

ORDERS FOR OCTOBER 2, 1989, THROUGH
FEBRUARY 20, 1990

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Appeals Dismissed

No. 88-1891. M & M CONSTRUCTION CO., INC. v. GREAT AMERICAN INSURANCE CO. Appeal from Ct. App. Tex., 13th 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: 749 S. W. 2d 526.

No. 88-7460. CRUMPACKER v. INDIANA ET AL. Appeal from Sup. Ct. Ind. 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. 88-1770. WESTINGHOUSE ELECTRIC CORP. v. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION. C. A. 3d Cir. Certiorari granted, judgment vacated, and case remanded for further consideration in light of *Public Employees Retirement System of Ohio v. Betts*, 492 U. S. 158 (1989). Reported below: 869 F. 2d 696.

No. 88-2034. DENTON ET AL. v. HERNANDEZ. C. A. 9th Cir. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari granted, judgment vacated, and case remanded for further consideration in light of *Neitzke v. Williams*, 490 U. S. 319 (1989). Reported below: 861 F. 2d 1421.

No. 88-7343. ENGLISH ET AL. v. SIDDENS ET AL. C. A. 7th Cir. Motion of petitioners for leave to proceed *in forma pauperis* granted. Certiorari granted, judgment vacated, and case remanded for further consideration in light of *Reed v. United Transportation Union*, 488 U. S. 319 (1989). Reported below: 863 F. 2d 885.

Miscellaneous Orders

No. — — —. POSEY v. DEPARTMENT OF THE AIR FORCE; and

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No. — — ——. YANG *v.* MCCARTHY. Motions to direct the Clerk to file petitions for writs of certiorari out of time denied.

No. A-138 (89-127). CASTIGLIONE *v.* UNITED STATES. C. A. 9th Cir. Application for stay, addressed to JUSTICE SCALIA and referred to the Court, denied.

No. A-179 (89-352). SILVERSTEIN *v.* NEW YORK. Ct. App. N. Y. Application for stay, addressed to JUSTICE MARSHALL and referred to the Court, denied.

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 \$4,313.43 for the period April 1 through June 30, 1989, to be paid equally by the parties. [For earlier order herein, see, *e. g.*, 492 U. S. 915.]

No. 74, Orig. GEORGIA *v.* SOUTH CAROLINA. Exceptions to the Report of the Special Master are set for oral argument in due course. [For earlier order herein, see, *e. g.*, 490 U. S. 1033.]

No. 87-1387. WARDS COVE PACKING CO., INC., ET AL. *v.* ANTONIO ET AL., 490 U. S. 642. Motion of respondents to retax costs denied.

No. 87-2048. TEXACO INC. *v.* HASBROUCK, DBA RICK'S TEXACO, ET AL. C. A. 9th Cir. [Certiorari granted, 490 U. S. 1105.] Motion of National Coalition of Petroleum Retailers for leave to file a brief as *amicus curiae* granted.

No. 88-790. TURNOCK, DIRECTOR OF THE ILLINOIS DEPARTMENT OF PUBLIC HEALTH, ET AL. *v.* RAGSDALE ET AL. C. A. 7th Cir. [Probable jurisdiction postponed, 492 U. S. 916.] Motion of Alan Ernest for leave to represent children unborn and born alive denied. Motion of Legal Defense for Unborn Children for leave to file a brief as *amicus curiae* denied. Motion of Larry Joyce for leave to participate in oral argument as *amicus curiae*, for divided argument, and for additional time for oral argument denied. JUSTICE STEVENS took no part in the consideration or decision of these motions.

No. 88-805. OHIO *v.* AKRON CENTER FOR REPRODUCTIVE HEALTH ET AL. C. A. 6th Cir. [Probable jurisdiction noted, 492 U. S. 916.] Motion of Alan Ernest for leave to represent children unborn and born alive denied. Motion of Legal Defense for Un-

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born Children for leave to file a brief as *amicus curiae* denied. Motion of James Joseph Lynch, Jr., for leave to file a brief as *amicus curiae* denied.

No. 88-870. LONGO ET AL. *v.* UNITED STATES ET AL. C. A. 2d Cir. [Certiorari granted, 489 U. S. 1064.] Motion of petitioners for leave to file a reply brief out of time granted.

No. 88-931. CRANDON ET AL. *v.* UNITED STATES; and

No. 88-938. BOEING Co., INC. *v.* UNITED STATES. C. A. 4th Cir. [Certiorari granted, 490 U. S. 1003.] Motion of petitioners for divided argument granted.

No. 88-1125. HODGSON ET AL. *v.* MINNESOTA ET AL. C. A. 8th Cir. [Certiorari granted, 492 U. S. 917.] Motion of Alan Ernest for leave to represent children unborn and born alive denied. Motion of Legal Defense for Unborn Children for leave to file a brief as *amicus curiae* denied.

No. 88-1400. FRANCHISE TAX BOARD OF CALIFORNIA ET AL. *v.* ALCAN ALUMINIUM LTD. ET AL. C. A. 7th Cir. [Certiorari granted, 490 U. S. 1019.] Motion of respondents for divided argument denied.

No. 88-1474. UNITED STATES *v.* GOODYEAR TIRE & RUBBER Co. ET AL. C. A. Fed. Cir. [Certiorari granted, 490 U. S. 1045.] Motion of Vulcan Materials Co. for leave to file a brief as *amicus curiae* granted.

No. 88-1775. PEEL *v.* ATTORNEY REGISTRATION AND DISCIPLINARY COMMISSION OF ILLINOIS. Sup. Ct. Ill. [Certiorari granted, 492 U. S. 917.] Motions for leave to file briefs as *amici curiae* filed by the following are granted: Academy of Certified Trial Lawyers of Minnesota, American Advertising Federation, Inc., Public Citizen, Association of Trial Lawyers of America et al., Association of National Advertisers, Inc., and Washington Legal Foundation et al.

No. 88-1958. SUPREME BEEF PROCESSORS, INC. *v.* YAQUINTO, TRUSTEE FOR CARAVAN REFRIGERATED CARGO, INC. C. A. 5th Cir.;

No. 88-2009. RICHARDSON ET AL. *v.* UNITED STEELWORKERS OF AMERICA. C. A. 5th Cir.;

No. 88-2041. SISSON *v.* RUBY ET AL. C. A. 7th Cir.;

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No. 88-2062. COTTON *v.* BABCOCK, DIRECTOR, MICHIGAN DEPARTMENT OF SOCIAL SERVICES. C. A. 6th Cir.;

No. 88-2109. KANSAS ET AL. *v.* KANSAS POWER & LIGHT CO. ET AL. C. A. 10th Cir.;

No. 88-2117. INCOME SECURITY CORP., INC., ET AL. *v.* LOUISIANA OILFIELD CONTRACTORS ASSN., INC., ET AL. C. A. 5th Cir.;

No. 89-46. WOOD ET AL. *v.* GENERAL MOTORS CORP. C. A. 1st Cir.;

No. 89-56. ALLEVATO, PERSONAL REPRESENTATIVE OF THE ESTATE OF FERRANTINO, ET AL. *v.* COUNTY OF OAKLAND ET AL. C. A. 6th Cir.;

No. 89-79. CITY OF DETROIT *v.* COUNTY OF OAKLAND ET AL. C. A. 6th Cir.; and

No. 89-101. YOUNG, MAYOR OF THE CITY OF DETROIT *v.* COUNTY OF OAKLAND ET AL. C. A. 6th Cir. The Solicitor General is invited to file briefs in these cases expressing the views of the United States.

No. 88-6075. JAMES *v.* ILLINOIS. Sup. Ct. Ill. [Certiorari granted, 489 U. S. 1010.] Motion of petitioner for leave to file a reply brief out of time granted.

No. 88-7146. WHITMORE, INDIVIDUALLY AND AS NEXT FRIEND OF SIMMONS *v.* ARKANSAS ET AL. Sup. Ct. Ark. [Certiorari granted, 492 U. S. 917.] Motion for appointment of counsel granted, and it is ordered that Arthur L. Allen, Esq., of Little Rock, Ark., be appointed to serve as counsel for petitioner in this case.

No. 88-7309. NOLLSCH *v.* WYOMING. Sup. Ct. Wyo.; and

No. 88-7487. STENDEL *v.* CALIFORNIA. Ct. App. Cal., 4th App. Dist. Motions of petitioners for leave to proceed *in forma pauperis* denied. Petitioners are allowed until October 23, 1989, 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*.

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No. 88-7322. STUMPF *v.* COMMISSIONER OF INTERNAL REVENUE. C. A. 9th Cir.;

No. 88-7356. CARR *v.* UNITED STATES. C. A. Fed. Cir.; and

No. 88-7583. ROCHE *v.* UNITED STATES POSTAL SERVICE. C. A. Fed. Cir. Motions of petitioners for leave to proceed *in forma pauperis* denied. Petitioners are allowed until October 23, 1989, 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. 88-7381. BONIN *v.* CALIFORNIA. Sup. Ct. Cal. Motion of petitioner for leave to file an amendment to the petition for writ of certiorari granted.

No. 88-7626. RIVERA *v.* OROWEAT FOODS CO., INC., ET AL. C. A. 9th Cir.;

No. 89-5159. MALONE *v.* SHELBY COUNTY BOARD OF EDUCATION ET AL. Ct. App. Tenn.; and

No. 89-5333. JOSHUA ET UX. *v.* NEWELL, FOSTER HOME LICENSOR, DEPARTMENT OF SOCIAL AND HEALTH SERVICES, ET AL. C. A. 9th Cir. Motions of petitioners for leave to proceed *in forma pauperis* denied. Petitioners are allowed until October 23, 1989, 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 and JUSTICE MARSHALL, 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. 89-5021. IN RE TILLMAN. C. A. 7th Cir. Petition for writ of common-law certiorari denied.

No. 88-7548. IN RE GREEN;

No. 89-5005. IN RE WOLF;

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No. 89-5032. IN RE MCCABE;
 No. 89-5090. IN RE EZEODO;
 No. 89-5125. IN RE SUMMERS;
 No. 89-5306. IN RE RED BEAR;
 No. 89-5316. IN RE D'ANGELO;
 No. 89-5407. IN RE KLUVER; and
 No. 89-5440. IN RE SCHLAEBITZ. Petitions for writs of habeas corpus denied.

No. 88-7243. IN RE DEBARDELEBEN;
 No. 88-7346. IN RE STARLING;
 No. 88-7615. IN RE FIELDS, AKA SCOTT;
 No. 89-5002. IN RE BONNETT;
 No. 89-5030. IN RE AGOMO;
 No. 89-5155. IN RE LAY;
 No. 89-5174. IN RE MICKENS;
 No. 89-5199. IN RE PHILLIPS; and
 No. 89-5263. IN RE MARTIN. Petitions for writs of mandamus denied.

No. 88-7221. IN RE MARTIN;
 No. 88-7314. IN RE BAILEY;
 No. 89-5253. IN RE HAUGEN; and
 No. 89-5266. IN RE HOLLINGSWORTH. Petitions for writs of mandamus and/or prohibition denied.

Certiorari Granted

No. 88-1725. VENEGAS *v.* MITCHELL. C. A. 9th Cir. Certiorari granted. Reported below: 867 F. 2d 527.

No. 88-1897. MICHIGAN DEPARTMENT OF STATE POLICE ET AL. *v.* SITZ ET AL. Ct. App. Mich. Certiorari granted. Reported below: 170 Mich. App. 433, 429 N. W. 2d 180.

No. 88-1905. KELLER ET AL. *v.* STATE BAR OF CALIFORNIA ET AL. Sup. Ct. Cal. Certiorari granted. Reported below: 47 Cal. 3d 1152, 767 P. 2d 1020.

No. 88-1916. MINNESOTA *v.* OLSON. Sup. Ct. Minn. Certiorari granted. Reported below: 436 N. W. 2d 92.

No. 88-1943. OFFICE OF PERSONNEL MANAGEMENT *v.* RICHMOND. C. A. Fed. Cir. Certiorari granted. Reported below: 862 F. 2d 294.

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No. 88-1951. UNITED STATES *v.* DALM. C. A. 6th Cir. Certiorari granted. Reported below: 867 F. 2d 305.

No. 88-1993. BUTTERWORTH, ATTORNEY GENERAL OF FLORIDA, ET AL. *v.* SMITH. C. A. 11th Cir. Certiorari granted. Reported below: 866 F. 2d 1318.

No. 88-2031. UNITED STATES *v.* KOKINDA ET AL. C. A. 4th Cir. Certiorari granted. Reported below: 866 F. 2d 699.

No. 88-2102. STEWART ET AL. *v.* ABEND, DBA AUTHORS RESEARCH Co. C. A. 9th Cir. Certiorari granted. Reported below: 863 F. 2d 1465.

No. 88-2123. DEPARTMENT OF THE TREASURY, INTERNAL REVENUE SERVICE *v.* FEDERAL LABOR RELATIONS AUTHORITY ET AL. C. A. D. C. Cir. Certiorari granted. Reported below: 274 U. S. App. D. C. 135, 862 F. 2d 880.

No. 89-44. BURNHAM *v.* SUPERIOR COURT OF CALIFORNIA, COUNTY OF MARIN (BURNHAM, REAL PARTY IN INTEREST). Ct. App. Cal., 1st App. Dist. Certiorari granted.

No. 89-65. FORT STEWART SCHOOLS *v.* FEDERAL LABOR RELATIONS AUTHORITY ET AL. C. A. 11th Cir. Certiorari granted. Reported below: 860 F. 2d 396.

No. 89-163. UNITED STATES *v.* MONTALVO-MURILLO. C. A. 10th Cir. Certiorari granted. Reported below: 876 F. 2d 826.

No. 88-1281. NGIRAINGAS ET AL. *v.* SANCHEZ ET AL. C. A. 9th Cir. Certiorari granted. JUSTICE KENNEDY took no part in the consideration or decision of this petition. Reported below: 858 F. 2d 1368.

No. 88-1671. UNITED STATES DEPARTMENT OF LABOR *v.* TRIPLETT ET AL.; and

No. 88-1688. COMMITTEE ON LEGAL ETHICS OF THE WEST VIRGINIA STATE BAR *v.* TRIPLETT ET AL. Sup. Ct. App. W. Va. Certiorari granted, cases consolidated, and a total of one hour allotted for oral argument. Reported below: 180 W. Va. 533, 378 S. E. 2d 82.

No. 88-1872. RUTAN ET AL. *v.* REPUBLICAN PARTY OF ILLINOIS ET AL.; and

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No. 88-2074. FRECH ET AL. *v.* RUTAN ET AL. C. A. 7th Cir. Motion of Independent Voters of Illinois Independent Precinct Organization et al. for leave to file a brief as *amici curiae* in No. 88-1872 granted. Certiorari granted, cases consolidated, and a total of one hour allotted for oral argument. Reported below: 868 F. 2d 943.

No. 88-1932. UNITED STATES *v.* MUNOZ-FLORES. C. A. 9th Cir. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari granted. In addressing the justiciability issues presented in this case, the parties are requested to brief the applicability of the political question doctrine. Reported below: 863 F. 2d 654.

No. 88-1972. ILLINOIS *v.* PERKINS. App. Ct. Ill., 5th Dist. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari granted. Reported below: 176 Ill. App. 3d 443, 531 N. E. 2d 141.

