

ORDERS FOR JUNE 15 THROUGH  
JUNE 21, 1989

JUNE 15, 1989

*Miscellaneous Order*

No. A-996 (88-7461). *WOOMER v. EVATT, COMMISSIONER, SOUTH CAROLINA DEPARTMENT OF CORRECTIONS, ET AL.* Sup. Ct. S. C. Application for stay of execution of sentence of death, presented to THE CHIEF JUSTICE, 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.

*Certiorari Denied*

No. 88-7447 (A-995). *EDWARDS v. MISSISSIPPI.* Sup. Ct. Miss. Application for stay of execution of sentence of death, presented to JUSTICE WHITE, and by him 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.

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*Dismissal Under Rule 53*

No. 88-1794. *NORTHEAST ILLINOIS REGIONAL COMMUTER RAILROAD CORP. v. BAKER.* C. A. 7th Cir. Certiorari dismissed under this Court's Rule 53.

*Appeal Dismissed*

No. 88-1753. *S. T., ON BEHALF OF HER MINOR CHILD, N. T. v. BOARD OF EDUCATION OF THE CITY OF MILLVILLE, NEW JER-* 901

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SEY, 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.

*Certiorari Granted—Vacated and Remanded*

No. 88-5795. SALAZAR ET AL. *v.* UNITED STATES. C. A. 2d 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 *Gomez v. United States*, 490 U. S. 858 (1989). Reported below: 848 F. 2d 1324.

No. 88-6122. NITTAYANUPAP *v.* UNITED STATES. C. A. 9th 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 *Gomez v. United States*, 490 U. S. 858 (1989). Reported below: 860 F. 2d 1090.

No. 88-6725. HAYES *v.* LOCKHART, DIRECTOR, ARKANSAS DEPARTMENT OF CORRECTION. 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 *South Carolina v. Gathers*, 490 U. S. 805 (1989). Reported below: 852 F. 2d 339.

No. 88-6729. DANIELS *v.* INDIANA. Sup. Ct. Ind. Motion of petitioner for leave to proceed *in forma pauperis* granted. Certiorari granted, judgment vacated, and case remanded for further consideration in light of *South Carolina v. Gathers*, 490 U. S. 805 (1989). Reported below: 528 N. E. 2d 775.

*Miscellaneous Orders*

No. ——. IN RE DENNIS. Motion to direct the Clerk to file petition for writ of habeas corpus denied.

No. A-944. PREVENSLIK, INDIVIDUALLY AND AS TRUSTEE OF THE FELIX AND OLGA DAVIS TRUST *v.* ROSSKO ET AL. C. A. 3d Cir. Application for stay, addressed to JUSTICE KENNEDY and referred to the Court, denied.

No. D-784. IN RE DISBARMENT OF LILLBACK. Disbarment entered. [For earlier order herein, see 490 U. S. 1044.]

No. D-792. IN RE DISBARMENT OF SCHAEFER. It is ordered that Brian D. Schaefer, of Longwood, Fla., 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-793. IN RE DISBARMENT OF CARTWRIGHT. It is ordered that Prince Cartwright, Jr., of Houston, Tex., be suspended from the practice of law in this Court and that a rule issue, returnable within 40 days, requiring him to show cause why he should not be disbarred from the practice of law in this Court.

No. D-794. IN RE DISBARMENT OF MONTEMAYOR. It is ordered that Ruben R. Montemayor, of San Antonio, Tex., be suspended from the practice of law in this Court and that a rule issue, returnable within 40 days, requiring him to show cause why he should not be disbarred from the practice of law in this Court.

No. 88-1353. UNITED STATES *v.* VERDUGO-URQUIDEZ. C. A. 9th Cir. [Certiorari granted, 490 U. S. 1019.] Motion of Criminal Justice Legal Foundation for leave to file a brief as *amicus curiae* granted.

No. 88-1640. MICHIGAN CITIZENS FOR AN INDEPENDENT PRESS ET AL. *v.* THORNBURGH, ATTORNEY GENERAL OF THE UNITED STATES, ET AL. C. A. D. C. Cir. [Certiorari granted, 490 U. S. 1045.] Motion of the parties to dispense with printing the joint appendix granted. JUSTICE WHITE took no part in the consideration or decision of this motion.

