A. 5th Cir. Certiorari denied.

No. 88-5620. *PRUETT v. ALASKA*. Ct. App. Alaska. Certiorari denied.

No. 88-5645. *PANICO v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 849 F. 2d 1468.

No. 88-5646. *JOYCE, AKA SCOTT v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 856 F. 2d 199.

No. 88-5648. *RASCO v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 853 F. 2d 501.

No. 88-5659. *WARD v. UNITED STATES ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 848 F. 2d 195.

No. 88-5661. *MCDEVITT v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 849 F. 2d 603.

No. 88-5662. *BOWIE v. UNITED STATES*. C. A. 10th Cir. Certiorari denied.

No. 88-5664. *WILLIAMS v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 854 F. 2d 1318.

No. 88-5669. *CALDERON v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 856 F. 2d 199.

No. 88-5676. *HERNANDEZ-GARCIA v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 859 F. 2d 148.

No. 88-5680. *WARE v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 853 F. 2d 931.

No. 88-5683. *JUDGE v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 855 F. 2d 863.

No. 88-5688. *MARTINEZ v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 855 F. 2d 863.

No. 88-5820. *DAUGHERTY v. FLORIDA ET AL.* Sup. Ct. Fla. Certiorari denied. Reported below: 533 So. 2d 287.

No. 87-1469. *HORNSBY, ADJUTANT GENERAL OF THE ALABAMA NATIONAL GUARD, ET AL. v. STINSON*. C. A. 11th Cir.

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Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. JUSTICE WHITE would grant certiorari. Reported below: 821 F. 2d 1537.

No. 87-1495. TALLAHASSEE BRANCH OF THE NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE ET AL. *v.* LEON COUNTY, FLORIDA, ET AL. C. A. 11th Cir. Certiorari denied. JUSTICE BLACKMUN would grant certiorari. Reported below: 827 F. 2d 1436.

No. 88-198. SEQUOIA BOOKS, INC. *v.* ILLINOIS. App. Ct. Ill., 2d Dist. Certiorari denied. JUSTICE BRENNAN and JUSTICE MARSHALL would grant the petition for writ of certiorari and reverse the judgment of conviction. Reported below: 165 Ill. App. 3d 1162, 536 N. E. 2d 1019.

No. 88-372. LEWIS ET AL. *v.* BRUNI. C. A. 9th Cir. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 847 F. 2d 561.

No. 88-395. ELLINGSWORTH, WARDEN, ET AL. *v.* REYNOLDS. C. A. 3d Cir. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 843 F. 2d 712.

No. 88-627. TAYLOR *v.* TAYLOR WINE CO., INC., ET AL. C. A. 2d Cir. Certiorari denied. JUSTICE BLACKMUN took no part in the consideration or decision of this petition. Reported below: 847 F. 2d 836.

No. 88-5404. WOUGAMON *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied. JUSTICE WHITE would grant certiorari. Reported below: 844 F. 2d 1347.

No. 88-5481. JULIUS *v.* JOHNSON, WARDEN. C. A. 11th Cir.;

No. 88-5522. MITCHELL *v.* FLORIDA. Sup. Ct. Fla.; and

No. 88-5550. THOMPSON *v.* CALIFORNIA. Sup. Ct. Cal. Certiorari denied. Reported below: No. 88-5481, 840 F. 2d 1533 and 854 F. 2d 400; No. 88-5522, 527 So. 2d 179; No. 88-5550, 45 Cal. 3d 86, 753 P. 2d 37.

JUSTICE BRENNAN and JUSTICE MARSHALL, dissenting.

Adhering to our views that the death penalty is in all circumstances cruel and unusual punishment prohibited by the Eighth



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and Fourteenth Amendments, *Gregg v. Georgia*, 428 U. S. 153, 227, 231 (1976), we would grant certiorari and vacate the death sentences in these cases.

*Rehearing Granted.* (See No. 87-1818, *supra*.)

*Rehearing Denied*

No. 87-1743. OMNI U. S. A., INC. *v.* UNITED STATES, *ante*, p. 817;

No. 87-1944. POLYAK *v.* HULEN ET AL., *ante*, p. 802;

No. 87-7325. FILIPAS *v.* WORKMEN'S COMPENSATION OF THE INDUSTRIAL COMMISSION OF OHIO ET AL., *ante*, p. 846;

No. 88-113. POLYAK *v.* HAMILTON, JUDGE, CIRCUIT COURT OF LAWRENCE COUNTY, TENNESSEE, *ante*, p. 803;

No. 88-165. ROMANN *v.* SECURITIES AND EXCHANGE COMMISSION ET AL., *ante*, p. 854; and

No. 88-5147. MIDDLETON *v.* SOUTH CAROLINA, *ante*, p. 872. Petitions for rehearing denied.

No. 85-1524. HUBBARD BROADCASTING, INC. *v.* SOUTHERN SATELLITE SYSTEMS, INC., ET AL., 479 U. S. 1005 and 1070. Motion of petitioner for leave to file second petition for rehearing denied. JUSTICE KENNEDY took no part in the consideration or decision of this motion.

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*Miscellaneous Order*

No. A-400. ARMONTROUT, WARDEN *v.* SMITH. Application of the Attorney General of Missouri for an order to vacate the stay of execution of sentence of death entered by the United States Court of Appeals for the Eighth Circuit, presented to JUSTICE BLACKMUN, and by him referred to the Court, denied.

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*Appeals Dismissed*

No. 88-537. PRICE *v.* CITY OF SAN MARCOS, TEXAS, ET AL. Appeal from Ct. App. Tex., 3d 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: 744 S. W. 2d 349.

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No. 88-571. *COSSETT ET UX. v. MERCHANTS & MECHANICS FEDERAL SAVINGS & LOAN ASSN. ET AL.* Appeal from C. A. 6th Cir. dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied. Reported below: 835 F. 2d 877. Reported below: 69 Haw. 663.

No. 88-575. *BURT v. MAUI ARCHITECTURAL GROUP, INC., ET AL.* Appeal from Sup. Ct. Haw. dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied. Reported below: 69 Haw. 663.

No. 88-609. *POLYAK v. BUFORD EVANS & SONS.* Appeal from C. A. 6th Cir. dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied. Reported below: 848 F. 2d 189.

No. 88-5589. *PRIOVOLOS v. HEART OF CEDAR LANE, INC., ET AL.* Appeal from Super. Ct. N. J., App. Div., dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied. Reported below: 226 N. J. Super. 509, 545 A. 2d 180.

No. 88-5660. *TEDDERS v. LORD ET AL.* Appeal from C. A. 6th Cir. dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied. Reported below: 848 F. 2d 194.

*Vacated and Remanded on Appeal*

No. 88-5228. *CHISHOLM v. KANSAS.* Appeal from Sup. Ct. Kan. Motion of appellant for leave to proceed *in forma pauperis* granted. Judgment vacated and case remanded for further consideration in light of *Coy v. Iowa*, 487 U. S. 1012 (1988). Reported below: 243 Kan. 270, 755 P. 2d 547.

*Miscellaneous Orders*

No. — — —. *BMT COMMODITY CORP. ET AL. v. UNITED STATES.* Motion for leave to file a supplement to the petition for writ of certiorari under seal granted.

No. — — —. *FRIEDMAN v. KATZ ET AL.* Motion for leave to file portions of the appendix to the petition for writ of certiorari under seal denied.

No. — — —. *LAUPOT v. BERLEY ET AL.* Motion to direct the Clerk to file petition for writ of certiorari denied.

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No. A-340 (88-5828). *DUNKINS v. THIGPEN*, COMMISSIONER, ALABAMA DEPARTMENT OF CORRECTIONS, ET AL. C. A. 11th Cir. Application for stay, addressed to JUSTICE BRENNAN and referred to the Court, denied.

No. A-384 (88-90). *CHABAD v. AMERICAN CIVIL LIBERTIES UNION ET AL.* C. A. 3d Cir. [Certiorari granted, *ante*, p. 816.] Application for recall and stay of the mandate of the United States Court of Appeals for the Third Circuit, presented to JUSTICE BRENNAN, and by him referred to the Court, denied. JUSTICE BLACKMUN would grant the application.

No. D-724. *IN RE DISBARMENT OF STORTS*. Disbarment entered. [For earlier order herein, see 487 U. S. 1248.]

No. D-729. *IN RE DISBARMENT OF BONGIORNO*. Disbarment entered. [For earlier order herein, see 487 U. S. 1249.]

No. D-742. *IN RE DISBARMENT OF FREDERICK*. It is ordered that Helen Rice Frederick, of Carson, Cal., be suspended from the practice of law in this Court and that a rule issue, returnable within 40 days, requiring her to show cause why she should not be disbarred from the practice of law in this Court.

No. D-743. *IN RE DISBARMENT OF CARTER*. It is ordered that Joseph R. Carter, Jr., of Los Angeles, Cal., be suspended from the practice of law in this Court and that a rule issue, returnable within 40 days, requiring him to show cause why he should not be disbarred from the practice of law in this Court.

No. D-744. *IN RE DISBARMENT OF HECHT*. It is ordered that Samuel J. Hecht, 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-745. *IN RE DISBARMENT OF DENKER*. It is ordered that Barry Howard Denker, 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-746. *IN RE DISBARMENT OF LINDQUIST*. It is ordered that John Leroy Lindquist, of Coral Springs, Fla., be suspended



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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. 87-6997. *CARELLA v. CALIFORNIA*. App. Dept., Super. Ct. Cal., Los Angeles County. The order entered November 7, 1988 [*ante*, p. 940], is amended to read as follows: Motion of appellant for leave to proceed *in forma pauperis* granted. Probable jurisdiction noted limited to Questions I, II, III, IV, V, and VII presented by the jurisdictional statement.

No. 87-5840. *MCMNAMARA v. COUNTY OF SAN DIEGO DEPARTMENT OF SOCIAL SERVICES*. Ct. App. Cal., 4th App. Dist. [Probable jurisdiction postponed, 485 U. S. 1005.] Motion of Christian R. Van Deusen for leave to participate in oral argument as *amicus curiae*, for divided argument, and for additional time for oral argument denied.

No. 88-5188. *BENNETT v. CORROON & BLACK CORP. ET AL.*, *ante*, p. 812. Motion of petitioner for reconsideration of order denying leave to proceed *in forma pauperis* denied.

No. 88-5580. *WEHRINGER v. NEW HAMPSHIRE*. Appeal from Sup. Ct. N. H. Motion of appellant for leave to proceed *in forma pauperis* denied. Appellant is allowed until December 19, 1988, within which to pay the docketing fee required by Rule 45(a) and to submit a statement as to jurisdiction in compliance with Rule 33 of the Rules of this Court.

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

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

No. 88-5615. *IN RE CLARK*; and

No. 88-5652. *IN RE REIDT*. Petitions for writs of mandamus denied.

No. 88-5524. *IN RE KERPA, AKA LAWSON*. Petition for writ of mandamus and/or certiorari denied.

No. 88-5622. *IN RE SCRUGGS*. Petition for writ of mandamus and/or prohibition denied.

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*Certiorari Granted*

No. 87-1589. PITTSBURGH & LAKE ERIE RAILROAD Co. *v.* RAILWAY LABOR EXECUTIVES' ASSN. ET AL.; and

No. 87-1888. PITTSBURGH & LAKE ERIE RAILROAD Co. *v.* RAILWAY LABOR EXECUTIVES' ASSN. ET AL. C. A. 3d Cir. Certiorari granted, cases consolidated, and a total of one hour and thirty minutes allotted for oral argument. Reported below: No. 87-1589, 831 F. 2d 1231; No. 87-1888, 845 F. 2d 420.

*Certiorari Denied.* (See also Nos. 88-537, 88-571, 88-575, 88-609, 88-5589, 88-5660, and 88-5524, *supra*.)

No. 87-2086. BOONE ET AL. *v.* REDEVELOPMENT AGENCY OF THE CITY OF SAN JOSE ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 841 F. 2d 886.

No. 87-7273. VEST *v.* UNITED STATES. C. A. 1st Cir. Certiorari denied. Reported below: 842 F. 2d 1319.

No. 88-7. WEST PENN POWER Co. *v.* ENGLE ET AL., TDBA ENGLE'S HOLIDAY HARBOR. Super. Ct. Pa. Certiorari denied. Reported below: 366 Pa. Super. 104, 530 A. 2d 913.

No. 88-16. STEPHENS *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied.

No. 88-47. CAMPBELL *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied. Reported below: 845 F. 2d 782.

No. 88-95. WILLIAMS *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 837 F. 2d 1009.

No. 88-217. INTERSTATE COMMERCE COMMISSION *v.* PITTSBURGH & LAKE ERIE RAILROAD Co. ET AL. C. A. 3d Cir. Certiorari denied. Reported below: 845 F. 2d 420.

No. 88-239. EAGLE-PICHER INDUSTRIES, INC. *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied. Reported below: 846 F. 2d 888.

No. 88-342. SUNSHINE HEALTH SYSTEMS, INC. *v.* BOWEN, SECRETARY OF HEALTH AND HUMAN SERVICES. C. A. 9th Cir. Certiorari denied. Reported below: 842 F. 2d 1097.

No. 88-350. ANDERSON ET VIR *v.* NORTH DAKOTA; and DAGLEY ET UX. *v.* NORTH DAKOTA. Sup. Ct. N. D. Certiorari de-

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nied. Reported below: 427 N. W. 2d 316 (first case); 430 N. W. 2d 63 (second case).

No. 88-352. HUMPHREY, UNITED STATES SENATOR, ET AL. *v.* BRADY, SECRETARY, DEPARTMENT OF THE TREASURY, ET AL. C. A. D. C. Cir. Certiorari denied. Reported below: 270 U. S. App. D. C. 154, 848 F. 2d 211.

No. 88-367. RUGGIANO *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 843 F. 2d 503.

No. 88-374. RUGGIERO ET AL. *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. Reported below: 846 F. 2d 117.

No. 88-380. BOSTON *v.* NELSON. Int. Ct. App. Haw. Certiorari denied. Reported below: 7 Haw. App. 659, 807 P. 2d 48.

No. 88-394. ANSELL ET AL. *v.* SHANNON. Sup. Ct. Colo. Certiorari denied.

No. 88-400. LOCAL 17 OF THE UNITED BROTHERHOOD OF CARPENTERS & JOINERS OF AMERICA, AFL-CIO, ET AL. *v.* NEW YORK. Ct. App. N. Y. Certiorari denied. Reported below: 72 N. Y. 2d 307, 528 N. E. 2d 1195.

No. 88-401. FIORILLA *v.* UNITED STATES; and

No. 88-467. FIORILLA *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied. Reported below: 850 F. 2d 172.

No. 88-406. COLE, PERSONAL REPRESENTATIVE OF THE ESTATE OF EISENHUT *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 846 F. 2d 1290.

No. 88-459. ANDERSON ET AL. *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 845 F. 2d 206.

No. 88-464. RAILWAY LABOR EXECUTIVES' ASSN. ET AL. *v.* CHICAGO & NORTH WESTERN TRANSPORTATION CO. ET AL. C. A. 7th Cir. Certiorari denied. Reported below: 855 F. 2d 1277.

No. 88-468. CHARLTON *v.* ENTERPRISE LEASING CORP. ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 843 F. 2d 501.

No. 88-518. CHANG AN-LO ET AL. *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. Reported below: 851 F. 2d 547.

No. 88-522. NEW YORK HOTEL TRADES COUNCIL & HOTEL ASSOCIATION OF NEW YORK CITY, INC., PENSION FUND ET AL.



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*v. PARK SOUTH HOTEL CORP.* C. A. 2d Cir. Certiorari denied. Reported below: 851 F. 2d 578.

No. 88-526. *MOODY v. EMPIRE LIFE INSURANCE CO. ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 849 F. 2d 902.

No. 88-528. *WILKES v. UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF FLORIDA.* C. A. 11th Cir. Certiorari denied. Reported below: 843 F. 2d 443.

No. 88-536. *SCULLIN v. MARSTEN.* Ct. App. Cal., 6th App. Dist. Certiorari denied.

No. 88-543. *HARRIS v. SAMSON, DEPUTY DISTRICT ATTORNEY, ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 838 F. 2d 474.

No. 88-544. *HARDEN v. PAUL ET AL.* C. A. 11th Cir. Certiorari denied. Reported below: 841 F. 2d 1091.

No. 88-545. *HILL-DUNNING v. UNITED STATES.* Ct. Mil. App. Certiorari denied. Reported below: 26 M. J. 260.

No. 88-555. *MYERS, GUARDIAN AD LITEM v. LEWIS; and*  
No. 88-683. *LEWIS v. LEWIS.* Ct. App. Mich. Certiorari denied.

No. 88-565. *COWHERD, SECRETARY, KENTUCKY CABINET FOR HUMAN RESOURCES v. DOE, BY HIS MOTHER AND NEXT FRIEND, DOE, ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 848 F. 2d 1386.

No. 88-572. *BARBIZON CORP. v. ILGWU NATIONAL RETIREMENT FUND ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 842 F. 2d 627.

No. 88-573. *PHILLIPS v. TOTCO, DIVISION OF BAKER INTERNATIONAL CORP., ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 854 F. 2d 1319.

No. 88-578. *PATROLMEN'S BENEVOLENT ASSOCIATION OF THE CITY OF NEW YORK, INC., ET AL. v. HUGHES.* C. A. 2d Cir. Certiorari denied. Reported below: 850 F. 2d 876.

No. 88-579. *ONEIDA MOTOR FREIGHT, INC. v. UNITED JERSEY BANK.* C. A. 3d Cir. Certiorari denied. Reported below: 848 F. 2d 414.

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No. 88-580. *WEAVER v. NEW YORK*. C. A. 2d Cir. Certiorari denied. Reported below: 854 F. 2d 1315.

No. 88-582. *FICAROTTA v. RENNA, COMMISSIONER, DEPARTMENT OF COMMUNITY AFFAIRS OF NEW JERSEY, ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 841 F. 2d 1118.

No. 88-585. *PALMA ET AL. v. ADLER*. Sup. Ct. R. I. Certiorari denied. Reported below: 544 A. 2d 576.

No. 88-586. *STUART ET AL. v. METROPOLITAN LIFE INSURANCE CO.* C. A. 1st Cir. Certiorari denied. Reported below: 849 F. 2d 1534.

No. 88-587. *MCNULTY v. W. S. LIBBEY CO.* C. A. 1st Cir. Certiorari denied.

No. 88-588. *HOUSTON v. FOLTZ, WARDEN*. C. A. 6th Cir. Certiorari denied. Reported below: 850 F. 2d 692.

No. 88-590. *MAURER v. CALIFORNIA BOARD OF PRISON TERMS*. Sup. Ct. Cal. Certiorari denied.

No. 88-592. *PYROTRONICS CORP. v. PYRODYNE CORP.* C. A. 9th Cir. Certiorari denied. Reported below: 847 F. 2d 1398.

No. 88-594. *FOUR STAR CORP. v. BOTT ET AL.* C. A. Fed. Cir. Certiorari denied. Reported below: 856 F. 2d 202.

No. 88-595. *OFFSHORE EXPRESS, INC. v. JOHNSON*. C. A. 5th Cir. Certiorari denied. Reported below: 845 F. 2d 1347.

No. 88-598. *RAKOVICH v. WADE ET AL.* C. A. 7th Cir. Certiorari denied. Reported below: 850 F. 2d 1180.

No. 88-610. *HURVITZ v. BOWEN, SECRETARY OF HEALTH AND HUMAN SERVICES*. C. A. 9th Cir. Certiorari denied. Reported below: 848 F. 2d 198.

No. 88-638. *LAFFERTY v. CITY OF COOTER ET AL.* C. A. 8th Cir. Certiorari denied. Reported below: 855 F. 2d 855.

No. 88-642. *POINDEXTER ET UX. v. TOWN OF ROCKY MOUNT ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 849 F. 2d 606.

No. 88-644. *CALCO, LTD., ET AL. v. WATER TECHNOLOGIES CORP. ET AL.* C. A. Fed. Cir. Certiorari denied. Reported below: 850 F. 2d 660.

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No. 88-691. PETROLEUM OPERATION SUPPORT SERVICE, INC., ET AL. *v.* GRINTER ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 846 F. 2d 1006.

No. 88-693. SIMMONS *v.* BURNS, COMMISSIONER, CONNECTICUT DEPARTMENT OF TRANSPORTATION, ET AL. C. A. 2d Cir. Certiorari denied. Reported below: 862 F. 2d 305.

No. 88-711. INTERSTATE COMMERCE COMMISSION *v.* UNITED TRANSPORTATION UNION ET AL. C. A. 8th Cir. Certiorari denied. Reported below: 848 F. 2d 856.

No. 88-724. PEAK *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied. Reported below: 856 F. 2d 825.

No. 88-5015. HAGGENJOS *v.* BROGLIN, SUPERINTENDENT, WESTVILLE CORRECTIONAL CENTER. C. A. 7th Cir. Certiorari denied. Reported below: 848 F. 2d 196.

No. 88-5168. RANSOM *v.* BOWEN, SECRETARY OF HEALTH AND HUMAN SERVICES. C. A. 7th Cir. Certiorari denied. Reported below: 844 F. 2d 1326.

No. 88-5240. BARGET *v.* BARGET. Ct. Sp. App. Md. Certiorari denied. Reported below: 73 Md. App. 755.

No. 88-5252. TURNER *v.* UNITED STATES POSTAL SERVICE. C. A. Fed. Cir. Certiorari denied. Reported below: 852 F. 2d 1293.

No. 88-5255. RANCK *v.* FLORIDA. Dist. Ct. App. Fla., 4th Dist. Certiorari denied. Reported below: 525 So. 2d 896.

No. 88-5263. LEYBA *v.* SULLIVAN, WARDEN, ET AL. C. A. 10th Cir. Certiorari denied.

No. 88-5279. REMBERT *v.* DUGGER, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS, ET AL. C. A. 11th Cir. Certiorari denied. Reported below: 842 F. 2d 301.

No. 88-5297. ESSEX *v.* VASSAR, CHAIRMAN, VIRGINIA PAROLE BOARD, ET AL. C. A. 4th Cir. Certiorari denied. Reported below: 846 F. 2d 70.

No. 88-5307. WILLIAMS *v.* DELAWARE. Sup. Ct. Del. Certiorari denied. Reported below: 539 A. 2d 164.



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No. 88-5312. *MOORE v. PAUL ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 845 F. 2d 1013.

No. 88-5346. *LAMBERTI v. UNITED STATES.* C. A. 11th Cir. Certiorari denied. Reported below: 847 F. 2d 1531.

No. 88-5353. *BENTLEY v. UNITED STATES.* C. A. 7th Cir. Certiorari denied. Reported below: 850 F. 2d 327.

No. 88-5407. *FERKINS v. SCULLY, SUPERINTENDENT, GREEN HAVEN CORRECTIONAL FACILITY, STORMVILLE, NEW YORK.* C. A. 2d Cir. Certiorari denied. Reported below: 847 F. 2d 834.

No. 88-5450. *PRENZLER v. PEKICH ET AL.* C. A. 9th Cir. Certiorari denied.

No. 88-5465. *FLOYD v. KELLOGG SALES CO.* C. A. 8th Cir. Certiorari denied. Reported below: 841 F. 2d 226.

No. 88-5495. *THAYER v. MAINE.* Sup. Jud. Ct. Me. Certiorari denied. Reported below: 539 A. 2d 206.

No. 88-5556. *BROFFORD v. OHIO DEPARTMENT OF REHABILITATION AND CORRECTION.* Sup. Ct. Ohio. Certiorari denied. Reported below: 38 Ohio St. 3d 61, 526 N. E. 2d 309.

No. 88-5574. *BROADUS v. OKLAHOMA ET AL.* Ct. Crim. App. Okla. Certiorari denied.

No. 88-5575. *WOODS v. BUTLER, WARDEN, ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 847 F. 2d 1163.

No. 88-5576. *CABEY v. COLLINS, SUPERINTENDENT, MOORE COUNTY PRISON, CARTHAGE, NORTH CAROLINA, ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 838 F. 2d 465.

No. 88-5577. *GILSTRAP v. WHARTON, SUPERINTENDENT, MEN'S CORRECTIONAL INSTITUTION, HARDWICK, GEORGIA.* C. A. 11th Cir. Certiorari denied.

No. 88-5578. *ROBBINS v. RICE, WARDEN, ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 849 F. 2d 606.

No. 88-5579. *SMITH v. RAHDERT, ANDERSON & RICHARDSON ET AL.* C. A. 11th Cir. Certiorari denied.

No. 88-5583. *LOWERY v. CALIFORNIA.* Ct. App. Cal., 6th App. Dist. Certiorari denied. Reported below: 200 Cal. App. 3d 1207, 246 Cal. Rptr. 443.

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No. 88-5584. *KERPA, AKA LAWSON v. VALLEY NEUROSURGICAL ASSN. ET AL.* C. A. 2d Cir. Certiorari denied.

No. 88-5588. *MUNCHINSKI v. GOODWIN.* C. A. 3d Cir. Certiorari denied. Reported below: 853 F. 2d 919.