No. 89-156. PENNSYLVANIA DEPARTMENT OF PUBLIC WELFARE ET AL. *v.* DAVENPORT ET UX. C. A. 3d Cir. Motion of respondents for leave to proceed *in forma pauperis* granted. Certiorari granted. Reported below: 871 F. 2d 421.

No. 88-2035. ADAMS FRUIT CO., INC. *v.* BARRETT ET AL. C. A. 11th Cir. Motion of National Council of Self-Insurers for leave to file a brief as *amicus curiae* granted. Certiorari granted. Reported below: 867 F. 2d 1305.

No. 88-2043. BALILES, GOVERNOR OF VIRGINIA, ET AL. *v.* VIRGINIA HOSPITAL ASSN. C. A. 4th Cir. Certiorari granted limited to Question 1 presented by the petition. Reported below: 868 F. 2d 653.

No. 88-7351. WALTON *v.* ARIZONA. Sup. Ct. Ariz. Motion of petitioner for leave to proceed *in forma pauperis* granted. Certiorari granted. Reported below: 159 Ariz. 571, 769 P. 2d 1017.

Certiorari Denied. (See also Nos. 88-1891, 88-7460, and 89-5021, *supra.*)

No. 88-1635. TRUESDALE *v.* UNIVERSITY OF NORTH CAROLINA ET AL. Ct. App. N. C. Certiorari denied. Reported below: 91 N. C. App. 186, 371 S. E. 2d 503.

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No. 88-1637. DALSHEIM, SUPERINTENDENT, DOWNSTATE CORRECTIONAL FACILITY, ET AL. *v.* INNES. C. A. 2d Cir. Certiorari denied. Reported below: 864 F. 2d 974.

No. 88-1639. MACKS *v.* WERNICK. App. Ct. Ill., 1st Dist. Certiorari denied. Reported below: 176 Ill. App. 3d 153, 530 N. E. 2d 1127.

No. 88-1647. MCKINNON *v.* CITY OF BERWYN ET AL. C. A. 7th Cir. Certiorari denied.

No. 88-1677. KITCHENS ET AL. *v.* OREGON EX REL. ADULT AND FAMILY SERVICES DIVISION. Ct. App. Ore. Certiorari denied. Reported below: 93 Ore. App. 685, 763 P. 2d 1196.

No. 88-1680. VENEMON ET AL. *v.* DAVISON. C. A. 9th Cir. Certiorari denied. Reported below: 857 F. 2d 1477.

No. 88-1698. PHELPS DODGE CORP. *v.* UNITED STEELWORKERS OF AMERICA ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 865 F. 2d 1539.

No. 88-1708. SPAWR OPTICAL RESEARCH, INC., ET AL. *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 864 F. 2d 1467.

No. 88-1710. GREENE *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 862 F. 2d 1512.

No. 88-1713. O'BRIEN *v.* STEIN ET AL. Ct. App. Ohio, Franklin County. Certiorari denied. Reported below: 47 Ohio App. 3d 191, 547 N. E. 2d 1213.

No. 88-1723. ARCHER-DANIELS-MIDLAND CO. ET AL. *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied. Reported below: 866 F. 2d 242.

No. 88-1735. APPERSON *v.* FLEET CARRIER CORP. C. A. 6th Cir. Certiorari denied. Reported below: 866 F. 2d 431.

No. 88-1737. BARBEE *v.* UNITED STATES. C. A. Fed. Cir. Certiorari denied. Reported below: 867 F. 2d 616.

No. 88-1764. POST *v.* GARCIA ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 860 F. 2d 1089.

No. 88-1783. ASTA ET AL. *v.* ILLINOIS. Sup. Ct. Ill. Certiorari denied. Reported below: 126 Ill. 2d 356, 534 N. E. 2d 962.

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No. 88-1789. *FREED ET UX. v. COMMISSIONER OF INTERNAL REVENUE*. C. A. 10th Cir. Certiorari denied. Reported below: 864 F. 2d 671.

No. 88-1797. *GOETHE HOUSE NEW YORK, GERMAN CULTURAL CENTER v. NATIONAL LABOR RELATIONS BOARD ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 869 F. 2d 75.

No. 88-1806. *LAND AIR DELIVERY, INC. v. NATIONAL LABOR RELATIONS BOARD*. C. A. D. C. Cir. Certiorari denied. Reported below: 274 U. S. App. D. C. 127, 862 F. 2d 354.

No. 88-1808. *BUSHMAN ET AL. v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 862 F. 2d 1327.

No. 88-1826. *BARROW v. KING ET AL.* C. A. 11th Cir. Certiorari denied. Reported below: 868 F. 2d 1274.

No. 88-1828. *BERKLEE COLLEGE OF MUSIC v. BERKLEE CHAPTER OF THE MASSACHUSETTS FEDERATION OF TEACHERS, LOCAL 4412, AFT, AFL-CIO*. C. A. 1st Cir. Certiorari denied. Reported below: 858 F. 2d 31.

No. 88-1832. *DOHERTY v. SOUTHERN COLLEGE OF OPTOMETRY*. C. A. 6th Cir. Certiorari denied. Reported below: 862 F. 2d 570.

No. 88-1842. *PORCELLI v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 865 F. 2d 1352.

No. 88-1848. *GENERAL MOTORS CORP. v. SKELTON ET AL.* C. A. 7th Cir. Certiorari denied. Reported below: 860 F. 2d 250.

No. 88-1850. *SEVENTY-TWO THOUSAND, NINE HUNDRED AND FORTY DOLLARS IN UNITED STATES CURRENCY ET AL. v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 860 F. 2d 1080.

No. 88-1852. *BRADLEY FACILITIES, INC. v. BURNS, COMMISSIONER OF TRANSPORTATION OF CONNECTICUT*. Sup. Ct. Conn. Certiorari denied. Reported below: 209 Conn. 480, 551 A. 2d 746.

No. 88-1858. *COFFIN v. MURRAY, DIRECTOR, VIRGINIA DEPARTMENT OF CORRECTIONS, ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 867 F. 2d 608.

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No. 88-1859. *JOHNSON v. UNITED STATES POSTAL SERVICE*. C. A. 10th Cir. Certiorari denied. Reported below: 861 F. 2d 1475.

No. 88-1860. *KU v. ALLIED-SIGNAL, INC.* C. A. 4th Cir. Certiorari denied. Reported below: 865 F. 2d 1258.

No. 88-1863. *CUELLAR v. UNITED STATES*. Ct. Mil. App. Certiorari denied. Reported below: 27 M. J. 50.

No. 88-1864. *KELLEY v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 864 F. 2d 569.

No. 88-1866. *M McNABB v. CAVAZOS, SECRETARY OF EDUCATION, ET AL.* C. A. 8th Cir. Certiorari denied. Reported below: 862 F. 2d 681.

No. 88-1870. *BULLOCK, COMPTROLLER OF PUBLIC ACCOUNTS OF TEXAS v. OPPENHEIM, APPEL, DIXON & Co.* C. A. 5th Cir. Certiorari denied. Reported below: 863 F. 2d 393.

No. 88-1871. *ATCHISON, TOPEKA & SANTA FE RAILWAY Co. v. BROWN*. Ct. App. Tex., 11th Dist. Certiorari denied. Reported below: 750 S. W. 2d 332.

No. 88-1873. *BOROUGH OF EAST CONEMAUGH ET AL. v. EASTERN TELECOM CORP.* C. A. 3d Cir. Certiorari denied. Reported below: 872 F. 2d 30.

No. 88-1875. *CATALANOTTE v. NEW YORK*. Ct. App. N. Y. Certiorari denied. Reported below: 72 N. Y. 2d 641, 532 N. E. 2d 1244.

No. 88-1880. *MEEKINS, INC. v. LABORERS' HEALTH AND WELFARE FUND FOR SOUTHERN CALIFORNIA ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 869 F. 2d 1497.

No. 88-1881. *INDELICATO v. UNITED STATES* (two cases);

No. 88-2060. *SALERNO ET AL. v. UNITED STATES*;

No. 88-2061. *PERSICO ET AL. v. UNITED STATES*; and

No. 88-2071. *SCOPO v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: No. 88-1881 (first case), 865 F. 2d 1370; No. 88-1881 (second case) and Nos. 88-2060, 88-2061, and 88-2071, 868 F. 2d 524.

No. 88-1883. *AETNA LIFE INSURANCE Co. v. BORGES, TREASURER OF THE STATE OF CONNECTICUT, ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 869 F. 2d 142.

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No. 88-1886. GILBERT ET AL. *v.* CITY OF LITTLE ROCK ET AL. C. A. 8th Cir. Certiorari denied. Reported below: 867 F. 2d 1062 and 1063.

No. 88-1887. HUTCHINSON *v.* McDONALD'S CORP. C. A. 11th Cir. Certiorari denied. Reported below: 865 F. 2d 1272.

No. 88-1890. BEYER, ADMINISTRATOR, NEW JERSEY STATE PRISON, ET AL. *v.* HUMANIK. C. A. 3d Cir. Certiorari denied. Reported below: 871 F. 2d 432.

No. 88-1892. OPERATING ENGINEERS PENSION TRUST ET AL. *v.* DANIEL, DBA CONSOLIDATED CONCRETE PUMPING. C. A. 9th Cir. Certiorari denied. Reported below: 861 F. 2d 268.

No. 88-1893. KING *v.* UNITED STATES;

No. 88-7305. FOWLER *v.* UNITED STATES; and

No. 88-7310. FOWLER *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 870 F. 2d 656.

No. 88-1894. GIBSON ET AL. *v.* UNITED STATES ET AL.; and GIBSON *v.* WOLPERT. C. A. D. C. Cir. Certiorari denied.

No. 88-1895. SMITH ET AL. *v.* FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION, AS RECEIVER FOR AUDUBON FEDERAL SAVINGS & LOAN ASSN. C. A. 5th Cir. Certiorari denied. Reported below: 866 F. 2d 1418.

No. 88-1896. DUNTON ET AL. *v.* UNITED ASSOCIATION OF JOURNEYMEN & APPRENTICES OF THE PLUMBING & PIPEFITTING INDUSTRY OF THE UNITED STATES AND CANADA, LOCAL UNION NO. 403, ET AL. Ct. App. Cal., 2d App. Dist. Certiorari denied. Reported below: 206 Cal. App. 3d 44, 253 Cal. Rptr. 374.

No. 88-1898. REECE ET AL. *v.* WASHINGTON. Sup. Ct. Wash. Certiorari denied. Reported below: 110 Wash. 2d 766, 757 P. 2d 947.

No. 88-1900. DWORKIN *v.* HUSTLER MAGAZINE, INC., ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 867 F. 2d 1188.

No. 88-1902. MAROSITZ ET AL. *v.* INTERNATIONAL BROTHERHOOD OF BOILERMAKERS, IRON SHIP BUILDERS, BLACKSMITHS, FORGERS & HELPERS, AFL-CIO, ET AL. C. A. 3d Cir. Certiorari denied. Reported below: 866 F. 2d 641.

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No. 88-1904. WALKER TOWING CORP. ET AL. *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 862 F. 2d 1237.

No. 88-1906. NASH *v.* SULLIVAN, SECRETARY OF HEALTH AND HUMAN SERVICES, ET AL. C. A. 2d Cir. Certiorari denied. Reported below: 869 F. 2d 675.

No. 88-1909. CSX CORP. ET AL. *v.* FOLKSTONE MARITIME, LTD., ET AL. C. A. 7th Cir. Certiorari denied. Reported below: 866 F. 2d 955.

No. 88-1910. OVERMYER *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 867 F. 2d 937.

No. 88-1913. SMITH ET AL. *v.* CITY OF BRENHAM, TEXAS. C. A. 5th Cir. Certiorari denied. Reported below: 865 F. 2d 662.

No. 88-1914. OSBORNE *v.* STONE ET AL. Ct. App. La., 1st Cir. Certiorari denied. Reported below: 536 So. 2d 473.

No. 88-1917. DANIELSON *v.* BANK OF AMERICA, NT & SA, ET AL. Ct. App. Cal., 1st App. Dist. Certiorari denied.

No. 88-1918. LOUISIANA SOCIETY OF INDEPENDENT ACCOUNTANTS ET AL. *v.* LOUISIANA ET AL. Ct. App. La., 4th Cir. Certiorari denied. Reported below: 533 So. 2d 1251.

No. 88-1919. CITY OF HAWTHORNE ET AL. *v.* WRIGHT ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 858 F. 2d 467.

No. 88-1920. AQUARIAN FOUNDATION ET AL. *v.* LAW OFFICES OF EDWARDS & BARBIERI. Ct. App. Wash. Certiorari denied.

No. 88-1921. MORGAN *v.* WHITT ET AL. C. A. 11th Cir. Certiorari denied. Reported below: 862 F. 2d 1495.

No. 88-1922. SCHERING CORP. *v.* OPTICAL RADIATION CORP. C. A. Fed. Cir. Certiorari denied. Reported below: 867 F. 2d 616.

No. 88-1923. CITIZENS OF ILLINOIS *v.* UNITED STATES NUCLEAR REGULATORY COMMISSION ET AL. C. A. 7th Cir. Certiorari denied. Reported below: 868 F. 2d 223.

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No. 88-1924. *LAMON ET UX. v. BUTLER ET AL.* Sup. Ct. Wash. Certiorari denied. Reported below: 112 Wash. 2d 193, 770 P. 2d 1027.

No. 88-1926. *ELDREDGE v. UTAH.* Sup. Ct. Utah. Certiorari denied. Reported below: 773 P. 2d 29.

No. 88-1927. *ERICKSON v. CITY OF WEBSTER GROVES.* Ct. App. Mo., Eastern Dist. Certiorari denied. Reported below: 763 S. W. 2d 278.

No. 88-1928. *TYLER v. UNITED STATES.* Ct. Mil. App. Certiorari denied. Reported below: 28 M. J. 253.

No. 88-1930. *MARTINEZ v. UNITED STATES.* Ct. Mil. App. Certiorari denied. Reported below: 28 M. J. 56.

No. 88-1933. *CONSTANT v. ADVANCED MICRO-DEVICES, INC., ET AL.* C. A. Fed. Cir. Certiorari denied. Reported below: 873 F. 2d 1451.

No. 88-1936. *NEWELL COS., INC. v. KENNEY MANUFACTURING Co.* C. A. Fed. Cir. Certiorari denied. Reported below: 864 F. 2d 757.

No. 88-1939. *NEW ENGLAND NEWSPAPERS, INC., DBA PAW-TUCKET EVENING TIMES v. HEALEY.* Sup. Ct. R. I. Certiorari denied. Reported below: 555 A. 2d 321.

No. 88-1940. *SIGNA DEVELOPMENT CORP., FKA SIGNA INVESTMENTS, INC. v. FAYETTE COUNTY, GEORGIA, ET AL.* Sup. Ct. Ga. Certiorari denied. Reported below: 259 Ga. 11, 375 S. E. 2d 839.

No. 88-1944. *ARZANIPOUR v. IMMIGRATION AND NATURALIZATION SERVICE.* C. A. 5th Cir. Certiorari denied. Reported below: 866 F. 2d 743.

No. 88-1945. *ATLAS PAPER BOX Co. v. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION.* C. A. 6th Cir. Certiorari denied. Reported below: 868 F. 2d 1487.