No. 88-7281. IN RE HUMPHREY. Petition for writ of habeas corpus denied.

#### *Certiorari Granted*

No. 88-1719. CHAUFFEURS, TEAMSTERS & HELPERS, LOCAL No. 391 *v.* TERRY ET AL. C. A. 4th Cir. Certiorari granted. Reported below: 863 F. 2d 334.

No. 88-1835. FLORIDA *v.* WELLS. Sup. Ct. Fla. Certiorari granted. Reported below: 539 So. 2d 464.

No. 88-1595. KAISER ALUMINUM & CHEMICAL CORP. ET AL. *v.* BONJORNO ET AL.; and

No. 88-1771. BONJORNO ET AL. *v.* KAISER ALUMINUM & CHEMICAL CORP. ET AL. C. A. 3d Cir. Certiorari granted, cases consolidated, and a total of one hour allotted for oral argument. Reported below: 865 F. 2d 566.

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No. 88-6873. *CLEMONS v. MISSISSIPPI*. Sup. Ct. Miss. Motion of petitioner for leave to proceed *in forma pauperis* granted. Certiorari granted limited to Question 1 presented by the petition. Reported below: 535 So. 2d 1354.

*Certiorari Denied.* (See also No. 88-1753, *supra*.)

No. 87-1445. *HAMPTON, PERSONAL REPRESENTATIVE OF THE ESTATE OF HAMPTON v. MICHIGAN*. Ct. App. Mich. Certiorari denied. Reported below: 144 Mich. App. 794, 377 N. W. 2d 920.

No. 87-1454. *SKOBLOW v. AMERI-MANAGE, INC.* Sup. Ct. Fla. Certiorari denied. Reported below: 514 So. 2d 1077.

No. 88-447. *VEST v. SCHAFER ET AL.* Sup. Ct. Alaska. Certiorari denied. Reported below: 757 P. 2d 588.

No. 88-527. *BISHOP ET UX., ADMINISTRATORS OF THE ESTATE OF BISHOP v. GWALTNEY ET AL.* Ct. App. Cal., 4th App. Dist. Certiorari denied.

No. 88-542. *JACKSON v. MAINE*. Sup. Jud. Ct. Me. Certiorari denied. Reported below: 544 A. 2d 291.

No. 88-660. *SIMKINS INDUSTRIES, INC. v. SIERRA CLUB*. C. A. 4th Cir. Certiorari denied. Reported below: 847 F. 2d 1109.

No. 88-709. *ROE v. SUPERIOR COURT OF CALIFORNIA, COUNTY OF MARIN (DOE, REAL PARTY IN INTEREST)*. Ct. App. Cal., 1st App. Dist. Certiorari denied.

No. 88-1254. *SCHOOL v. UNITED STATES POSTAL SERVICE ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 865 F. 2d 1259.

No. 88-1382. *EAGLE-PICHER INDUSTRIES, INC. v. UNITED STATES*; and

No. 88-1418. *RAYMARK INDUSTRIES, INC. v. UNITED STATES*. C. A. Fed. Cir. Certiorari denied. Reported below: 858 F. 2d 712.

No. 88-1412. *RANDALL ET AL. v. THORNBURGH, ATTORNEY GENERAL OF THE UNITED STATES, ET AL.* C. A. D. C. Cir. Certiorari denied. Reported below: 272 U. S. App. D. C. 63, 854 F. 2d 472.

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No. 88-1471. *WALKER v. SUPERIOR COURT OF SACRAMENTO COUNTY.* Sup. Ct. Cal. Certiorari denied. Reported below: 47 Cal. 3d 112, 763 P. 2d 852.

No. 88-1571. *DELORENZO ET AL. v. NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION.* Sup. Ct. N. J. Certiorari denied. Reported below: 113 N. J. 649, 552 A. 2d 172.

No. 88-1604. *LEACH ET AL. v. FEDERAL DEPOSIT INSURANCE CORPORATION ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 860 F. 2d 1266.

No. 88-1616. *LOMBARDO v. UNITED STATES.* C. A. 7th Cir. Certiorari denied. Reported below: 865 F. 2d 155.