No. 88-5591. *COLTER v. CITY OF ARTESIA, NEW MEXICO, ET AL.* C. A. 10th Cir. Certiorari denied.

No. 88-5594. *MAHDAVI v. SHIRANI.* Ct. App. Cal., 1st App. Dist. Certiorari denied.

No. 88-5599. *FORBES v. HENNEPIN COUNTY ATTORNEY'S OFFICE, CRIMINAL DIVISION, HENNEPIN COUNTY, MINNESOTA.* Ct. App. Minn. Certiorari denied.

No. 88-5601. *CRANFORD v. SUMNER, DIRECTOR, NEVADA DEPARTMENT OF PRISONS, ET AL.* C. A. 9th Cir. Certiorari denied.

No. 88-5602. *FRITTS v. ROGERS, JAIL ADMINISTRATOR, WHITE COUNTY JAIL, SEARCY, ARKANSAS, ET AL.* C. A. 8th Cir. Certiorari denied. Reported below: 855 F. 2d 856.

No. 88-5607. *LAYTON v. DUGGER, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS.* Sup. Ct. Fla. Certiorari denied. Reported below: 531 So. 2d 1354.

No. 88-5610. *BROUSSARD v. CALIFORNIA.* Ct. App. Cal., 1st App. Dist. Certiorari denied.

No. 88-5614. *LUTHER v. PENNSYLVANIA.* Super. Ct. Pa. Certiorari denied. Reported below: 373 Pa. Super. 636, 536 A. 2d 826.

No. 88-5619. *MCDONALD v. TOBEY ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 856 F. 2d 195.

No. 88-5621. *TUBBS v. BUTLER, WARDEN.* C. A. 5th Cir. Certiorari denied.

No. 88-5623. *WHEAT v. TRICKEY, SUPERINTENDENT, MISSOURI EASTERN CORRECTIONAL CENTER.* C. A. 8th Cir. Certiorari denied.

No. 88-5624. *WALKER v. NEAL, WARDEN, ET AL.* C. A. 7th Cir. Certiorari denied. Reported below: 848 F. 2d 196.

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No. 88-5631. *HAYES, AKA SALAAHUDDIN v. DUGGER, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS, ET AL.* C. A. 11th Cir. Certiorari denied. Reported below: 851 F. 2d 1422.

No. 88-5632. *INGRAM v. WILSON ET AL.* C. A. 10th Cir. Certiorari denied.

No. 88-5633. *JARRETT v. OHIO.* Ct. App. Ohio, Cuyahoga County. Certiorari denied.

No. 88-5636. *LEPAGE v. ARAVE, WARDEN, ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 851 F. 2d 251.

No. 88-5650. *ROBINSON v. PENNSYLVANIA.* Super. Ct. Pa. Certiorari denied. Reported below: 375 Pa. Super. 623, 541 A. 2d 32.

No. 88-5651. *WILLIAMS v. ARMONTROUT, WARDEN, ET AL.* C. A. 8th Cir. Certiorari denied.

No. 88-5653. *PEOPLES v. ALABAMA.* Ct. Crim. App. Ala. Certiorari denied. Reported below: 527 So. 2d 169.

No. 88-5654. *HARDAGE v. NEAL ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 846 F. 2d 1382.

No. 88-5656. *COLEMAN v. O'LEARY, WARDEN, ET AL.* C. A. 7th Cir. Certiorari denied. Reported below: 845 F. 2d 696.

No. 88-5657. *FULLER v. ALIVE ENTERPRISES ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 851 F. 2d 1419.

No. 88-5658. *FERRELL v. UNITED STATES PAROLE COMMISSION ET AL.* C. A. 8th Cir. Certiorari denied. Reported below: 855 F. 2d 857.

No. 88-5663. *GREEN v. OHIO.* Ct. App. Ohio, Hamilton County. Certiorari denied.

No. 88-5677. *MARTIN v. ZOOK ET AL.* C. A. 3d Cir. Certiorari denied.

No. 88-5690. *NABORS v. EDWARDS, WARDEN, ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 848 F. 2d 192.

No. 88-5691. *STRABLE v. UNITED STATES TREASURY ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 861 F. 2d 266.



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No. 88-5696. *MASSA v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 854 F. 2d 315.

No. 88-5699. *STILLWELL v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 854 F. 2d 1045.

No. 88-5701. *SPAN v. DUGGER, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS, ET AL.* C. A. 11th Cir. Certiorari denied.

No. 88-5703. *JONES v. OITKER ET AL.* C. A. 8th Cir. Certiorari denied.

No. 88-5704. *JONES v. BEYER, SUPERINTENDENT, NEW JERSEY STATE PRISON, ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 856 F. 2d 183.

No. 88-5706. *SAINZ v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 857 F. 2d 1476.

No. 88-5709. *MAHMOOD v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 856 F. 2d 181.

No. 88-5712. *GONZALEZ v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 858 F. 2d 743.

No. 88-5713. *COLEMAN v. DELAWARE ET AL.* Sup. Ct. Del. Certiorari denied. Reported below: 547 A. 2d 633.

No. 88-5714. *BRANDON v. UNITED STATES*. C. A. 10th Cir. Certiorari denied. Reported below: 847 F. 2d 625.

No. 88-5725. *YELARDY v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 856 F. 2d 187.

No. 88-5726. *SCINTO v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 843 F. 2d 503.

No. 88-5728. *BENAVIDES v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 854 F. 2d 701.

No. 88-5730. *EPPS v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 856 F. 2d 187.

No. 88-5731. *CANTU v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 853 F. 2d 288.

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No. 88-5737. *FLYNN v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 852 F. 2d 1045.

No. 88-5741. *RIVERA v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 855 F. 2d 420.

No. 88-5744. *WILLIAMS-IGWONOBÉ v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 858 F. 2d 744.

No. 88-5747. *KNOWLES v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 852 F. 2d 1290.

No. 88-5757. *WHITMORE v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 855 F. 2d 859.

No. 88-5762. *MAPLES v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 857 F. 2d 1475.

No. 88-5766. *SMITH v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 850 F. 2d 690.

No. 88-5775. *WASHINGTON v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 852 F. 2d 803.

No. 88-5776. *RUBIO v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 857 F. 2d 1466.

No. 88-5778. *SHERMAN v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 853 F. 2d 930.

No. 88-5788. *TIBBS ET AL. v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 856 F. 2d 187.

No. 88-5789. *BURRIS v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 860 F. 2d 1091.

No. 88-5790. *FORDE v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 855 F. 2d 1363.

No. 88-5791. *KRAMER v. UNITED STATES*. C. A. Fed. Cir. Certiorari denied.

No. 88-5796. *FELDMAN v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 859 F. 2d 154.

No. 88-5800. *LEONE v. UNITED STATES*. C. A. 10th Cir. Certiorari denied.

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No. 87-2030. *ANDERSON v. NORTH CAROLINA*. Sup. Ct. N. C. Certiorari denied. JUSTICE BRENNAN and JUSTICE MARSHALL would grant the petition for writ of certiorari and reverse the judgments of conviction. Reported below: 322 N. C. 22, 366 S. E. 2d 459.

No. 88-150. *IRVIN ET AL. v. UNITED STATES ET AL.* C. A. 6th Cir. Certiorari denied. JUSTICE BRENNAN and JUSTICE WHITE would grant certiorari. Reported below: 845 F. 2d 126.

No. 88-176. *MISSOURI v. PRESLEY*. Ct. App. Mo., Southern Dist. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 750 S. W. 2d 602.

No. 88-5061. *NEWLAND v. GEORGIA*. Sup. Ct. Ga.;

No. 88-5363. *WILLIAMS v. CALIFORNIA*. Sup. Ct. Cal.;

No. 88-5603. *INGRAM v. KEMP, WARDEN*. Super. Ct. Ga., Butts County;

No. 88-5630. *HAMBLIN v. OHIO*. Sup. Ct. Ohio; and

No. 88-5738. *SIDEBOTTOM v. MISSOURI*. Sup. Ct. Mo. Certiorari denied. Reported below: No. 88-5061, 258 Ga. 172, 366 S. E. 2d 689; No. 88-5363, 44 Cal. 3d 1127, 751 P. 2d 901; No. 88-5630, 37 Ohio St. 3d 153, 524 N. E. 2d 476; No. 88-5738, 753 S. W. 2d 915.

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. D-720. *IN RE DISBARMENT OF MACGUIRE*, *ante*, p. 808;

No. 87-1586. *CHALKO v. CHALKO*, *ante*, p. 801;

No. 87-1707. *STAUBER v. CLINE ET AL.*, *ante*, p. 817;

No. 87-1842. *KALTSAS ET AL. v. CITY OF NORTH CHICAGO ET AL.*, *ante*, p. 804;

No. 87-1981. *HARRIS v. REFINERS TRANSPORT & TERMINAL CORP. ET AL.*, *ante*, p. 823;

No. 87-2106. *KASCHAK v. SUPERIOR COURT OF CALIFORNIA, KERN COUNTY (PINE MOUNTAIN CLUB PROPERTY OWNERS' ASSN., REAL PARTY IN INTEREST)*, *ante*, p. 827;



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- No. 87-2132. *GJESSING ET AL. v. WEST INDIAN CO., LTD., ET AL.*, *ante*, p. 802;
- No. 87-2133. *LEGISLATURE OF THE VIRGIN ISLANDS v. WEST INDIAN CO., LTD., ET AL.*, *ante*, p. 802;
- No. 87-6745. *THOMPSON v. LOUISIANA*, *ante*, p. 871;
- No. 87-6813. *WILLIAMS v. UNITED STATES POSTAL SERVICE ET AL.*, *ante*, p. 831;
- No. 87-6987. *LIPHAM v. GEORGIA*, *ante*, p. 873;
- No. 87-7012. *KELLY v. BOWEN, SECRETARY OF HEALTH AND HUMAN SERVICES*, *ante*, p. 833;
- No. 87-7039. *DAVENPORT v. GEORGIA*, *ante*, p. 834;
- No. 87-7084. *WOOL v. HINKEL ET AL.*; and *WOOL v. HORWITZ ET AL.*, *ante*, p. 802;
- No. 87-7093. *HEADLEY v. ZON ET AL.*, *ante*, p. 836;
- No. 87-7098. *JOHNSON v. ALABAMA*, *ante*, p. 876;
- No. 87-7117. *ANDREWS v. TEXAS*, *ante*, p. 871;
- No. 87-7125. *STEELE v. FELIX CHEVROLET ET AL.*, *ante*, p. 888;
- No. 87-7131. *SAMM v. SOUTHEASTERN UNIVERSITY*, *ante*, p. 837;
- No. 87-7156. *MAY v. OHIO UNEMPLOYMENT COMPENSATION BOARD OF REVIEW*, *ante*, p. 838;
- No. 87-7172. *GLAUDE v. REGIONAL POSTMASTER GENERAL ET AL.*, *ante*, p. 839;
- No. 87-7197. *BROWN v. HOKE, SUPERINTENDENT, EASTERN CORRECTIONAL FACILITY*, *ante*, p. 840;
- No. 87-7214. *MITCHELL v. THORNBURGH, ATTORNEY GENERAL OF THE UNITED STATES, ET AL.*, *ante*, p. 841;
- No. 87-7216. *MAHLERWEIN v. FEDERAL LAND BANK OF LOUISVILLE*, *ante*, p. 803;
- No. 87-7222. *SAFIR v. INTERSTATE COMMERCE COMMISSION ET AL.*, *ante*, p. 841;
- No. 87-7248. *KLEINSCHMIDT v. FLORIDA COMMISSION ON HUMAN RELATIONS ET AL.*, *ante*, p. 842;
- No. 87-7278. *LOVINGOOD v. UNITED STATES*, *ante*, p. 844;
- No. 87-7293. *MAHLERWEIN v. STITSINGER ET AL.*, *ante*, p. 803;
- No. 87-7294. *MAHLERWEIN v. BRUEWER ET AL.*, *ante*, p. 803;
- No. 88-55. *IN RE ROBERTS*, *ante*, p. 814;
- No. 88-144. *SYRE v. PENNSYLVANIA ET AL.*, *ante*, p. 853;

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- No. 88-151. MANZO *v.* MANZO, *ante*, p. 853;  
No. 88-260. IN RE DAVIS, *ante*, p. 814;  
No. 88-310. IN RE MASON ET UX., *ante*, p. 814;  
No. 88-5007. O'DELL *v.* VIRGINIA, *ante*, p. 871;  
No. 88-5008. LYNCH *v.* SEYBERT NICHOLAS PRINTING CORP.,  
*ante*, p. 857;  
No. 88-5034. MINCEY *v.* GEORGIA, *ante*, p. 871;  
No. 88-5047. ENGLERT *v.* SMALL BUSINESS ADMINISTRATION,  
*ante*, p. 858;  
No. 88-5052. THOMPkins *v.* ILLINOIS, *ante*, p. 871;  
No. 88-5086. MARTINEZ *v.* NEW MEXICO, *ante*, p. 859;  
No. 88-5161. DOTSON *v.* BOHTE ET AL., *ante*, p. 862;  
No. 88-5194. FREE *v.* ILLINOIS, *ante*, p. 872; and  
No. 88-5298. T. B. *v.* IOWA DEPARTMENT OF HUMAN SERV-  
ICES ET AL., *ante*, p. 896. Petitions for rehearing denied.

No. 87-6335. SIVLEY *v.* TEXAS, 487 U. S. 1201. Motion for leave to file petition for rehearing denied.

No. 87-7076. JURAS *v.* AMAN COLLECTION SERVICE, INC., ET AL., *ante*, p. 875. Petition for rehearing denied. JUSTICE KENNEDY took no part in the consideration or decision of this petition.

No. 88-5199. GRAVES *v.* BIDNET, INC., *ante*, p. 868. Petition for rehearing denied. JUSTICE WHITE took no part in the consideration or decision of this petition.

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*Miscellaneous Order*

No. A-437. HERNANDEZ ET AL. *v.* THORNBURGH, ATTORNEY GENERAL OF THE UNITED STATES, ET AL. Application for stay of repatriation, presented to JUSTICE MARSHALL, and by him referred to the Court, denied. JUSTICE MARSHALL would grant the application.

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*Appeals Dismissed*

No. 88-665. SUMMERS *v.* THOMPSON ET AL. Appeal from Sup. Ct. Tenn. dismissed for want of substantial federal question. Reported below: 764 S. W. 2d 182.

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No. 88-5671. *FIELDS v. TESTERMAN ET AL.* Appeal from C. A. 6th Cir. dismissed for want of jurisdiction. Reported below: 843 F. 2d 1391.

No. 88-5672. *FIELDS v. MARTIN MARIETTA, INC., ET AL.* Appeal from C. A. 6th Cir. dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied. Reported below: 842 F. 2d 331.

No. 88-5673. *FIELDS v. PRUETT ET AL.* Appeal from C. A. 6th Cir. dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied. Reported below: 843 F. 2d 1391.

*Vacated and Remanded on Appeal*

No. 88-539. *POOLE ET AL. v. GRESHAM ET AL.* Appeal from D. C. N. D. Ga. Judgment vacated and case remanded to consider the question of mootness. JUSTICE BRENNAN, JUSTICE WHITE, JUSTICE MARSHALL, and JUSTICE BLACKMUN would affirm the judgment. Reported below: 695 F. Supp. 1179.

*Miscellaneous Orders*

No. — — —. *SMITH v. MISSOURI.* Motion for leave to proceed *in forma pauperis* without an affidavit of indigency executed by the petitioner granted. Motion of Missouri Public Defender Commission et al. to be substituted as next friends for Gerald Smith denied.

No. A-419. *YONKERS RACING CORP. v. CITY OF YONKERS ET AL.* D. C. S. D. N. Y. Application for recall, stay, and other relief, addressed to THE CHIEF JUSTICE and referred to the Court, denied. THE CHIEF JUSTICE and JUSTICE KENNEDY would grant the application.

No. D-747. *IN RE DISBARMENT OF WILLIAMS.* It is ordered that Nicholas W. Williams, of Berea, Ky., 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. 105, Orig. *KANSAS v. COLORADO.* Motion of the Special Master for award of interim fees and expenses granted, and allocation set forth in the motion approved. This amount is to be



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paid equally by the parties. [For earlier order herein, see, *e. g.*, 485 U. S. 931.]

No. 87-826. *GOLDBERG ET AL. v. SWEET, DIRECTOR, ILLINOIS DEPARTMENT OF REVENUE, ET AL.*; and

No. 87-1101. *GTE SPRINT COMMUNICATIONS CORP. v. SWEET, DIRECTOR, ILLINOIS DEPARTMENT OF REVENUE, ET AL.* Sup. Ct. Ill. [Probable jurisdiction noted, 484 U. S. 1057.] Motion of appellants Goldberg and McTigue for leave to file a supplemental brief after argument granted.

No. 87-1661. *ASARCO INC. ET AL. v. KADISH ET AL.* Sup. Ct. Ariz. [Certiorari granted, *ante*, p. 887.] Motion of Alaska Miners Association et al. for leave to file a brief as *amici curiae* granted. JUSTICE O'CONNOR took no part in the consideration or decision of this motion.

No. 87-1848. *CITY OF DALLAS ET AL. v. STANGLIN, INDIVIDUALLY AND DBA TWILIGHT SKATING RINK.* Ct. App. Tex., 5th Dist. [Certiorari granted, *ante*, p. 815.] Motion of U. S. Conference of Mayors et al. for leave to file a brief as *amici curiae* granted.

No. 88-266. *OKLAHOMA TAX COMMISSION v. GRAHAM ET AL.* C. A. 10th Cir. [Certiorari granted, *ante*, p. 816.] Motion of Stanley J. Alexander, Esq., to permit David Allen Miley, Esq., to present oral argument *pro hac vice* granted.

No. 88-603. *ARIZONA v. FLINT.* Ct. App. Ariz. The Solicitor General is invited to file a brief in this case expressing the views of the United States.

No. 88-5686. *IN RE JONES.* Petition for writ of mandamus denied.

*Probable Jurisdiction Noted*

No. 88-429. *PUBLIC CITIZEN v. UNITED STATES DEPARTMENT OF JUSTICE ET AL.*; and

No. 88-494. *WASHINGTON LEGAL FOUNDATION v. UNITED STATES DEPARTMENT OF JUSTICE ET AL.* Appeals from D. C. D. C. Probable jurisdiction noted, cases consolidated, and a total of one hour allotted for oral argument. JUSTICE SCALIA took no part in the consideration or decision of these cases. Reported below: 691 F. Supp. 483.

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*Certiorari Granted*

No. 88-396. COLONIAL AMERICAN LIFE INSURANCE CO. *v.* COMMISSIONER OF INTERNAL REVENUE. C. A. 5th Cir. Certiorari granted. Reported below: 843 F. 2d 201.

No. 88-616. BOWEN, SECRETARY OF HEALTH AND HUMAN SERVICES *v.* HUDSON. C. A. 11th Cir. Certiorari granted. Reported below: 839 F. 2d 1453.

No. 88-556. BROWNING-FERRIS INDUSTRIES OF VERMONT, INC., ET AL. *v.* KELCO DISPOSAL, INC., ET AL. C. A. 2d Cir. Certiorari granted limited to Question 2 presented by the petition. Reported below: 845 F. 2d 404.

*Certiorari Denied.* (See also Nos. 88-5672 and 88-5673, *supra.*)

No. 87-7201. FOLEY *v.* SECRETARY OF THE ARMY. C. A. Fed. Cir. Certiorari denied. Reported below: 846 F. 2d 77.

No. 87-7249. COLSTON *v.* TEXAS. Ct. Crim. App. Tex. Certiorari denied.

No. 88-353. MASSACHUSETTS *v.* DEROSIA. Sup. Jud. Ct. Mass. Certiorari denied. Reported below: 402 Mass. 284, 522 N. E. 2d 408.

No. 88-402. MICHIGAN *v.* THORNBURGH, ATTORNEY GENERAL OF THE UNITED STATES, ET AL. C. A. 6th Cir. Certiorari denied. Reported below: 853 F. 2d 395.

No. 88-423. MAYFAIR CONSTRUCTION CO. *v.* UNITED STATES. C. A. Fed. Cir. Certiorari denied. Reported below: 841 F. 2d 1576.

No. 88-424. EMERYVILLE TRUCKING, INC. *v.* NATIONAL LABOR RELATIONS BOARD. C. A. 3d Cir. Certiorari denied. Reported below: 849 F. 2d 600.

No. 88-434. SINNOTT *v.* RADIN ET AL. Sup. Jud. Ct. Mass. Certiorari denied. Reported below: 402 Mass. 581, 524 N. E. 2d 100.

No. 88-437. LAWRENCE, DBA GRIZZLY & DALEY RANCH *v.* UNITED STATES ET AL. C. A. 10th Cir. Certiorari denied. Reported below: 848 F. 2d 1502.

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No. 88-446. *CONTEMPORARY MISSION, INC. v. UNITED STATES*. C. A. Fed. Cir. Certiorari denied. Reported below: 852 F. 2d 1293.

No. 88-473. *KARSTETER v. GRAHAM COS., FKA SENGRA CORP.* Dist. Ct. App. Fla., 3d Dist. Certiorari denied. Reported below: 521 So. 2d 298.

No. 88-496. *YOUNG ET AL. v. STANDARD OIL (INDIANA) ET AL.* C. A. 7th Cir. Certiorari denied. Reported below: 849 F. 2d 1039.

No. 88-604. *FROST v. HAWKINS COUNTY BOARD OF EDUCATION ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 851 F. 2d 822.

No. 88-611. *ROMAN v. SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES (CALIFORNIA, REAL PARTY IN INTEREST)*. Ct. App. Cal., 2d App. Dist. Certiorari denied.

No. 88-621. *TOWN OF RYE, NEW HAMPSHIRE v. PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE ET AL.* Sup. Ct. N. H. Certiorari denied. Reported below: 130 N. H. 365, 540 A. 2d 1233.

No. 88-623. *DORN v. WISCONSIN ET AL.* C. A. 7th Cir. Certiorari denied. Reported below: 857 F. 2d 1476.

No. 88-636. *BROBST v. DEAN WITTER REYNOLDS, INC., ET AL.* C. A. 3d Cir. Certiorari denied.

No. 88-637. *CAPITAL CONTROLS CO., INC. v. CHLORINATORS, INC., ET AL.* C. A. Fed. Cir. Certiorari denied. Reported below: 852 F. 2d 1292.

No. 88-641. *DIANELLA SHIPPING CORP. ET AL. v. HERNANDEZ*. C. A. 5th Cir. Certiorari denied. Reported below: 841 F. 2d 582 and 848 F. 2d 498.

No. 88-643. *ATLANTIC TELE-NETWORK CO. v. PUBLIC SERVICES COMMISSION OF THE VIRGIN ISLANDS ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 841 F. 2d 70.

No. 88-648. *ENDELL, COMMISSIONER, ALASKA DEPARTMENT OF CORRECTIONS v. WALKER*. C. A. 9th Cir. Certiorari denied. Reported below: 850 F. 2d 470.

No. 88-650. *GROGAN ET AL. v. PLATT ET AL.* C. A. 11th Cir. Certiorari denied. Reported below: 835 F. 2d 844.



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No. 88-652. *HOWELL v. STATE BAR OF TEXAS ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 843 F. 2d 205.

No. 88-657. *CHARTER MEDICAL CORP. v. CARDIN ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 850 F. 2d 688.

No. 88-689. *PERRY v. HOWES, WARDEN, FLORENCE CRANE WOMEN'S CORRECTIONAL FACILITY.* C. A. 6th Cir. Certiorari denied. Reported below: 852 F. 2d 568.

No. 88-694. *A. E. C. TRADING CO., LTD. v. TRADEMASTERS INTERNATIONAL, INC.* C. A. 7th Cir. Certiorari denied.

No. 88-696. *WALLACE v. UNITED STATES.* C. A. 11th Cir. Certiorari denied. Reported below: 853 F. 2d 928.

No. 88-707. *CONWAY v. FIRST TRUST COMPANY OF NORTH DAKOTA;* and

No. 88-708. *CONWAY v. FIRST TRUST COMPANY OF NORTH DAKOTA.* Sup. Ct. N. D. Certiorari denied. Reported below: 423 N. W. 2d 795.

No. 88-735. *NEVE v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. Reported below: 851 F. 2d 1419.

No. 88-751. *ROWLAND v. ALAMEDA COUNTY PROBATION DEPARTMENT.* Ct. App. Cal., 1st App. Dist. Certiorari denied.

No. 88-775. *KELLEY v. UNITED STATES.* C. A. 6th Cir. Certiorari denied. Reported below: 849 F. 2d 999.

No. 88-788. *LANGELLA v. UNITED STATES.* C. A. 2d Cir. Certiorari denied. Reported below: 832 F. 2d 705.

No. 88-5070. *KABONGO v. IMMIGRATION & NATURALIZATION SERVICE.* C. A. 6th Cir. Certiorari denied. Reported below: 837 F. 2d 753.