No. 88-1946. *TEMPLIN v. WEISGRAM ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 867 F. 2d 240.

No. 88-1947. *INTERTRIBAL COUNCIL OF NEVADA, INC. v. LUJAN, SECRETARY OF THE INTERIOR, ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 856 F. 2d 1344.

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No. 88-1948. THOMAS J. LIPTON, INC., ET AL. *v.* R. C. BIGELOW, INC. C. A. 2d Cir. Certiorari denied. Reported below: 867 F. 2d 102.

No. 88-1950. FLORIDA DEPARTMENT OF HIGHWAY SAFETY AND MOTOR VEHICLES ET AL. *v.* SIMS ET AL.; and

No. 89-19. SIMS ET AL. *v.* FLORIDA DEPARTMENT OF HIGHWAY SAFETY AND MOTOR VEHICLES ET AL. C. A. 11th Cir. Certiorari denied. Reported below: 862 F. 2d 1449.

No. 88-1953. ATKINSON ET AL. *v.* GENERAL ELECTRIC CAPITAL CORP. C. A. 11th Cir. Certiorari denied. Reported below: 866 F. 2d 396.

No. 88-1954. STACHE *v.* INTERNATIONAL UNION OF BRICKLAYERS & ALLIED CRAFTSMEN, AFL-CIO. C. A. 9th Cir. Certiorari denied. Reported below: 852 F. 2d 1231.

No. 88-1955. CRABB ET AL. *v.* TEXAS. Ct. App. Tex., 1st Dist. Certiorari denied. Reported below: 754 S. W. 2d 742.

No. 88-1957. BARROW *v.* MARKEL, CLERK, CIRCUIT COURT OF FLORIDA, ST. JOHNS COUNTY. C. A. 11th Cir. Certiorari denied. Reported below: 868 F. 2d 1275.

No. 88-1959. HELLER ET AL. *v.* ILLINOIS ATTORNEY REGISTRATION AND DISCIPLINARY COMMISSION. Sup. Ct. Ill. Certiorari denied. Reported below: 126 Ill. 2d 94, 533 N. E. 2d 824.

No. 88-1961. BARROW *v.* AMERICAN TELEPHONE & TELEGRAPH CO. ET AL. C. A. 11th Cir. Certiorari denied. Reported below: 868 F. 2d 1275.

No. 88-1962. EAST TEXAS STEEL FACILITIES, INC. *v.* LUJAN, SECRETARY OF THE INTERIOR, ET AL. C. A. 10th Cir. Certiorari denied.

No. 88-1963. BEAZLEY *v.* MERRILL LYNCH FUTURES, INC., FKA MERRILL LYNCH COMMODITIES, INC. C. A. 11th Cir. Certiorari denied. Reported below: 865 F. 2d 1272.

No. 88-1964. POLYAK *v.* HAMILTON, JUDGE, CHANCERY AND CIRCUIT COURTS OF LAWRENCE COUNTY. Sup. Ct. Tenn. Certiorari denied.

No. 88-1965. THOMPSON ET VIR *v.* CITY OF COVINGTON ET AL. Ct. App. Ky. Certiorari denied.

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No. 88-1966. *ZILL v. AVIS RENT-A-CAR SYSTEMS, INC.* C. A. 6th Cir. Certiorari denied. Reported below: 870 F. 2d 658.

No. 88-1968. *MOELLER v. UNITED STATES ET AL.* C. A. 8th Cir. Certiorari denied. Reported below: 873 F. 2d 1446.

No. 88-1970. *BURNING TREE CLUB, INC., ET AL. v. MARYLAND ET AL.* Ct. App. Md. Certiorari denied. Reported below: 315 Md. 254, 554 A. 2d 366.

No. 88-1971. *NEU v. CORCORAN, SUPERINTENDENT OF INSURANCE OF THE STATE OF NEW YORK, ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 869 F. 2d 662.

No. 88-1973. *BARROW v. BALKCOM, DIRECTOR, FARMERS HOME ADMINISTRATION, ET AL.* C. A. 11th Cir. Certiorari denied. Reported below: 868 F. 2d 1274.

No. 88-1974. *BARROW v. BISHOP, TAX COLLECTOR.* C. A. 11th Cir. Certiorari denied. Reported below: 868 F. 2d 1274.

No. 88-1976. *BARROW v. UNIFINANCIAL CORP. ET AL.* C. A. 11th Cir. Certiorari denied. Reported below: 868 F. 2d 1274.

No. 88-1977. *THE BIBLE SPEAKS, INC. v. DOVYDENAS.* C. A. 1st Cir. Certiorari denied. Reported below: 869 F. 2d 628.

No. 88-1978. *TYLER v. HARTFORD INSURANCE GROUP ET AL.* Ct. App. Ore. Certiorari denied. Reported below: 93 Ore. App. 429, 762 P. 2d 1069.

No. 88-1979. *FLEMING v. MOORE ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 865 F. 2d 1257.

No. 88-1980. *BARROW v. HILL, TAX COLLECTOR, ST. JOHNS COUNTY, FLORIDA.* C. A. 11th Cir. Certiorari denied. Reported below: 868 F. 2d 1274.

No. 88-1983. *DAVIS ET AL. v. FIRST NATIONAL BANK OF WESTVILLE ET AL.* C. A. 7th Cir. Certiorari denied. Reported below: 868 F. 2d 206.

No. 88-1984. *SAN FRANCISCO POLICE OFFICERS ASSN. ET AL. v. CITY AND COUNTY OF SAN FRANCISCO ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 869 F. 2d 1182.

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No. 88-1985. HUDSON *v.* NATIONAL RAILROAD PASSENGER CORPORATION. C. A. 2d Cir. Certiorari denied. Reported below: 873 F. 2d 1435.

No. 88-1986. BORDEN, INC. *v.* AFFILIATED FM INSURANCE Co. C. A. 6th Cir. Certiorari denied. Reported below: 865 F. 2d 1267.

No. 88-1988. LAPIDES *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 870 F. 2d 656.

No. 88-1989. CALDEIRA *v.* COUNTY OF KAUAI ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 866 F. 2d 1175.

No. 88-1991. DYKENS *v.* EASTERN AIRLINES, INC. C. A. 9th Cir. Certiorari denied. Reported below: 865 F. 2d 1271.

No. 88-1992. ALCOLAC, INC. *v.* ELAM ET AL. Ct. App. Mo., Western Dist. Certiorari denied. Reported below: 765 S. W. 2d 42.

No. 88-1994. BARROW *v.* BIRD ET AL. C. A. 11th Cir. Certiorari denied. Reported below: 868 F. 2d 1274.

No. 88-1995. BARROW *v.* DOUGLAS ET AL. C. A. 11th Cir. Certiorari denied. Reported below: 868 F. 2d 1274.

No. 88-1996. DAMINO *v.* BARRELL ET AL. C. A. 2d Cir. Certiorari denied. Reported below: 875 F. 2d 307.

No. 88-1997. DAVIS ET UX. *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. Reported below: 867 F. 2d 122.

No. 88-1998. LAGORE *v.* MICHIGAN. Ct. App. Mich. Certiorari denied.

No. 88-1999. HARRIS ET UX. *v.* STEELWELD EQUIPMENT Co., INC. C. A. 8th Cir. Certiorari denied. Reported below: 869 F. 2d 396.

No. 88-2001. SILVER ET UX., INDIVIDUALLY AND AS PARENTS AND NEXT OF KIN OF SILVER, DECEASED MINOR CHILD *v.* FARMERS & MERCHANTS INSURANCE Co. Sup. Ct. Okla. Certiorari denied. Reported below: 770 P. 2d 878.

No. 88-2002. GILMERE, INDIVIDUALLY AND AS ADMINISTRATRIX OF THE ESTATE OF PATILLO *v.* CITY OF ATLANTA, GEORGIA,

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ET AL. C. A. 11th Cir. Certiorari denied. Reported below: 864 F. 2d 734.

No. 88-2003. *ROLLINSON ET AL. v. UNITED STATES*. C. A. D. C. Cir. Certiorari denied. Reported below: 275 U. S. App. D. C. 345, 866 F. 2d 1463.

No. 88-2004. *ADLER v. UNITED STATES*; and

No. 88-7439. *HELLER v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 866 F. 2d 1336.

No. 88-2005. *RIVERA v. UNITED STATES*. C. A. 1st Cir. Certiorari denied. Reported below: 872 F. 2d 507.

No. 88-2006. *INTERNATIONAL UNION, UNITED AUTOMOBILE, AEROSPACE & AGRICULTURAL IMPLEMENT WORKERS OF AMERICA ET AL v. NATIONAL LABOR RELATIONS BOARD*. C. A. 6th Cir. Certiorari denied. Reported below: 865 F. 2d 791.

No. 88-2007. *BORDALLO v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 857 F. 2d 519 and 872 F. 2d 334.

No. 88-2008. *RISH v. CONNECTICUT*. App. Ct. Conn. Certiorari denied. Reported below: 17 Conn. App. 447, 553 A. 2d 1145.

No. 88-2010. *ROY v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 869 F. 2d 1427.

No. 88-2011. *WECHSLER v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 873 F. 2d 1441.

No. 88-2012. *LAMONTAGNE v. PENSION PLAN OF THE UNITED WIRE, METAL & MACHINE PENSION FUND ET AL*. C. A. 2d Cir. Certiorari denied. Reported below: 869 F. 2d 153.

No. 88-2013. *ATKINS ET AL. v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 869 F. 2d 135.

No. 88-2014. *AUSTIN PRODUCTS CO. ET AL. v. WORKERS' COMPENSATION INSURERS RATING ASSOCIATION OF MINNESOTA ET AL*. C. A. 8th Cir. Certiorari denied. Reported below: 867 F. 2d 1552.

No. 88-2015. *OLYMPIA ROOFING CO. ET AL. v. CELOTEX CORP. ET AL*. C. A. 5th Cir. Certiorari denied. Reported below: 771 F. 2d 888.

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No. 88-2016. OLYMPIA ROOFING CO. ET AL. *v.* CELOTEX CORP. ET AL. C. A. 5th Cir. Certiorari denied.

No. 88-2017. M/V LITSA, FKA M/V LAURIE U *v.* SOUTHEASTERN MARITIME Co. C. A. 3d Cir. Certiorari denied. Reported below: 872 F. 2d 554.

No. 88-2020. HINDMAN *v.* CITY OF PARIS ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 868 F. 2d 1269.

No. 88-2021. QUINONES ET AL. *v.* LEMA-MOYA, SECRETARY OF EDUCATION OF PUERTO RICO, ET AL. C. A. 1st Cir. Certiorari denied. Reported below: 861 F. 2d 328.

No. 88-2022. 20 ACRES OF LAND, MORE OR LESS, IN EDDY COUNTY, NEW MEXICO, ET AL. *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied.

No. 88-2024. FLORES *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied.

No. 88-2025. KING *v.* KANSAS. Ct. App. Kan. Certiorari denied. Reported below: 13 Kan. App. 2d xl, 766 P. 2d 1298.

No. 88-2026. PACYNA *v.* MARSH, SECRETARY OF THE ARMY, ET AL. C. A. 2d Cir. Certiorari denied. Reported below: 873 F. 2d 1435.

No. 88-2027. WJW-TV, INC. *v.* CITY OF CLEVELAND ET AL. C. A. 6th Cir. Certiorari denied. Reported below: 878 F. 2d 906.

No. 88-2028. THOMPSON *v.* LAPE, JUDGE, KENTON CIRCUIT COURT. Sup. Ct. Ky. Certiorari denied.

No. 88-2029. PAETZ *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 867 F. 2d 1392.

No. 88-2030. LISA ET UX. *v.* FOURNIER MARINE CORP. ET AL. C. A. 1st Cir. Certiorari denied. Reported below: 866 F. 2d 530.

No. 88-2032. MORLEY ET AL. *v.* FEDERAL DEPOSIT INSURANCE CORPORATION. C. A. 11th Cir. Certiorari denied. Reported below: 867 F. 2d 1381.

No. 88-2033. ROBERTS *v.* SUN EXPLORATION & PRODUCTION Co. C. A. 10th Cir. Certiorari denied.

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No. 88-2036. *CITY OF EVERETT, MASSACHUSETTS, ET AL. v. BORDANARO ET AL.* C. A. 1st Cir. Certiorari denied. Reported below: 871 F. 2d 1151.

No. 88-2037. *SEWELL v. JEFFERSON COUNTY FISCAL COURT ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 863 F. 2d 461.

No. 88-2038. *LIVERMAN v. VIRGINIA.* Ct. App. Va. Certiorari denied.

No. 88-2039. *MORRIS v. FIRST NATIONAL BANK OF MORGANTOWN ET AL.* Sup. Ct. App. W. Va. Certiorari denied.

No. 88-2040. *NELSON v. JEFFERSON COUNTY, KENTUCKY, ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 863 F. 2d 18.

No. 88-2042. *NORTON ET AL. v. BRIDGES, DECEASED, ET AL.* Ct. App. Wis. Certiorari denied. Reported below: 146 Wis. 2d 865, 431 N. W. 2d 327.

No. 88-2044. *MISSOURI COALITION FOR THE ENVIRONMENT ET AL. v. CORPS OF ENGINEERS OF THE UNITED STATES ARMY ET AL.* C. A. 8th Cir. Certiorari denied. Reported below: 866 F. 2d 1025.

No. 88-2045. *GRIDER v. TEXAS OIL & GAS CORP. ET AL.* C. A. 10th Cir. Certiorari denied. Reported below: 868 F. 2d 1147.

No. 88-2046. *KESSEL FOOD MARKETS, INC. v. NATIONAL LABOR RELATIONS BOARD ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 868 F. 2d 881.

No. 88-2047. *AXELSON, INC. v. CAMERON IRON WORKS, INC.* C. A. Fed. Cir. Certiorari denied. Reported below: 868 F. 2d 1278.

No. 88-2048. *FARNSWORTH ET AL. v. CITY OF KANSAS CITY, MISSOURI, ET AL.* C. A. 8th Cir. Certiorari denied. Reported below: 863 F. 2d 33.

No. 88-2049. *EMPLOYERS INSURANCE OF WAUSAU, AS REPRESENTATIVE OF THOSE CERTAIN AMERICAN UNDERWRITERS SUBSCRIBING TO CERTIFICATE NO. 14880 v. AVONDALE SHIPYARDS, INC., ET AL.; and*

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No. 88-2052. OCCIDENTAL PETROLEUM CORP. ET AL. *v.* AVONDALE SHIPYARDS, INC., ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 866 F. 2d 752.

No. 88-2050. CHICAGO TITLE INSURANCE CO. ET AL. *v.* TUCSON UNIFIED SCHOOL DISTRICT ET AL. C. A. 3d Cir. Certiorari denied. Reported below: 869 F. 2d 760.

No. 88-2051. LONGVIEW FIBRE CO. *v.* JEANNETTE PAPER CO. Super. Ct. Pa. Certiorari denied. Reported below: 378 Pa. Super. 148, 548 A. 2d 319.

No. 88-2053. TRAITZ ET AL. *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied. Reported below: 871 F. 2d 368.

No. 88-2054. SMITH *v.* SULLIVAN, SECRETARY OF HEALTH AND HUMAN SERVICES. C. A. 5th Cir. Certiorari denied. Reported below: 866 F. 2d 1419.