No. 88-1626. *SAMS v. UNITED STATES.* C. A. 6th Cir. Certiorari denied. Reported below: 865 F. 2d 713.

No. 88-1642. *ALASKA v. KENAITZE INDIAN TRIBE.* C. A. 9th Cir. Certiorari denied. Reported below: 860 F. 2d 312.

No. 88-1649. *L & B CORP. ET AL. v. COMMISSIONER OF INTERNAL REVENUE.* C. A. 8th Cir. Certiorari denied. Reported below: 862 F. 2d 667.

No. 88-1657. *S. H. ET AL. v. EDWARDS, FORMER COMMISSIONER, GEORGIA DEPARTMENT OF HUMAN RESOURCES, ET AL.* C. A. 11th Cir. Certiorari denied. Reported below: 860 F. 2d 1045.

No. 88-1669. *HAMILTON ET AL. v. STOVALL, JUDGE, SECOND ADMINISTRATIVE JUDICIAL DISTRICT OF TEXAS.* C. A. 5th Cir. Certiorari denied. Reported below: 859 F. 2d 919.

No. 88-1678. *WALTON v. MERRIMAN.* C. A. 9th Cir. Certiorari denied. Reported below: 856 F. 2d 1333.

No. 88-1696. *SALES TAX COLLECTOR, ST. CHARLES PARISH, LOUISIANA v. WESTSIDE SAND CO., INC.* Ct. App. La., 5th Cir. Certiorari denied. Reported below: 534 So. 2d 454.

No. 88-1700. *CENTRAL LOUISIANA TELEPHONE CO. ET AL. v. McCARROLL.* Ct. App. La., 3d Cir. Certiorari denied. Reported below: 533 So. 2d 385.

No. 88-1715. *WOODS ET VIR v. BOBROW, GREENAPPLE & SKOLNIK.* C. A. 2d Cir. Certiorari denied. Reported below: 865 F. 2d 43.

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No. 88-1718. *SCHOEMEHL v. EDWARDS*. Sup. Ct. Mo. Certiorari denied. Reported below: 765 S. W. 2d 607.

No. 88-1720. *WILSMANN v. UPJOHN CO. ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 865 F. 2d 1269.

No. 88-1727. *VIDEO INTERNATIONAL PRODUCTIONS, INC. v. WARNER-AMEX CABLE COMMUNICATIONS, INC., ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 858 F. 2d 1075.

No. 88-1730. *ATTORNEYS' TITLE GUARANTY FUND, INC. v. RICHARDS*. C. A. 10th Cir. Certiorari denied. Reported below: 866 F. 2d 1570.

No. 88-1731. *DISTRICT OF COLUMBIA NURSES ASSN. ET AL. v. DISTRICT OF COLUMBIA*. C. A. D. C. Cir. Certiorari denied. Reported below: 272 U. S. App. D. C. 231, 854 F. 2d 1448.

No. 88-1736. *WEMHOFF v. FLORIA ET AL.* Ct. App. D. C. Certiorari denied.

No. 88-1740. *KARZOV v. ATTORNEY REGISTRATION AND DISCIPLINARY COMMISSION OF ILLINOIS*. Sup. Ct. Ill. Certiorari denied. Reported below: 126 Ill. 2d 33, 533 N. E. 2d 856.

No. 88-1746. *MACURDY v. PENNSYLVANIA*. Super. Ct. Pa. Certiorari denied. Reported below: 381 Pa. Super. 657, 548 A. 2d 640.

No. 88-1747. *GRAMMER v. PATTERSON SERVICES, INC.* C. A. 5th Cir. Certiorari denied. Reported below: 860 F. 2d 639.

No. 88-1748. *TASHER v. ST. TAMMANY PARISH HOSPITAL ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 862 F. 2d 873.

No. 88-1749. *VELEZ v. CONNECTICUT*. App. Ct. Conn. Certiorari denied. Reported below: 17 Conn. App. 186, 551 A. 2d 421.

No. 88-1750. *DAISLEY v. GENERAL ELECTRIC CO.* C. A. 4th Cir. Certiorari denied. Reported below: 865 F. 2d 1257.