No. 88-5113. *FOUNTAIN v. UNITED STATES.* C. A. 7th Cir. Certiorari denied. Reported below: 840 F. 2d 509.

No. 88-5125. *TRIPATI v. HENMAN, WARDEN.* C. A. 9th Cir. Certiorari denied. Reported below: 843 F. 2d 1160.

No. 88-5157. *GLOVER v. UNITED STATES.* C. A. 6th Cir. Certiorari denied. Reported below: 846 F. 2d 339.

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No. 88-5247. *PENDLETON v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 848 F. 2d 1243.

No. 88-5262. *CHALAN v. UNITED STATES*. C. A. 10th Cir. Certiorari denied.

No. 88-5305. *ROBERTS v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 844 F. 2d 537.

No. 88-5355. *GONZALES v. KERBY, WARDEN*. C. A. 10th Cir. Certiorari denied.

No. 88-5362. *NIMMONS v. ALABAMA*. Ct. Crim. App. Ala. Certiorari denied. Reported below: 524 So. 2d 392.

No. 88-5384. *MARSDEN v. MOORE, SHERIFF, CHILTON COUNTY, ALABAMA, ET AL.* C. A. 11th Cir. Certiorari denied. Reported below: 847 F. 2d 1536.

No. 88-5447. *HERMANSKI v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 851 F. 2d 363.

No. 88-5492. *WHITEHEAD v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 849 F. 2d 849.

No. 88-5568. *WATSON v. NEW JERSEY*. Super. Ct. N. J., App. Div. Certiorari denied. Reported below: 224 N. J. Super. 354, 540 A. 2d 875.

No. 88-5590. *SMITH v. SCOTT ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 859 F. 2d 150.

No. 88-5641. *HIX v. OHIO*. Sup. Ct. Ohio. Certiorari denied. Reported below: 38 Ohio St. 3d 129, 527 N. E. 2d 784.

No. 88-5655. *FERGUSON v. McMACKIN, SUPERINTENDENT, MARION CORRECTIONAL INSTITUTION*. C. A. 6th Cir. Certiorari denied. Reported below: 849 F. 2d 1472.

No. 88-5665. *JONES v. CITY OF ST. LOUIS ET AL.* C. A. 8th Cir. Certiorari denied.

No. 88-5666. *LAYTON v. DUGGER, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS*. Sup. Ct. Fla. Certiorari denied. Reported below: 534 So. 2d 400.

No. 88-5675. *ALLEN v. CESARIO ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 850 F. 2d 688.

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No. 88-5678. *POLLARD v. OWENS ILLINOIS INC. ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 859 F. 2d 150.

No. 88-5682. *LEVITT v. UNIVERSITY OF TEXAS AT EL PASO ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 847 F. 2d 221.

No. 88-5689. *WILLIAMS v. CITY OF HAZELHURST ET AL.* C. A. 11th Cir. Certiorari denied.

No. 88-5692. *WAUL v. HENDERSON, SUPERINTENDENT, AUBURN CORRECTIONAL FACILITY.* C. A. 2d Cir. Certiorari denied.

No. 88-5693. *MCCOLPIN v. BROOKS.* C. A. 10th Cir. Certiorari denied.

No. 88-5694. *MOORE v. FULCOMER, WARDEN, ET AL.* C. A. 3d Cir. Certiorari denied.

No. 88-5700. *ROSBERG v. JACOB ET AL.* Sup. Ct. Neb. Certiorari denied. Reported below: 227 Neb. xxviii.

No. 88-5702. *WEINREICH v. CAMPBELL ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 831 F. 2d 1066.

No. 88-5705. *MASON v. UNITED STATES;*  
No. 88-5711. *HANDLEY v. UNITED STATES;*  
No. 88-5719. *CREEKMORE v. UNITED STATES;*  
No. 88-5724. *TUCKER v. UNITED STATES;*  
No. 88-5739. *WHITE v. UNITED STATES;* and  
No. 88-5740. *STEELE v. UNITED STATES.* C. A. 11th Cir. Certiorari denied. Reported below: 846 F. 2d 678.

No. 88-5707. *THORNE v. BAILEY ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 846 F. 2d 241.

No. 88-5710. *ARMENTERO v. MAKEL, WARDEN.* C. A. 6th Cir. Certiorari denied. Reported below: 853 F. 2d 926.

No. 88-5716. *LEMBERG v. TSENG ET AL.* Ct. App. Cal., 1st App. Dist. Certiorari denied.

No. 88-5717. *JAMES v. LEEKE, COMMISSIONER, SOUTH CAROLINA DEPARTMENT OF CORRECTIONS, ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 852 F. 2d 565.

No. 88-5718. *BALLANTYNE v. ERDBACHER ET AL.* Ct. App. Cal., 6th App. Dist. Certiorari denied.



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No. 88-5720. *BOWMAN v. CALIFORNIA*. Ct. App. Cal., 4th App. Dist. Certiorari denied.

No. 88-5721. *YOUNG v. COUGHLIN, COMMISSIONER, NEW YORK STATE DEPARTMENT OF CORRECTIONAL SERVICES*. C. A. 2d Cir. Certiorari denied. Reported below: 856 F. 2d 181.

No. 88-5734. *FRANCIS v. KENTUCKY*. Sup. Ct. Ky. Certiorari denied.

No. 88-5768. *SELLNER v. PRINCE GEORGE'S COUNTY, MARYLAND, ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 849 F. 2d 607.

No. 88-5771. *METTS v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 858 F. 2d 744.

No. 88-5787. *REGAN v. NEW JERSEY*. Super. Ct. N. J., App. Div. Certiorari denied.

No. 88-5797. *MOODY v. BAKER*. C. A. 5th Cir. Certiorari denied. Reported below: 857 F. 2d 256.

No. 88-5798. *MOODY v. TEXAS COURT OF CRIMINAL APPEALS*. C. A. 5th Cir. Certiorari denied.

No. 88-5831. *BRANNON v. UNITED STATES*. C. A. 10th Cir. Certiorari denied.

No. 88-5845. *DEPRIEST v. VIRGINIA*. Ct. App. Va. Certiorari denied. Reported below: 4 Va. App. 577, 359 S. E. 2d 540.

No. 88-5846. *LLOYD v. HINES ET AL.* Dist. Ct. App. Fla., 1st Dist. Certiorari denied. Reported below: 528 So. 2d 1187.

No. 88-5851. *BILAL v. DAYTON HUDSON CORP. ET AL.* C. A. 8th Cir. Certiorari denied. Reported below: 855 F. 2d 859.

No. 87-211. *BLACK, WARDEN v. ROBINSON*. C. A. 8th Cir. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 812 F. 2d 1084.

No. 88-564. *MICHIGAN v. DYE*. Sup. Ct. Mich. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 431 Mich. 58, 427 N. W. 501.

No. 88-668. *COLORADO v. HARRIS*. Sup. Ct. Colo. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 762 P. 2d 651.

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No. 88-97. *FORD MOTOR CO. v. BRYANT*. C. A. 9th Cir. The order of October 3, 1988 [*ante*, p. 816], granting the petition for writ of certiorari is vacated. Certiorari denied. JUSTICE BLACKMUN dissents. Reported below: 844 F. 2d 602.

No. 88-318. *RICHARD T. v. CALIFORNIA*. Ct. App. Cal., 4th App. Dist. Certiorari denied. JUSTICE BRENNAN and JUSTICE WHITE would grant certiorari.

No. 88-410. *UNISYS CORP. v. UNITED STATES*. C. A. Fed. Cir. Certiorari denied. JUSTICE O'CONNOR took no part in the consideration or decision of this petition. Reported below: 845 F. 2d 965.

No. 88-577. *SAMAAN v. NIAKAN ET AL.* Ct. App. Cal., 2d App. Dist. Certiorari denied. JUSTICE WHITE would grant certiorari. Reported below: 199 Cal. App. 3d 716, 245 Cal. Rptr. 24.

No. 88-613. *E. I. DU PONT DE NEMOURS & CO. v. PHILLIPS PETROLEUM CO. ET AL.* C. A. Fed. Cir. Certiorari denied. JUSTICE WHITE and JUSTICE O'CONNOR took no part in the consideration or decision of this petition. Reported below: 849 F. 2d 1430.

No. 88-618. *GRANITE ROCK CO. v. BUILDING MATERIALS & CONSTRUCTION TEAMSTERS LOCAL 216*. C. A. 9th Cir. Motion of Associated General Contractors of America, Inc., for leave to file a brief as *amicus curiae* granted. Certiorari denied. Reported below: 851 F. 2d 1190.

No. 88-658. *PANHANDLE EASTERN PIPE LINE CO. v. ILLINOIS EX REL. HARTIGAN, ATTORNEY GENERAL OF ILLINOIS*. C. A. 7th Cir. Motions of Interstate Natural Gas Association of America and Kansas Power & Light Co. for leave to file briefs as *amici curiae* granted. Certiorari denied. Reported below: 852 F. 2d 891.

No. 88-5625. *PYLES v. TEXAS*. Ct. Crim. App. Tex.; and

No. 88-5782. *BRIDDLER v. TEXAS*. Ct. Crim. App. Tex. Certiorari denied. Reported below: No. 88-5625, 755 S. W. 2d 98; No. 88-5782, 742 S. W. 2d 379.

JUSTICE BRENNAN and JUSTICE MARSHALL, dissenting.

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

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No. 88-5628. *WILLIAMS v. PLANNED PARENTHOOD ASSOCIATION OF THE ATLANTA AREA, INC., ET AL.* C. A. 11th Cir. Certiorari before judgment denied.

*Rehearing Denied*

No. 87-1853. *LAURITZEN ET UX., INDIVIDUALLY AND DBA LAURITZEN FARMS v. McLAUGHLIN, SECRETARY OF LABOR*, *ante*, p. 898;

No. 87-1896. *ROSENTHAL v. STATE BAR OF CALIFORNIA*, *ante*, p. 805;

No. 87-7119. *STEWART v. ILLINOIS*, *ante*, p. 900;

No. 87-7223. *LEWIS v. UNITED STATES*, *ante*, p. 923;

No. 87-7322. *BRYANT v. UNITED STATES*, *ante*, p. 916;

No. 87-7345. *SIMPSON v. UPPER PROVIDENCE TOWNSHIP POLICE DEPARTMENT ET AL.*, *ante*, p. 847;

No. 88-365. *RIVARD ET AL. v. CHICAGO FIRE FIGHTERS UNION, LOCAL NO. 2, ET AL.*, *ante*, p. 909;

No. 88-5033. *BIRGES v. NEVADA*, *ante*, p. 804;

No. 88-5299. *GARZA v. GRAMMER, ASSISTANT DIRECTOR, NEBRASKA DEPARTMENT OF CORRECTIONAL SERVICES, ADULT INSTITUTIONS*, *ante*, p. 896;

No. 88-5317. *POLLOCK v. MARSHALL*, *ante*, p. 897;

No. 88-5351. *DAVIS v. McLAUGHLIN, SECRETARY OF LABOR*, *ante*, p. 897;

No. 88-5386. *SINDRAM v. TAYLOR*, *ante*, p. 911;

No. 88-5387. *WHITE v. UNITED STATES*, *ante*, p. 911;

No. 88-5433. *SCRUGGS v. MOELLERING ET AL.*, *ante*, p. 930; and

No. 88-5505. *HOLLEY v. BULL ET AL.*, *ante*, p. 945. Petitions for rehearing denied.

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*Dismissal Under Rule 53*

No. 88-5616. *GAGNIER v. HARTNETT, COMMISSIONER OF LABOR OF THE STATE OF NEW YORK*. App. Div., Sup. Ct. N. Y., 3d Jud. Dept. Certiorari dismissed under this Court's Rule 53.

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\*JUSTICE BRENNAN took no part in the consideration or decision of the orders announced on this date, with the exceptions of No. 88-5223, *Olden v. Kentucky*, *infra*, p. 988; No. A-468 (88-6092), *Landry v. Texas*, *infra*, p. 989; and No. A-474 (88-6104), *Hawkins v. Lynaugh, Director, Texas Department of Corrections*, *infra*, p. 989.



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*Affirmed on Appeal*

No. 88-554. CLINTON, GOVERNOR OF ARKANSAS, ET AL. *v.* SMITH ET AL. Affirmed on appeal from D. C. E. D. Ark. Reported below: 687 F. Supp. 1361.

*Appeals Dismissed*

No. 88-671. SPRAGUE *v.* WALTER ET AL. Appeal from Sup. Ct. Pa. dismissed for want of properly presented federal question. Reported below: 518 Pa. 425, 543 A. 2d 1078.

No. 88-5761. WEHRINGER *v.* DEPARTMENTAL DISCIPLINARY COMMITTEE FOR THE FIRST JUDICIAL DEPARTMENT. Appeal from App. Div., Sup. Ct. N. Y., 1st Jud. Dept, dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied. Reported below: 135 App. Div. 2d 279, 525 N. Y. S. 2d 604.

*Certiorari Granted—Reversed and Remanded.* (See No. 88-5223, *ante*, p. 227.)

*Certiorari Granted—Vacated and Remanded*

No. 87-1720. TAYLOR *v.* PEABODY COAL CO. ET AL. C. A. 7th Cir. Certiorari granted, judgment vacated, and case remanded for further consideration in light of *Pittston Coal Group v. Sebben*, *ante*, p. 105. Reported below: 838 F. 2d 227.

*Miscellaneous Orders*

No. — — —. SERRANO ET AL. *v.* JONES & LAUGHLIN STEEL CO. ET AL. Motion to direct the Clerk to file petition for writ of certiorari out of time denied.

No. — — —. WILLIAMS *v.* ZANT, WARDEN. Motion to direct the Clerk to file petition for writ of certiorari out of time denied. JUSTICE MARSHALL would grant the motion.

No. A-438. CARTER ET AL. *v.* MODJESKI & MASTERS. Sup. Ct. La. Application for stay, presented to JUSTICE WHITE, and by him referred to the Court, denied. The stay entered by JUSTICE WHITE on December 1, 1988, is vacated. JUSTICE SCALIA would grant the application.

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No. A-468 (88-6092). *LANDRY v. TEXAS*. Ct. Crim. App. Tex. Application for stay of execution of sentence of death, presented to JUSTICE WHITE, and by him referred to the Court, denied.

JUSTICE BRENNAN and JUSTICE MARSHALL, dissenting.

Adhering to our views that the death penalty is in all circumstances cruel and unusual punishment prohibited by the Eighth and Fourteenth Amendments, *Gregg v. Georgia*, 428 U. S. 153, 227, 231 (1976), we would grant the application for stay of execution and the petition for writ of certiorari and would vacate the death sentence in this case.

No. A-474 (88-6104). *HAWKINS v. LYNNAUGH*, DIRECTOR, TEXAS DEPARTMENT OF CORRECTIONS. C. A. 5th Cir. Application for stay of execution of sentence of death, presented to JUSTICE WHITE, and by him referred to the Court, granted pending the disposition by this Court of the petition for writ of certiorari. Should the petition for writ of certiorari be denied, this stay terminates automatically. In the event the petition for writ of certiorari is granted, this stay shall continue pending the sending down of the judgment of this Court. THE CHIEF JUSTICE and JUSTICE WHITE would deny the application.

No. D-722. *IN RE DISBARMENT OF DOHERTY*. Disbarment entered. [For earlier order herein, see 487 U. S. 1248.]

No. D-725. *IN RE DISBARMENT OF PAUL*. Disbarment entered. [For earlier order herein, see 487 U. S. 1249.]

No. D-730. *IN RE DISBARMENT OF SWOFFORD*. Disbarment entered. [For earlier order herein, see 487 U. S. 1249.]

No. D-732. *IN RE DISBARMENT OF ANTON*. Disbarment entered. [For earlier order herein, see 487 U. S. 1261.]

No. D-733. *IN RE DISBARMENT OF BUSSEY*. Disbarment entered. [For earlier order herein, see *ante*, p. 885.]

No. D-734. *IN RE DISBARMENT OF NEWMAN*. Disbarment entered. [For earlier order herein, see *ante*, p. 885.]

No. D-736. *IN RE DISBARMENT OF CHESSON*. Disbarment entered. [For earlier order herein, see *ante*, p. 885.]

No. 109, Orig. *OKLAHOMA ET AL. v. NEW MEXICO*. Motion of plaintiffs for leave to file a supplemental complaint granted. [For earlier order herein, see, *e. g.*, 486 U. S. 1052.]

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No. 111, Orig. *DELAWARE v. NEW YORK*. It is ordered that Thomas H. Jackson, Esq., of Charlottesville, Va., 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 it necessary to call for. The Special Master is directed to submit such reports as he may deem appropriate.

The compensation of the Special Master, the allowances to him, the compensation paid to his legal, technical, stenographic, and clerical assistants, the cost of printing his report, and all other proper expenses, including travel expenses, shall be charged against and be borne by the parties in such proportion as the Court may hereafter direct. [For earlier order herein, see 486 U. S. 1030.]

No. 114, Orig. *LOUISIANA v. MISSISSIPPI ET AL.* Motion for leave to file bill of complaint denied. [For earlier order herein, see *ante*, p. 808.]

JUSTICE WHITE, with whom JUSTICE STEVENS and JUSTICE SCALIA join, dissenting.

Louisiana's complaint against Mississippi is plainly within our original jurisdiction and alleges a boundary dispute with Mississippi, the very kind of a dispute that countless times the Court has accepted and adjudicated under its original jurisdiction. Furthermore, as 28 U. S. C. § 1251(a) prescribes, the Court has exclusive jurisdiction over controversies between States. No other court may entertain Louisiana's complaint against Mississippi.

It is true that Louisiana intervened in a dispute between private parties over the ownership of land on an island in the Mississippi River, claiming that the land was in that State. That suit might settle the dispute among the parties and the State, but a judgment that the island is in Louisiana would not bind Mississippi. For that reason, I suppose, Louisiana filed a third-party complaint against Mississippi and also sought leave to file an original action in this Court. We prefer to have disputes within our original jurisdiction settled in other fora where possible. See, *e. g.*, *Arizona v. New Mexico*, 425 U. S. 794 (1976). But this boundary dispute between two States is exclusively our business and, as



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such, may not be adjudicated in the District Court. Had Louisiana not intervened in the private action, denying leave to file would surely be indefensible. Perhaps denial of leave to file rests on the possibility that the private action will go forward with Louisiana as a party and that a judgment unfavorable to, but binding on, Louisiana will be entered. For me, however, this is no way to treat a sovereign State that wants its dispute with another State settled in this Court. I would grant leave to file.

No. 87-1269. EU, SECRETARY OF STATE OF CALIFORNIA, ET AL. v. SAN FRANCISCO COUNTY DEMOCRATIC CENTRAL COMMITTEE ET AL. C. A. 9th Cir. [Probable jurisdiction noted, 485 U. S. 1004.] Motion of Libertarian National Committee for leave to file a brief as *amicus curiae* granted. THE CHIEF JUSTICE took no part in the consideration or decision of this motion.\*

No. 87-1661. ASARCO INC. ET AL. v. KADISH ET AL. Sup. Ct. Ariz. [Certiorari granted, *ante*, p. 887.] Motion of Clinton Campbell Contractor, Inc., for leave to file a brief as *amicus curiae* granted. JUSTICE O'CONNOR took no part in the consideration or decision of this motion.\*

No. 87-1882. NEITZKE ET AL. v. WILLIAMS. C. A. 7th Cir. [Certiorari granted, *ante*, p. 816.] Motion of respondent to dismiss the writ of certiorari as improvidently granted denied. Respondent's suggestion of mootness rejected.

No. 87-2050. COUNTY OF ALLEGHENY ET AL. v. AMERICAN CIVIL LIBERTIES UNION, GREATER PITTSBURGH CHAPTER, ET AL.;

No. 88-90. CHABAD v. AMERICAN CIVIL LIBERTIES UNION ET AL.; and

No. 88-96. CITY OF PITTSBURGH v. AMERICAN CIVIL LIBERTIES UNION, GREATER PITTSBURGH CHAPTER, ET AL. C. A. 3d Cir. [Certiorari granted, *ante*, p. 816.] Motion of petitioners County of Allegheny et al. for divided argument denied. Motion of petitioner Chabad for divided argument granted to be divided as follows: 10 minutes to petitioner in No. 88-90 and 20 minutes to petitioners in Nos. 87-2050 and 88-96. Motion of petitioner City of Pittsburgh for divided argument denied. Motion of respondent Malik Tunador for divided argument and for additional time for oral argument denied.

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\*See also note, *supra*, p. 987.

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No. 87-6997. *CARELLA v. CALIFORNIA*. App. Dept., Super. Ct. Cal., Los Angeles County. [Probable jurisdiction noted, *ante*, pp. 940 and 964.] Motion for appointment of counsel granted, and it is ordered that Christopher D. Cerf, Esq., of Washington, D. C., be appointed to serve as counsel for appellant in this case.

No. 88-660. *SIMKINS INDUSTRIES, INC. v. SIERRA CLUB*. C. A. 4th Cir. The Solicitor General is invited to file a brief in this case expressing the views of the United States.

No. 88-5808. *MACHARIA v. HODEL, SECRETARY OF THE INTERIOR*. C. A. 10th Cir. Motion of petitioner for leave to proceed *in forma pauperis* denied. Petitioner is allowed until January 3, 1989, within which to pay the docketing fee required by Rule 45(a) and to submit a petition in compliance with Rule 33 of the Rules of this Court.

JUSTICE MARSHALL, JUSTICE BLACKMUN, and JUSTICE STEVENS, dissenting.

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

*Certiorari Granted*

No. 88-493. *UNIVERSITY OF PENNSYLVANIA v. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION*. C. A. 3d Cir. Certiorari granted limited to Question 2 presented by the petition. Reported below: 850 F. 2d 969.

No. 88-681. *CALIFORNIA STATE BOARD OF EQUALIZATION v. SIERRA SUMMIT, INC.* C. A. 9th Cir. Certiorari granted. Reported below: 847 F. 2d 570.

*Certiorari Denied.* (See also No. 88-5761, *supra*.)

No. 87-1873. *DOW CHEMICAL CO. v. AREHART*. C. A. 9th Cir. Certiorari denied. Reported below: 842 F. 2d 335.

No. 88-451. *HORRIGAN v. GENERAL DYNAMICS CORP. ET AL.* C. A. 1st Cir. Certiorari denied. Reported below: 848 F. 2d 321.

No. 88-462. *UNITED PAPERWORKERS' INTERNATIONAL UNION, AFL-CIO, LOCAL NO. 1069 v. S. D. WARREN CO., A DIVISION*

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OF SCOTT PAPER CO. (two cases). C. A. 1st Cir. Certiorari denied. Reported below: 845 F. 2d 3 (first case); 846 F. 2d 827 (second case).

No. 88-463. COMMUNICATIONS WORKERS OF AMERICA, AFL-CIO *v.* UNITED INTER-MOUNTAIN TELEPHONE CO. C. A. 6th Cir. Certiorari denied. Reported below: 845 F. 2d 327.

No. 88-479. CAMPBELL *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 852 F. 2d 1456.

No. 88-481. INDUSTRIAL STEEL PRODUCTS CO., INC., ET AL. *v.* McLAUGHLIN, SECRETARY OF LABOR. C. A. 5th Cir. Certiorari denied. Reported below: 845 F. 2d 1330.

No. 88-488. RIDER ET AL. *v.* PENNSYLVANIA ET AL. C. A. 3d Cir. Certiorari denied. Reported below: 850 F. 2d 982.

No. 88-489. MCKABNEY ET UX. *v.* UNITED STATES. C. A. Fed. Cir. Certiorari denied. Reported below: 852 F. 2d 1293.

No. 88-495. ROBERTS ET UX. *v.* UNITED STATES; and

No. 88-5727. BROMBERG *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. Reported below: 852 F. 2d 671.

No. 88-504. COMMISSIONERS OF THE LAND OFFICE OF OKLAHOMA *v.* BUTLER. Sup. Ct. Okla. Certiorari denied. Reported below: 753 P. 2d 1334.

No. 88-633. MANSION HOUSE CENTER NORTH REDEVELOPMENT CO. ET AL. *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied. Reported below: 855 F. 2d 524.

No. 88-640. EMPIRE BLUE CROSS & BLUE SHIELD ET AL. *v.* UNITED STATES. C. A. Fed. Cir. Certiorari denied. Reported below: 852 F. 2d 1294.

No. 88-646. FIRST INTERSTATE CREDIT ALLIANCE, INC. *v.* AMERICAN BANK OF MARTIN COUNTY ET AL. C. A. 11th Cir. Certiorari denied. Reported below: 845 F. 2d 293.

No. 88-656. FRIEDMAN *v.* FERGUSON ET AL. C. A. 4th Cir. Certiorari denied. Reported below: 850 F. 2d 689.

No. 88-661. SPENCER *v.* ST. PAUL FIRE & MARINE INSURANCE CO. Ct. Sp. App. Md. Certiorari denied. Reported below: 74 Md. App. 738.