No. 88-2055. RIZZI *v.* BLUE CROSS OF SOUTHERN CALIFORNIA. Ct. App. Cal., 4th App. Dist. Certiorari denied. Reported below: 206 Cal. App. 3d 380, 253 Cal. Rptr. 541.

No. 88-2056. DI GIAMBATTISTA *v.* SULLIVAN, FORMER JUDGE, MIDDLESEX COUNTY, MASSACHUSETTS, PROBATE COURT, ET AL. C. A. 1st Cir. Certiorari denied. Reported below: 873 F. 2d 1432.

No. 88-2057. HORNAK *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 869 F. 2d 1494.

No. 88-2058. PRESIDIO VALLEY FARMERS ASSN. ET AL. *v.* SALAZAR-CALDERON ET AL.; and

No. 88-2086. SALAZAR-CALDERON ET AL. *v.* PRESIDIO VALLEY FARMERS ASSN. ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 863 F. 2d 384.

No. 88-2059. KAUFMAN *v.* NEW YORK CITY EMPLOYEES RETIREMENT SYSTEM. C. A. 2d Cir. Certiorari denied. Reported below: 873 F. 2d 1435.

No. 88-2064. DELTA AIR LINES, INC. *v.* AIR LINE PILOTS ASSN., INTERNATIONAL, ET AL. C. A. D. C. Cir. Certiorari denied. Reported below: 274 U. S. App. D. C. 181, 863 F. 2d 87.

No. 88-2065. ROMP *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 875 F. 2d 868.

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No. 88-2066. *URBANIK ET UX. v. CITY OF BUFFALO ET AL.* App. Div., Sup. Ct. N. Y., 4th Jud. Dept. Certiorari denied. Reported below: 143 App. Div. 2d 548, 533 N. Y. S. 2d 167.

No. 88-2067. *LEACH v. JEFFERSON PARISH HOSPITAL DISTRICT NO. 2, DBA EAST JEFFERSON GENERAL HOSPITAL, ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 870 F. 2d 300.

No. 88-2069. *TREKAS v. SULLIVAN, SECRETARY OF HEALTH AND HUMAN SERVICES.* C. A. 8th Cir. Certiorari denied. Reported below: 881 F. 2d 1080.

No. 88-2072. *MILBURN v. HAWKEYE BANK & TRUST N. A. OF CENTERVILLE-SEYMOUR, FKA CENTERVILLE NATIONAL BANK.* Sup. Ct. Iowa. Certiorari denied. Reported below: 437 N. W. 2d 919.

No. 88-2073. *MCGOWAN v. DEPARTMENT OF ENVIRONMENTAL QUALITY OF LOUISIANA.* Ct. App. La., 1st Cir. Certiorari denied. Reported below: 533 So. 2d 999.

No. 88-2075. *HINOJOSA v. CITY OF TERRELL, TEXAS, ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 864 F. 2d 401.

No. 88-2076. *SINGER ET AL. v. SHANNON & LUCHS Co.* C. A. D. C. Cir. Certiorari denied.

No. 88-2077. *HARRIS v. TEXAS; MURPHY v. TEXAS; and REED v. TEXAS.* Ct. App. Tex., 6th Dist. Certiorari denied. Reported below: 762 S. W. 2d 640 (third case).

No. 88-2078. *BARROW v. LUND ET AL.* C. A. 11th Cir. Certiorari denied. Reported below: 868 F. 2d 1274.

No. 88-2080. *BOKUM RESOURCES CORP. v. LONG ISLAND LIGHTING Co.* C. A. 10th Cir. Certiorari denied.

No. 88-2081. *BOONE v. UNITED STATES.* C. A. 8th Cir. Certiorari denied. Reported below: 869 F. 2d 1089.

No. 88-2082. *CHRISTIANSON ET AL. v. COLT INDUSTRIES OPERATING CORP.* C. A. 7th Cir. Certiorari denied. Reported below: 870 F. 2d 1292.

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No. 88-2083. LINCOLN HOMES, INC., ET AL. *v.* FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION, AS RECEIVER FOR FIRST SOUTHERN SAVINGS ASSOCIATION OF JACKSON COUNTY, MISSISSIPPI. C. A. 5th Cir. Certiorari denied. Reported below: 866 F. 2d 1418.

No. 88-2084. AZAR *v.* LOUISIANA. Sup. Ct. La. Certiorari denied. Reported below: 539 So. 2d 1222.

No. 88-2087. NATIONAL AUTOMATIC PRODUCTS CO. *v.* AMERICAN AIRLINES, INC. (EX-CELL-O CORP., REAL PARTY IN INTEREST). Sup. Ct. Okla. Certiorari denied.

No. 88-2089. OLYMPIA ROOFING CO. ET AL. *v.* HENICAN ET AL. Ct. App. La., 4th Cir. Certiorari denied. Reported below: 534 So. 2d 16.

No. 88-2090. WILSON ET AL. *v.* DEUKMEJIAN ET AL. Ct. App. Cal., 1st App. Dist. Certiorari denied.

No. 88-2091. ACHILLES CONSTRUCTION CO., INC. *v.* NATIONAL LABOR RELATIONS BOARD. C. A. 2d Cir. Certiorari denied. Reported below: 875 F. 2d 308.

No. 88-2093. RICHARDSON ENGINEERING CO. *v.* WILLIAM L. CROW CONSTRUCTION Co. C. A. 2d Cir. Certiorari denied. Reported below: 873 F. 2d 1436.

No. 88-2094. FAGAN *v.* UNITED STATES. Ct. Mil. App. Certiorari denied. Reported below: 28 M. J. 64.

No. 88-2095. AXIS, S. P. A. *v.* MICAFIL, INC. C. A. 6th Cir. Certiorari denied. Reported below: 870 F. 2d 1105.

No. 88-2096. BOLTON ET AL. *v.* TESORO PETROLEUM CORP. ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 871 F. 2d 1266.

No. 88-2097. GOODMAN, DBA SUREFIT DENTAL LAB ET AL. *v.* KENTUCKY BOARD OF DENTISTRY. Ct. App. Ky. Certiorari denied.

No. 88-2099. JUGOMETAL ENTERPRISE FOR IMPORT & EXPORT OF ORES & METALS *v.* IRVING ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 864 F. 2d 383.

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No. 88-2100. *DUFON v. CALIFORNIA*. Ct. App. Cal., 4th App. Dist. Certiorari denied.

No. 88-2101. *WESSENDORF v. SUPREME COURT OF VIRGINIA ET AL.* Sup. Ct. Va. Certiorari denied.

No. 88-2103. *JOHN v. CONNECTICUT*; and

No. 89-5025. *SEEBECK v. CONNECTICUT*. Sup. Ct. Conn. Certiorari denied. Reported below: 210 Conn. 652, 557 A. 2d 93.

No. 88-2104. *MEDICS PHARMACEUTICAL CORP. v. NEWMAN*. Ct. App. Ga. Certiorari denied. Reported below: 190 Ga. App. 197, 378 S. E. 2d 487.

No. 88-2105. *DURKIN ET AL. v. COMMISSIONER OF INTERNAL REVENUE*. C. A. 7th Cir. Certiorari denied. Reported below: 872 F. 2d 1271.

No. 88-2106. *ROSENBERG v. COMERICA BANK*. C. A. 6th Cir. Certiorari denied.

No. 88-2108. *SIMAY ET UX. v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 861 F. 2d 268.

No. 88-2110. *CITY OF MACON, GEORGIA v. PASCO BUILDING SYSTEMS ET AL.* Ct. App. Ga. Certiorari denied. Reported below: 191 Ga. App. 48, 380 S. E. 2d 718.

No. 88-2111. *STICH v. JENSEN, JUDGE, SUPERIOR COURT OF SOLANO COUNTY, CALIFORNIA, ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 872 F. 2d 430.

No. 88-2113. *JOHNSON v. WILLIAMS-EL.* C. A. 8th Cir. Certiorari denied. Reported below: 872 F. 2d 224.

No. 88-2114. *BURKE v. CITY OF BOSTON ET AL.* App. Ct. Mass. Certiorari denied. Reported below: 26 Mass. App. 1124, 534 N. E. 2d 311.

No. 88-2115. *LEVITIN v. POMIRCHY ET AL.* App. Div., Sup. Ct. N. Y., 2d Jud. Dept. Certiorari denied. Reported below: 144 App. Div. 2d 655, 535 N. Y. S. 2d 543.

No. 88-2116. *JOHNSON v. JOHNSON ET AL.* Ct. App. Mich. Certiorari denied.

No. 88-2118. *SOLOMON ET AL. v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 872 F. 2d 415.

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No. 88-2119. MEYER ET AL. *v.* BARNES ET AL. C. A. 8th Cir. Certiorari denied. Reported below: 867 F. 2d 464.

No. 88-2120. MERRILL ET AL. *v.* AUGUST. Ct. App. Cal., 1st App. Dist. Certiorari denied.

No. 88-2121. FASSLER *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 864 F. 2d 790.

No. 88-2124. DELEON ET UX. *v.* ST. JOSEPH HOSPITAL, INC., ET AL. C. A. 4th Cir. Certiorari denied. Reported below: 871 F. 2d 1229.

No. 88-2125. McDONALD, TRUSTEE OF LOYER EDUCATIONAL TRUST *v.* WAYNE COUNTY ROAD COMMISSION ET AL. Ct. App. Mich. Certiorari denied. Reported below: 168 Mich. App. 587, 425 N. W. 2d 189.

No. 88-2126. COLLINS ET AL. *v.* LAFLEUR; and
No. 89-164. BO-MICK CONSTRUCTION CO., INC. *v.* LAFLEUR. Sup. Ct. La. Certiorari denied. Reported below: 540 So. 2d 323.

No. 88-2127. VAHLSING *v.* MAINE. Sup. Jud. Ct. Me. Certiorari denied. Reported below: 557 A. 2d 946.

No. 88-2128. DAVIS ET AL. *v.* TENNESSEE DEPARTMENT OF EMPLOYMENT SECURITY ET AL. C. A. 6th Cir. Certiorari denied. Reported below: 859 F. 2d 922.

No. 88-2131. GEORGIA *v.* SMITH. Sup. Ct. Ga. Certiorari denied. Reported below: 259 Ga. 135, 377 S. E. 2d 158.

No. 88-2132. LOCAL UNION NO. 5741, UNITED MINE WORKERS OF AMERICA *v.* NATIONAL LABOR RELATIONS BOARD. C. A. 6th Cir. Certiorari denied. Reported below: 865 F. 2d 733.

No. 88-2135. AVINGER *v.* SOUTH CAROLINA. Sup. Ct. S. C. Certiorari denied.

No. 88-2136. BARROW *v.* REED ET AL. C. A. 11th Cir. Certiorari denied.

No. 88-2138. GRAY, FKA HEFFRON *v.* ROTH, FIDUCIARY OF THE ESTATE OF HEFFRON. Ct. App. Iowa. Certiorari denied. Reported below: 438 N. W. 2d 25.

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No. 88-2139. *MANVILLE SALES CORP. v. A. T. & T. TECHNOLOGIES, INC.* Super. Ct. Pa. Certiorari denied. Reported below: 384 Pa. Super. 650, 551 A. 2d 600.

No. 88-2140. *HANCOCK v. CITY OF DAVENPORT ET AL.* Ct. App. Iowa. Certiorari denied. Reported below: 442 N. W. 2d 279.

No. 88-2141. *TODA v. CITY AND COUNTY OF HONOLULU.* C. A. 9th Cir. Certiorari denied. Reported below: 863 F. 2d 886.

No. 88-6821. *THOMAS v. OHIO.* Sup. Ct. Ohio. Certiorari denied. Reported below: 40 Ohio St. 3d 213, 533 N. E. 2d 286.

No. 88-6834. *DANIELS v. TATE, SUPERINTENDENT, CHILLICOTHE CORRECTIONAL INSTITUTION.* C. A. 6th Cir. Certiorari denied. Reported below: 865 F. 2d 1267.

No. 88-6845. *WARMSLEY v. TEXAS.* Ct. App. Tex., 11th Dist. Certiorari denied.

No. 88-6850. *STREETER v. NATIONAL LABOR RELATIONS BOARD.* C. A. 6th Cir. Certiorari denied. Reported below: 865 F. 2d 261.

No. 88-6856. *QUINTERO v. TEXAS; and BLANTON v. TEXAS.* Ct. App. Tex., 8th Dist. Certiorari denied. Reported below: 761 S. W. 2d 438 (first case).

No. 88-6872. *FRAZIER v. RYAN, SUPERINTENDENT, STATE CORRECTIONAL INSTITUTION AT DALLAS, ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 869 F. 2d 588.

No. 88-6895. *HEIGHTLAND v. UNITED STATES.* C. A. 6th Cir. Certiorari denied. Reported below: 865 F. 2d 94.

No. 88-6898. *ANTONELLI v. UNITED STATES.* C. A. 9th Cir. Certiorari denied. Reported below: 867 F. 2d 613.

No. 88-6909. *WALLS v. DELAWARE.* Sup. Ct. Del. Certiorari denied. Reported below: 552 A. 2d 858.

No. 88-6911. *ORTIZ-BALCAZAR v. UNITED STATES.* C. A. 11th Cir. Certiorari denied. Reported below: 867 F. 2d 1429.

No. 88-6914. *MITCHELL v. CALIFORNIA* (two cases). App. Dept., Super. Ct. Cal., Los Angeles County. Certiorari denied.

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No. 88-6936. HOWARD *v.* BANGS ET AL. C. A. 4th Cir. Certiorari denied. Reported below: 862 F. 2d 870.

No. 88-6960. OWEN *v.* FLORIDA. Dist. Ct. App. Fla., 4th Dist. Certiorari denied. Reported below: 538 So. 2d 1269.

No. 88-6970. PROWS *v.* BLACK ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 862 F. 2d 873.

No. 88-6976. WOOLWORTH *v.* DUGGER, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS. Sup. Ct. Fla. Certiorari denied. Reported below: 542 So. 2d 1335.

No. 88-6978. CONNELL *v.* WADE, SUPERINTENDENT, HENDRY CORRECTIONAL INSTITUTION AT IMMAKOLEE, FLORIDA. Sup. Ct. Fla. Certiorari denied. Reported below: 538 So. 2d 854.

No. 88-6980. BROWN ET AL. *v.* DUGGER, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS, ET AL. C. A. 11th Cir. Certiorari denied. Reported below: 866 F. 2d 1422.

No. 88-7020. WILSON *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied. Reported below: 867 F. 2d 486.

No. 88-7029. WEEKS *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 870 F. 2d 267.

No. 88-7044. LARA *v.* TEXAS. Ct. App. Tex., 1st Dist. Certiorari denied. Reported below: 740 S. W. 2d 823.

No. 88-7048. CASTILLO *v.* BOWLES ET AL. C. A. 5th Cir. Certiorari denied.

No. 88-7050. KALLIEL *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied.

No. 88-7089. ROBERSON *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 865 F. 2d 260.

No. 88-7101. JIM *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 865 F. 2d 211.

No. 88-7104. BAKER *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied. Reported below: 866 F. 2d 432.