No. 88-1752. *SOUTH CAROLINA ET AL. v. CATAWBA INDIAN TRIBE OF SOUTH CAROLINA, INC.* C. A. 4th Cir. Certiorari denied. Reported below: 865 F. 2d 1444.

No. 88-1759. *UNITED STATES v. MANDEL ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 862 F. 2d 1067.

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No. 88-1760. *WORRELL v. B. F. GOODRICH CO.* C. A. 9th Cir. Certiorari denied. Reported below: 845 F. 2d 840.

No. 88-1780. *COOPER v. EISENMAN ET AL.* C. A. 1st Cir. Certiorari denied. Reported below: 867 F. 2d 606.

No. 88-1800. *IN RE POWELL.* Sup. Ct. Ill. Certiorari denied. Reported below: 126 Ill. 2d 15, 533 N. E. 2d 831.

No. 88-1810. *STEFFEN v. MERIDIAN LIFE INSURANCE CO. ET AL.* C. A. 7th Cir. Certiorari denied. Reported below: 859 F. 2d 534.

No. 88-1817. *BARROW v. WAHL ET AL.* C. A. 11th Cir. Certiorari denied. Reported below: 868 F. 2d 1274.

No. 88-1823. *GLADDEN v. ROACH ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 864 F. 2d 1196.

No. 88-1853. *STERNER v. COMMISSIONER OF INTERNAL REVENUE.* C. A. 4th Cir. Certiorari denied. Reported below: 867 F. 2d 609.

No. 88-1854. *DAVENPORT v. UNITED STATES.* C. A. 6th Cir. Certiorari denied. Reported below: 869 F. 2d 1489.

No. 88-1869. *AYALA v. UNITED STATES.* C. A. 9th Cir. Certiorari denied. Reported below: 872 F. 2d 430.

No. 88-1876. *FURNARI v. UNITED STATES.* C. A. 2d Cir. Certiorari denied. Reported below: 868 F. 2d 524.

No. 88-1888. *NORTON v. UNITED STATES.* C. A. 11th Cir. Certiorari denied. Reported below: 867 F. 2d 1354.

No. 88-6582. *DUDLEY v. MISSOURI.* Ct. App. Mo., Western Dist. Certiorari denied. Reported below: 760 S. W. 2d 448.

No. 88-6636. *EMBRY v. KENTUCKY.* Sup. Ct. Ky. Certiorari denied.

No. 88-6913. *BRUSCINO ET AL. v. CARLSON ET AL.* C. A. 7th Cir. Certiorari denied. Reported below: 854 F. 2d 162.

No. 88-6917. *MEADE-MURPHY v. CITY OF ATLANTA ET AL.* C. A. 11th Cir. Certiorari denied.

No. 88-6929. *WAGSTAFF v. UNITED STATES.* C. A. 4th Cir. Certiorari denied. Reported below: 865 F. 2d 626.

No. 88-6935. *LEECH v. UNITED STATES.* C. A. 3d Cir. Certiorari denied. Reported below: 869 F. 2d 592.

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No. 88-6981. *RUMNEY v. UNITED STATES*. C. A. 1st Cir. Certiorari denied. Reported below: 867 F. 2d 714.

No. 88-7076. *HALVERSON v. BARBOUR, SUPERINTENDENT, TWIN RIVERS CORRECTIONAL CENTER AT MONROE, WASHINGTON*. C. A. 9th Cir. Certiorari denied. Reported below: 868 F. 2d 1272.

No. 88-7083. *WILLIAMS v. DUGGER, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS, ET AL.* C. A. 11th Cir. Certiorari denied.

No. 88-7084. *PATTERSON v. TRANSWORLD DRILLING CO.* C. A. 5th Cir. Certiorari denied. Reported below: 866 F. 2d 1418.

No. 88-7092. *BROOKS v. CITY OF ANNISTON, ALABAMA, ET AL.* C. A. 11th Cir. Certiorari denied.

No. 88-7094. *HARPER v. NIX, WARDEN, ET AL.* C. A. 8th Cir. Certiorari denied. Reported below: 867 F. 2d 455.

No. 88-7095. *HOFFMAN v. PETSOCK, SUPERINTENDENT, STATE CORRECTIONAL INSTITUTION AT PITTSBURGH, ET AL.* C. A. 3d Cir. Certiorari denied.