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No. 88-662. HOLY SPIRIT BYELORUSSIAN AUTOCEPHALIC ORTHODOX CHURCH ET AL. *v.* KENDYSH ET AL. C. A. 6th Cir. Certiorari denied. Reported below: 850 F. 2d 692.

No. 88-663. ALLSTATE INSURANCE CO. *v.* SCHON ET AL. C. A. 9th Cir. Certiorari denied.

No. 88-666. FORREST *v.* OCCIDENTAL PETROLEUM CORP. ET AL. C. A. 9th Cir. Certiorari denied.

No. 88-670. LAW FIRM OF DANIEL P. FOSTER ET AL. *v.* TURNER BROADCASTING SYSTEM, INC., DBA CNN (CABLE NEWS NETWORK, INC.). C. A. 2d Cir. Certiorari denied. Reported below: 844 F. 2d 955.

No. 88-672. TRIANGLE INDUSTRIES, INC., SUCCESSOR IN INTEREST TO CENTRAL JERSEY INDUSTRIES, INC. *v.* ZULKOWSKI ET AL. C. A. 3d Cir. Certiorari denied. Reported below: 852 F. 2d 73.

No. 88-675. SYNERGY GAS CORP. *v.* SASSO. C. A. 2d Cir. Certiorari denied. Reported below: 853 F. 2d 59.

No. 88-677. BOYLE, PERSONAL REPRESENTATIVE OF THE HEIRS AND ESTATE OF BOYLE *v.* UNITED TECHNOLOGIES CORP. C. A. 4th Cir. Certiorari denied. Reported below: 857 F. 2d 1468.

No. 88-678. MCGEE, ON BEHALF OF SWEET *v.* TREHARNE, LOS ANGELES PUBLIC GUARDIAN, ET AL. C. A. 9th Cir. Certiorari denied.

No. 88-679. BROWN *v.* ALABAMA. Ct. Crim. App. Ala. Certiorari denied. Reported below: 531 So. 2d 64.

No. 88-680. LAI ET UX. *v.* CITY AND COUNTY OF HONOLULU. C. A. 9th Cir. Certiorari denied. Reported below: 841 F. 2d 301.

No. 88-682. H & H BEVERAGE DISTRIBUTORS, INC. *v.* DEPARTMENT OF REVENUE OF PENNSYLVANIA. C. A. 3d Cir. Certiorari denied. Reported below: 850 F. 2d 165.

No. 88-690. MATSON PLASTERING, INC. *v.* PLASTERERS & SHOPHANDS LOCAL NO. 66, OPERATIVE PLASTERERS & CEMENT

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MASONS INTERNATIONAL ASSOCIATION OF THE UNITED STATES AND CANADA. C. A. 9th Cir. Certiorari denied. Reported below: 852 F. 2d 1200.

No. 88-697. *TRAHAN v. NEBRASKA*. Sup. Ct. Neb. Certiorari denied. Reported below: 229 Neb. 683, 428 N. W. 2d 619.

No. 88-705. *JONES v. NEW MEXICO*. Ct. App. N. M. Certiorari denied. Reported below: 107 N. M. 503, 760 P. 2d 796.

No. 88-714. *O'NEIL, ATTORNEY GENERAL OF RHODE ISLAND v. BLACKSTONE VALLEY ELECTRIC Co.* Sup. Ct. R. I. Certiorari denied. Reported below: 543 A. 2d 253.

No. 88-718. *SCHUCKER v. ROCKWOOD ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 846 F. 2d 1202.

No. 88-793. *PAGEL v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 854 F. 2d 267.

No. 88-5246. *MORA ET AL. v. UNITED STATES*. C. A. 10th Cir. Certiorari denied. Reported below: 845 F. 2d 233.

No. 88-5414. *JOHNSON v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 846 F. 2d 279.

No. 88-5475. *OLSON v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 848 F. 2d 196.

No. 88-5478. *BATRA v. COMMODITY FUTURES TRADING COMMISSION ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 845 F. 2d 1020.

No. 88-5558. *FLOWERS v. WARDEN, CONNECTICUT CORRECTIONAL INSTITUTION, SOMERS, CONNECTICUT*. C. A. 2d Cir. Certiorari denied. Reported below: 853 F. 2d 131.

No. 88-5560. *PENDLETON v. BUREAU OF PRISONS*. C. A. 3d Cir. Certiorari denied. Reported below: 849 F. 2d 602.

No. 88-5698. *McFARLAND v. LOCKHART, DIRECTOR, ARKANSAS DEPARTMENT OF CORRECTION, ET AL.* C. A. 8th Cir. Certiorari denied.

No. 88-5729. *GALLAGHER v. VERMONT*. Sup. Ct. Vt. Certiorari denied. Reported below: 150 Vt. 341, 554 A. 2d 221.

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No. 88-5732. *HILL v. REDMAN, WARDEN.* C. A. 6th Cir. Certiorari denied.

No. 88-5735. *CURTIS v. ARAVE, WARDEN.* C. A. 9th Cir. Certiorari denied. Reported below: 849 F. 2d 1475.

No. 88-5736. *COX v. NEW MEXICO ET AL.* Sup. Ct. N. M. Certiorari denied.

No. 88-5743. *WILLIAMS v. ARMONTROUT ET AL.* C. A. 8th Cir. Certiorari denied. Reported below: 852 F. 2d 377.

No. 88-5752. *STEPHENS v. SOUTH ATLANTIC CANNERS, INC., ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 848 F. 2d 484.

No. 88-5765. *POOLE v. JONES, WARDEN, ET AL.* C. A. 11th Cir. Certiorari denied. Reported below: 856 F. 2d 199.

No. 88-5767. *SIMMONS v. MARSH.* C. A. 4th Cir. Certiorari denied. Reported below: 852 F. 2d 566.

No. 88-5769. *O'CONNOR v. HECHT ET AL.* C. A. 9th Cir. Certiorari denied.

No. 88-5784. *WINTJEN v. BONACKER ET AL.* C. A. 8th Cir. Certiorari denied.

No. 88-5786. *TYLER ET AL. v. CLINE ET AL.* C. A. 8th Cir. Certiorari denied. Reported below: 859 F. 2d 59.

No. 88-5814. *BUNNER v. UNITED STATES.* C. A. 11th Cir. Certiorari denied. Reported below: 856 F. 2d 199.

No. 88-5819. *TURNPAUGH v. FOLTZ, WARDEN.* C. A. 6th Cir. Certiorari denied. Reported below: 856 F. 2d 196.

No. 88-5824. *GARRISON v. UNITED STATES.* C. A. 4th Cir. Certiorari denied. Reported below: 849 F. 2d 103.

No. 88-5839. *MERCER v. UNITED STATES.* C. A. 8th Cir. Certiorari denied. Reported below: 853 F. 2d 630.

No. 88-5841. *OLLETT v. UNITED STATES.* C. A. 11th Cir. Certiorari denied. Reported below: 848 F. 2d 1193.



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No. 87-1045. DIRECTOR, OFFICE OF WORKERS' COMPENSATION PROGRAMS, UNITED STATES DEPARTMENT OF LABOR *v.* KYLE; and

No. 87-1065. NATIONAL COUNCIL ON COMPENSATION INSURANCE *v.* KYLE ET AL. C. A. 6th Cir. Motion of respondent Fred Kyle for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 819 F. 2d 139.

No. 88-336. HILLS, SUPERINTENDENT, PICKAWAY CORRECTIONAL INSTITUTION *v.* FREELS. C. A. 6th Cir. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 843 F. 2d 958.

No. 88-647. WHITEHORN ET UX. *v.* MURPHY ET AL. C. A. 11th Cir. Certiorari denied. JUSTICE STEVENS took no part in the consideration or decision of this petition.\* Reported below: 849 F. 2d 1479.

No. 88-674. ABADJIAN ET AL. *v.* GULF OIL CORP. ET AL. Ct. App. Cal., 2d App. Dist. Certiorari denied. JUSTICE WHITE would grant certiorari.

#### *Rehearing Denied*

No. 87-1947. VITALE ET AL. *v.* SNAIDER ET AL., *ante*, p. 821;

No. 87-7228. DAILEY *v.* WEST VIRGINIA DEPARTMENT OF WELFARE, *ante*, p. 923;

No. 88-5360. SHINN *v.* UNITED STATES DEPARTMENT OF THE ARMY, *ante*, p. 929;

No. 88-5378. COLLIER *v.* JONES, *ante*, p. 929;

No. 88-5434. SKATZES *v.* MORRIS, SUPERINTENDENT, SOUTHERN OHIO CORRECTIONAL FACILITY, *ante*, p. 930;

No. 88-5514. BRATTON *v.* MONROE COUNTY ET AL., *ante*, p. 945;

No. 88-5551. SILVAGGIO *v.* CALIFORNIA, *ante*, p. 958; and

No. 88-5593. HEISHMAN *v.* CALIFORNIA, *ante*, p. 948. Petitions for rehearing denied.

DECEMBER 19, 1988

#### *Certiorari Denied*

No. 88-874 (A-481). McMURTREY *v.* ARIZONA. Super. Ct. Ariz., Pima County. Application for stay of execution of sentence

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\*See also note, *supra*, p. 987.

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of death, presented to JUSTICE O'CONNOR, and by her referred to the Court, denied. Certiorari denied.

JUSTICE BRENNAN and JUSTICE MARSHALL, dissenting.

Adhering to our views that the death penalty is in all circumstances cruel and unusual punishment prohibited by the Eighth and Fourteenth Amendments, *Gregg v. Georgia*, 428 U. S. 153, 227, 231 (1976), we would grant the application for stay of execution and the petition for writ of certiorari and would vacate the death sentence in this case.

JANUARY 5, 1989

*Dismissal Under Rule 53*

No. 88-754. JENKINS ET AL. *v.* UNITED STATES. C. A. 9th Cir. Certiorari dismissed under this Court's Rule 53.

*Miscellaneous Order*

No. A-530. MERCER *v.* ARMONTROUT, WARDEN. Application for stay of execution of sentence of death, presented to JUSTICE BLACKMUN, and by him referred to the Court, denied.

JUSTICE BRENNAN and JUSTICE MARSHALL, dissenting.

Adhering to our views that the death penalty is in all circumstances cruel and unusual punishment prohibited by the Eighth and Fourteenth Amendments, *Gregg v. Georgia*, 428 U. S. 153, 227, 231 (1976), we would grant the application for stay of execution in order to give the applicant time to file a petition for writ of certiorari and would grant the petition and vacate the death sentence in this case.

JANUARY 6, 1989

*Dismissal Under Rule 53*

No. 87-1943. MINNESOTA NEWSPAPER ASSN., INC. *v.* POSTMASTER GENERAL OF THE UNITED STATES ET AL. D. C. Minn. [Probable jurisdiction noted, *ante*, p. 815.] Appeal dismissed under this Court's Rule 53.

JANUARY 9, 1989

*Appeals Dismissed*

No. 88-734. SAGAN *v.* PENNSYLVANIA PUBLIC TELEVISION NETWORK ET AL. Appeal from Sup. Ct. Pa. dismissed for want of jurisdiction. Reported below: 518 Pa. 564, 544 A. 2d 1309.

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No. 88-5837. *RHOADES v. IDAHO*. Appeal from Dist. Ct. Idaho, 7th Jud. Dist., Bonneville County, dismissed for want of jurisdiction.

No. 88-759. *CLARK v. FLORIDA BAR*. Appeal from Sup. Ct. Fla. dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied. Reported below: 528 So. 2d 369.

No. 88-804. *DAVIS v. OKLAHOMA*. Appeal from Ct. Crim. App. Okla. dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied. Reported below: 759 P. 2d 1033.

No. 88-852. *HOOVER ET UX. v. UNITED STATES*. Appeal from C. A. 9th Cir. dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied. Reported below: 855 F. 2d 861.

No. 88-896. *POLYAK v. HULEN ET AL.* Appeal from C. A. 6th Cir. dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied. Reported below: 849 F. 2d 609.

No. 88-5425. *LYERLA v. SOUTH DAKOTA*. Appeal from Sup. Ct. S. D. dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied. Reported below: 424 N. W. 2d 908.

No. 88-5852. *BETKA v. CITY OF WEST LINN, OREGON, ET AL.* (two cases). Appeals from C. A. 9th Cir. dismissed for want of jurisdiction. Treating the papers whereon the appeals were taken as a petition for writ of certiorari, certiorari denied.

No. 88-5785. *O'LEARY v. YARMOSKY*. Appeal from App. Ct. Mass. dismissed for want of substantial federal question. Reported below: 26 Mass. App. 1101, 522 N. E. 2d 1018.

*Certiorari Granted—Vacated and Remanded*

No. 87-1630. *RELIANCE INSURANCE CO. v. GLADOS, INC.* C. A. 11th Cir. Motion of respondent to award attorney's fees denied. Certiorari granted, judgment vacated, and case remanded for further consideration in light of *Beech Aircraft Corp. v. Rainey*, ante, p. 153. Reported below: 831 F. 2d 1068.



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*Miscellaneous Orders*

No. — — —. *SERRANO ET AL. v. JONES & LAUGHLIN STEEL CO. ET AL.*, *ante*, p. 988. Motion for reconsideration of order denying leave to file petition for writ of certiorari out of time denied.

No. A-447 (88-760). *KEYSTONE LAMP MANUFACTURING CO. v. NATIONAL LABOR RELATIONS BOARD*. C. A. 3d Cir. Application for stay, addressed to JUSTICE KENNEDY and referred to the Court, denied.

No. D-731. *IN RE DISBARMENT OF CLAYTON*. Disbarment entered. [For earlier order herein, see 487 U. S. 1249.]

No. D-739. *IN RE DISBARMENT OF BENJAMIN*. Disbarment entered. [For earlier order herein, see *ante*, p. 906.]

No. D-748. *IN RE DISBARMENT OF JURON*. It is ordered that Marvin Juron, of Deerfield, 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-749. *IN RE DISBARMENT OF CARTER*. It is ordered that Robert A. Carter, Jr., of Columbus, Ohio, be suspended from the practice of law in this Court and that a rule issue, returnable within 40 days, requiring him to show cause why he should not be disbarred from the practice of law in this Court.

No. D-750. *IN RE DISBARMENT OF SOUCEK*. It is ordered that Jonathan H. Soucek, of Cleveland, Ohio, be suspended from the practice of law in this Court and that a rule issue, returnable within 40 days, requiring him to show cause why he should not be disbarred from the practice of law in this Court.

No. D-751. *IN RE DISBARMENT OF EBERSTEIN*. It is ordered that Brian A. Eberstein, of Dallas, Tex., be suspended from the practice of law in this Court and that a rule issue, returnable within 40 days, requiring him to show cause why he should not be disbarred from the practice of law in this Court.

No. 115, Orig. *ARKANSAS v. OKLAHOMA*. Motion for leave to file bill of complaint denied.

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No. 87-826. *GOLDBERG ET AL. v. SWEET, DIRECTOR, ILLINOIS DEPARTMENT OF REVENUE, ET AL.*; and

No. 87-1101. *GTE SPRINT COMMUNICATIONS CORP. v. SWEET, DIRECTOR, ILLINOIS DEPARTMENT OF REVENUE, ET AL.* Sup. Ct. Ill. [Probable jurisdiction noted, 484 U. S. 1057.] Motion of appellant GTE Sprint Communications Corp. for leave to file a supplemental brief after argument granted.

No. 87-1428. *LORANCE ET AL. v. AT&T TECHNOLOGIES, INC., ET AL.* C. A. 7th Cir. [Certiorari granted, *ante*, p. 887.] Motion of the Solicitor General for leave to participate in oral argument as *amicus curiae* and for divided argument granted.

No. 87-1589. *PITTSBURGH & LAKE ERIE RAILROAD CO. v. RAILWAY LABOR EXECUTIVES' ASSN. ET AL.*; and

No. 87-1888. *PITTSBURGH & LAKE ERIE RAILROAD CO. v. RAILWAY LABOR EXECUTIVES' ASSN. ET AL.* C. A. 3d Cir. [Certiorari granted, *ante*, p. 965.] Motion of respondents to argue these cases in tandem with No. 88-1, *Consolidated Rail Corporation v. Railway Labor Executives' Assn. et al.* [certiorari granted, *ante*, p. 815], denied.

No. 87-1855. *GILHOOL, SECRETARY OF EDUCATION OF PENNSYLVANIA v. MUTH ET AL.* C. A. 3d Cir. [Certiorari granted, *ante*, p. 815.] Motion of respondent Central Bucks School District for divided argument and for additional time for oral argument denied.

No. 87-1862. *CALIFORNIA ET AL. v. ARC AMERICA CORP. ET AL.* C. A. 9th Cir. [Probable jurisdiction noted, *ante*, p. 814.] Motion of the Solicitor General for leave to participate in oral argument as *amicus curiae* and for divided argument granted. JUSTICE STEVENS and JUSTICE O'CONNOR took no part in the consideration or decision of this motion.

No. 87-1956. *FRANK, POSTMASTER GENERAL OF THE UNITED STATES, ET AL. v. MINNESOTA NEWSPAPER ASSN., INC.* D. C. Minn. [Probable jurisdiction noted, *ante*, p. 815.] Motion of appellee to dismiss the appeal denied.

No. 87-6571. *GRAHAM v. CONNOR ET AL.* C. A. 4th Cir. [Certiorari granted, *ante*, p. 816.] Motion of the Solicitor General for leave to participate in oral argument as *amicus curiae* and for divided argument denied.

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No. 88-305. *SOUTH CAROLINA v. GATHERS*. Sup. Ct. S. C. [Certiorari granted, *ante*, p. 888.] Motion of respondent to dismiss the writ of certiorari denied.

No. 88-317. *DUCKWORTH v. EAGAN*. C. A. 7th Cir. [Certiorari granted, *ante*, p. 888.] Motion of the Solicitor General for leave to participate in oral argument as *amicus curiae* and for divided argument granted.

No. 88-454. *UNITED STATES v. MONSANTO*. C. A. 2d Cir. [Certiorari granted, *ante*, p. 941.] Motion of the Solicitor General to dispense with printing the joint appendix granted.

No. 88-557. *MICHIGAN v. LEIGH*. Ct. App. Mich.;

No. 88-597. *CITY OF GRETNA, LOUISIANA, ET AL. v. CITIZENS FOR A BETTER GRETNA ET AL.* C. A. 5th Cir.; and

No. 88-606. *CITY OF BAYTOWN, TEXAS, ET AL. v. CAMPOS ET AL.* C. A. 5th Cir. The Solicitor General is invited to file briefs in these cases expressing the views of the United States.

No. 88-5526. *BETKA v. A-T INDUSTRIES, INC., ET AL.*, *ante*, p. 939. Motion of appellant for reconsideration of order denying leave to proceed *in forma pauperis* denied.

No. 88-5803. *IN RE MILKOWSKI ET UX*. Motion of petitioners for leave to proceed *in forma pauperis* denied. Petitioners are allowed until January 30, 1989, within which to pay the docketing fee required by Rule 45(a) and to submit a petition in compliance with Rule 33 of the Rules of this Court.

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

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

No. 88-5823. *IN RE WRIGHT ET AL.*;

No. 88-5949. *IN RE CHRISTIANSON*;

No. 88-5982. *IN RE GILL*; and

No. 88-6084. *IN RE RENTSCHLER*. Petitions for writs of habeas corpus denied.

No. 88-5921. *IN RE MARTIN*. Petition for writ of prohibition denied. JUSTICE BRENNAN took no part in the consideration or decision of this petition.



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*Probable Jurisdiction Noted*

No. 88-515. SABLE COMMUNICATIONS OF CALIFORNIA, INC. *v.* FEDERAL COMMUNICATIONS COMMISSION ET AL.; and

No. 88-525. FEDERAL COMMUNICATIONS COMMISSION ET AL. *v.* SABLE COMMUNICATIONS OF CALIFORNIA, INC. Appeals from D. C. C. D. Cal. Probable jurisdiction noted, cases consolidated, and a total of one hour allotted for oral argument. Reported below: 692 F. Supp. 1208.

No. 88-605. WEBSTER, ATTORNEY GENERAL OF MISSOURI, ET AL. *v.* REPRODUCTIVE HEALTH SERVICES ET AL. Appeal from C. A. 8th Cir. Probable jurisdiction noted. Reported below: 851 F. 2d 1071.

*Certiorari Granted*

No. 88-348. NEW ORLEANS PUBLIC SERVICE INC. *v.* COUNCIL OF THE CITY OF NEW ORLEANS ET AL. C. A. 5th Cir. Certiorari granted. Reported below: 850 F. 2d 1069.

No. 88-412. HOFFMAN, TRUSTEE *v.* CONNECTICUT DEPARTMENT OF INCOME MAINTENANCE ET AL. C. A. 2d Cir. Certiorari granted. Reported below: 850 F. 2d 50.

No. 88-774. NEWMAN-GREEN, INC. *v.* ALFONZO-LARRAIN ET AL. C. A. 7th Cir. Certiorari granted. Reported below: 854 F. 2d 916.

No. 88-782. UNITED STATES DEPARTMENT OF JUSTICE *v.* TAX ANALYSTS. C. A. D. C. Cir. Certiorari granted. Reported below: 269 U. S. App. D. C. 315, 845 F. 2d 1060.

No. 88-333. ALABAMA *v.* SMITH. Sup. Ct. Ala. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari granted. Reported below: 557 So. 2d 13.

No. 88-420. JONES, SUPERINTENDENT, MISSOURI TRAINING CENTER FOR MEN AT MOBERLY *v.* THOMAS. C. A. 8th Cir. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari granted. Reported below: 844 F. 2d 1337.

No. 88-5014. GOMEZ *v.* UNITED STATES; and

No. 88-5158. CHAVEZ-TESINA *v.* UNITED STATES. C. A. 2d Cir. Motions of petitioners for leave to proceed *in forma pauperis* granted. Certiorari granted, cases consolidated, and a total

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of one hour allotted for oral argument. Reported below: 848 F. 2d 1324.

*Certiorari Denied.* (See also Nos. 88-759, 88-804, 88-852, 88-896, 88-5425, and 88-5852, *supra.*)

No. 87-1420. *M-TRON INDUSTRIES, INC. v. HILLEBRAND.* C. A. 8th Cir. *Certiorari denied.* Reported below: 827 F. 2d 363.

No. 87-1448. *WESTINGHOUSE ELECTRIC CORP. v. BHAYA ET AL.* C. A. 3d Cir. *Certiorari denied.* Reported below: 832 F. 2d 258.

No. 87-1731. *CARSON PIRIE SCOTT & CO. v. LACEY.* C. A. 3d Cir. *Certiorari denied.* Reported below: 838 F. 2d 461.

No. 87-2072. *YOUNG v. GENERAL FOODS CORP.* C. A. 11th Cir. *Certiorari denied.* Reported below: 840 F. 2d 825.

No. 88-326. *SMITHSON ET UX. v. UNITED STATES.* C. A. Fed. Cir. *Certiorari denied.* Reported below: 847 F. 2d 791.

No. 88-390. *PETERMAN v. UNITED STATES.* C. A. 10th Cir. *Certiorari denied.* Reported below: 841 F. 2d 1474.

No. 88-428. *VERITY, SECRETARY OF COMMERCE, ET AL. v. CENTER FOR ENVIRONMENTAL EDUCATION ET AL.* C. A. D. C. Cir. *Certiorari denied.* Reported below: 268 U. S. App. D. C. 116, 839 F. 2d 795.

No. 88-436. *HEINTZ, COMMISSIONER, DEPARTMENT OF INCOME MAINTENANCE OF CONNECTICUT v. UNITED STATES.* Sup. Ct. Conn. *Certiorari denied.* Reported below: 207 Conn. 743, 542 A. 2d 1153.

No. 88-487. *CENTRAL STATES, SOUTHEAST AND SOUTHWEST AREAS HEALTH AND WELFARE FUND v. HAWKEYE-SECURITY INSURANCE CO.* C. A. 6th Cir. *Certiorari denied.* Reported below: 849 F. 2d 609.

No. 88-500. *ILLINOIS COMMERCE COMMISSION ET AL. v. INTERSTATE COMMERCE COMMISSION ET AL.* C. A. D. C. Cir. *Certiorari denied.* Reported below: 270 U. S. App. D. C. 214, 848 F. 2d 1246.

No. 88-502. *IN RE SOLERWITZ.* C. A. Fed. Cir. *Certiorari denied.* Reported below: 848 F. 2d 1573.

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No. 88-505. NATIONAL ASSOCIATION OF COUNTIES ET AL. *v.* BRADY, SECRETARY OF THE TREASURY. C. A. D. C. Cir. Certiorari denied. Reported below: 268 U. S. App. D. C. 373, 842 F. 2d 369.

No. 88-514. HENSON ET AL. *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 848 F. 2d 1374.

No. 88-521. JESSUP ET AL. *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied. Reported below: 856 F. 2d 183.

No. 88-548. NEWMAN *v.* UNITED STATES. C. A. D. C. Cir. Certiorari denied.

No. 88-559. AZAR *v.* MINISTER OF LEGAL AFFAIRS OF TRINIDAD AND TOBAGO. C. A. 11th Cir. Certiorari denied. Reported below: 848 F. 2d 1151.