No. 88-7109. ROUSE *v.* IOWA. Ct. App. Iowa. Certiorari denied. Reported below: 442 N. W. 2d 279.

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No. 88-7118. *SULIE v. DUCKWORTH, SUPERINTENDENT, INDIANA STATE PRISON, ET AL.* C. A. 7th Cir. Certiorari denied. Reported below: 864 F. 2d 1348.

No. 88-7119. *MRAMOR v. McMACKIN, SUPERINTENDENT, MARION CORRECTIONAL INSTITUTION.* C. A. 6th Cir. Certiorari denied. Reported below: 865 F. 2d 1268.

No. 88-7137. *JACK v. BUTLER, WARDEN.* C. A. 5th Cir. Certiorari denied. Reported below: 865 F. 2d 1263.

No. 88-7139. *STUTZMAN v. BOARD OF EDUCATION OF THE CITY OF CHICAGO ET AL.* App. Ct. Ill., 1st Dist. Certiorari denied. Reported below: 171 Ill. App. 3d 670, 525 N. E. 2d 903.

No. 88-7145. *MORISSETTE v. BROWN.* C. A. 7th Cir. Certiorari denied. Reported below: 870 F. 2d 659.

No. 88-7158. *SELBY v. UNITED STATES.* C. A. 3d Cir. Certiorari denied. Reported below: 872 F. 2d 414.

No. 88-7160. *THOMPSON v. UNITED STATES.* C. A. 8th Cir. Certiorari denied. Reported below: 866 F. 2d 268.

No. 88-7190. *FERENC v. DUGGER, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS, ET AL.* C. A. 11th Cir. Certiorari denied. Reported below: 867 F. 2d 1301.

No. 88-7204. *KERKMAN v. UNITED STATES.* C. A. 6th Cir. Certiorari denied. Reported below: 866 F. 2d 877.

No. 88-7212. *EMOND v. UNITED STATES;*

No. 88-7316. *GORMAN v. UNITED STATES;*

No. 88-7373. *STELTEN v. UNITED STATES;*

No. 88-7393. *HAWLEY v. UNITED STATES; and*

No. 88-7544. *HAWLEY v. UNITED STATES.* C. A. 8th Cir. Certiorari denied. Reported below: 867 F. 2d 446.

No. 88-7214. *SILVAGGIO v. UNITED STATES DISTRICT COURT FOR THE CENTRAL DISTRICT OF CALIFORNIA ET AL.* C. A. 9th Cir. Certiorari denied.

No. 88-7218. *CORREA v. DUGGER, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS, ET AL.* C. A. 11th Cir. Certiorari denied. Reported below: 869 F. 2d 1500.

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No. 88-7224. *GRAY v. EDWARDS, SUPERINTENDENT, HALIFAX CORRECTIONAL CENTER, ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 865 F. 2d 1257.

No. 88-7226. *ARMENIA v. DUGGER, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS.* C. A. 11th Cir. Certiorari denied. Reported below: 867 F. 2d 1370.

No. 88-7227. *KINSLOW v. UNITED STATES.* C. A. 9th Cir. Certiorari denied. Reported below: 860 F. 2d 963.

No. 88-7228. *HOLGUIN v. UNITED STATES.* C. A. 7th Cir. Certiorari denied. Reported below: 860 F. 2d 801 and 868 F. 2d 201.

No. 88-7229. *SMITH v. LOCKHART, DIRECTOR, ARKANSAS DEPARTMENT OF CORRECTION.* C. A. 8th Cir. Certiorari denied. Reported below: 873 F. 2d 1447.

No. 88-7231. *HILL v. MARTIN, WARDEN, ET AL.* C. A. 10th Cir. Certiorari denied.

No. 88-7234. *LASTER v. STAR RENTAL, INC.* Ct. App. Ga. Certiorari denied. Reported below: 190 Ga. App. 1, 378 S. E. 2d 320.

No. 88-7236. *MARTINEZ v. UNITED STATES.* C. A. 11th Cir. Certiorari denied. Reported below: 862 F. 2d 877.

No. 88-7239. *CLARK v. YLST, SUPERINTENDENT, CALIFORNIA MEDICAL FACILITY.* C. A. 9th Cir. Certiorari denied.

No. 88-7241. *CARR v. DELAWARE.* Sup. Ct. Del. Certiorari denied. Reported below: 554 A. 2d 778.

No. 88-7244. *FAFOWORA v. UNITED STATES.* C. A. D. C. Cir. Certiorari denied. Reported below: 275 U. S. App. D. C. 141, 865 F. 2d 360, and 279 U. S. App. D. C. 373, 881 F. 2d 1088.

No. 88-7245. *JOHNSON v. CALIFORNIA.* Sup. Ct. Cal. Certiorari denied. Reported below: 47 Cal. 3d 576, 764 P. 2d 1087.

No. 88-7250. *HOWARD v. CASSIDY ET AL.* C. A. 11th Cir. Certiorari denied.

No. 88-7251. *JONES v. SUPREME COURT OF ALABAMA.* Sup. Ct. Ala. Certiorari denied.

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No. 88-7252. *OLIVER v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 865 F. 2d 600.

No. 88-7254. *MORALES v. PAN AMERICAN WORLD AIRWAYS, INC.* C. A. 5th Cir. Certiorari denied. Reported below: 863 F. 2d 881.

No. 88-7257. *BREEST v. CUNNINGHAM, WARDEN*. C. A. 1st Cir. Certiorari denied. Reported below: 873 F. 2d 1432.

No. 88-7259. *COCHRAN v. BUTTS ET AL.* C. A. 8th Cir. Certiorari denied.

No. 88-7261. *LECHIARA v. GASKINS ET AL.* Sup. Ct. App. W. Va. Certiorari denied.

No. 88-7262. *HOLMES v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 863 F. 2d 4.

No. 88-7263. *DEMOS v. UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF WASHINGTON*. C. A. 9th Cir. Certiorari denied.

No. 88-7266. *GARCIA-PATRON ET AL. v. UNITED STATES*; and
No. 88-7442. *TAYLOR-WALTON v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 872 F. 2d 367.

No. 88-7271. *SAVERS v. BAKER, SECRETARY OF STATE, ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 861 F. 2d 265.

No. 88-7274. *ALSTON v. EDWARDS*. C. A. 3d Cir. Certiorari denied. Reported below: 866 F. 2d 1408.

No. 88-7276. *ZATKO v. CALIFORNIA*. Sup. Ct. Cal. Certiorari denied.

No. 88-7277. *WELCH v. OKLAHOMA ET AL.* C. A. 10th Cir. Certiorari denied.

No. 88-7278. *DEVINE v. HERALD-MAIL Co.* Ct. Sp. App. Md. Certiorari denied. Reported below: 78 Md. App. 708.

No. 88-7279. *FIELDS v. DANAHY ET AL.* C. A. 11th Cir. Certiorari denied.

No. 88-7282. *WARMSLEY v. TEXAS*. Ct. App. Tex., 11th Dist. Certiorari denied.

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No. 88-7283. *SHAFFER v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 873 F. 2d 1436.

No. 88-7284. *JORDAN v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 870 F. 2d 1310.

No. 88-7285. *BARTS v. JOYNER ET AL.* C. A. 11th Cir. Certiorari denied. Reported below: 865 F. 2d 1187.

No. 88-7286. *BROWN v. DEPARTMENT OF THE NAVY*. C. A. Fed. Cir. Certiorari denied. Reported below: 865 F. 2d 269.

No. 88-7287. *GRIFFIN v. STUTLER ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 856 F. 2d 194.

No. 88-7290. *METOYER v. OKLAHOMA ET AL.* Ct. Crim. App. Okla. Certiorari denied.

No. 88-7291. *THOMAS v. COWLEY, WARDEN, ET AL.* C. A. 10th Cir. Certiorari denied.

No. 88-7292. *NEGRON v. NEW YORK*. Ct. App. N. Y. Certiorari denied. Reported below: 74 N. Y. 2d 636, 539 N. E. 2d 1110.

No. 88-7297. *GREEN v. LYNAUGH, DIRECTOR, TEXAS DEPARTMENT OF CORRECTIONS*. C. A. 5th Cir. Certiorari denied. Reported below: 868 F. 2d 176.

No. 88-7298. *JACKSON ET AL. v. LYNN, SECRETARY, LOUISIANA DEPARTMENT OF CORRECTIONS, ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 867 F. 2d 1426.

No. 88-7302. *LUCARELLI v. SINICROPI ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 873 F. 2d 1435.

No. 88-7303. *SOTO v. UNITED STATES*. C. A. 1st Cir. Certiorari denied. Reported below: 871 F. 2d 200.

No. 88-7304. *SULLIVAN v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 873 F. 2d 298.

No. 88-7308. *CRANE v. TENNESSEE*. Ct. Crim. App. Tenn. Certiorari denied.

No. 88-7311. *DORSEY v. SOWDERS, WARDEN*. C. A. 6th Cir. Certiorari denied. Reported below: 872 F. 2d 163.

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No. 88-7312. *SMITH v. BUTLER, WARDEN, ET AL.* 5th Jud. Dist. Ct. La., Richland Parish. Certiorari denied.

No. 88-7319. *JIMENEZ v. CALIFORNIA.* App. Dept., Super. Ct. Cal., San Mateo County. Certiorari denied.

No. 88-7323. *ROSBERG v. EISENBEISS.* C. A. 8th Cir. Certiorari denied.

No. 88-7325. *TURNER v. OKLAHOMA.* Ct. Crim. App. Okla. Certiorari denied.

No. 88-7327. *CVIKICK v. RAILROAD RETIREMENT BOARD.* C. A. 3d Cir. Certiorari denied. Reported below: 860 F. 2d 103.

No. 88-7329. *GOLMON v. LOUISIANA.* Ct. App. La., 1st Cir. Certiorari denied. Reported below: 536 So. 2d 481.

No. 88-7333. *ELAM v. NEW MEXICO.* Ct. App. N. M. Certiorari denied. Reported below: 108 N. M. 268, 771 P. 2d 597.

No. 88-7334. *COX v. ARMONTROUT, WARDEN.* C. A. 8th Cir. Certiorari denied. Reported below: 873 F. 2d 200.

No. 88-7337. *ROMERO-LOPEZ v. UNITED STATES.* C. A. 1st Cir. Certiorari denied. Reported below: 872 F. 2d 1073.

No. 88-7338. *VAN DAAM v. CONNELL ET AL.* Sup. Ct. R. I. Certiorari denied.

No. 88-7340. *GAWLOSKI v. DALLMAN, SUPERINTENDENT, LEBANON CORRECTIONAL INSTITUTION, ET AL.* C. A. 6th Cir. Certiorari denied.

No. 88-7341. *BELANGER v. ALESSI.* Sup. Ct. La. Certiorari denied. Reported below: 538 So. 2d 596.

No. 88-7344. *CORBIT v. TEXAS.* Ct. App. Tex., 8th Dist. Certiorari denied.

No. 88-7349. *WILLIAMSON v. NORTHEAST REGIONAL POSTMASTER GENERAL, UNITED STATES POSTAL SERVICE, ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 872 F. 2d 415.

No. 88-7350. *SCHMID v. UNITED BROTHERHOOD OF CARPENTERS & JOINERS OF AMERICA ET AL.* C. A. 8th Cir. Certiorari denied. Reported below: 873 F. 2d 1447.

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No. 88-7352. *HARDEN ET UX. v. FEDERAL LAND BANK OF OMAHA*. Ct. App. Iowa. Certiorari denied. Reported below: 442 N. W. 2d 279.

No. 88-7353. *BROOKS v. TEXAS*. Ct. Crim. App. Tex. Certiorari denied.

No. 88-7359. *GIBSON v. TURNER, SUPERINTENDENT, RENZ CORRECTIONAL CENTER AT CEDAR CITY, MISSOURI*. C. A. 8th Cir. Certiorari denied.

No. 88-7360. *HARRIS v. CITY OF COLUMBIA ET AL.* C. A. 8th Cir. Certiorari denied. Reported below: 889 F. 2d 1090.

No. 88-7361. *ALSTON v. GLUCH, WARDEN*. C. A. 11th Cir. Certiorari denied. Reported below: 858 F. 2d 744.

No. 88-7362. *MCDONALD v. YELLOW CAB METRO, INC.* Sup. Ct. Tenn. Certiorari denied.

No. 88-7363. *STELLJES v. SLOPER*. Sup. Ct. Ore. Certiorari denied.

No. 88-7364. *MARTINEZ v. NEW MEXICO ET AL.* Sup. Ct. N. M. Certiorari denied. Reported below: 108 N. M. 382, 772 P. 2d 1305.

No. 88-7366. *HOOPER v. SULLIVAN, SECRETARY OF HEALTH AND HUMAN SERVICES*. C. A. 11th Cir. Certiorari denied. Reported below: 866 F. 2d 1423.

No. 88-7367. *GREGOR v. ILLINOIS*. App. Ct. Ill., 2d Dist. Certiorari denied. Reported below: 176 Ill. App. 3d 1172, 549 N. E. 2d 360.

No. 88-7368. *GETTY v. WEBSTER ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 855 F. 2d 861.

No. 88-7370. *MONTEIRO v. UNITED STATES*. C. A. 1st Cir. Certiorari denied. Reported below: 871 F. 2d 204.

No. 88-7372. *ZATKO v. BUNNELL, SUPERINTENDENT, CALIFORNIA CORRECTIONAL INSTITUTION*. C. A. 9th Cir. Certiorari denied.

No. 88-7375. *CADENA-SANTOS v. UNITED STATES*. C. A. 5th Cir. Certiorari denied.

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No. 88-7377. *YANG v. ESTELLE, WARDEN*. C. A. 9th Cir. Certiorari denied. Reported below: 863 F. 2d 887.

No. 88-7378. *WILLIAMS v. SHEFFIELD, SUPERINTENDENT, DADE CORRECTIONAL INSTITUTION, ET AL.* C. A. 11th Cir. Certiorari denied. Reported below: 875 F. 2d 872.

No. 88-7379. *MCNAIR v. DUGGER, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS, ET AL.* C. A. 11th Cir. Certiorari denied. Reported below: 866 F. 2d 399.

No. 88-7382. *CRUZ v. GUAM*. C. A. 9th Cir. Certiorari denied. Reported below: 871 F. 2d 101.

No. 88-7383. *BRACK-BRACK v. UNITED STATES*;

No. 88-7385. *TELLEZ-MOLINA v. UNITED STATES*;

No. 88-7386. *DIAZ-ZABALETA v. UNITED STATES*;

No. 88-7391. *AURELA-ZUNIGA v. UNITED STATES*; and

No. 88-7397. *MENA v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 863 F. 2d 1522.

No. 88-7395. *BROADNAX v. ILLINOIS*. App. Ct. Ill., 2d Dist. Certiorari denied. Reported below: 177 Ill. App. 3d 818, 532 N. E. 2d 936.

No. 88-7400. *MARIN v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 875 F. 2d 857.

No. 88-7402. *LAWSON v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 872 F. 2d 179.

No. 88-7403. *ALEXANDRPOLOUS v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 875 F. 2d 857.

No. 88-7405. *KARRAS v. SOUTH DAKOTA*. Sup. Ct. S. D. Certiorari denied. Reported below: 438 N. W. 2d 213.

No. 88-7406. *FISHER v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 868 F. 2d 128.