No. 88-7102. *ROSS v. ZIMMERMAN, SUPERINTENDENT, STATE CORRECTIONAL INSTITUTION (AND DIAGNOSTIC AND CLASSIFICATION CENTER) AT GRATERFORD, ET AL.* C. A. 3d Cir. Certiorari denied.

No. 88-7103. *MARTIN v. COURT OF APPEALS OF MARYLAND ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 870 F. 2d 655.

No. 88-7105. *DEAN v. WEST VIRGINIA ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 866 F. 2d 1415.

No. 88-7115. *JOHNSON v. DISTRICT COURT OF WYOMING, FIRST JUDICIAL DISTRICT.* Sup. Ct. Wyo. Certiorari denied.

No. 88-7117. *WALKER v. OHIO.* Ct. App. Ohio, Stark County. Certiorari denied.

No. 88-7141. *AL-HAKIM v. TAMPA CITY COUNCIL.* C. A. 11th Cir. Certiorari denied. Reported below: 871 F. 2d 123.

No. 88-7150. *VELILLA v. CONNECTICUT ET AL.* C. A. D. C. Cir. Certiorari denied.

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No. 88-7195. *F. G. v. LAWTON ET AL.* Sup. Ct. Mo. Certiorari denied. Reported below: 764 S. W. 2d 89.

No. 88-7237. *MOSER v. UNITED STATES.* C. A. 6th Cir. Certiorari denied. Reported below: 870 F. 2d 658.

No. 88-7238. *DUFFEL v. UNITED STATES.* C. A. 6th Cir. Certiorari denied. Reported below: 869 F. 2d 1489.

No. 88-7248. *NAIYAVAJ v. UNITED STATES.* C. A. 9th Cir. Certiorari denied. Reported below: 869 F. 2d 1499.

No. 88-7255. *THORPE v. UNITED STATES.* Ct. App. D. C. Certiorari denied.

No. 88-7258. *KOSKO v. UNITED STATES.* C. A. 4th Cir. Certiorari denied. Reported below: 870 F. 2d 162.

No. 88-7260. *GONZALEZ-ALVAREZ v. UNITED STATES.* C. A. 11th Cir. Certiorari denied. Reported below: 866 F. 2d 1422.

No. 88-7264. *FAHY v. UNITED STATES.* C. A. Fed. Cir. Certiorari denied. Reported below: 864 F. 2d 148.

No. 88-7265. *CARDENAS, AKA RAMIREZ v. UNITED STATES.* C. A. 10th Cir. Certiorari denied. Reported below: 864 F. 2d 1528.

No. 88-7267. *KLEIN v. UNITED STATES.* C. A. 6th Cir. Certiorari denied. Reported below: 861 F. 2d 720.

No. 88-7268. *CAMPOS-FUENTES v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. Reported below: 871 F. 2d 119.

No. 88-7269. *RIVERA v. UNITED STATES.* C. A. 9th Cir. Certiorari denied. Reported below: 865 F. 2d 1271.

No. 88-7270. *WRIGHT v. UNITED STATES.* C. A. 9th Cir. Certiorari denied. Reported below: 872 F. 2d 432.

No. 88-7272. *STENGEL v. UNITED STATES.* C. A. 9th Cir. Certiorari denied. Reported below: 872 F. 2d 431.

No. 88-7275. *TROUSDALE v. UNITED STATES.* C. A. 11th Cir. Certiorari denied. Reported below: 872 F. 2d 434.

No. 88-1466. *PEOPLE OF ENEWETAK, RONGELAP, AND OTHER MARSHALL ISLANDS ATOLLS v. UNITED STATES.* C. A. Fed. Cir. Motion of petitioners to defer consideration of the petition for writ

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of certiorari denied. Certiorari denied. Reported below: 864 F. 2d 134.

No. 88-1467. CREDIT BUREAU SERVICES-NEW ORLEANS, DBA CHILTON CORP. *v.* HYDE. C. A. 5th Cir. Motion of Associated Credit Bureaus, Inc., for leave to file a brief as *amicus curiae* granted. Certiorari denied. Reported below: 861 F. 2d 446.