No. 88-593. TRUJILLO *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 851 F. 2d 111.

No. 88-596. COUNTY OF SUMMIT *v.* CITY OF AKRON. Sup. Ct. Ohio. Certiorari denied. Reported below: 36 Ohio St. 3d 85, 521 N. E. 2d 818.

No. 88-602. ALLIED CHEMICAL *v.* NIAGARA MOHAWK POWER CORP. ET AL. Ct. App. N. Y. Certiorari denied. Reported below: 72 N. Y. 2d 271, 528 N. E. 2d 153.

No. 88-607. WEIGNER *v.* CITY OF NEW YORK. C. A. 2d Cir. Certiorari denied. Reported below: 852 F. 2d 646.

No. 88-612. ROBINSON *v.* UNITED STATES. Ct. Mil. App. Certiorari denied. Reported below: 26 M. J. 361.

No. 88-617. YORK BANK & TRUST CO. *v.* FEDERAL SAVINGS & LOAN INSURANCE CORPORATION ET AL. C. A. 3d Cir. Certiorari denied. Reported below: 851 F. 2d 637.

No. 88-622. INTERNATIONAL ASSOCIATION OF BRIDGE, STRUCTURAL & ORNAMENTAL IRONWORKERS, AFL-CIO *v.* BLOUNT INTERNATIONAL, LTD. Dist. Ct. App. Fla., 2d Dist. Certiorari denied. Reported below: 519 So. 2d 1009.

No. 88-624. HICKS *v.* FEENEY, DIRECTOR, DELAWARE STATE HOSPITAL. C. A. 3d Cir. Certiorari denied. Reported below: 850 F. 2d 152.



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No. 88-628. CAUCUS DISTRIBUTORS, INC., ET AL. *v.* MINNESOTA COMMISSIONER OF COMMERCE. Ct. App. Minn. Certiorari denied. Reported below: 422 N. W. 2d 264.

No. 88-632. CONSOLIDATED CAPITAL CORP. ET AL. *v.* SHEA & GOULD ET AL. Dist. Ct. App. Fla., 2d Dist. Certiorari denied.

No. 88-655. GRECO ET AL. *v.* TAMPA WHOLESALE CO. ET AL. Dist. Ct. App. Fla., 2d Dist. Certiorari denied. Reported below: 522 So. 2d 506.

No. 88-673. JORDAN *v.* HODEL, SECRETARY OF THE INTERIOR. C. A. 9th Cir. Certiorari denied. Reported below: 847 F. 2d 1368.

No. 88-685. KURITZKY ET AL. *v.* BLUE SHIELD OF WESTERN NEW YORK, INC., ET AL. C. A. 2d Cir. Certiorari denied. Reported below: 850 F. 2d 126.

No. 88-686. D'ANDREA *v.* BANK OF AMERICA NATIONAL TRUST & SAVINGS ASSN. Ct. App. Cal., 2d App. Dist. Certiorari denied.

No. 88-692. TEETER ET UX., DBA SKY'S THE LIMIT *v.* GRAVITY GUIDANCE, INC. C. A. Fed. Cir. Certiorari denied. Reported below: 854 F. 2d 1327.

No. 88-695. MILLER *v.* MORONGO BAND OF MISSION INDIANS. C. A. 9th Cir. Certiorari denied. Reported below: 858 F. 2d 1376.

No. 88-698. VOGLER *v.* UNITED STATES ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 859 F. 2d 638.

No. 88-700. CORWIN *v.* CALIFORNIA. Ct. App. Cal., 2d App. Dist. Certiorari denied.

No. 88-704. HOFFMAN ET AL. *v.* MERRELL DOW PHARMACEUTICALS, INC. C. A. 6th Cir. Certiorari denied. Reported below: 857 F. 2d 290.

No. 88-716. COOK *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. Reported below: 854 F. 2d 371.

No. 88-717. ALLARD *v.* FRECH, INDEPENDENT EXECUTRIX OF THE ESTATE OF ALLARD. Sup. Ct. Tex. Certiorari denied. Reported below: 754 S. W. 2d 111.

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No. 88-719. *TUCKER v. NORTHEAST SAVINGS ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 849 F. 2d 1468.

No. 88-720. *MALONEY, SUPERINTENDENT, MASSACHUSETTS CORRECTIONAL INSTITUTION v. LANIGAN.* C. A. 1st Cir. Certiorari denied. Reported below: 853 F. 2d 40.

No. 88-721. *POE v. HAYDON ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 853 F. 2d 418.

No. 88-722. *STAPLETON v. OHIO.* Ct. App. Ohio, Montgomery County. Certiorari denied.

No. 88-723. *JENKINS v. GEORGIA POWER CO.* C. A. 11th Cir. Certiorari denied. Reported below: 849 F. 2d 507.

No. 88-725. *CLAMP-ALL CORP. v. CAST IRON SOIL PIPE INSTITUTE ET AL.* C. A. 1st Cir. Certiorari denied. Reported below: 851 F. 2d 478.

No. 88-726. *MCDOWELL ET AL. v. BARNES.* C. A. 6th Cir. Certiorari denied. Reported below: 848 F. 2d 725.

No. 88-727. *BLUMBERG v. HCA MANAGEMENT Co., INC., ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 848 F. 2d 642.

No. 88-728. *CONSTANT v. UNITED STATES.* C. A. Fed. Cir. Certiorari denied. Reported below: 861 F. 2d 728.

No. 88-736. *WANKOFF, INDIVIDUALLY AND AS ADMINISTRATRIX OF THE ESTATE OF WANKOFF v. TIBBS ET AL.* Super. Ct. Pa. Certiorari denied. Reported below: 372 Pa. Super. 646, 534 A. 2d 1124.

No. 88-737. *MORGAN v. FORETICH.* Ct. App. D. C. Certiorari denied. Reported below: 546 A. 2d 407.

No. 88-739. *SKIRLICK ET AL. v. FIDELITY & DEPOSIT COMPANY OF MARYLAND ET AL.* C. A. D. C. Cir. Certiorari denied. Reported below: 271 U. S. App. D. C. 409, 852 F. 2d 1376.

No. 88-740. *MADEJ v. AIR PRODUCTS & CHEMICALS, INC.* Super. Ct. Pa. Certiorari denied. Reported below: 373 Pa. Super. 646, 536 A. 2d 833.

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No. 88-741. CLALLAM COUNTY, WASHINGTON, ET AL. *v.* DEPARTMENT OF TRANSPORTATION OF WASHINGTON ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 849 F. 2d 424.

No. 88-742. VONHOF ET AL. *v.* WASHINGTON. Ct. App. Wash. Certiorari denied. Reported below: 51 Wash. App. 33, 751 P. 2d 1221.

No. 88-746. ADAMS ET AL. *v.* BUDD CO. ET AL. C. A. 7th Cir. Certiorari denied. Reported below: 846 F. 2d 428.

No. 88-747. ALLIED CORP. *v.* UNITED STATES INTERNATIONAL TRADE COMMISSION ET AL. C. A. Fed. Cir. Certiorari denied. Reported below: 850 F. 2d 1573.

No. 88-748. DATA CONTROLS NORTH, INC., ET AL. *v.* EQUITABLE BANK, NATIONAL ASSN. C. A. 3d Cir. Certiorari denied. Reported below: 851 F. 2d 691.

No. 88-749. KUNTZ ET AL. *v.* CITY OF DAYTON, OHIO. Sup. Ct. Ohio. Certiorari denied. Reported below: 37 Ohio St. 3d 713, 532 N. E. 2d 764.

No. 88-750. GEORGE *v.* MICHIGAN DEPARTMENT OF NATURAL RESOURCES ET AL. Ct. App. Mich. Certiorari denied.

No. 88-752. MARTIN *v.* WALKER. C. A. 8th Cir. Certiorari denied. Reported below: 850 F. 2d 433.

No. 88-755. ESTATE OF VANE *v.* THE FAIR, INC., ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 849 F. 2d 186.

No. 88-757. HENING *v.* AMBACH, COMMISSIONER OF EDUCATION OF NEW YORK, ET AL. App. Div., Sup. Ct. N. Y., 3d Jud. Dept. Certiorari denied. Reported below: 132 App. Div. 2d 783, 517 N. Y. S. 2d 331.

No. 88-762. SPECHT ET UX. *v.* JENSEN ET AL. C. A. 10th Cir. Certiorari denied. Reported below: 853 F. 2d 805.

No. 88-763. MICHIGAN *v.* SERRANO. Ct. App. Mich. Certiorari denied.

No. 88-765. THANH VONG HOAI *v.* THANH VAN VO ET AL. C. A. 4th Cir. Certiorari denied. Reported below: 848 F. 2d 185.



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No. 88-766. *MAYES v. NORTH CAROLINA*. Sup. Ct. N. C. Certiorari denied. Reported below: 323 N. C. 159, 371 S. E. 2d 476.

No. 88-767. *RELIFORD v. UNITED STATES*. Ct. Mil. App. Certiorari denied. Reported below: 27 M. J. 176.

No. 88-769. *HARLAN v. COMMITTEE ON PROFESSIONAL ETHICS AND CONDUCT OF THE IOWA STATE BAR ASSN. ET AL.* C. A. 8th Cir. Certiorari denied. Reported below: 860 F. 2d 1085.

No. 88-770. *PULITZER PUBLISHING CO. ET AL. v. DUGGAN, JUDGE, CIRCUIT COURT OF MISSOURI, ST. CHARLES COUNTY*. Sup. Ct. Mo. Certiorari denied.

No. 88-771. *SUN-TEK INDUSTRIES, INC. v. KENNEDY SKYLITES, INC., ET AL.* C. A. Fed. Cir. Certiorari denied. Reported below: 848 F. 2d 179.

No. 88-779. *GARNER v. PENNSYLVANIA*. Super. Ct. Pa. Certiorari denied. Reported below: 371 Pa. Super. 408, 538 A. 2d 506.

No. 88-780. *CIMO ET AL. v. PETTY ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 848 F. 2d 654.

No. 88-781. *MUNCIE POWER PRODUCTS, INC. v. CHURNOCK*. C. A. 3d Cir. Certiorari denied.

No. 88-783. *VANDERCREEK v. FLORIDA*. Dist. Ct. App. Fla., 2d Dist. Certiorari denied. Reported below: 531 So. 2d 719.

No. 88-784. *BRISTOW v. LIFE & CASUALTY INSURANCE COMPANY OF TENNESSEE*. Sup. Ct. Miss. Certiorari denied. Reported below: 529 So. 2d 620.

No. 88-787. *RAJARAM v. INTERNATIONAL TYPOGRAPHICAL UNION ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 852 F. 2d 566.

No. 88-789. *RAILROAD COMMISSION OF TEXAS ET AL. v. MISSOURI PACIFIC RAILROAD ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 850 F. 2d 264.

No. 88-794. *BRUEGGING v. WILSON, ARCHIVIST OF NATIONAL ARCHIVES, ET AL.* C. A. D. C. Cir. Certiorari denied.

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No. 88-798. *HODEL, SECRETARY OF THE INTERIOR v. MUSCOGEE (CREEK) NATION*. C. A. D. C. Cir. Certiorari denied. Reported below: 271 U. S. App. D. C. 212, 851 F. 2d 1439.

No. 88-799. *WOLSKE v. WISCONSIN*. Ct. App. Wis. Certiorari denied. Reported below: 143 Wis. 2d 175, 420 N. W. 2d 60.

No. 88-801. *VSL CORP., INC., ET AL. v. CONMAR CORP. ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 858 F. 2d 499.

No. 88-808. *CALIFORNIA LAND & CATTLE CO. v. AMSTAR CORP.* Ct. App. Cal., 6th App. Dist. Certiorari denied.

No. 88-817. *CARTER, ADMINISTRATRIX OF THE ESTATE OF CARTER v. CITY OF CHATTANOOGA, TENNESSEE*. C. A. 6th Cir. Certiorari denied. Reported below: 850 F. 2d 1119.

No. 88-822. *AMERICAN STANDARDS TESTING BUREAU, INC. v. HONEYWELL, INC., ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 851 F. 2d 652.

No. 88-827. *WITSCHEN, SHERIFF OF SHERBURNE COUNTY, ET AL. v. BOSWELL, INDIVIDUALLY AND AS PERSONAL REPRESENTATIVE OF THE ESTATE OF BOSWELL*. C. A. 8th Cir. Certiorari denied. Reported below: 849 F. 2d 1117.

No. 88-831. *BASKIN v. MISSISSIPPI*. Sup. Ct. Miss. Certiorari denied. Reported below: 528 So. 2d 1120.

No. 88-835. *FROSCHAUER v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 858 F. 2d 1218.

No. 88-843. *TICKTIN v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 859 F. 2d 1265.

No. 88-845. *BIBB ET UX. v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 855 F. 2d 863.

No. 88-860. *LUMBEE FARMS COOPERATIVE, INC. v. NATIONAL LABOR RELATIONS BOARD*. C. A. 4th Cir. Certiorari denied. Reported below: 850 F. 2d 689.

No. 88-861. *MODEEN v. UNITED STATES*. Ct. Mil. App. Certiorari denied. Reported below: 27 M. J. 400.

No. 88-862. *RAY v. UNITED STATES*. Ct. Mil. App. Certiorari denied. Reported below: 26 M. J. 468.

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No. 88-867. *WILLNER v. UNIVERSITY OF KANSAS*. C. A. 10th Cir. Certiorari denied. Reported below: 848 F. 2d 1020.

No. 88-869. *EVANS v. UNITED STATES*. Ct. Mil. App. Certiorari denied. Reported below: 27 M. J. 34.

No. 88-881. *VON MARSCHNER v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 849 F. 2d 1477.

No. 88-882. *BOSSELAIT ET AL. v. NEW HAMPSHIRE DEPARTMENT OF EMPLOYMENT SECURITY ET AL.* Sup. Ct. N. H. Certiorari denied. Reported below: 130 N. H. 604, 547 A. 2d 682.

No. 88-883. *MORALES v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 854 F. 2d 61.

No. 88-890. *ROACH v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 854 F. 2d 1319.

No. 88-900. *KERR v. BOWEN, SECRETARY OF HEALTH AND HUMAN SERVICES*. C. A. 9th Cir. Certiorari denied. Reported below: 852 F. 2d 1289.

No. 88-911. *CEGELKA v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 853 F. 2d 627.

No. 88-917. *KAGANOVE v. UNITED STATES ENVIRONMENTAL PROTECTION AGENCY ET AL.* C. A. 7th Cir. Certiorari denied. Reported below: 856 F. 2d 884.

No. 88-930. *CUSUMANO ET AL. v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 860 F. 2d 1090.

No. 88-937. *ROSENGARTEN ET AL. v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 857 F. 2d 76.

No. 88-5035. *O'CONNELL v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 841 F. 2d 1408.

No. 88-5176. *ROYSTER v. McMACKIN, SUPERINTENDENT, MARION CORRECTIONAL INSTITUTION*. C. A. 6th Cir. Certiorari denied. Reported below: 845 F. 2d 327.

No. 88-5182. *ALLEN v. MORRIS, SUPERINTENDENT, SOUTHERN OHIO CORRECTIONAL FACILITY*. C. A. 6th Cir. Certiorari denied. Reported below: 845 F. 2d 610.

No. 88-5332. *WILLIAMS v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 850 F. 2d 691.



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No. 88-5345. *HARDIN v. HARDIN ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 848 F. 2d 190.

No. 88-5442. *SINK v. UNITED STATES.* C. A. 8th Cir. Certiorari denied. Reported below: 851 F. 2d 1120.

No. 88-5516. *EVINS v. CALIFORNIA.* Ct. App. Cal., 4th App. Dist. Certiorari denied.

No. 88-5555. *RED FOX v. UNITED STATES.* C. A. 7th Cir. Certiorari denied. Reported below: 845 F. 2d 152.

No. 88-5572. *SOTO ET UX. v. SACRAMENTO COUNTY ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 852 F. 2d 572.

No. 88-5635. *WARREN v. CABANA, SUPERINTENDENT, MISSISSIPPI STATE PENITENTIARY, ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 853 F. 2d 924.

No. 88-5644. *STEVEN W. v. UNITED STATES.* C. A. 10th Cir. Certiorari denied. Reported below: 850 F. 2d 648.

No. 88-5647. *BOOSS v. CARLSON ET AL.* C. A. D. C. Cir. Certiorari denied.

No. 88-5649. *BOOSS v. TURNER, WARDEN, ET AL.* C. A. 8th Cir. Certiorari denied.

No. 88-5674. *ANDERSON v. UNITED STATES.* C. A. D. C. Cir. Certiorari denied. Reported below: 271 U. S. App. D. C. 129, 851 F. 2d 384.

No. 88-5679. *PENDLETON v. UNITED STATES.* C. A. 9th Cir. Certiorari denied.

No. 88-5697. *PAUL v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. Reported below: 853 F. 2d 308.

No. 88-5748. *BRANTLEY v. UNITED STATES.* C. A. 11th Cir. Certiorari denied. Reported below: 858 F. 2d 744.

No. 88-5758. *CHOU v. UNIVERSITY OF CALIFORNIA AT BERKELEY; and CHOU v. UNIVERSITY OF CALIFORNIA.* C. A. 9th Cir. Certiorari denied. Reported below: 849 F. 2d 1475 (first case).

No. 88-5760. *GREEN v. JOHNSON, WARDEN.* C. A. 10th Cir. Certiorari denied.

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No. 88-5764. *MANGAN v. WEINBERGER ET AL.* C. A. 8th Cir. Certiorari denied. Reported below: 848 F. 2d 909.

No. 88-5773. *FULGHUM v. FORD, WARDEN.* C. A. 11th Cir. Certiorari denied. Reported below: 850 F. 2d 1529.

No. 88-5774. *BUCHANAN v. ROTHGERBER ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 856 F. 2d 192.

No. 88-5779. *PRENZLER v. COUNTY OF ORANGE, CALIFORNIA, ET AL.* Ct. App. Cal., 4th App. Dist. Certiorari denied.

No. 88-5780. *STRINGER v. JOHNSON ET AL.* Ct. App. Cal., 1st App. Dist. Certiorari denied.

No. 88-5781. *WILSON v. GARRAGHTY, WARDEN.* C. A. 4th Cir. Certiorari denied. Reported below: 854 F. 2d 1318.

No. 88-5793. *EVANS v. FULCOMER, WARDEN, ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 860 F. 2d 1074.

No. 88-5794. *GIAKOVMIS v. WASHINGTON.* Ct. App. Wash. Certiorari denied. Reported below: 50 Wash. App. 1060.

No. 88-5805. *RUCKER v. OHIO.* Ct. App. Ohio, Hamilton County. Certiorari denied.

No. 88-5807. *PRYMER v. CITY OF ROCKFORD, ILLINOIS, ET AL.* App. Ct. Ill., 2d Dist. Certiorari denied.

No. 88-5809. *GRIFFIN v. UNITED STATES.* C. A. 11th Cir. Certiorari denied. Reported below: 856 F. 2d 199.

No. 88-5810. *IVEY v. LEXINGTON FAYETTE URBAN COUNTY GOVERNMENT ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 848 F. 2d 191.

No. 88-5812. *PADAVICK v. OHIO.* Ct. App. Ohio, Cuyahoga County. Certiorari denied.

No. 88-5813. *MUHAMMAD v. UNITED STATES BUREAU OF PRISONS.* C. A. 10th Cir. Certiorari denied.

No. 88-5817. *CARROLL v. WHITE, WARDEN, ET AL.* C. A. 11th Cir. Certiorari denied. Reported below: 859 F. 2d 926.

No. 88-5818. *KINSEY v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. Reported below: 857 F. 2d 790.

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No. 88-5822. *TELEPO v. NEW JERSEY*. Super. Ct. N. J., App. Div. Certiorari denied.

No. 88-5833. *LATHAM v. GLUCKSTERN ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 849 F. 2d 605.

No. 88-5835. *KAY v. CITY OF BERKELEY, CALIFORNIA*. C. A. 9th Cir. Certiorari denied. Reported below: 844 F. 2d 792.

No. 88-5836. *BAEZ v. COUNTY OF ONONDAGA*. C. A. 2d Cir. Certiorari denied. Reported below: 853 F. 2d 73.

No. 88-5838. *COLOZZI v. PENNSYLVANIA*. Super. Ct. Pa. Certiorari denied. Reported below: 378 Pa. Super. 644, 544 A. 2d 1039.

No. 88-5840. *THOMPSON v. LYNAUGH, DIRECTOR, TEXAS DEPARTMENT OF CORRECTIONS*. C. A. 5th Cir. Certiorari denied.

No. 88-5843. *RAMOS-LOPEZ v. UNITED STATES*. C. A. 3d Cir. Certiorari denied.

No. 88-5844. *BENNY v. CHICAGO TITLE INSURANCE CO. ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 842 F. 2d 1147.

No. 88-5847. *JANKOWSKI v. FULTON COUNTY MEDICAL EXAMINER ET AL.* Sup. Ct. Ga. Certiorari denied. Reported below: — Ga. —, 372 S. E. 2d 641.

No. 88-5848. *BLAKEY v. VASSAR ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 849 F. 2d 604.

No. 88-5850. *HILL v. SCHUKIE ET AL.* C. A. 8th Cir. Certiorari denied.

No. 88-5854. *CREEL v. HECKMANN, CHAIRMAN, TEXAS BOARD OF PARDONS AND PAROLES*. Ct. Crim. App. Tex. Certiorari denied.

No. 88-5855. *STERLING v. MISSOURI*. Ct. App. Mo., Eastern Dist. Certiorari denied.

No. 88-5856. *LEE v. COUGHLIN, COMMISSIONER, NEW YORK DEPARTMENT OF CORRECTIONAL SERVICES, ET AL.* App. Div., Sup. Ct. N. Y., 3d Jud. Dept. Certiorari denied. Reported below: 142 App. Div. 2d 802, 530 N. Y. S. 2d 884.



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No. 88-5859. *JOHNSON v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 858 F. 2d 745.

No. 88-5860. *TROTZ v. UNITED STATES DISTRICT COURT, WESTERN DISTRICT OF PENNSYLVANIA, ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 857 F. 2d 1466.

No. 88-5862. *LIGHTSEY v. KASTNER, WARDEN, ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 846 F. 2d 329.

No. 88-5865. *GOLDEN v. DUGGER, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS*. Sup. Ct. Fla. Certiorari denied. Reported below: 534 So. 2d 399.

No. 88-5867. *HACKER v. MISSOURI*. Ct. App. Mo., Western Dist. Certiorari denied. Reported below: 755 S. W. 2d 603.

No. 88-5870. *BUCKLEY v. UNITED STATES*. C. A. 1st Cir. Certiorari denied. Reported below: 847 F. 2d 991.

No. 88-5872. *WALKER v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 859 F. 2d 155.

No. 88-5873. *MARTINEZ v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 859 F. 2d 925.

No. 88-5875. *NESBITT v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 852 F. 2d 1502.

No. 88-5876. *MARTINEZ v. UNITED STATES*. C. A. 10th Cir. Certiorari denied.

No. 88-5877. *MABRY v. MUNCY, WARDEN*. C. A. 4th Cir. Certiorari denied. Reported below: 852 F. 2d 566.

No. 88-5879. *WEICHERT v. SWINSON, SUPERINTENDENT, FEDERAL PRISON CAMP, DULUTH, ET AL.* C. A. 8th Cir. Certiorari denied. Reported below: 860 F. 2d 1085.

No. 88-5882. *TRIPATI v. UNITED STATES*. C. A. 10th Cir. Certiorari denied.

No. 88-5884. *BARRATTEAU v. DUGGER, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS*. C. A. 11th Cir. Certiorari denied. Reported below: 853 F. 2d 929.

No. 88-5885. *COOK v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 851 F. 2d 361.

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No. 88-5886. *HORTON, AKA DAVIS v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 853 F. 2d 922.

No. 88-5888. *DAVIS v. HOKE, SUPERINTENDENT, EASTERN CORRECTIONAL FACILITY, NAPANOCH, NEW YORK*. C. A. 2d Cir. Certiorari denied.

No. 88-5896. *LITTLE v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 854 F. 2d 1318.

No. 88-5903. *DEAN v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 861 F. 2d 725.

No. 88-5904. *COOK v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 840 F. 2d 23.

No. 88-5905. *DAROUSE v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 850 F. 2d 690.

No. 88-5907. *ROMERO v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 856 F. 2d 1020.

No. 88-5911. *VILANOVA ET AL. v. UNITED STATES*. C. A. 1st Cir. Certiorari denied. Reported below: 851 F. 2d 1.

No. 88-5919. *THOMPSON v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 852 F. 2d 1291.

No. 88-5920. *BURGEST v. GEARINGER, WARDEN*. C. A. 11th Cir. Certiorari denied.

No. 88-5923. *HERNANDEZ-MOLINA v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 853 F. 2d 288.

No. 88-5927. *COLEMAN v. DELAWARE*. C. A. 3d Cir. Certiorari denied.