No. 88-7407. *MONTOYA v. BROTHERHOOD OF LOCOMOTIVE ENGINEERS*; and *MONTOYA v. UNION PACIFIC RAILROAD CO.* C. A. 10th Cir. Certiorari denied.

No. 88-7411. *WRIGHT v. WASHINGTON, WARDEN, ET AL.* C. A. 7th Cir. Certiorari denied. Reported below: 873 F. 2d 1443.

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No. 88-7412. *MOODY v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 873 F. 2d 1443.

No. 88-7414. *WRIGHT v. JOHNSON*. C. A. 2d Cir. Certiorari denied.

No. 88-7415. *RASHEED-BEY v. DUCKWORTH ET AL.* C. A. 7th Cir. Certiorari denied. Reported below: 872 F. 2d 424.

No. 88-7416. *KENDRICK v. CLEMENTS ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 872 F. 2d 422.

No. 88-7417. *KALTENBACH v. WHITLEY, WARDEN*. C. A. 5th Cir. Certiorari denied.

No. 88-7418. *KELLY v. HINES-RINALDI FUNERAL HOME, INC.* C. A. 4th Cir. Certiorari denied. Reported below: 847 F. 2d 147.

No. 88-7419. *JEMISON v. BURTON, WARDEN, ET AL.* C. A. 11th Cir. Certiorari denied. Reported below: 863 F. 2d 889.

No. 88-7420. *RAUSER v. FREEMAN, WARDEN, ET AL.* C. A. 3d Cir. Certiorari denied.

No. 88-7421. *CARTER v. SPARKS ET AL.* C. A. 11th Cir. Certiorari denied. Reported below: 867 F. 2d 1430.

No. 88-7422. *NORRIS v. UNITED STATES*. C. A. D. C. Cir. Certiorari denied. Reported below: 277 U. S. App. D. C. 262, 873 F. 2d 1519.

No. 88-7423. *NORD v. LOCKHART, DIRECTOR, ARKANSAS DEPARTMENT OF CORRECTION*. C. A. 8th Cir. Certiorari denied.

No. 88-7425. *MONTGOMERY v. ILLINOIS*. App. Ct. Ill., 4th Dist. Certiorari denied. Reported below: 176 Ill. App. 3d 367, 531 N. E. 2d 177.

No. 88-7426. *CHILDS v. JONES, WARDEN, ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 871 F. 2d 118.

No. 88-7428. *GLADSON v. IOWA*. Sup. Ct. Iowa. Certiorari denied.

No. 88-7429. *ASCH v. PHILIPS, APPEL & WALDEN, INC., ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 867 F. 2d 776.

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No. 88-7430. *ABDUL-AKBAR v. DURSTEIN*. Sup. Ct. Del. Certiorari denied. Reported below: 561 A. 2d 992.

No. 88-7431. *HENDERSON v. McCAUGHTRY, SUPERINTENDENT, WAUPUN CORRECTIONAL INSTITUTION*. C. A. 7th Cir. Certiorari denied.

No. 88-7433. *GROFF v. BUCKWALTER*. C. A. 3d Cir. Certiorari denied. Reported below: 875 F. 2d 310.

No. 88-7434. *MAGEE v. UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF CALIFORNIA*. C. A. 9th Cir. Certiorari denied.

No. 88-7436. *FLETCHER v. CRABTREE ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 872 F. 2d 1025.

No. 88-7437. *BECKFORD v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 875 F. 2d 873.

No. 88-7441. *KING v. BORG, WARDEN*. C. A. 9th Cir. Certiorari denied.

No. 88-7443. *MOSKOVITS v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 875 F. 2d 312.

No. 88-7445. *WILLARD v. UNITED STATES*. C. A. 3d Cir. Certiorari denied.

No. 88-7448. *THOMAS v. GOYETTE*. C. A. 6th Cir. Certiorari denied. Reported below: 869 F. 2d 1493.

No. 88-7449. *FISCHER v. UNITED STATES*. C. A. 7th Cir. Certiorari denied.

No. 88-7450. *SMITH v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 873 F. 2d 295.

No. 88-7452. *ANDERSON v. ALABAMA*. Ct. Crim. App. Ala. Certiorari denied. Reported below: 542 So. 2d 292.

No. 88-7453. *ATKINS v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 872 F. 2d 94.

No. 88-7454. *ECHOLS v. UNITED STATES*. C. A. D. C. Cir. Certiorari denied.

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No. 88-7455. *DOLENC v. MUNICIPALITY OF MOUNT LEBANON ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 870 F. 2d 651.

No. 88-7456. *ABRAMSON v. BALLOU.* C. A. 4th Cir. Certiorari denied. Reported below: 872 F. 2d 416.

No. 88-7457. *DOLENC v. COVILLE ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 875 F. 2d 310.

No. 88-7462. *HARRISON v. JONES, WARDEN, ET AL.* C. A. 11th Cir. Certiorari denied. Reported below: 873 F. 2d 299.

No. 88-7463. *VALIANT v. UNITED STATES.* C. A. 8th Cir. Certiorari denied. Reported below: 873 F. 2d 205.

No. 88-7464. *UNDERWOOD v. KELLY, SUPERINTENDENT, ATTICA CORRECTIONAL FACILITY, ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 875 F. 2d 857.

No. 88-7470. *WALLIN v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. Reported below: 871 F. 2d 118.

No. 88-7471. *ROSADO v. UNITED STATES.* C. A. 7th Cir. Certiorari denied. Reported below: 866 F. 2d 967.

No. 88-7472. *AHUMADA-AVALOS v. UNITED STATES.* C. A. 9th Cir. Certiorari denied. Reported below: 875 F. 2d 681.

No. 88-7473. *RIVERA-RAMOS v. UNITED STATES.* C. A. 1st Cir. Certiorari denied. Reported below: 856 F. 2d 420.

No. 88-7474. *COOPER v. UNITED STATES.* C. A. 11th Cir. Certiorari denied. Reported below: 873 F. 2d 269.

No. 88-7475. *WESTOVER v. UNITED STATES.* C. A. 9th Cir. Certiorari denied. Reported below: 867 F. 2d 614.

No. 88-7476. *ALSTON v. GLUCH, WARDEN, ET AL.* C. A. 11th Cir. Certiorari denied.

No. 88-7478. *DALGLISH v. GOLDSMITH, WARDEN, ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 867 F. 2d 612.

No. 88-7479. *LUNA v. SOLEM, WARDEN, ET AL.* C. A. 8th Cir. Certiorari denied.

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No. 88-7481. *HADLEY v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 875 F. 2d 868.

No. 88-7482. *JOHNSON v. PENNSYLVANIA WIRE & ROPE CO., INC.* C. A. 4th Cir. Certiorari denied. Reported below: 867 F. 2d 608.

No. 88-7483. *GREGOR ET UX. v. BELL FEDERAL SAVINGS & LOAN ASSN.* App. Ct. Ill., 2d Dist. Certiorari denied. Reported below: 171 Ill. App. 3d 1162, 543 N. E. 2d 623.

No. 88-7484. *GREGOR v. ILLINOIS*. App. Ct. Ill., 2d Dist. Certiorari denied. Reported below: 175 Ill. App. 3d 1162, 549 N. E. 2d 34.

No. 88-7485. *BEAN v. COHN, SUPERINTENDENT, INDIANA STATE REFORMATORY*. C. A. 7th Cir. Certiorari denied. Reported below: 872 F. 2d 424.

No. 88-7486. *CARLTON v. BERG*. C. A. 6th Cir. Certiorari denied. Reported below: 872 F. 2d 1024.

No. 88-7489. *NICKENS v. PUCKETT, SUPERINTENDENT, MISSISSIPPI STATE PENITENTIARY*. C. A. 5th Cir. Certiorari denied.

No. 88-7490. *HOLLOWAY v. OKLAHOMA*. Ct. Crim. App. Okla. Certiorari denied.

No. 88-7491. *VAN LEEUWEN ET VIR v. UNITED STATES ET AL.* C. A. 8th Cir. Certiorari denied. Reported below: 868 F. 2d 300.

No. 88-7493. *VARGAS v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 874 F. 2d 819.

No. 88-7496. *DONNELL v. GENERAL MOTORS CORP. ET AL.* C. A. 8th Cir. Certiorari denied. Reported below: 873 F. 2d 1445.

No. 88-7497. *KOLTERYHAN v. TRUMBULL COUNTY CHILDREN SERVICES BOARD*. Ct. App. Ohio, Trumbull County. Certiorari denied.

No. 88-7498. *BORDELON v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 871 F. 2d 491.

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No. 88-7499. MARTINEZ-FLORES *v.* UNITED STATES; and
No. 88-7512. DEERING *v.* UNITED STATES. C. A. 5th Cir.
Certiorari denied. Reported below: 867 F. 2d 830.

No. 88-7500. FRANK *v.* UNITED STATES. C. A. 8th Cir.
Certiorari denied. Reported below: 869 F. 2d 1177.

No. 88-7501. TILLMAN *v.* NEW JERSEY ET AL. C. A. 3d Cir.
Certiorari denied.

No. 88-7502. PENDLETON *v.* UNITED STATES. C. A. 9th Cir.
Certiorari denied. Reported below: 869 F. 2d 1499.

No. 88-7504. FORGEY ET UX. *v.* BACA STATE BANK ET AL.
C. A. 10th Cir. Certiorari denied.

No. 88-7505. HANAGAN *v.* ESTATE OF HANAGAN ET AL.
App. Ct. Ill., 5th Dist. Certiorari denied. Reported below: 174
Ill. App. 3d 1159, 548 N. E. 2d 1166.

No. 88-7506. HARDIN *v.* NIX, WARDEN. C. A. 8th Cir. Cer-
tiorari denied. Reported below: 873 F. 2d 1447.

No. 88-7507. STONER *v.* PARKE, WARDEN. C. A. 6th Cir.
Certiorari denied. Reported below: 872 F. 2d 1029.

No. 88-7508. WADE *v.* UNITED STATES ET AL. C. A. 5th Cir.
Certiorari denied. Reported below: 869 F. 2d 1486.

No. 88-7510. BERRYHILL *v.* UNITED STATES. C. A. 9th Cir.
Certiorari denied. Reported below: 872 F. 2d 431.

No. 88-7513. PACE *v.* CITY OF BIRMINGHAM, ALABAMA. Cir.
Ct. Ala., Jefferson County. Certiorari denied.

No. 88-7514. HARNAGE *v.* UNITED STATES. C. A. 5th Cir.
Certiorari denied. Reported below: 871 F. 2d 119.

No. 88-7515. GEORGE *v.* SCULLY, SUPERINTENDENT, GREEN
HAVEN CORRECTIONAL FACILITY, ET AL. C. A. 2d Cir. Certio-
rari denied.

No. 88-7516. LACKLAND *v.* MONTGOMERY WARD DEPART-
MENT STORE ET AL. C. A. 9th Cir. Certiorari denied.

No. 88-7517. TRZASKA *v.* UNITED STATES. C. A. 2d Cir.
Certiorari denied. Reported below: 859 F. 2d 1118.

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No. 88-7518. *BROWN v. THOMAS, SUPERINTENDENT, GEORGIA STATE PRISON, ET AL.* C. A. 11th Cir. Certiorari denied.

No. 88-7519. *ALSTON v. GLUCH, WARDEN.* C. A. 11th Cir. Certiorari denied.

No. 88-7521. *THOMAS v. MOORE, SHERIFF, PONTOTOC COUNTY, MISSISSIPPI, ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 866 F. 2d 803.

No. 88-7522. *ERICKSON v. DUGGER, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS.* C. A. 11th Cir. Certiorari denied.

No. 88-7523. *FLOYD v. OHIO.* Ct. App. Ohio, Butler County. Certiorari denied.

No. 88-7524. *COVOS v. UNITED STATES.* C. A. 8th Cir. Certiorari denied. Reported below: 872 F. 2d 805.

No. 88-7525. *BLANTON v. UNITED STATES; and*
No. 88-7536. *BROADWELL v. UNITED STATES.* C. A. 11th Cir. Certiorari denied. Reported below: 870 F. 2d 594.

No. 88-7526. *MEYERS v. SCULLY, SUPERINTENDENT, GREEN HAVEN CORRECTIONAL FACILITY, ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 875 F. 2d 308.

No. 88-7527. *RASHEED v. BENDER, SUPERINTENDENT, NORTH CENTRAL CORRECTIONAL INSTITUTION.* C. A. 1st Cir. Certiorari denied. Reported below: 873 F. 2d 1432.

No. 88-7528. *MACEO v. UNITED STATES.* C. A. 1st Cir. Certiorari denied. Reported below: 873 F. 2d 1.

No. 88-7529. *BRUNO v. UNITED STATES.* C. A. 2d Cir. Certiorari denied. Reported below: 873 F. 2d 555.

No. 88-7531. *JOHNS v. O'BRIEN, CHIEF JUDGE, UNITED STATES DISTRICT COURT FOR THE DISTRICT OF THE VIRGIN ISLANDS, ET AL.* C. A. 3d Cir. Certiorari denied.

No. 88-7532. *CROWE v. THOMPSON, WARDEN.* C. A. 4th Cir. Certiorari denied. Reported below: 865 F. 2d 1257.

No. 88-7534. *RANKIN v. UNITED STATES.* C. A. 3d Cir. Certiorari denied. Reported below: 872 F. 2d 414.

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No. 88-7537. THOMAS *v.* VIRGINIA. Sup. Ct. Va. Certiorari denied. Reported below: 237 Va. xi, 379 S. E. 2d 134.

No. 88-7538. PRUITT ET AL. *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied. Reported below: 874 F. 2d 1145.

No. 88-7539. ZANI *v.* ONION, JUDGE. C. A. 5th Cir. Certiorari denied.

No. 88-7540. TAYLOR *v.* GREEN ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 868 F. 2d 162.

No. 88-7541. JOSEPH *v.* TEXAS. Ct. App. Tex., 4th Dist. Certiorari denied. Reported below: 759 S. W. 2d 770.

No. 88-7542. CORREA *v.* SCULLY, SUPERINTENDENT, GREEN HAVEN CORRECTIONAL FACILITY. C. A. 2d Cir. Certiorari denied.

No. 88-7543. JOHNSON *v.* TEXAS. Ct. App. Tex., 1st Dist. Certiorari denied. Reported below: 748 S. W. 2d 562.

No. 88-7546. WILLIAMS *v.* UNITED STATES. Ct. App. D. C. Certiorari denied.

No. 88-7547. RAMIREZ *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 871 F. 2d 582.

No. 88-7550. JETT *v.* NEW YORK. App. Div., Sup. Ct. N. Y., 1st Jud. Dept. Certiorari denied. Reported below: 145 App. Div. 2d 1000, 536 N. Y. S. 2d 362.

No. 88-7551. TRANBY *v.* NORTH DAKOTA. Sup. Ct. N. D. Certiorari denied. Reported below: 437 N. W. 2d 817.

No. 88-7552. TAPLETTE *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 872 F. 2d 101.

No. 88-7553. GRIMALDO *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 874 F. 2d 813.

No. 88-7554. KANE *v.* SULLIVAN, SECRETARY OF HEALTH AND HUMAN SERVICES. C. A. 11th Cir. Certiorari denied. Reported below: 866 F. 2d 1421.