No. 88-1721. MCCORMICK ET AL. *v.* TEXAS COMMERCE BANK, N. A. Ct. App. Tex., 14th Dist. Motion of respondent for costs denied. Certiorari denied. Reported below: 751 S. W. 2d 887.

No. 88-1724. ARKANSAS *v.* GIBSON. Sup. Ct. Ark. Certiorari denied. JUSTICE BRENNAN and JUSTICE WHITE would grant certiorari. Reported below: 298 Ark. 43, 764 S. W. 2d 617.

No. 88-1773. RICOH CO., LTD. *v.* SNELLMAN, DBA NORFIN. C. A. Fed. Cir. Motion of International Electronics Manufacturers & Consumers of America, Inc., for leave to file a brief as *amicus curiae* granted. Certiorari denied. Reported below: 862 F. 2d 283.

No. 88-1813. RALEY *v.* HUGHES ET UX. Ct. Sp. App. Md. Motion of respondents for sanctions and attorney's fees denied. Certiorari denied. Reported below: 76 Md. App. 796.

No. 88-5024. TRAVAGLIA *v.* PENNSYLVANIA. Super. Ct. Pa.;  
No. 88-5685. RICE *v.* WASHINGTON. Sup. Ct. Wash.;  
No. 88-6006. DAWSON *v.* MONTANA. Sup. Ct. Mont.;  
No. 88-6154. BEATY *v.* ARIZONA. Sup. Ct. Ariz.;  
No. 88-6468. YARRIS *v.* PENNSYLVANIA. Sup. Ct. Pa.;  
No. 88-7073. THOMAS *v.* ALABAMA. Sup. Ct. Ala.;  
No. 88-7120. HERNANDEZ *v.* CALIFORNIA. Sup. Ct. Cal.;  
No. 88-7132. HOKE *v.* VIRGINIA. Sup. Ct. Va.;  
No. 88-7135. WEBB *v.* TEXAS. Ct. Crim. App. Tex.;  
No. 88-7136. CARUTHERS *v.* TENNESSEE. Ct. Crim. App. Tenn.; and

No. 88-7201. WAYE *v.* TOWNLEY, WARDEN. C. A. 4th Cir. Certiorari denied. Reported below: No. 88-5024, 359 Pa. Super. 630, 515 A. 2d 620; No. 88-5685, 110 Wash. 2d 577, 757 P. 2d 889; No. 88-6006, 233 Mont. 345, 761 P. 2d 352; No. 88-6154, 158 Ariz. 232, 762 P. 2d 519; No. 88-6468, 519 Pa. 571, 549 A. 2d 513; No. 88-7073, 539 Sc. 2d 399; No. 88-7120, 47 Cal. 3d

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315, 763 P. 2d 1289; No. 88-7132, 237 Va. 303, 377 S. E. 2d 595; No. 88-7135, 760 S. W. 2d 263; No. 88-7201, 871 F. 2d 18.

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. 88-7082. *SOLON v. UNITED STATES*. C. A. 5th Cir. Certiorari before judgment denied.

*Rehearing Denied*

No. 88-963. *CULBERSON v. VETERANS ADMINISTRATION*, 490 U. S. 1034;

No. 88-1011. *HARMAN ET AL. v. DOLE*, SECRETARY OF LABOR, ET AL., 489 U. S. 1094;

No. 88-1517. *DUNNING v. COMMISSIONER OF INTERNAL REVENUE*, 490 U. S. 1047;

No. 88-6515. *BRATHWAITE v. UNITED STATES*, 490 U. S. 1048;

No. 88-6726. *ASBERRY v. UNITED STATES POSTAL SERVICE* ET AL., 490 U. S. 1037;

No. 88-6734. *ADAMO v. HOTEL, MOTEL, BARTENDERS, COOKS & RESTAURANT WORKERS UNION LOCAL 24* ET AL., 490 U. S. 1037;

No. 88-6773. *BARRON v. SALT LAKE CITY, UTAH*, 490 U. S. 1049;

No. 88-6859. *GONZALEZ v. DEPARTMENT OF THE NAVY*, 490 U. S. 1050; and

No. 88-6934. *REIDT v. UNITED STATES*, 490 U. S. 1073. Petitions for rehearing denied.