No. 88-5928. *BONANNO v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 852 F. 2d 434.

No. 88-5929. *GRAY v. UNITED STATES*. Ct. App. D. C. Certiorari denied.

No. 88-5930. *COMERFORD v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 857 F. 2d 1323.

No. 88-5932. *HAMDAN v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 859 F. 2d 153.

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No. 88-5943. *MARSHBURN v. UNITED STATES POSTAL SERVICE*. C. A. Fed. Cir. Certiorari denied. Reported below: 864 F. 2d 148.

No. 88-5948. *THISSEN v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 857 F. 2d 1466.

No. 88-5951. *ELLIS v. KENTUCKY STATE BOARD OF PAROLE ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 856 F. 2d 193.

No. 88-5955. *WEICHERT v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 862 F. 2d 305.

No. 88-5968. *BARKER v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 837 F. 2d 1509.

No. 88-5973. *HUGGINS v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 859 F. 2d 918.

No. 88-5995. *MUHAMMAD v. JOHNSON ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 857 F. 2d 1463.

No. 88-5996. *KOEDATICH v. NEW JERSEY*. Sup. Ct. N. J. Certiorari denied. Reported below: 112 N. J. 225, 548 A. 2d 939.

No. 88-5999. *GORDON v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 861 F. 2d 266.

No. 88-6001. *SMITH v. UNITED STATES*. Ct. App. D. C. Certiorari denied. Reported below: 545 A. 2d 1202.

No. 88-6002. *SANCHEZ-CEBEZAS v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 858 F. 2d 744.

No. 88-6007. *BRYANT v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 857 F. 2d 1479.

No. 88-6011. *REINHARDT v. UNITED STATES*; and  
No. 88-6028. *HENDRICKS v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 860 F. 2d 1090.

No. 88-6016. *GURULE v. KAUTZKY, EXECUTIVE DIRECTOR, COLORADO DEPARTMENT OF CORRECTIONS*. C. A. 10th Cir. Certiorari denied.



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No. 88-6031. *FELDMAN v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 856 F. 2d 199.

No. 88-6034. *GARCIA v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 851 F. 2d 361.

No. 88-6035. *HATCHER v. JACKSON, SUPERINTENDENT, NEWARK HOUSE, ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 853 F. 2d 212.

No. 88-6047. *ISMAIL v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 852 F. 2d 1287.

No. 88-6048. *HENSLEY, AKA HOSKINS v. KENTUCKY*. Sup. Ct. Ky. Certiorari denied.

No. 88-6086. *BOWEN v. JABE, WARDEN*. C. A. 6th Cir. Certiorari denied.

No. 88-6092. *LANDRY v. TEXAS*. Ct. Crim. App. Tex. Certiorari denied.

No. 87-1796. *MASSINGA ET AL. v. L. J. ET AL.* C. A. 4th Cir. Motion of National Association of Social Workers for leave to file a brief as *amicus curiae* granted. Certiorari denied. Reported below: 838 F. 2d 118.

No. 87-7192. *BROWNING v. JABE, WARDEN*. C. A. 6th Cir. Certiorari denied. JUSTICE WHITE would grant certiorari. Reported below: 837 F. 2d 276.

No. 88-5459. *SEYMORE v. ALABAMA ET AL.* C. A. 11th Cir. Certiorari denied. JUSTICE WHITE would grant certiorari. Reported below: 846 F. 2d 1355.

No. 88-5565. *BRANCH v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. JUSTICE WHITE would grant certiorari. Reported below: 850 F. 2d 1080.

No. 88-630. *ALABAMA v. COX ET AL.* Ct. Crim. App. Ala. Motions of Southern Christian Leadership Conference et al. and National District Attorneys Association, Inc., for leave to file briefs as *amici curiae* granted. Motion of respondent Cox for leave to proceed *in forma pauperis* granted. Certiorari denied. JUSTICE

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WHITE and JUSTICE KENNEDY would grant certiorari. Reported below: 531 So. 2d 71.

No. 88-733. UNITED ARTISTS THEATRE CIRCUIT, INC., ET AL. v. HARKINS AMUSEMENT ENTERPRISES, INC., ET AL. C. A. 9th Cir. Motion of Columbia Pictures Industries et al. for leave to file a brief as *amici curiae* granted. Certiorari denied. Reported below: 850 F. 2d 477.

No. 88-738. SPRING BRANCH MINING CO., INC., ET AL. v. UNITED MINE WORKERS OF AMERICA 1950 PENSION TRUST AND 1950 PENSION PLAN ET AL. C. A. 4th Cir. Certiorari denied. JUSTICE O'CONNOR would grant certiorari. Reported below: 854 F. 2d 37.

No. 88-785. LEASE LIGHTS, INC., ET AL. v. PUBLIC SERVICE COMPANY OF OKLAHOMA. C. A. 10th Cir. Motion of Alliance for Fair Competition for leave to file a brief as *amicus curiae* granted. Certiorari denied. Reported below: 849 F. 2d 1330.

No. 88-786. CARROLL v. MOORE. Sup. Ct. Neb. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. JUSTICE WHITE and JUSTICE O'CONNOR would grant certiorari. Reported below: 228 Neb. 561, 423 N. W. 2d 757.

No. 88-5271. EATON v. LOUISIANA. Sup. Ct. La.;

No. 88-5600. GILLIARD v. SCROGGY, COMMISSIONER, MISSISSIPPI DEPARTMENT OF CORRECTIONS, ET AL. C. A. 5th Cir.;

No. 88-5670. LONCHAR v. GEORGIA. Sup. Ct. Ga.;

No. 88-5684. NICHOLS v. TEXAS. Ct. Crim. App. Tex.;

No. 88-5751. VAN CLEAVE v. INDIANA. Sup. Ct. Ind.;

No. 88-5753. MATHENIA v. MISSOURI. Ct. App. Mo., Eastern Dist.;

No. 88-5756. MUNSON v. OKLAHOMA. Ct. Crim. App. Okla.;

No. 88-5759. KING v. LYNAUGH, DIRECTOR, TEXAS DEPARTMENT OF CORRECTIONS. C. A. 5th Cir.;

No. 88-5763. SILVA v. CALIFORNIA. Sup. Ct. Cal.;

No. 88-5777. SIRIPONGS v. CALIFORNIA. Sup. Ct. Cal.;

No. 88-5880. SINGLETON v. THIGPEN, COMMISSIONER, ALABAMA DEPARTMENT OF CORRECTIONS. C. A. 11th Cir.;

No. 88-5915. STOKES v. ARMONTROUT, WARDEN, ET AL. C. A. 8th Cir.; and

No. 88-6042. SMITH v. MISSOURI. Sup. Ct. Mo. Certiorari denied. Reported below: No. 88-5271, 524 So. 2d 1194; No. 88-

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5600, 847 F. 2d 1141; No. 88-5670, 258 Ga. 447, 369 S. E. 2d 749; No. 88-5684, 754 S. W. 2d 185; No. 88-5751, 517 N. E. 2d 356; No. 88-5753, 752 S. W. 2d 873; No. 88-5756, 758 P. 2d 324; No. 88-5759, 850 F. 2d 1055; No. 88-5763, 45 Cal. 3d 604, 754 P. 2d 1070; No. 88-5777, 45 Cal. 3d 548, 754 P. 2d 1306; No. 88-5880, 847 F. 2d 668; No. 88-5915, 851 F. 2d 1085; No. 88-6042, 756 S. W. 2d 493.

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. 88-5755. WILLIAMS ET AL. *v.* WARD ET AL. C. A. 2d Cir. Certiorari denied. JUSTICE BRENNAN and JUSTICE MARSHALL would grant certiorari. Reported below: 845 F. 2d 374.

No. 88-5806. NEELLEY *v.* ALABAMA. Ct. Crim. App. Ala. Certiorari denied. Reported below: 531 So. 2d 69.

JUSTICE MARSHALL, with whom JUSTICE BRENNAN joins, dissenting.

Adhering to my view that the death penalty is in all circumstances cruel and unusual punishment forbidden by the Eighth and Fourteenth Amendments, see *Gregg v. Georgia*, 428 U. S. 153, 231 (1976) (MARSHALL, J., dissenting); *Furman v. Georgia*, 408 U. S. 238, 314 (1972) (MARSHALL, J., concurring), I would grant the petition for certiorari and vacate the death sentence in this case. Even if I did not hold this view, I would grant the petition to determine the applicable standard for reviewing *Brady* violations in the sentencing phase of a capital trial.

## I

Petitioner Judith Ann Neelley was convicted of the capital offense of murder during a kidnapping. She did not deny that she had kidnapped and killed the victim. She testified, however, that she had acted at the direction and under the control of her husband, Alvin Neelley, who, petitioner contended, had physically and sexually abused her. Petitioner claimed that she was willing to do anything to avoid further abuse. A clinical psychologist



who had examined Neelley testified that she “‘probably fits the battered women’s syndrome to the most severe extent that [she had] seen.’” The psychologist noted that “‘Alvin’s mental state was substituted’” for petitioner’s so that she had “‘no intents of her own.’” *Neelley v. State*, 494 So. 2d 669, 681 (Ala. Crim. App. 1985).

To substantiate her defense further, petitioner’s attorney sought disclosure of evidence seized by investigators from her mobile home—in particular, several letters petitioner sent to her husband. These letters contained references to her husband’s “hypnotizing eyes” and the fact that petitioner had been hearing her husband’s voice by mental telepathy. One letter also contained the suggestion that petitioner believed her letters might lead her husband to kill her. The prosecution denied that it had such letters and the trial court denied petitioner’s request. The jury subsequently imposed a sentence of life without parole. Although the trial judge found that petitioner “was substantially influenced by her husband,” he overruled the jury and sentenced petitioner to death. *Id.*, at 693.

After petitioner’s conviction and sentence were affirmed on direct appeal, *Ex parte Neelley*, 494 So. 2d 697 (1986), her attorney learned that the investigator who had seized the letters did not deliver them to the appropriate law enforcement officials. Petitioner then filed a motion for relief from conviction and sentence, contending, *inter alia*, that the State’s failure to disclose the seized evidence violated her due process rights. As a preliminary matter, a state court found that the investigator’s failure to disclose the letters could be imputed to the prosecutor. Brief in Opposition 10. After reviewing the letters, however, the court concluded that “‘there is no reasonable probability that any of the evidence would have altered either the guilt or punishment stage of petitioner’s trial.’” *Ibid.*

## II

“It is well settled that the Government has the obligation to turn over evidence in its possession that is both favorable to the accused and material to guilt or punishment.” *Pennsylvania v. Ritchie*, 480 U. S. 39, 57 (1987). This Court has determined that, for *Brady* violations during the guilt phase of a trial, *Brady v. Maryland*, 373 U. S. 83 (1963), materiality turns on whether there

is a reasonable probability that the evidence might have affected the outcome of the trial, such that, "had the evidence been disclosed to the defense, the result of the proceeding would have been different." *Ritchie, supra*, at 57; see also *United States v. Bagley*, 473 U. S. 667, 674-678 (1985). Here, the state court simply assumed that this same standard of materiality is appropriate for suppression of evidence at the sentencing phase of a capital trial.

I am not so sure. The nondisclosure of evidence favorable to a capital defendant at the sentencing phase not only raises serious due process concerns, but also implicates the defendant's right under the Eighth and Fourteenth Amendments to present mitigating evidence before the sentencer. Given our heightened concern for reliability and individualized sentencing in the capital context, we have held that a defendant has a right to admit *all* relevant mitigating evidence. See, e. g., *Eddings v. Oklahoma*, 455 U. S. 104, 110-112 (1982); *Lockett v. Ohio*, 438 U. S. 586, 604-605 (1978) (plurality opinion). Applying the outcome-focused reasonable probability standard to information withheld during the sentencing phase of a capital trial poses a serious threat to that right. In the instant case, petitioner's letters were directly relevant to her primary mitigation claim that she had acted under her husband's influence. Her right to introduce those letters into evidence was guaranteed by the Eighth and Fourteenth Amendments, independent of any due process claim she might have otherwise had.

In my view, the standard for reviewing *Brady* violations in the sentencing phase of a capital trial is an important and recurring issue that warrants the Court's attention. See *Brown v. Chaney*, 469 U. S. 1090, 1096 (1984) (Burger, C. J., dissenting from denial of certiorari).

### III

A final comment is necessary. Petitioner's counsel before this Court wrote three terse sentences describing the reasons why we should grant certiorari. He merely asserted a *Brady* violation without discussing the relevant law or analyzing the facts of this case. Such brevity—unconscionable in a capital case—raises a serious question as to whether petitioner has received effective assistance of counsel. I dissent.

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*Rehearing Denied*

No. 87-1921. WINSLOW ET UX. *v.* WILLIAMS ET AL., *ante*, p. 820;

No. 87-1961. TOWN OF HUNTINGTON, NEW YORK, ET AL. *v.* HUNTINGTON BRANCH, NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE, ET AL., *ante*, p. 15;

No. 87-2128. CHAIRES *v.* UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT ET AL., *ante*, p. 829;

No. 87-6947. MINER *v.* NEW YORK STATE DEPARTMENT OF CORRECTIONAL SERVICES, *ante*, p. 941;

No. 87-7189. WOHLFORD ET UX. *v.* UNITED STATES DEPARTMENT OF AGRICULTURE ET AL., *ante*, p. 941;

No. 87-7284. MARTIN *v.* MORRIS, *ante*, p. 924;

No. 88-296. SHOSTAK *v.* FEDERAL ENERGY REGULATORY COMMISSION, *ante*, p. 942;

No. 88-418. SHANKS ET AL. *v.* ESTES PARK BANK, *ante*, p. 927;

No. 88-445. BROAD ET UX. *v.* CONWAY ET AL., *ante*, p. 927;

No. 88-474. NEVILLE *v.* MOLLEN, PRESIDING JUSTICE, APPELLATE DIVISION, SUPREME COURT OF NEW YORK, SECOND JUDICIAL DEPARTMENT, ET AL., *ante*, p. 943;

No. 88-5252. TURNER *v.* UNITED STATES POSTAL SERVICE, *ante*, p. 969;

No. 88-5347. PATILLO *v.* GEORGIA, *ante*, p. 948;

No. 88-5400. IN RE RADVAN-ZIEMNOWICZ, *ante*, p. 923;

No. 88-5439. IKENI *v.* CALIFORNIA SUPERIOR COURT OF FRESNO COUNTY ET AL., *ante*, p. 920;

No. 88-5446. COLE *v.* MISSISSIPPI, *ante*, p. 934;

No. 88-5451. THOMPSON *v.* SOUTHEASTERN TOYOTA DISTRIBUTORS, INC., ET AL., *ante*, p. 931;

No. 88-5452. MAY *v.* WARNER AMEX CABLE COMMUNICATIONS, *ante*, p. 931;

No. 88-5461. CAMPBELL *v.* KINCHELOE, SUPERINTENDENT, WASHINGTON STATE PENITENTIARY, *ante*, p. 948;

No. 88-5462. KRISHNAN *v.* DEPARTMENT OF THE AIR FORCE, *ante*, p. 957;

No. 88-5497. FLEMING *v.* DEAK ET AL., *ante*, p. 945;

No. 88-5507. BRADSHAW *v.* ZOOLOGICAL SOCIETY OF SAN DIEGO, *ante*, p. 945;

No. 88-5511. BIGG *v.* OFFICE OF PERSONNEL MANAGEMENT, *ante*, p. 932;



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No. 88-5549. MARTIN *v.* C. ITOH & CO. (AMERICA), INC., ET AL., *ante*, p. 951;

No. 88-5592. DRABICK *v.* DRABICK, *ante*, p. 958;

No. 88-5642. ROWE *v.* DEPARTMENT OF THE ARMY, *ante*, p. 951;

No. 88-5643. ROWE *v.* DEPARTMENT OF THE ARMY, *ante*, p. 951; and

No. 88-5677. MARTIN *v.* ZOOK ET AL., *ante*, p. 972. Petitions for rehearing denied.

No. 88-416. BENSON *v.* BEARB ET AL., *ante*, p. 926. Motion of petitioner to defer consideration of petition for rehearing denied. Petition for rehearing denied.

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*Affirmed on Appeal*

No. 87-1818. BADHAM ET AL. *v.* EU, SECRETARY OF STATE OF CALIFORNIA, ET AL. Affirmed on appeal from D. C. N. D. Cal. THE CHIEF JUSTICE, JUSTICE STEVENS, and JUSTICE KENNEDY would note probable jurisdiction and set case for oral argument. Reported below: 694 F. Supp. 664.

*Appeals Dismissed*

No. 88-806. MERLINO ENTERPRISES, INC. *v.* THOMPSON, ADMINISTRATOR OF THE ESTATE OF SOUSA. Appeal from Sup. Ct. Conn. dismissed for want of substantial federal question. THE CHIEF JUSTICE would note probable jurisdiction and set case for oral argument. Reported below: 208 Conn. 656, 545 A. 2d 1094.

No. 88-809. DAVIS ET UX. *v.* DECHIARO LIMITED PARTNERSHIP ET AL. Appeal from Ct. Sp. App. Md. dismissed for want of jurisdiction. Reported below: 74 Md. App. 727.

No. 88-836. ASAM *v.* SHAPIRO ET AL. Appeal from C. A. 11th Cir. dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied. Reported below: 858 F. 2d 744.

No. 88-838. NIEVES *v.* MARINA GARDENS NO. 1, INC. 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.

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No. 88-5910. *TALLMAN v. KELLEY*. Appeal from C. A. 8th Cir. dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied.

No. 88-5959. *WILLIAMS v. PLANNED PARENTHOOD ASSOCIATION OF THE ATLANTA AREA, INC., ET AL.* Appeal from C. A. 11th Cir. dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied. Reported below: 859 F. 2d 926.

No. 88-5816. *FRIGARD v. REGENTS OF THE UNIVERSITY OF CALIFORNIA ET AL.* Appeal from Ct. App. Cal., 2d App. Dist., dismissed for want of substantial federal question.

*Certiorari Granted—Vacated and Remanded*

No. 87-42. *CLIFT v. INTERNATIONAL UNION, UNITED AUTOMOBILE, AEROSPACE & AGRICULTURAL IMPLEMENT WORKERS OF AMERICA (UAW) ET AL.* C. A. 7th Cir. Certiorari granted, judgment vacated, and case remanded for further consideration in light of *Reed v. United Transportation Union*, ante, p. 319. Reported below: 818 F. 2d 623.

No. 87-1456. *INTERNATIONAL UNION OF OPERATING ENGINEERS LOCAL 660 v. HESTER ET AL.* C. A. 11th Cir. Certiorari granted, judgment vacated, and case remanded for further consideration in light of *Reed v. United Transportation Union*, ante, p. 319. Reported below: 818 F. 2d 1537 and 830 F. 2d 172.

No. 88-349. *FEDERAL LABOR RELATIONS AUTHORITY v. UNITED STATES DEPARTMENT OF AGRICULTURE ET AL.* C. A. 8th Cir. Certiorari granted, judgment vacated, and case remanded for further consideration in light of the "routine uses" published at 53 Fed. Reg. 39629 (1988) (Department of Agriculture) and 53 Fed. Reg. 44513 (1988) (Defense Mapping Agency). Reported below: 836 F. 2d 1139.

No. 88-5938. *SANDERS v. CLARKE, WARDEN, ET AL.* C. A. 8th Cir. Motion of petitioner for leave to proceed *in forma pauperis* granted. Certiorari granted, judgment vacated, and case remanded for further consideration in light of *Penson v. Ohio*, ante, p. 75. Reported below: 856 F. 2d 1134.

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*Miscellaneous Orders*

No. A-471. *DARLINGTON v. UNITED STATES*. Application for stay, addressed to JUSTICE BRENNAN and referred to the Court, denied.

No. A-542 (88-6166). *ALLRIDGE v. TEXAS*. Application for further stay of issuance of the mandate of the Court of Criminal Appeals of Texas, presented to JUSTICE WHITE, and by him referred to the Court, denied. JUSTICE BRENNAN and JUSTICE MARSHALL would grant the application.

No. D-752. *IN RE DISBARMENT OF ALBIN*. It is ordered that Perry Sanford Albin, of Newman, 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-753. *IN RE DISBARMENT OF REAVES*. It is ordered that Frank Reaves, Jr., of Lexington, Ky., 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-754. *IN RE DISBARMENT OF HARTMAN*. It is ordered that Richard Hartman, of Greenwich, Conn., 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-755. *IN RE DISBARMENT OF MCKAY*. It is ordered that Ronald J. McKay, of McKeesport, 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-756. *IN RE DISBARMENT OF MCCLURKIN*. It is ordered that Patrick Clark McClurkin, 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-757. *IN RE DISBARMENT OF SACCO*. It is ordered that Anthony Joseph Sacco, of Timonium, Md., be suspended from the practice of law in this Court and that a rule issue, returnable



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within 40 days, requiring him to show cause why he should not be disbarred from the practice of law in this Court.

No. D-758. *IN RE DISBARMENT OF SILVERMAN*. It is ordered that Mark A. Silverman, of Selden, 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-759. *IN RE DISBARMENT OF HARTMANN*. It is ordered that Robert Thomas Hartmann, of Middletown, 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. 87-6571. *GRAHAM v. CONNOR ET AL.* C. A. 4th Cir. [Certiorari granted, *ante*, p. 816.] Motion of respondents and North Carolina to permit North Carolina to participate in oral argument as *amicus curiae* and for divided argument denied.

No. 88-293. *COMMUNITY FOR CREATIVE NON-VIOLENCE ET AL. v. REID*. C. A. D. C. Cir. [Certiorari granted, *ante*, p. 940.] Motion of the Solicitor General for leave to participate in oral argument as *amicus curiae* and for divided argument granted.

No. 88-305. *SOUTH CAROLINA v. GATHERS*. Sup. Ct. S. C. [Certiorari granted, *ante*, p. 888.] Motion of Center for Civil Rights et al. for leave to file a brief as *amici curiae* granted.

No. 88-357. *MALENG, KING COUNTY PROSECUTING ATTORNEY, ET AL. v. COOK*. C. A. 9th Cir. [Certiorari granted, *ante*, p. 941.] Motion of William L. Williams, Esq., to permit John M. Jones, Esq., to present oral argument *pro hac vice* denied.

No. 88-396. *COLONIAL AMERICAN LIFE INSURANCE CO. v. COMMISSIONER OF INTERNAL REVENUE*. C. A. 5th Cir. [Certiorari granted, *ante*, p. 980.] Motion of petitioner to dispense with printing the joint appendix granted.

No. 88-616. *BOWEN, SECRETARY OF HEALTH AND HUMAN SERVICES v. HUDSON*. C. A. 11th Cir. [Certiorari granted, *ante*, p. 980.] Motion of the Solicitor General to dispense with printing the joint appendix granted.

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No. 88-688. PEAT MARWICK MAIN & CO. *v.* SUPERIOR COURT OF CALIFORNIA, COUNTY OF CONTRA COSTA, ET AL. Ct. App. Cal., 1st App. Dist. Joint motion of the parties to defer consideration of the petition for writ of certiorari granted.

No. 88-5906. KOKKONEN *v.* DEMOCRATIC NATIONAL COMMITTEE CHAIRMAN ET AL. C. A. 4th Cir. Motion of petitioner for leave to proceed *in forma pauperis* denied. Petitioner is allowed until February 7, 1989, within which to pay the docketing fee required by Rule 45(a) and to submit a petition in compliance with Rule 33 of the Rules of this Court.

JUSTICE BRENNAN, JUSTICE MARSHALL, and JUSTICE BLACKMUN, dissenting.

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

No. 88-5994. VAMOS *v.* UNITED STATES. C. A. 2d Cir. Motion of petitioner for leave to proceed *in forma pauperis* denied. Petitioner is allowed until February 7, 1989, within which to pay the docketing fee required by Rule 45(a) and to submit a petition in compliance with Rule 33 of the Rules of this Court.

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

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

No. 88-6062. WRENN *v.* BOWEN, SECRETARY OF HEALTH AND HUMAN SERVICES. C. A. 2d Cir. Motion of petitioner for leave to proceed *in forma pauperis* denied. Petitioner is allowed until February 7, 1989, within which to pay the docketing fee required by Rule 45(a) and to submit a petition in compliance with Rule 33 of the Rules of this Court.

JUSTICE BRENNAN and JUSTICE MARSHALL, dissenting.

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

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No. 88-6142. *IN RE GRIFFIN*. Petition for writ of habeas corpus denied.

*Certiorari Granted*

No. 88-608. *INDEPENDENT FEDERATION OF FLIGHT ATTENDANTS v. ZIPES ET AL.* C. A. 7th Cir. Certiorari granted. Reported below: 846 F. 2d 434.

*Certiorari Denied.* (See also Nos. 88-836, 88-838, 88-5910, and 88-5959, *supra*.)

No. 88-472. *BIBERFELD ET AL. v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 853 F. 2d 921.

No. 88-491. *CITIZENS FOR JOHN W. MOORE PARTY ET AL. v. BOARD OF ELECTION COMMISSIONERS OF THE CITY OF CHICAGO ET AL.* C. A. 7th Cir. Certiorari denied. Reported below: 845 F. 2d 144.