No. 88-7556. STEELE *v.* MARYLAND BANK, N. A. C. A. 3d Cir. Certiorari denied. Reported below: 870 F. 2d 651.

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No. 88-7558. *MERRITT v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 875 F. 2d 872.

No. 88-7559. *HANSARD v. PEPSI-COLA METROPOLITAN BOTTLING CO., INC., DBA PEPSI-COLA BOTTLING GROUP*; and

No. 89-208. *PEPSI-COLA METROPOLITAN BOTTLING CO., INC., DBA PEPSI-COLA BOTTLING GROUP v. HANSARD*. C. A. 5th Cir. Certiorari denied. Reported below: 865 F. 2d 1461.

No. 88-7560. *LADD v. BURTON, WARDEN, ET AL.* C. A. 11th Cir. Certiorari denied. Reported below: 864 F. 2d 108.

No. 88-7561. *NELSON v. KERBY, WARDEN*. C. A. 10th Cir. Certiorari denied.

No. 88-7563. *SPYCHALA v. SULLIVAN, SECRETARY OF HEALTH AND HUMAN SERVICES*. C. A. 9th Cir. Certiorari denied. Reported below: 872 F. 2d 430.

No. 88-7565. *ALONSO v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 873 F. 2d 296.

No. 88-7568. *MACOMBER v. KANSAS*. Sup. Ct. Kan. Certiorari denied. Reported below: 244 Kan. 396, 769 P. 2d 621.

No. 88-7569. *LEPISCOPO v. BLACKHURST ET AL.* Sup. Ct. N. M. Certiorari denied.

No. 88-7570. *SHARP, BY NEXT FRIEND, SHARP v. DOWD, SUPERINTENDENT, FARMINGTON CORRECTIONAL CENTER*. C. A. 8th Cir. Certiorari denied.

No. 88-7571. *HOYOS v. DUGGER, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS*. C. A. 11th Cir. Certiorari denied. Reported below: 866 F. 2d 1421.

No. 88-7572. *BROWNSCOMBE v. OFFICE OF PERSONNEL MANAGEMENT*. C. A. Fed. Cir. Certiorari denied. Reported below: 871 F. 2d 1097.

No. 88-7573. *FELTON v. NEW JERSEY*. Super. Ct. N. J., App. Div. Certiorari denied.

No. 88-7574. *HURST v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 871 F. 2d 1087.

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No. 88-7575. *GARCIA v. ESTELLE, WARDEN, ET AL.* C. A. 9th Cir. Certiorari denied.

No. 88-7576. *CHRISTIAN, AKA CHRISTIANSEN v. UNITED STATES.* C. A. 8th Cir. Certiorari denied. Reported below: 861 F. 2d 195.

No. 88-7577. *HORTON v. UNITED STATES.* Ct. App. D. C. Certiorari denied.

No. 88-7578. *HEARNE v. MCKENZIE ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 848 F. 2d 191.

No. 88-7579. *JOHNSON v. UNITED STATES.* C. A. 3d Cir. Certiorari denied. Reported below: 872 F. 2d 412.

No. 88-7580. *MCDONALD v. JOHNSON.* Sup. Ct. Tenn. Certiorari denied.

No. 88-7581. *WILSON v. DENTON ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 876 F. 2d 105.

No. 88-7582. *HARLEY v. UNITED STATES.* Ct. App. D. C. Certiorari denied.

No. 88-7584. *HAYES v. MADISON HOUSING AUTHORITY ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 872 F. 2d 417.

No. 88-7585. *DEMIDO v. UNITED STATES.* C. A. 6th Cir. Certiorari denied.

No. 88-7587. *GRIFFITH v. UNITED STATES.* C. A. 11th Cir. Certiorari denied. Reported below: 875 F. 2d 872.

No. 88-7588. *BROWN v. RYAN, SUPERINTENDENT, STATE CORRECTIONAL INSTITUTION AT DALLAS, PENNSYLVANIA, ET AL.* C. A. 3d Cir. Certiorari denied.

No. 88-7589. *SIMMS v. CONNECTICUT.* Sup. Ct. Conn. Certiorari denied. Reported below: 211 Conn. 1, 557 A. 2d 914.

No. 88-7591. *SIVLEY v. JOHNS HOPKINS UNIVERSITY ET AL.* C. A. 5th Cir. Certiorari denied.

No. 88-7592. *TITCOMB v. VIRGINIA ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 869 F. 2d 780.

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No. 88-7594. *ADAMS v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 877 F. 2d 60.

No. 88-7596. *SANDERS v. DUGGER, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS*. C. A. 11th Cir. Certiorari denied.

No. 88-7597. *WRIGHT v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 869 F. 2d 1494.

No. 88-7600. *SADLER, GUARDIAN AD LITEM OF SADLER ET AL., MINORS v. RAINIER BANK OREGON, N. A., ET AL.* Sup. Ct. Mont. Certiorari denied.

No. 88-7601. *PROWS v. UNITED STATES ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 867 F. 2d 1427.

No. 88-7602. *MAY v. GRAY ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 869 F. 2d 1491.

No. 88-7603. *HOOPER v. DISTRICT OF COLUMBIA OFFICE OF HUMAN RIGHTS*. C. A. D. C. Cir. Certiorari denied.

No. 88-7604. *LARSEN v. LARSEN ET AL.* C. A. 10th Cir. Certiorari denied. Reported below: 871 F. 2d 1095.

No. 88-7605. *BOLDEN v. FORD, WARDEN, ET AL.* C. A. 11th Cir. Certiorari denied. Reported below: 872 F. 2d 434.

No. 88-7606. *CURRY v. HADEN*. C. A. 4th Cir. Certiorari denied. Reported below: 872 F. 2d 416.

No. 88-7608. *THOMAS v. BUTLER, WARDEN*. C. A. 5th Cir. Certiorari denied. Reported below: 874 F. 2d 814.

No. 88-7609. *MATHEWS v. LOUISIANA ET AL.* C. A. 5th Cir. Certiorari denied.

No. 88-7610. *MOKONE v. NEW JERSEY ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 872 F. 2d 413.

No. 88-7612. *KARAAGAC v. DISTRICT OF COLUMBIA BOARD OF MEDICINE*. Ct. App. D. C. Certiorari denied.

No. 88-7613. *CALDERON-ABEJA v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 870 F. 2d 1222.

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No. 88-7614. *KASWAN v. VETERANS ADMINISTRATION ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 875 F. 2d 856.

No. 88-7617. *STOVACK v. UNITED STATES.* C. A. 6th Cir. Certiorari denied. Reported below: 875 F. 2d 868.

No. 88-7618. *D. M. v. DEPARTMENT OF HUMAN SERVICES.* Ct. App. Iowa. Certiorari denied. Reported below: 442 N. W. 2d 280.

No. 88-7621. *MARQUEZ-PENA v. UNITED STATES.* C. A. 11th Cir. Certiorari denied. Reported below: 878 F. 2d 1441.

No. 88-7622. *MCDONALD v. TENNESSEE.* Ct. Crim. App. Tenn. Certiorari denied.

No. 88-7623. *MOORE v. PUCKETT, SUPERINTENDENT, MISSISSIPPI STATE PENITENTIARY.* C. A. 5th Cir. Certiorari denied.

No. 88-7624. *BOSSERT v. COLORADO.* Sup. Ct. Colo. Certiorari denied. Reported below: 772 P. 2d 618.

No. 88-7627. *NELSON v. INGRAM ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 872 F. 2d 1027.

No. 88-7628. *SMITH v. UNITED STATES.* C. A. 6th Cir. Certiorari denied. Reported below: 874 F. 2d 371.

No. 88-7630. *GREGORY v. VIRGINIA.* Sup. Ct. Va. Certiorari denied. Reported below: 237 Va. 354, 377 S. E. 2d 405.

No. 88-7631. *CASTRO v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. Reported below: 874 F. 2d 230.

No. 88-7632. *KALMS v. UNITED STATES;* and

No. 89-5212. *KALMS v. UNITED STATES.* C. A. 9th Cir. Certiorari denied. Reported below: 872 F. 2d 431.

No. 89-1. *KITSOS v. O'MALLEY, ADMINISTRATOR, ILLINOIS ATTORNEY REGISTRATION AND DISCIPLINARY COMMISSION.* Sup. Ct. Ill. Certiorari denied. Reported below: 127 Ill. 2d 1, 535 N. E. 2d 792.

No. 89-2. *CAMOSCIO v. TIERNEY, ADMINISTRATIVE JUSTICE, BOSTON MUNICIPAL COURT DEPARTMENT, ET AL.* C. A. 1st Cir. Certiorari denied.

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No. 89-3. *SYNERGY GAS CORP. v. NATIONAL LABOR RELATIONS BOARD ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 875 F. 2d 856.

No. 89-4. *ALASKA PACIFIC INC. v. UNITED STATES.* C. A. 9th Cir. Certiorari denied. Reported below: 872 F. 2d 426.

No. 89-5. *ELLENBERG, TRUSTEE IN BANKRUPTCY FOR RODGER & RODGER, INC. v. T & B SCOTSDALE CONTRACTORS, INC.* C. A. 11th Cir. Certiorari denied. Reported below: 866 F. 2d 1372.

No. 89-6. *WILLIAMS ET AL. v. UNITED STATES.* C. A. 11th Cir. Certiorari denied. Reported below: 869 F. 2d 1500.

No. 89-7. *JOSEPH v. UNITED STATES;*

No. 89-5044. *KNIGHT v. UNITED STATES;* and

No. 89-5058. *WASHINGTON v. UNITED STATES.* C. A. 11th Cir. Certiorari denied. Reported below: 867 F. 2d 1285.

No. 89-8. *ARNOLD ET AL. v. POSTMASTER GENERAL.* C. A. D. C. Cir. Certiorari denied. Reported below: 274 U. S. App. D. C. 305, 863 F. 2d 994.

No. 89-9. *DEROBURT v. GANNETT CO., INC., ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 859 F. 2d 714.

No. 89-10. *COSGROVE v. SOUTH DAKOTA.* Sup. Ct. S. D. Certiorari denied. Reported below: 439 N. W. 2d 119.

No. 89-11. *DURKAN v. DEPARTMENT OF AGRICULTURE.* C. A. Fed. Cir. Certiorari denied. Reported below: 873 F. 2d 1451.

No. 89-13. *OREGON PHYSICIAN'S SERVICE v. HAHN ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 868 F. 2d 1022.

No. 89-14. *WARD v. UNITED STATES POSTAL SERVICE.* C. A. 3d Cir. Certiorari denied. Reported below: 872 F. 2d 415.

No. 89-15. *MUNOZ-LOPEZ v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. Reported below: 874 F. 2d 814.

No. 89-16. *BINGHAM TOYOTA, INC., ET AL. v. VIZZOLINI ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 871 F. 2d 109.

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No. 89-18. *WINER v. NIXON*. Sup. Ct. Va. Certiorari denied.

No. 89-20. *STERLING ELECTRIC, INC. v. PARTS & ELECTRIC MOTORS, INC.* C. A. 7th Cir. Certiorari denied. Reported below: 866 F. 2d 228.

No. 89-21. *FRAUM v. UNITED STATES ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 874 F. 2d 817.

No. 89-22. *KNAPP ET AL. v. PALOS COMMUNITY HOSPITAL ET AL.* App. Ct. Ill., 1st Dist. Certiorari denied. Reported below: 176 Ill. App. 3d 1012, 531 N. E. 2d 989.

No. 89-23. *SMITH v. CLEBURNE COUNTY HOSPITAL ET AL.* C. A. 8th Cir. Certiorari denied. Reported below: 870 F. 2d 1375.

No. 89-25. *SPINDLE v. UNITED STATES*. Ct. Mil. App. Certiorari denied. Reported below: 28 M. J. 35.

No. 89-26. *HUBBARD v. UNITED STATES*. Ct. Mil. App. Certiorari denied. Reported below: 28 M. J. 27.

No. 89-27. *MUHAMMED v. ARKANSAS*. Ct. App. Ark. Certiorari denied. Reported below: 27 Ark. App. 188, 769 S. W. 2d 33.

No. 89-28. *LEE ET AL. v. ARKANSAS*. Ct. App. Ark. Certiorari denied. Reported below: 27 Ark. App. 198, 770 S. W. 2d 148.

No. 89-32. *HAYES ET UX. v. TOWN OF ORLEANS*. C. A. 1st Cir. Certiorari denied. Reported below: 873 F. 2d 1433.

No. 89-35. *SUAREZ CORP. v. UNITED STATES POSTAL SERVICE*. C. A. 6th Cir. Certiorari denied. Reported below: 869 F. 2d 1493.

No. 89-36. *MULLEN v. LAND PARCEL LIQUIDATORS ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 863 F. 2d 886.

No. 89-37. *TRUSTEES OF IRON WORKERS LOCAL 473 PENSION TRUST v. ALLIED PRODUCTS CORP.* C. A. 7th Cir. Certiorari denied. Reported below: 872 F. 2d 208.

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No. 89-41. *MONAGLE v. FRANK, POSTMASTER GENERAL*. C. A. 1st Cir. Certiorari denied. Reported below: 879 F. 2d 853.

No. 89-42. *MANAGEMENT RECRUITERS INTERNATIONAL, INC., ET AL. v. SWENSON*. C. A. 8th Cir. Certiorari denied. Reported below: 858 F. 2d 1304 and 872 F. 2d 264.

No. 89-49. *STICH v. BUNTING, JUDGE, SUPERIOR COURT OF CALIFORNIA, COUNTY OF SOLANO, ET AL.* C. A. 9th Cir. Certiorari denied.

No. 89-50. *HARDEMAN v. CHRYSLER CREDIT CORP.* Ct. App. Ohio, Butler County. Certiorari denied. Reported below: 56 Ohio App. 3d 142, 565 N. E. 2d 849.

No. 89-51. *HOHE ET AL. v. CASEY, GOVERNOR OF PENNSYLVANIA, ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 868 F. 2d 69.

No. 89-54. *NCR CORP. v. COMMISSIONER OF REVENUE OF MINNESOTA*. Sup. Ct. Minn. Certiorari denied. Reported below: 438 N. W. 2d 86.

No. 89-55. *PETTYJOHN v. KALAMAZOO CENTER CORP., DBA KALAMAZOO HILTON INN*. C. A. 6th Cir. Certiorari denied. Reported below: 868 F. 2d 879.

No. 89-57. *PICCIOLO ET AL. v. JONES ET AL.* Dist. Ct. App. Fla., 3d Dist. Certiorari denied. Reported below: 534 So. 2d 875.

No. 89-58. *WALTHER v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 867 F. 2d 1334.

No. 89-60. *BLOSENSKI DISPOSAL SERVICE v. PENNSYLVANIA DEPARTMENT OF ENVIRONMENTAL RESOURCES*. Pa. Commw. Ct. Certiorari denied. Reported below: 116 Pa. Commw. 315, 543 A. 2d 159.

No. 89-63. *COHN ET UX. v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 872 F. 2d 533.

No. 89-64. *CHARLES WOODS TELEVISION CORP. v. CAPITAL CITIES/ABC, INC.* C. A. 8th Cir. Certiorari denied. Reported below: 869 F. 2d 1155.

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No. 89-66. *LINDSTROM ET AL. v. ALLEN ET AL.* Sup. Ct. Va. Certiorari denied. Reported below: 237 Va. 489, 379 S. E. 2d 450.