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*Miscellaneous Orders*

No. A-1008 (88-7235). *GILMORE v. ARMONTROUT, WARDEN*, 490 U. S. 1114. Motion of respondent to vacate the order staying the execution of sentence of death entered by JUSTICE BLACKMUN on June 16, 1989, granted.

JUSTICE BLACKMUN, dissenting.

In an order issued June 12, 1989, 490 U. S. 1114, this Court denied George Gilmore's petition for a writ of certiorari to the

United States Court of Appeals for the Eighth Circuit, which had reversed the United States District Court's grant of relief under 28 U. S. C. § 2254. On the following day the Chief Justice of the Missouri Supreme Court set Gilmore's execution for 12:01 a.m., Wednesday, June 21, 1989, less than nine days after our order issued. On Friday, June 16, I issued a stay of execution to allow Gilmore to file a timely petition for rehearing with this Court. The State of Missouri moved later that day to vacate the stay, and today the Court has granted that motion. In doing so it has endorsed the State of Missouri's unseemly rush to execution and has sanctioned the decision of the Chief Justice of Missouri to ignore the usual deadline of 25 days set by this Court for filing petitions for rehearing. See this Court's Rule 51.1. Although I am far from certain that the claims presented by Gilmore would have moved the Court to grant rehearing, the claims are far from frivolous, as the District Court's grant of habeas relief makes clear. The Court's action today means that we shall never have the opportunity to consider those arguments as they might have been developed by counsel during the 25 days normally allowed for petitions for rehearing to be filed.

I granted the stay which the Court vacates today because the initial application contained "only a synopsis of the arguments that counsel intend[ed] to make" in the petition for rehearing. *Autry v. Estelle*, 464 U. S. 1, 4 (1983) (STEVENS, J., dissenting). Whether the relevant time period is that for filing a petition for a writ of certiorari, as was the case in *Autry*, or for a petition for rehearing, as in this case, our time limits are based upon the expectation that counsel needs the amount of time specified by our Rules in order to develop legal arguments that fit the specific requirements of this Court. Here, rather than just repeating the arguments contained in his petition for certiorari, Gilmore's counsel was required to limit the grounds of the petition "to intervening circumstances of substantial or controlling effect or to other substantial grounds not previously presented." This Court's Rule 51.2. It is unrealistic to think that even the most resourceful counsel would be able to do this in less than nine days. Forcing Gilmore to present his claims in such a fashion "injects uncertainty and disparity into the review procedure, adds to the burden of counsel, distorts the deliberative process within this Court, and increases

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the risk of error." *Autry, supra*, at 6. That was my view when I granted the stay in this case; it remains my view today.

JUSTICE STEVENS, with whom JUSTICE BRENNAN and JUSTICE MARSHALL join, dissenting.

For the reasons stated by JUSTICE BLACKMUN, I would deny the motion to vacate the stay.

No. A-1012. *McKINNEY v. IDAHO*. Application for stay of execution of sentence of death, presented to JUSTICE O'CONNOR, and by her 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.

No. A-1025. *LAWS, BY AND THROUGH LAWS, AS HIS NEXT FRIEND v. DELO, SUPERINTENDENT, POTOSI CORRECTIONAL CENTER*. Application for stay of execution of sentence of death, presented to JUSTICE BLACKMUN, 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.

No. A-1027. *DELO, SUPERINTENDENT, POTOSI CORRECTIONAL CENTER v. GILMORE*. 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 District Court for the Eastern District of Missouri, presented to JUSTICE BLACKMUN, and by him referred to the Court, denied.

#### *Certiorari Denied*

No. 88-7530 (A-1021). *EDWARDS v. BLACK, COMMISSIONER, MISSISSIPPI DEPARTMENT OF CORRECTIONS*. C. A. 5th Cir. Application for stay of execution of sentence of death, presented to

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JUSTICE WHITE, and by him referred to the Court, denied. Certiorari denied. Reported below: 876 F. 2d 377.

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. 88-1952. UNITED STATES v. TRICE ET AL. C. A. 8th Cir. Certiorari dismissed under this Court's Rule 53. Reported below: 864 F. 2d 1421.