No. 88-530. *SALDANA v. NEW YORK*. C. A. 2d Cir. Certiorari denied. Reported below: 850 F. 2d 117.

No. 88-532. *ASHER v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 854 F. 2d 1483.

No. 88-653. *WELLS ET AL. v. UNITED STATES*. C. A. D. C. Cir. Certiorari denied. Reported below: 271 U. S. App. D. C. 244, 851 F. 2d 1471.

No. 88-654. *JOSHI v. FLORIDA STATE UNIVERSITY HEALTH CENTER ET AL.* C. A. 11th Cir. Certiorari denied. Reported below: 845 F. 2d 1030.

No. 88-703. *CELOTEX CORP. ET AL. v. SMITH LAND & IMPROVEMENT CORP.* C. A. 3d Cir. Certiorari denied. Reported below: 851 F. 2d 86.

No. 88-730. *FOREST HILLS EARLY LEARNING CENTER, INC., ET AL. v. JACKSON, DIRECTOR, DEPARTMENT OF SOCIAL SERVICES OF VIRGINIA, ET AL.*; and

No. 88-932. *JACKSON, DIRECTOR, DEPARTMENT OF SOCIAL SERVICES OF VIRGINIA, ET AL. v. FOREST HILLS EARLY LEARNING CENTER, INC., ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 846 F. 2d 260.



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No. 88-758. *McDOWELL v. DYNAMICS CORPORATION OF AMERICA*. C. A. 6th Cir. Certiorari denied. Reported below: 850 F. 2d 692.

No. 88-812. *HERNANDEZ v. DIANELLA SHIPPING CORP. ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 841 F. 2d 582 and 848 F. 2d 498.

No. 88-815. *CENTRAL COLUMBIA SCHOOL DISTRICT ET AL. v. POLK ET UX.* C. A. 3d Cir. Certiorari denied. Reported below: 853 F. 2d 171.

No. 88-818. *MIRABILE ET AL. v. WRIGHT ET AL.* C. A. 8th Cir. Certiorari denied. Reported below: 860 F. 2d 1083.

No. 88-819. *ELDER ET AL. v. CALIFORNIA*. Ct. App. Cal., 5th App. Dist. Certiorari denied. Reported below: 201 Cal. App. 3d 1061, 247 Cal. Rptr. 647.

No. 88-823. *PITTS v. TURNER & BOISSEAU, CHARTERED, ET AL.* C. A. 10th Cir. Certiorari denied. Reported below: 850 F. 2d 650.

No. 88-825. *LIGGETT GROUP, INC., ET AL. v. PUBLIC CITIZEN ET AL.* C. A. 1st Cir. Certiorari denied. Reported below: 858 F. 2d 775.

No. 88-826. *KELSEY ET AL. v. MUSKIN INC. ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 848 F. 2d 39.

No. 88-829. *KING ET UX. v. HILTON-DAVIS, AKA HILTON-DAVIS CHEMICAL Co.* C. A. 3d Cir. Certiorari denied. Reported below: 855 F. 2d 1047.

No. 88-832. *WARREN v. CONNECTICUT*. App. Ct. Conn. Certiorari denied. Reported below: 14 Conn. App. 688, 544 A. 2d 209.

No. 88-837. *MULVEHILL v. ALABAMA*. Ct. Crim. App. Ala. Certiorari denied. Reported below: 531 So. 2d 69.

No. 88-842. *WINSTEAD ET AL. v. INDIANA INSURANCE Co.* C. A. 7th Cir. Certiorari denied. Reported below: 855 F. 2d 430.

No. 88-864. *STOUT ET UX. v. A. M. SUNRISE CONSTRUCTION Co., INC., ET AL.* Ct. App. Ind. Certiorari denied. Reported below: 505 N. E. 2d 500.

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No. 88-894. REARDON ET AL. *v.* MILLER, JUDGE, SUPERIOR COURT OF NEW JERSEY, CHANCERY DIVISION, CAMDEN COUNTY, ET AL. C. A. 3d Cir. Certiorari denied. Reported below: 849 F. 2d 602.

No. 88-908. TURKS *v.* UNITED STATES POSTAL SERVICE. C. A. Fed. Cir. Certiorari denied. Reported below: 838 F. 2d 1222.

No. 88-944. BARROW *v.* HARRISON ET AL. C. A. 11th Cir. Certiorari denied.

No. 88-951. WILLNER *v.* UNIVERSITY OF KANSAS; and WILLNER *v.* BUDIG ET AL. C. A. 10th Cir. Certiorari denied. Reported below: 848 F. 2d 1023 (first case); 848 F. 2d 1032 (second case).

No. 88-959. RIOS *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 842 F. 2d 868.

No. 88-969. LOMBARDO *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied. Reported below: 859 F. 2d 1328.

No. 88-973. SOUTHERN INDIANA GAS & ELECTRIC CO. *v.* NATIONAL LABOR RELATIONS BOARD. C. A. 7th Cir. Certiorari denied. Reported below: 853 F. 2d 580.

No. 88-996. FENN *v.* CONNECTICUT. App. Ct. Conn. Certiorari denied. Reported below: 16 Conn. App. 318, 547 A. 2d 576.

No. 88-5180. PLAZINICH *v.* LYNAUGH, DIRECTOR, TEXAS DEPARTMENT OF CORRECTIONS. C. A. 5th Cir. Certiorari denied. Reported below: 843 F. 2d 836.

No. 88-5421. NEWTON *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied.

No. 88-5486. ANDERSON *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 851 F. 2d 727.

No. 88-5557. ANGLIN *v.* NEWSOME, SUPERINTENDENT, GEORGIA STATE PRISON, ET AL. C. A. 11th Cir. Certiorari denied. Reported below: 853 F. 2d 930.

No. 88-5561. GILMORE *v.* DIRECTOR, OFFICE OF WORKERS' COMPENSATION PROGRAMS, UNITED STATES DEPARTMENT OF LABOR. C. A. D. C. Cir. Certiorari denied.

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No. 88-5629. *ANDREWS v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 850 F. 2d 1557.

No. 88-5639. *ARMAS v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 855 F. 2d 862.

No. 88-5745. *SLABAUGH v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 852 F. 2d 1081.

No. 88-5883. *DOUD v. WISCONSIN*. Ct. App. Wis. Certiorari denied. Reported below: 145 Wis. 2d 903, 428 N. W. 2d 646.

No. 88-5889. *MADDUX v. TEXAS*. Ct. Crim. App. Tex. Certiorari denied. Reported below: 757 S. W. 2d 737.

No. 88-5891. *RAYBORN v. SCULLY, SUPERINTENDENT, GREEN HAVEN CORRECTIONAL FACILITY, ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 858 F. 2d 84.

No. 88-5893. *GOLDEN v. GOLDEN*. Super. Ct. N. J., App. Div. Certiorari denied.

No. 88-5901. *LEE v. DUTTON, WARDEN, ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 856 F. 2d 194.

No. 88-5902. *JENKINS v. NEW JERSEY*. Super. Ct. N. J., App. Div. Certiorari denied. Reported below: 221 N. J. Super. 286, 534 A. 2d 421.

No. 88-5912. *RODEN v. MOORE ET AL.* C. A. 8th Cir. Certiorari denied.

No. 88-5931. *KENDALL v. WILLIAMS, WARDEN*. Sup. Ct. Va. Certiorari denied.

No. 88-5933. *LAMBERTH v. MUNCY, WARDEN, ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 849 F. 2d 605.

No. 88-5934. *FEAGIN v. LYNAUGH, DIRECTOR, TEXAS DEPARTMENT OF CORRECTIONS*. C. A. 5th Cir. Certiorari denied.

No. 88-5936. *DAVIS v. CITY OF TUCSON*. C. A. 9th Cir. Certiorari denied. Reported below: 857 F. 2d 1477.

No. 88-5940. *MCCABE v. SANDNESS*. C. A. 10th Cir. Certiorari denied.



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No. 88-5941. *STUBBLEFIELD v. WILKENS ET AL.* C. A. 8th Cir. Certiorari denied.

No. 88-5942. *ROBERTSON v. CITY OF EUNICE, NEW MEXICO.* Ct. App. N. M. Certiorari denied.

No. 88-5945. *SIMANONOK v. RANDLE ET AL.* C. A. 11th Cir. Certiorari denied. Reported below: 846 F. 2d 753.

No. 88-5946. *PEASE v. MONTANA.* Sup. Ct. Mont. Certiorari denied. Reported below: 233 Mont. 65, 758 P. 2d 764.

No. 88-5950. *BRENNAN v. BRENNAN ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 860 F. 2d 1078.

No. 88-5967. *MCDONALD v. SULLIVAN, WARDEN.* C. A. 10th Cir. Certiorari denied.

No. 88-5991. *FORBES v. UNITED STATES.* C. A. 8th Cir. Certiorari denied.

No. 88-5997. *WAKEFIELD v. BEYER ET AL.* C. A. 3d Cir. Certiorari denied.

No. 88-6023. *ROBERSON v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. Reported below: 859 F. 2d 919.

No. 88-6024. *TURNER v. UNITED STATES.* C. A. 6th Cir. Certiorari denied. Reported below: 859 F. 2d 923.

No. 88-6039. *OAKLEY v. UNITED STATES.* C. A. 7th Cir. Certiorari denied. Reported below: 853 F. 2d 551.

No. 88-6069. *VATTLE v. UNITED STATES.* C. A. 11th Cir. Certiorari denied. Reported below: 861 F. 2d 725.

No. 88-6070. *WILLOUGHBY v. UNITED STATES;* and

No. 88-6088. *PRIOLEAU v. UNITED STATES.* C. A. 2d Cir. Certiorari denied. Reported below: 860 F. 2d 15.

No. 88-6076. *GILLIARD v. UNITED STATES.* C. A. 1st Cir. Certiorari denied. Reported below: 847 F. 2d 21.

No. 88-6083. *CRUM v. UNITED STATES.* C. A. 9th Cir. Certiorari denied. Reported below: 855 F. 2d 863.

No. 88-6094. *FRALEY v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. Reported below: 858 F. 2d 230.

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No. 88-6097. *VASQUEZ v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 858 F. 2d 1387.

No. 87-1914. *ARN, SUPERINTENDENT, OHIO REFORMATORY FOR WOMEN v. GREEN*. C. A. 6th Cir. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 839 F. 2d 300.

No. 88-834. *CONNECTICUT v. FLOURDE*. Sup. Ct. Conn. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 208 Conn. 455, 545 A. 2d 1071.

No. 88-914. *CALIFORNIA v. RADKE*. Ct. App. Cal., 4th App. Dist. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied.

No. 87-6895. *GARDNER v. TEXAS*. Ct. Crim. App. Tex.;  
No. 88-5723. *WRIGHT v. TENNESSEE*. Sup. Ct. Tenn.;  
No. 88-5733. *LUCKY v. CALIFORNIA*. Sup. Ct. Cal.;  
No. 88-5868. *BELMONTES v. CALIFORNIA*. Sup. Ct. Cal.;  
No. 88-5881. *BUNDY v. DUGGER, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS*. C. A. 11th Cir.;  
No. 88-5899. *DAVIS v. OHIO*. Sup. Ct. Ohio;  
No. 88-5908. *ROBBINS v. CALIFORNIA*. Sup. Ct. Cal.; and  
No. 88-5924. *BABBITT v. CALIFORNIA*. Sup. Ct. Cal. Certiorari denied. Reported below: No. 87-6895, 733 S. W. 2d 195; No. 88-5723, 756 S. W. 2d 669; No. 88-5733, 45 Cal. 3d 259, 753 P. 2d 1052; No. 88-5868, 45 Cal. 3d 744, 755 P. 2d 310; No. 88-5881, 850 F. 2d 1402; No. 88-5899, 38 Ohio St. 3d 361, 528 N. E. 2d 925; No. 88-5908, 45 Cal. 3d 867, 755 P. 2d 355; No. 88-5924, 45 Cal. 3d 660, 755 P. 2d 253.

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. 88-639. *PARUNGAO v. GOERG, AS TRUSTEE IN BANKRUPTCY FOR THE ESTATE OF KAUSSEN*. C. A. 11th Cir. Motion of Bruno M. Kubler for leave to file a brief as *amicus curiae* granted. Certiorari denied. Reported below: 844 F. 2d 1562.

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No. 88-811. BUSINESS COMPUTER CORP. ET AL. *v.* U. S. ROBOTICS, INC., ET AL. C. A. Fed. Cir. Motion of respondent U. S. Robotics, Inc., for attorney's fees and costs denied. Certiorari denied. Reported below: 856 F. 2d 202.

No. 88-824. COLEMAN *v.* UNITED STATES. Ct. Mil. App. Certiorari denied. JUSTICE BRENNAN and JUSTICE MARSHALL would grant certiorari. Reported below: 26 M. J. 451.

No. 88-941. CRAWFORD PAINTING & DRYWALL CO. *v.* J. W. BATESON, INC. C. A. 5th Cir. Motion of Associated Specialty Contractors, Inc., et al. for leave to file a brief as *amici curiae* granted. Certiorari denied. Reported below: 857 F. 2d 981.

#### *Rehearing Denied*

No. 88-609. POLYAK *v.* BUFORD EVANS & SONS, *ante*, p. 962;  
No. 88-5125. TRIPATI *v.* HENMAN, WARDEN, *ante*, p. 982; and  
No. 88-5230. CALDWELL *v.* BUREAU OF FEDERAL PRISONS, *ante*, p. 895. Petitions for rehearing denied.

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#### *Appeals Dismissed*

No. 87-1613. PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE *v.* NEW HAMPSHIRE. Appeal from Sup. Ct. N. H. Motions of Official Committee of Equity Security Holders of Public Service Company of New Hampshire and Official Committee of Unsecured Creditors of Public Service Company of New Hampshire for leave to file briefs as *amici curiae* granted. Appeal dismissed for want of properly presented federal question. Reported below: 130 N. H. 265, 539 A. 2d 263.

No. 88-130. WESTERN UNION CORP. *v.* INDIANA DEPARTMENT OF REVENUE. Appeal from Ct. App. Ind. dismissed for want of substantial federal question. Reported below: 511 N. E. 2d 481.

No. 88-898. COHEN ET AL. *v.* PENNSYLVANIA. Appeal from Super. Ct. Pa. dismissed for want of substantial federal question. Reported below: 371 Pa. Super. 558, 538 A. 2d 582.

No. 88-893. WALKER ET AL. *v.* VALLEY NATIONAL BANK OF DES MOINES, IOWA, ADMINISTRATOR OF THE ESTATE OF WALKER,



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ET AL. Appeal from Ct. App. Iowa dismissed for want of jurisdiction. Reported below: 432 N. W. 2d 167.

No. 88-5054. SULLIVAN v. SULLIVAN. Appeal from Sup. Ct. Tex. dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied.

No. 88-6040. MCCABE v. DIAS 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.

*Certiorari Granted—Vacated and Remanded*

No. 87-1384. THOMAS v. SHIPKA. C. A. 6th Cir. Certiorari granted, judgment vacated, and case remanded for further consideration in light of *Owens v. Okure*, ante, p. 235. Reported below: 829 F. 2d 570.

No. 88-550. UNITED STATES v. CHAVEZ-SANCHEZ. C. A. 9th Cir. Certiorari granted, judgment vacated, and case remanded for further consideration in light of *Mistretta v. United States*, ante, p. 361. Reported below: 857 F. 2d 1245.

*Miscellaneous Orders*

No. — — —. CALPIN v. CARLSON ET AL. Motion to direct the Clerk to file petition for writ of certiorari out of time denied.

No. — — —. KIRKPATRICK v. CALIFORNIA. Motion for leave to proceed *in forma pauperis* without an affidavit of indigency executed by petitioner granted.

No. A-568 (88-287). TIMES MIRROR CO. ET AL. v. DOE. Ct. App. Cal., 4th App. Dist. Application to stay proceedings in the Superior Court of California, County of San Diego, presented to JUSTICE O'CONNOR, and by her referred to the Court, denied. JUSTICE STEVENS took no part in the consideration or decision of this application.

No. A-580. BUNDY v. DUGGER, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS;

No. A-585. BUNDY v. FLORIDA; and

No. A-586. BUNDY v. DUGGER, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS. Applications for stay of execution of sentence of death, presented to JUSTICE KENNEDY, and by him

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referred to the Court, denied. JUSTICE BLACKMUN would grant the applications for stay in Nos. A-580 and A-586. JUSTICE STEVENS would grant the application for stay in No. A-580.

JUSTICE BRENNAN, with whom JUSTICE MARSHALL joins, 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 the applications for stay of execution.

Even were I not of the foregoing view, I would grant application Nos. A-580 and A-586 pending the filing of a petition for certiorari, which I would hold for our decision in *Dugger v. Adams*, No. 87-121, cert. granted, 485 U. S. 933 (1988).

In *Caldwell v. Mississippi*, 472 U. S. 320, 328-329 (1985), we held that "it is constitutionally impermissible to rest a death sentence on a determination made by a sentencer who has been led to believe that the responsibility for determining the appropriateness of the defendant's death rests elsewhere." *Adams* and numerous cases that have been held for it raise the question whether the rationale of *Caldwell* applies to statements made by prosecutors and judges to the effect that the jury's sentence is merely advisory and that the judge remains responsible for the sentence ultimately imposed. See, e. g., *Preston v. Florida*, No. A-216; *Ford v. Dugger*, No. 88-5582; *Spisak v. Ohio*, No. 88-5169; *Grossman v. Florida*, No. 88-5136; *Harich v. Dugger*, No. 88-5216. In Florida cases, the notion that the jury's sentence is merely "advisory" appears to be at odds with that State's settled law that the jury determination must be given "great weight" and may be overturned by the judge only when the facts are "so clear and convincing that virtually no reasonable person could differ." *Tedder v. State*, 322 So. 2d 908, 910 (Fla. 1975).

In the present action, the jurors were repeatedly informed throughout *voir dire* and the sentencing instructions that their role was to "render an advisory opinion only, just that, an opinion," or "just a sort of recommendation, so to speak, from the jury as to what penalty ought to be imposed," and that "[t]he law places the awesome burden upon the judge to decide what final disposition is made or penalty is imposed in a capital case." Unlike the situation we faced recently in *Daugherty v. Florida*, ante, p. 936, these were not merely two isolated comments of the prosecutor, but

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rather repeated instructions by both the prosecutor and the trial judge. We have not yet decided that such comments amount to a violation of *Caldwell v. Mississippi*, but we have held several other cases—whose facts are virtually identical to these—pending our decision in *Dugger v. Adams*. I see no principled basis for refusing to do so here.

Nor should there be any procedural objection to such a course. In No. A-580, at least, the State has failed to raise any objection, either on the grounds of exhaustion or abuse of the writ. Because the State made no procedural objections in either the District Court or the Court of Appeals, any such claims should be considered waived. Cf. *Jenkins v. Anderson*, 447 U. S. 231, 234, n. 1 (1980). The District Court's boilerplate sentence holding all four of the claims applicant Bundy presented to it to constitute abuse of the writ should not change that conclusion, especially as the State subsequently failed to raise that defense in this Court.

No. D-740. IN RE DISBARMENT OF SMITH. Disbarment entered. [For earlier order herein, see *ante*, p. 938.]

No. D-741. IN RE DISBARMENT OF WEINBERG. Disbarment entered. [For earlier order herein, see *ante*, p. 952.]

No. D-760. IN RE DISBARMENT OF WALLIS. It is ordered that Grace M. Wallis, of Mill Bay, British Columbia, Canada, be suspended from the practice of law in this Court and that a rule issue, returnable within 40 days, requiring her to show cause why she should not be disbarred from the practice of law in this Court.

No. D-761. IN RE DISBARMENT OF GRAHAM. It is ordered that Frederick Townley Graham, of San Rafael, Cal., be suspended from the practice of law in this Court and that a rule issue, returnable within 40 days, requiring him to show cause why he should not be disbarred from the practice of law in this Court.

No. D-762. IN RE DISBARMENT OF KOTZKER. It is ordered that Michael Steven Kotzker, of Los Angeles, Cal., be suspended from the practice of law in this Court and that a rule issue, returnable within 40 days, requiring him to show cause why he should not be disbarred from the practice of law in this Court.

No. D-763. IN RE DISBARMENT OF GRIDLEY. It is ordered that John N. Gridley III, of Sioux Falls, S. D., be suspended from the practice of law in this Court and that a rule issue, returnable



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within 40 days, requiring him to show cause why he should not be disbarred from the practice of law in this Court.

No. D-764. *IN RE DISBARMENT OF SMITH*. It is ordered that Thomas Pryor Smith, of Detroit, Mich., be suspended from the practice of law in this Court and that a rule issue, returnable within 40 days, requiring him to show cause why he should not be disbarred from the practice of law in this Court.

No. D-765. *IN RE DISBARMENT OF DOUGLAS*. It is ordered that Randall R. Douglas, of Phoenix, Ariz., be suspended from the practice of law in this Court and that a rule issue, returnable within 40 days, requiring him to show cause why he should not be disbarred from the practice of law in this Court.

No. 87-1207. *WILL v. MICHIGAN DEPARTMENT OF STATE POLICE ET AL.* Sup. Ct. Mich. [Certiorari granted, 485 U. S. 1005.] Motion of respondents for leave to file a supplemental brief after argument granted.

No. 87-1661. *ASARCO INC. ET AL. v. KADISH ET AL.* Sup. Ct. Ariz. [Certiorari granted, *ante*, p. 887.] Motion of the Solicitor General for leave to participate in oral argument as *amicus curiae* and for divided argument granted. JUSTICE O'CONNOR took no part in the consideration or decision of this motion.

No. 88-305. *SOUTH CAROLINA v. GATHERS*. Sup. Ct. S. C. [Certiorari granted, *ante*, p. 888.] Motion of Washington Legal Foundation et al. for leave to file a brief as *amici curiae* granted.

No. 88-449. *HEALY ET AL. v. THE BEER INSTITUTE ET AL.*; and

No. 88-513. *WINE & SPIRITS WHOLESALERS OF CONNECTICUT, INC. v. THE BEER INSTITUTE ET AL.* C. A. 2d Cir. [Probable jurisdiction noted, *ante*, p. 954.] Motion of appellants for divided argument denied.

No. 88-782. *UNITED STATES DEPARTMENT OF JUSTICE v. TAX ANALYSTS*. C. A. D. C. Cir. [Certiorari granted, *ante*, p. 1003.] Motion of the Solicitor General to dispense with printing the joint appendix granted.

No. 88-5977. *WRENN v. THORNBURGH, ATTORNEY GENERAL OF THE UNITED STATES, ET AL.* C. A. 2d Cir. Motion of petitioner for leave to proceed *in forma pauperis* denied. Petitioner

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is allowed until February 13, 1989, within which to pay the docketing fee required by Rule 45(a) and to submit a petition in compliance with Rule 33 of the Rules of this Court.

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

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

No. 88-6204. *BRANION v. GRAMLY, WARDEN*. C. A. 7th Cir. Motion of petitioner to expedite consideration of the petition for writ of certiorari denied.

*Certiorari Granted*

No. 88-309. *WYOMING v. UNITED STATES ET AL.* Sup. Ct. Wyo. Certiorari granted limited to Question 2 presented by the petition. Reported below: 753 P. 2d 76.

*Certiorari Denied.* (See also Nos. 88-5054 and 88-6040, *supra*.)

No. 87-7205. *BERRY v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 839 F. 2d 1487.

No. 87-7209. *ROB J. v. GRANT ET AL.* Ct. App. Mo., Eastern Dist. Certiorari denied.

No. 88-157. *NATIONWIDE MUTUAL INSURANCE CO. v. CLAY*. Sup. Ct. Ala. Certiorari denied. Reported below: 525 So. 2d 1339.

No. 88-232. *GROSSMAN v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 843 F. 2d 78.

No. 88-519. *HO FAT SETO, DBA HO FAT OF CALIFORNIA v. McLAUGHLIN, SECRETARY OF LABOR*. C. A. 9th Cir. Certiorari denied. Reported below: 850 F. 2d 586.

No. 88-567. *MONACO v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 852 F. 2d 1143.

No. 88-629. *G & W LABORATORIES, INC. v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 857 F. 2d 1464.

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No. 88-631. COX ENTERPRISES, INC., DBA WACO TRIBUNE HERALD, ET AL. *v.* GUINN. Ct. App. Tex., 14th Dist. Certiorari denied. Reported below: 738 S. W. 2d 303.

No. 88-676. IKARD, DBA IKARD MANUFACTURING CO. *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 853 F. 2d 931.

No. 88-702. KNOX *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 858 F. 2d 744.

No. 88-710. ORKIN EXTERMINATING CO., INC. *v.* FEDERAL TRADE COMMISSION. C. A. 11th Cir. Certiorari denied. Reported below: 849 F. 2d 1354.

No. 88-712. SHIRLEY ET AL. *v.* SCHRAER, POSTMASTER, UNITED STATES POSTAL SERVICE, SAN ANTONIO DIVISION, ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 851 F. 2d 1419.

No. 88-713. ACTION AUTOMOTIVE, INC. *v.* NATIONAL LABOR RELATIONS BOARD. C. A. 6th Cir. Certiorari denied. Reported below: 853 F. 2d 433.

No. 88-731. WESTERN PENNSYLVANIA TEAMSTERS & EMPLOYERS PENSION FUND ET AL. *v.* CARL COLTERYAHN DAIRY, INC., ET AL. C. A. 3d Cir. Certiorari denied. Reported below: 847 F. 2d 113.

No. 88-743. WILSON *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 853 F. 2d 869.

No. 88-744. TURNER *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 854 F. 2d 1318.

No. 88-745. NEW YORK *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. Reported below: 853 F. 2d 124.

No. 88-756. INTERNATIONAL LONGSHOREMEN'S ASSN., AFL-CIO, ET AL. *v.* FEDERAL MARITIME COMMISSION ET AL. C. A. D. C. Cir. Certiorari denied. Reported below: 272 U. S. App. D. C. 129, 854 F. 2d 1338.

No. 88-760. KEYSTONE LAMP MANUFACTURING CO. *v.* NATIONAL LABOR RELATIONS BOARD. C. A. 3d Cir. Certiorari denied. Reported below: 849 F. 2d 601.



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No. 88-772. *LANDRETH, A MINOR, BY AND THROUGH HER GUARDIAN AD LITEM, ORE v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 850 F. 2d 532.

No. 88-814. *SMITH v. WASHINGTON*. Sup. Ct. Wash. Certiorari denied. Reported below: 110 Wash. 2d 658, 756 P. 2d 722.

No. 88-859. *FRIEDMAN v. GANASSI ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 853 F. 2d 207.

No. 88-863. *FRIEDGOOD v. PETERS PUBLISHING CO.* Dist. Ct. App. Fla., 4th Dist. Certiorari denied. Reported below: 521 So. 2d 236.

No. 88-871. *HUGHES v. HALIFAX COUNTY SCHOOL BOARD ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 855 F. 2d 183.

No. 88-872. *BROIDA v. TENDRICH*. C. A. 11th Cir. Certiorari denied. Reported below: 856 F. 2d 198.

No. 88-876. *VAIL VILLAGE INN ASSOCIATES, DBA VILLAGE INN PLAZA, ET AL. v. GIRALT, AKA BENET*. Ct. App. Colo. Certiorari denied. Reported below: 759 P. 2d 801.

No. 88-884. *KNEELAND ET AL. v. NATIONAL COLLEGIATE ATHLETIC ASSN. ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 850 F. 2d 224.

No. 88-885. *FIRESTONE TIRE & RUBBER Co. v. RICHARD*. C. A. 5th Cir. Certiorari denied. Reported below: 853 F. 2d 1258.

No. 88-901. *ADAMS v. VANDEMARK ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 855 F. 2d 312.

No. 88-904. *JOHNSON MOVING & STORAGE Co. v. DANIELS*. Ct. App. Colo. Certiorari denied.

No. 88-906. *ZOSKY v. BOYER ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 856 F. 2d 554.

No. 88-909. *LOCKHEED CALIFORNIA CO. ET AL. v. BIRTELL*. Ct. App. Cal., 2d App. Dist. Certiorari denied.

No. 88-910. *FAUX-BURHANS v. BOARD OF COUNTY COMMISSIONERS OF FREDERICK COUNTY, MARYLAND*. C. A. 4th Cir. Certiorari denied. Reported below: 859 F. 2d 149.

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No. 88-912. REDGRAVE *v.* BOSTON SYMPHONY ORCHESTRA, INC. C. A. 1st Cir. Certiorari denied. Reported below: 855 F. 2d 888.

No. 88-915. TEAMSTERS LOCAL 315 *v.* UNION OIL COMPANY OF CALIFORNIA. C. A. 9th Cir. Certiorari denied. Reported below: 856 F. 2d 1307.

No. 88-918. DUCK, TRUSTEE OF THE BANKRUPTCY ESTATE OF JEWELL, ET AL. *v.* BANK OF AMERICA, N. T. & S. A.; and

No. 88-934. KRUSE *v.* BANK OF AMERICA, N. T. & S. A. Ct. App. Cal., 1st App. Dist. Certiorari denied. Reported below: 202 Cal. App. 3d 38, 248 Cal. Rptr. 217.

No. 88-949. POST *v.* REGAN ET AL. C. A. 2d Cir. Certiorari denied. Reported below: 854 F. 2d 1315.

No. 88-978. D. C. TRANSIT SYSTEM, INC. *v.* WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION ET AL. C. A. D. C. Cir. Certiorari denied. Reported below: 268 U. S. App. D. C. 406, 842 F. 2d 402.

No. 88-984. ALVAREZ *v.* TRANS WORLD AIRLINES, INC., ET AL. C. A. 11th Cir. Certiorari denied. Reported below: 859 F. 2d 925.

No. 88-1071. GETER, ADMINISTRATRIX OF THE ESTATE OF GETER *v.* WILLE, SHERIFF OF PALM BEACH COUNTY, FLORIDA, ET AL. C. A. 11th Cir. Certiorari denied. Reported below: 846 F. 2d 1352.

No. 88-5041. LANDES *v.* DEPARTMENT OF STATE ET AL. C. A. 3d Cir. Certiorari denied. Reported below: 845 F. 2d 1012.

No. 88-5435. MOORE *v.* DUBOIS, WARDEN, ET AL. C. A. 10th Cir. Certiorari denied. Reported below: 848 F. 2d 1115.

No. 88-5598. CLARK ET AL. *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 851 F. 2d 356.

No. 88-5617. WADLEY *v.* GEORGIA. Sup. Ct. Ga. Certiorari denied. Reported below: 258 Ga. 465, 369 S. E. 2d 734.

No. 88-5667. HARVEY *v.* GENERAL DYNAMICS CORP./ELECTRIC BOAT ET AL. C. A. 2d Cir. Certiorari denied. Reported below: 849 F. 2d 1467.

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No. 88-5695. *SIMMONS v. BOWEN*, SECRETARY OF HEALTH AND HUMAN SERVICES. C. A. 7th Cir. Certiorari denied. Reported below: 848 F. 2d 196.

No. 88-5722. *RUIZ v. FLORIDA*. Dist. Ct. App. Fla., 3d Dist. Certiorari denied. Reported below: 526 So. 2d 170.

No. 88-5742. *YANEZ v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 856 F. 2d 181.

No. 88-5821. *COX v. UNITED STATES*; and

No. 88-5842. *CARTER v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 859 F. 2d 151.

No. 88-5866. *EZEODO v. UNITED STATES IMMIGRATION AND NATURALIZATION SERVICE*. C. A. 5th Cir. Certiorari denied. Reported below: 856 F. 2d 190.

No. 88-5918. *RUFFIN v. DUGGER*, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS, ET AL. C. A. 11th Cir. Certiorari denied. Reported below: 848 F. 2d 1512.

No. 88-5947. *SQUIRES v. FLEMING*, WARDEN. C. A. 4th Cir. Certiorari denied. Reported below: 854 F. 2d 1317.

No. 88-5952. *BILDER v. OHIO*. Ct. App. Ohio, Summit County. Certiorari denied. Reported below: 39 Ohio App. 3d 135, 529 N. E. 2d 1292.

No. 88-5954. *LIS v. MAMOTT ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 854 F. 2d 1314.

No. 88-5956. *WILLIAMS v. ARN*, SUPERINTENDENT, OHIO STATE REFORMATORY FOR WOMEN. C. A. 6th Cir. Certiorari denied. Reported below: 856 F. 2d 197.

No. 88-5960. *DODRILL v. TATE*, SUPERINTENDENT, CHILLICOTHE CORRECTIONAL INSTITUTE. C. A. 6th Cir. Certiorari denied. Reported below: 856 F. 2d 193.

No. 88-5962. *GRANT v. KERBY*, WARDEN, ET AL. C. A. 10th Cir. Certiorari denied.

No. 88-5963. *JIMENEZ v. CALIFORNIA*; and *IN RE JIMENEZ*. Ct. App. Cal., 6th App. Dist. Certiorari denied.



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No. 88-5969. *CAMPBELL v. MICHIGAN*. Ct. App. Mich. Certiorari denied.

No. 88-5972. *BAGGETT v. DUGGER, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS*. C. A. 11th Cir. Certiorari denied.

No. 88-5974. *JANKOWSKI v. BRAUMANN*. State Court of Fulton County, Ga. Certiorari denied.

No. 88-5975. *BROWN v. RHYNE FLORAL SUPPLY MANUFACTURING CO., INC., ET AL.* Ct. App. N. C. Certiorari denied. Reported below: 89 N. C. App. 717, 366 S. E. 2d 894.

No. 88-5976. *SZAREWICZ v. ZIMMERMAN, ATTORNEY GENERAL OF PENNSYLVANIA*. C. A. 3d Cir. Certiorari denied.

No. 88-5978. *PORTEE v. DUGGER, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS*. C. A. 11th Cir. Certiorari denied. Reported below: 849 F. 2d 1478.

No. 88-5979. *SHANE v. LOS ANGELES POLICE DEPARTMENT*. Ct. App. Cal., 2d App. Dist. Certiorari denied.

No. 88-5983. *PRUNTY v. INTERNAL REVENUE SERVICE*. C. A. 9th Cir. Certiorari denied.

No. 88-5984. *RODRIGUEZ-SUAREZ ET AL. v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 856 F. 2d 135.

No. 88-5987. *MCCONICO v. ROBINSON*. Sup. Ct. Ala. Certiorari denied. Reported below: 537 So. 2d 67.

No. 88-5989. *OWENS v. MORRIS, SUPERINTENDENT, SOUTHERN OHIO CORRECTIONAL FACILITY*. C. A. 6th Cir. Certiorari denied.

No. 88-5992. *CHURCH v. THOMPSON ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 859 F. 2d 149.

No. 88-6003. *PEROTTI v. SEITER ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 849 F. 2d 609.

No. 88-6004. *PASTER v. CURTISS WRIGHT CORP. ET AL.* C. A. 3d Cir. Certiorari denied.

No. 88-6010. *JENKINS v. BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM ET AL.* C. A. D. C. Cir. Certiorari denied.

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No. 88-6013. *SHELLS v. OKLAHOMA ET AL.* Ct. Crim. App. Okla. Certiorari denied.

No. 88-6014. *SPEARS v. THIGPEN ET AL.* C. A. 11th Cir. Certiorari denied. Reported below: 846 F. 2d 1327.

No. 88-6018. *CURRY v. CLERK OF COURT, GLOUCESTER COUNTY CIRCUIT, ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 861 F. 2d 714.

No. 88-6019. *RIVERA v. ILLINOIS.* App. Ct. Ill., 3d Dist. Certiorari denied. Reported below: 176 Ill. App. 3d 781, 531 N. E. 2d 372.

No. 88-6020. *WRIGHT v. BANK OF LOUISVILLE.* Ct. App. Ind. Certiorari denied. Reported below: 520 N. E. 2d 479.

No. 88-6029. *JONES v. ILLINOIS.* App. Ct. Ill., 1st Dist. Certiorari denied. Reported below: 170 Ill. App. 3d 1158, 542 N. E. 2d 184.

No. 88-6032. *ATKINS v. PRELESNIK, WARDEN.* C. A. 6th Cir. Certiorari denied. Reported below: 856 F. 2d 192.

No. 88-6033. *DIPRIZIO v. MASSACHUSETTS.* App. Ct. Mass. Certiorari denied. Reported below: 26 Mass. App. 1111, 527 N. E. 2d 752.

No. 88-6036. *BOWIE v. BORG, WARDEN.* C. A. 9th Cir. Certiorari denied.

No. 88-6041. *SEGURA v. CALIFORNIA.* Sup. Ct. Cal. Certiorari denied.

No. 88-6044. *ROGERS v. ILLINOIS.* Sup. Ct. Ill. Certiorari denied. Reported below: 123 Ill. 2d 487, 528 N. E. 2d 667.

No. 88-6045. *PACHECO v. DUGGER, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS.* C. A. 11th Cir. Certiorari denied. Reported below: 850 F. 2d 1493.

No. 88-533. *DONNELLY, PERSONAL REPRESENTATIVE OF THE ESTATE OF DONNELLY v. EKLUTNA, INC., ET AL.; and*

No. 88-549. *LEE v. EKLUTNA, INC., ET AL.* C. A. 9th Cir. Motions of Alan Abramson et al. for leave to file briefs as *amici curiae* granted. Certiorari denied. Reported below: 850 F. 2d 1313.

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No. 88-568. DUGGER, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS, ET AL. *v.* RUFFIN. C. A. 11th Cir. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 848 F. 2d 1512.

No. 88-821. VERMONT *v.* BRUNELL. Sup. Ct. Vt. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 150 Vt. 388, 554 A. 2d 242.

No. 88-899. LANE, DIRECTOR, ILLINOIS DEPARTMENT OF CORRECTIONS, ET AL. *v.* WILLIAMS ET AL. C. A. 7th Cir. Certiorari denied. JUSTICE WHITE took no part in the consideration or decision of this petition. Reported below: 851 F. 2d 867.

No. 88-5746. HAMILTON *v.* CALIFORNIA. Sup. Ct. Cal. Certiorari denied. Reported below: 45 Cal. 3d 351, 753 P. 2d 1109.

JUSTICE BRENNAN, dissenting.

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

JUSTICE MARSHALL, dissenting.

Adhering to my view that the death penalty is in all circumstances cruel and unusual punishment prohibited by the Eighth and Fourteenth Amendments, *Gregg v. Georgia*, 428 U. S. 153, 231 (1976) (MARSHALL, J., dissenting), I would grant certiorari and vacate the death sentence in this case. Even if I did not hold this view, however, I would grant the petition to resolve the question whether a trial court may instruct a penalty phase jury that, "if you conclude that the aggravating circumstances outweigh the mitigating circumstances, you *shall* impose a sentence of death." I have grave doubts that such an instruction permits the individualized and reliable sentencing determination that the Constitution requires in capital cases, particularly where, as here, it is coupled with prosecutorial remarks stressing the limits on jurors' discretion.

# I

Petitioner Bernard Lee Hamilton was charged with first-degree murder, kidnaping, robbery, and burglary. During *voir dire*, the prosecutor told 11 of the 12 persons who ultimately served as



jurors that the law required them to impose a death sentence if they found that the aggravating factors outweighed the mitigating factors. All 11 persons stated that they understood the law as explained by the prosecutor and promised to follow it.\*

Hamilton was convicted of all charges. He was found to have committed the murder in the course of robbery, kidnaping, and burglary. These special circumstance findings made him eligible for the death penalty. During closing argument in the penalty phase, the prosecutor emphasized the limits on the jurors' discretion.

"Now remember at the time of the voir dire you all promised that in the event that this case went to a penalty phase and the aggravation evidence outweighed the mitigation evidence, you would impose the death penalty. Well, that is the case here, and now is the time. You should not let sympathy for the defendant or his family affect your deliberations." Record 4642.

The trial judge echoed the prosecutor's remarks when he instructed the jury: "If you conclude that the aggravating circumstances outweigh the mitigating circumstances, you shall impose a sentence of death." *Id.*, at 4669. This instruction mirrors Cal. Penal Code Ann. § 190.3 (West 1988), which provides that, "the trier of fact . . . shall impose a sentence of death if the trier of fact concludes that the aggravating circumstances outweigh the mitigating circumstances." The jury sentenced Hamilton to death.

The California Supreme Court affirmed Hamilton's conviction but set aside the special circumstance findings and reversed the death sentence. 41 Cal. 3d 408, 710 P. 2d 981 (1985). This Court granted certiorari, 478 U. S. 1017 (1986), vacated, and remanded for reconsideration in light of *Rose v. Clark*, 478 U. S. 570 (1986). On remand, the California Supreme Court affirmed both the conviction and the sentence. 45 Cal. 3d 351, 753 P. 2d 1109 (1988). It noted that it had upheld the constitutionality of § 190.3 in *People v. Brown*, 40 Cal. 3d 512, 726 P. 2d 516 (1985), even though

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\*Record 587, 650, 670, 740, 750, 879, 1200-1201, 1247, 1435, 1477, 1518. The prosecutor's exchange with Sandra Sheffield is illustrative. The prosecutor stated:

"Q. 'If [the trial court] would instruct you that the evidence in aggravation outweighed that in mitigation, *there is no way around it, you'd have to bring back a verdict of death.* Would you follow that instruction as well?"

"A. Yes." *Id.*, at 750 (emphasis added).

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*Brown* had recognized that "when delivered in an instruction [§ 190.3's] mandatory sentencing language might mislead jurors as to the scope of their sentencing discretion and responsibility," 45 Cal. 3d, at 370, 753 P. 2d, at 1122. The court further noted that in *Brown* it had barred the future use of the "bare words of the statute," 45 Cal. 3d, at 371, 753 P. 2d, at 1122, and had stated that, with respect to cases in which the bare words had been employed, it would engage in a case-by-case determination whether the jurors may have been misled as to their sentencing discretion.

Applying *Brown* to the instant case, the California Supreme Court concluded that the instruction did not prejudice Hamilton. It pointed to closing remarks by both the prosecutor and defense counsel which emphasized the jurors' responsibility for the sentencing decision. In addition, the court noted that the trial judge had instructed the jurors that they should weigh rather than count the aggravating and mitigating factors, and that they had to be "convinced beyond a reasonable doubt that the totality of the aggravating circumstances outweigh[s] the totality of the mitigating circumstances" in order to impose a death sentence. 45 Cal. 3d, at 371, 753 P. 2d, at 1122. The court concluded that, given the statements, the jurors could not have been misled by the mandatory language contained in the instruction.

## II

Because the death penalty is qualitatively different from any other sentence, this Court requires that sentencing in capital cases be particularized with regard to the individual and the crime charged. See *Lockett v. Ohio*, 438 U. S. 586 (1978) (plurality opinion). Toward that end, we have struck down state laws and instructions that prevent a jury from considering any mitigating aspect of a capital defendant's character or background. See, e. g., *Hitchcock v. Dugger*, 481 U. S. 393 (1987); *Lockett v. Ohio*, *supra*. We have also held that mandatory death sentences are impermissible because they do not allow for consideration of particularized mitigating factors. See, e. g., *Sumner v. Shuman*, 483 U. S. 66 (1987) (invalidating mandatory death sentence for murder committed by a defendant who is already serving a life sentence); *Roberts v. Louisiana*, 431 U. S. 633 (1977) (*per curiam*) (invalidating mandatory death sentence for murder of a police officer).

The mandatory element of the California trial court's instruction pursuant to § 190.3 runs counter to our demand for individual-

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ized consideration in capital cases. It establishes a fixed formula for the jury's deliberations which severely circumscribes the jury's discretion in sentencing. Indeed, the California Supreme Court has conceded in the instant case, in *Brown, supra*, and in *People v. Myers*, 43 Cal. 3d 250, 729 P. 2d 698 (1987), that a juror who finds that the aggravating evidence outweighs the mitigating evidence, but who believes that the death sentence is not appropriate, may reasonably understand such an instruction to require him to vote for a sentence of death.

Here, the state court found that the instruction's constitutional defect was cured by other instructions that the jurors must weigh aggravating and mitigating factors, and that they must be convinced beyond a reasonable doubt that the aggravating factors prevailed in order to impose the death penalty. Neither of these instructions, however, informed the jury that it retained discretion to impose a life sentence after it had determined that the aggravating factors outweighed the mitigating ones. At no time, furthermore, did the prosecutor or defense counsel suggest that the jurors had discretion in sentencing once they had decided that the aggravating factors outweighed the mitigating ones. Indeed, the prosecutor expressly reminded the jurors that they had promised during *voir dire* that they would automatically impose a death sentence if they found that the evidence in aggravation outweighed that in mitigation. In light of the foregoing, it is impossible to know whether Hamilton was sentenced to death because the jurors thought they had no alternative.

The instruction given in this case mandated a death sentence upon a finding that the aggravating circumstances outweighed the mitigating circumstances. Because the instruction does not comport with the individualized sentencing determination required in capital cases by the Eighth and Fourteenth Amendments, I would grant the petition for certiorari.

No. 88-5770. *PRESNELL v. KEMP, WARDEN, ET AL.* C. A. 11th Cir.;

No. 88-5801. *JACKSON v. FLORIDA.* Sup. Ct. Fla.;

No. 88-5861. *GUZMAN v. CALIFORNIA.* Sup. Ct. Cal.;

No. 88-5864. *HOOKS v. ALABAMA.* Sup. Ct. Ala.;

No. 88-5957. *GRANT v. CALIFORNIA.* Sup. Ct. Cal.;

No. 88-5964. *AINSWORTH v. CALIFORNIA.* Sup. Ct. Cal.;

No. 88-5981. *WILLIAMS v. CALIFORNIA.* Sup. Ct. Cal.;



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No. 88-5985. *RICH v. CALIFORNIA*. Sup. Ct. Cal.;  
No. 88-6015. *DANIELS v. ALABAMA*. Sup. Ct. Ala.; and  
No. 88-6017. *FAIRCHILD v. LOCKHART, DIRECTOR, ARKANSAS  
DEPARTMENT OF CORRECTION*. C. A. 8th Cir. Certiorari de-  
nied. Reported below: No. 88-5770, 835 F. 2d 1567; No. 88-5801,  
530 So. 2d 269; No. 88-5861, 45 Cal. 3d 915, 755 P. 2d 917;  
No. 88-5864, 534 So. 2d 371; No. 88-5957, 45 Cal. 3d 829, 755  
P. 2d 894; No. 88-5964, 45 Cal. 3d 984, 755 P. 2d 1017; No. 88-  
5981, 45 Cal. 3d 1268, 756 P. 2d 221; No. 88-5985, 45 Cal. 3d  
1036, 755 P. 2d 960; No. 88-6015, 534 So. 2d 664; No. 88-6017,  
857 F. 2d 1204.

JUSTICE BRENNAN and JUSTICE MARSHALL, dissenting.

Adhering to our views that the death penalty is in all circum-  
stances cruel and unusual punishment prohibited by the Eighth  
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. D-724. *IN RE DISBARMENT OF STORTS*, *ante*, p. 963;  
No. 86-1904. *ARIZONA v. YOUNGBLOOD*, *ante*, p. 51;  
No. 87-7201. *FOLEY v. SECRETARY OF THE ARMY*, *ante*,  
p. 980;  
No. 88-464. *RAILWAY LABOR EXECUTIVES' ASSN. ET AL. v.  
CHICAGO & NORTH WESTERN TRANSPORTATION CO. ET AL.*, *ante*,  
p. 966;  
No. 88-5318. *IN RE YOUNGS-SETTLE*, *ante*, p. 923;  
No. 88-5353. *BENTLEY v. UNITED STATES*, *ante*, p. 970;  
No. 88-5496. *YOUNGS v. LAWYERS SURETY CORP. ET AL.*,  
*ante*, p. 945;  
No. 88-5524. *IN RE KERPA, AKA LAWSON*, *ante*, p. 964;  
No. 88-5614. *LUTHER v. PENNSYLVANIA*, *ante*, p. 971;  
No. 88-5630. *HAMBLIN v. OHIO*, *ante*, p. 975;  
No. 88-5660. *TEDDERS v. LORD ET AL.*, *ante*, p. 962;  
No. 88-5693. *MCCOLPIN v. BROOKS*, *ante*, p. 984; and  
No. 88-5747. *KNOWLES v. UNITED STATES*, *ante*, p. 974. Peti-  
tions for rehearing denied.

No. 88-640. *EMPIRE BLUE CROSS & BLUE SHIELD ET AL. v.  
UNITED STATES*, *ante*, p. 993; and

No. 88-5558. *FLOWERS v. WARDEN, CONNECTICUT CORREC-  
TIONAL INSTITUTION, SOMERS, CONNECTICUT*, *ante*, p. 995. Peti-

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tions for rehearing denied. JUSTICE BRENNAN took no part in the consideration or decision of these petitions.

JANUARY 26, 1989

*Certiorari Denied*

No. 88-6138 (A-583). JULIUS *v.* ALABAMA ET AL. C. A. 11th Cir. Application for stay of execution of sentence of death, presented to JUSTICE KENNEDY, and by him referred to the Court, denied. Certiorari denied. Reported below: 856 F. 2d 198.

JUSTICE BRENNAN and JUSTICE MARSHALL, dissenting.

Adhering to our views that the death penalty is in all circumstances cruel and unusual punishment prohibited by the Eighth and Fourteenth Amendments, *Gregg v. Georgia*, 428 U. S. 153, 227, 231 (1976), we would grant the application for stay of execution and the petition for writ of certiorari and would vacate the death sentence in this case.

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*Miscellaneous Order*

No. A-603. DUGGER, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS *v.* CLARK. Application of the Attorney General of Florida for an order to vacate the stay of execution of sentence of death entered by the United States Court of Appeals for the Eleventh Circuit, presented to JUSTICE KENNEDY, and by him referred to the Court, denied.