No. 89-69. *LOVE v. UNITED STATES.* C. A. 4th Cir. Certiorari denied. Reported below: 867 F. 2d 209.

No. 89-70. *KUEHN v. COUNCIL NO. 65, AMERICAN FEDERATION OF STATE, COUNTY & MUNICIPAL EMPLOYEES, ET AL.* Ct. App. Minn. Certiorari denied. Reported below: 435 N. W. 2d 130.

No. 89-71. *ZALDIVAR v. UNITED STATES.* C. A. 11th Cir. Certiorari denied. Reported below: 866 F. 2d 1343.

No. 89-76. *PATNER v. COUNTY OF LAKE.* C. A. 7th Cir. Certiorari denied. Reported below: 871 F. 2d 58.

No. 89-80. *KATZ ET AL. v. PENNSYLVANIA.* Sup. Ct. Pa. Certiorari denied. Reported below: 520 Pa. 451, 554 A. 2d 896.

No. 89-83. *FLEMING v. MARTIN ET AL.* C. A. 10th Cir. Certiorari denied.

No. 89-84. *FLEMING v. ANDERSON.* C. A. 10th Cir. Certiorari denied.

No. 89-85. *FLEMING ET UX. v. ROTHENBERG ET AL.* C. A. 10th Cir. Certiorari denied.

No. 89-86. *FLEMING ET UX. v. RHODES ET AL.* C. A. 10th Cir. Certiorari denied.

No. 89-88. *WOODWARD v. STATE BAR OF GEORGIA ET AL.* Sup. Ct. Ga. Certiorari denied. Reported below: 259 Ga. 229, 378 S. E. 2d 110.

No. 89-89. *EVANS v. GEORGIA.* Ct. App. Ga. Certiorari denied. Reported below: 190 Ga. App. 856, 380 S. E. 2d 332.

No. 89-91. *ANDERSON ET UX. v. PARCOM, INC.* Sup. Ct. Va. Certiorari denied.

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No. 89-93. *ZOMBRO v. BALTIMORE CITY POLICE DEPARTMENT ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 868 F. 2d 1364.

No. 89-94. *WITTERS v. WASHINGTON DEPARTMENT OF SERVICES FOR THE BLIND.* Sup. Ct. Wash. Certiorari denied.* Reported below: 112 Wash. 2d 363, 771 P. 2d 1119.

No. 89-96. *MILBURN, A MINOR, BY MILBURN, HIS FATHER AND NEXT FRIEND v. ANNE ARUNDEL COUNTY DEPARTMENT OF SOCIAL SERVICES ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 871 F. 2d 474.

No. 89-97. *MIRREER v. SMYLEY, COMMISSIONER OF PROBATION.* C. A. 2d Cir. Certiorari denied. Reported below: 876 F. 2d 890.

No. 89-99. *MARJEC, INC. v. HOME & LOT OWNERS ASSOCIATION OF SHAWNEE-LAND, INC.* C. A. 4th Cir. Certiorari denied. Reported below: 869 F. 2d 594.

No. 89-100. *NEW JERSEY TRANSIT RAIL OPERATIONS, INC. v. FITCHIK ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 873 F. 2d 655.

No. 89-102. *RIVERA DE FELICIANO ET AL. v. FARM CREDIT CORPORATION.* C. A. 1st Cir. Certiorari denied. Reported below: 873 F. 2d 447.

No. 89-104. *WOODFIELD v. RULE ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 872 F. 2d 432.

No. 89-105. *ROBINSON v. QUICK ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 875 F. 2d 867.

No. 89-106. *POSS, INDIVIDUALLY AND AS ADMINISTRATOR AND PERSONAL REPRESENTATIVE OF THE ESTATE OF POSS, ET UX. v. AZAR ET AL.* C. A. 11th Cir. Certiorari denied. Reported below: 874 F. 2d 820.

No. 89-108. *KEHOE ET AL. v. DOBOS.* Sup. Jud. Ct. Mass. Certiorari denied. Reported below: 404 Mass. 634, 537 N. E. 2d 558.

*[REPORTER'S NOTE: For a statement of JUSTICE WHITE'S views on this case, see his separate dissenting opinion in *McMonagle v. Northeast Women's Center, Inc.*, *post*, p. 901.]

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No. 89-109. MEAD EMBALLAGE, S. A. *v.* BERNSTEIN. Dist. Ct. App. Fla., 3d Dist. Certiorari denied. Reported below: 541 So. 2d 794.

No. 89-110. ENGLERT, DBA NORTHEAST ELECTRICAL INSPECTION AGENCY *v.* CITY OF MCKEESPORT, PENNSYLVANIA, ET AL. C. A. 3d Cir. Certiorari denied. Reported below: 872 F. 2d 1144.

No. 89-111. DEERE & CO. *v.* HENSGENS ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 869 F. 2d 879.

No. 89-115. SCHEXNIDER ET UX. *v.* MCDERMOTT INTERNATIONAL, INC., ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 868 F. 2d 717.

No. 89-116. GRONQUIST, DBA GRONK'S DONUT & SANDWICH SHOP *v.* BOULDER URBAN RENEWAL AUTHORITY ET AL. Ct. App. Colo. Certiorari denied.

No. 89-117. SPEERS *v.* CONNECTICUT. App. Ct. Conn. Certiorari denied. Reported below: 17 Conn. App. 587, 554 A. 2d 769.

No. 89-119. GARCIA *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. Reported below: 876 F. 2d 891.

No. 89-121. PREVENSLIK, INDIVIDUALLY AND AS TRUSTEE OF THE FELIX AND OLGA DAVIS TRUST *v.* ROSSKO ET AL. C. A. 3d Cir. Certiorari denied. Reported below: 877 F. 2d 57.

No. 89-124. UNITED AIR LINES, INC., ET AL. *v.* BOARD OF ASSESSMENT APPEALS OF COLORADO ET AL. Sup. Ct. Colo. Certiorari denied. Reported below: 773 P. 2d 1033.

No. 89-125. BUNCH *v.* HELM, ADMINISTRATOR OF THE ESTATE OF HELM. C. A. 6th Cir. Certiorari denied. Reported below: 869 F. 2d 1490.

No. 89-126. ADAMS *v.* SULLIVAN, SECRETARY OF HEALTH AND HUMAN SERVICES. C. A. 9th Cir. Certiorari denied. Reported below: 872 F. 2d 926.

No. 89-128. NORTHEN, TRUSTEE IN BANKRUPTCY FOR GORDON FOODS, INC. *v.* QUINN WHOLESALE, INC. C. A. 4th Cir. Certiorari denied. Reported below: 873 F. 2d 77.

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No. 89-129. *GOLDBERG v. MARYLAND*. Ct. App. Md. Certiorari denied. Reported below: 315 Md. 653, 556 A. 2d 267.

No. 89-130. *FLOWERS v. CITY OF COLLEGE STATION, TEXAS*. C. A. 5th Cir. Certiorari denied. Reported below: 874 F. 2d 813.

No. 89-131. *STORIE, SHERIFF OF THURSTON COUNTY, NEBRASKA, ET AL. v. DUNCAN*. C. A. 8th Cir. Certiorari denied. Reported below: 869 F. 2d 1100.

No. 89-132. *VACCARO v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 872 F. 2d 432.

No. 89-133. *ERLANDSON ET AL. v. TEXAS*. Ct. App. Tex., 14th Dist. Certiorari denied. Reported below: 763 S. W. 2d 845.

No. 89-135. *HOLROYD v. CALIFORNIA*. App. Dept., Super. Ct. Cal., Los Angeles County. Certiorari denied.

No. 89-136. *HARNEY & MOORE ET AL. v. FINEBERG*. Ct. App. Cal., 2d App. Dist. Certiorari denied. Reported below: 207 Cal. App. 3d 1049, 255 Cal. Rptr. 299.

No. 89-137. *LOWRY v. BANKERS LIFE & CASUALTY RETIREMENT PLAN ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 865 F. 2d 692 and 871 F. 2d 522.

No. 89-138. *REINIG v. NEW YORK*. App. Div., Sup. Ct. N. Y., 4th Jud. Dept. Certiorari denied. Reported below: 147 App. Div. 2d 971, 537 N. Y. S. 2d 709.

No. 89-139. *HOLMES v. HOLMES*. Sup. Ct. Va. Certiorari denied.

No. 89-140. *RAJPUT v. RAJPUT*. Ct. App. Cal., 2d App. Dist. Certiorari denied.

No. 89-141. *MULLEN v. GALATI ET AL.* C. A. 8th Cir. Certiorari denied. Reported below: 881 F. 2d 1079.

No. 89-145. *TEXAS FRUIT PALACE, INC. v. STEGER, JUDGE, UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF TEXAS, ET AL.* C. A. 5th Cir. Certiorari denied.

No. 89-146. *PRODUCTION MACHINERY CORP. v. TANGO*. Ct. App. Ohio, Lake County. Certiorari denied.

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No. 89-147. DIXIE BROADCASTING, INC., ET AL. *v.* RADIO WBHP, INC. C. A. 11th Cir. Certiorari denied. Reported below: 871 F. 2d 1023.

No. 89-148. SUZUKI MOTOR Co., LTD., ET AL. *v.* RICHARDSON. C. A. Fed. Cir. Certiorari denied. Reported below: 868 F. 2d 1226.

No. 89-149. EVERPURE, INC. *v.* CUNO, INC. C. A. Fed. Cir. Certiorari denied. Reported below: 875 F. 2d 300.

No. 89-150. MONROE SYSTEMS FOR BUSINESS, INC. *v.* BROOKS. C. A. 8th Cir. Certiorari denied. Reported below: 873 F. 2d 202.

No. 89-154. HARDING *v.* COUNTY OF DOOR, WISCONSIN. C. A. 7th Cir. Certiorari denied. Reported below: 870 F. 2d 430.

No. 89-158. BENSON *v.* HOFFPAUIER ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 872 F. 2d 422.

No. 89-159. JOHNSON *v.* PARK SHORE MARINA ET AL. C. A. 6th Cir. Certiorari denied. Reported below: 872 F. 2d 1026.

No. 89-160. O'CONNOR *v.* MULLIGAN. Super. Ct. N. J., App. Div. Certiorari denied.

No. 89-161. RICH'S BETTER GREASE SERVICE, INC. *v.* VENTURINO ET AL. C. A. 4th Cir. Certiorari denied. Reported below: 873 F. 2d 1441.

No. 89-162. EXNER *v.* SULLIVAN, SECRETARY OF HEALTH AND HUMAN SERVICES. C. A. 4th Cir. Certiorari denied. Reported below: 865 F. 2d 1257.

No. 89-165. BOYD *v.* BLACK ET AL. Ct. App. Cal., 2d App. Dist. Certiorari denied.

No. 89-167. INSURANCE CORPORATION OF AMERICA *v.* DARST, INSURANCE COMMISSIONER OF WEST VIRGINIA, ET AL. C. A. 3d Cir. Certiorari denied. Reported below: 877 F. 2d 55.

No. 89-172. COMMERCIAL CREDIT EQUIPMENT CORP. *v.* STAMPS. C. A. 7th Cir. Certiorari denied.

No. 89-173. WEIL CERAMICS & GLASS, INC. *v.* DASH ET AL. C. A. 3d Cir. Certiorari denied. Reported below: 878 F. 2d 659.

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No. 89-174. *ROSS v. SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES (STITES ET AL., REAL PARTIES IN INTEREST)*. Ct. App. Cal., 2d App. Dist. Certiorari denied.

No. 89-178. *SNOW ET AL. v. COUNTY OF LOS ANGELES ET AL.* Ct. App. Cal., 2d App. Dist. Certiorari denied.

No. 89-181. *RODRIGUEZ, INDIVIDUALLY AND AS NEXT FRIEND OF TORRES, ET AL. v. CITY OF BROWNSVILLE*. C. A. 5th Cir. Certiorari denied. Reported below: 871 F. 2d 552.

No. 89-182. *GRYNBERG ET AL. v. DANZIG ET AL.* C. A. 10th Cir. Certiorari denied.

No. 89-183. *SYRE v. WILLIQUETTE, SHERIFF, VILAS COUNTY, WISCONSIN*. Ct. App. Wis. Certiorari denied. Reported below: 149 Wis. 2d 764, 441 N. W. 2d 756.

No. 89-184. *J. WILLIAM COSTELLO PROFIT SHARING TRUST v. STATE ROADS COMMISSION OF THE MARYLAND HIGHWAY ADMINISTRATION*. Ct. App. Md. Certiorari denied. Reported below: 315 Md. 693, 556 A. 2d 1102.

No. 89-185. *CONNOR v. SACHS ET AL.* Super. Ct. N. J., App. Div. Certiorari denied.

No. 89-188. *COLORADO INTERSTATE GAS CO. v. OKLAHOMA TAX COMMISSION*. Sup. Ct. Okla. Certiorari denied. Reported below: 774 P. 2d 468.

No. 89-190. *AMERICAN TRANSIT CORP. ET AL. v. APONTE CARATINI*. Sup. Ct. P. R. Certiorari denied.

No. 89-192. *ORBEN v. UNITED STATES*. Ct. Mil. App. Certiorari denied. Reported below: 28 M. J. 172.

No. 89-197. *ELECTRO-NUCLEONICS, INC. v. WASHINGTON SUBURBAN SANITARY COMMISSION*. Ct. App. Md. Certiorari denied. Reported below: 315 Md. 361, 554 A. 2d 804.

No. 89-202. *GEORGE D. NEWMAN & SONS, INC. v. WASHINGTON SUBURBAN SANITARY COMMISSION*. C. A. 4th Cir. Certiorari denied. Reported below: 873 F. 2d 1438.

No. 89-203. *SIEGEL v. EDMONDS CO., INC., PROFIT SHARING PLAN ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 879 F. 2d 859.

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No. 89-209. *BURRIS v. SOCIAL SECURITY ADMINISTRATION ET AL.* C. A. Fed. Cir. Certiorari denied. Reported below: 878 F. 2d 1445.

No. 89-210. *AMOS ET UX. v. BLUE CROSS BLUE SHIELD OF ALABAMA ET AL.* C. A. 11th Cir. Certiorari denied. Reported below: 868 F. 2d 430.

No. 89-214. *EARTH v. CITY OF CHICAGO.* C. A. 7th Cir. Certiorari denied. Reported below: 869 F. 2d 1033.

No. 89-215. *APARO v. CONNECTICUT.* Sup. Ct. Conn. Certiorari denied.

No. 89-218. *LEONARD v. TOWN OF HERNDON, VIRGINIA.* Sup. Ct. Va. Certiorari denied.

No. 89-221. *HEARN ET UX. v. STATE FARM MUTUAL AUTOMOBILE INSURANCE CO.* C. A. 9th Cir. Certiorari denied. Reported below: 869 F. 2d 1498.

No. 89-226. *TOLLIVER ET AL. v. ODOM ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 870 F. 2d 304.

No. 89-230. *KALVANS v. SAMARITAN HEALTH CENTER.* Ct. App. Mich. Certiorari denied.

No. 89-239. *DOYLE v. UNITED STATES.* C. A. 9th Cir. Certiorari denied. Reported below: 865 F. 2d 265.

No. 89-249. *KENNA v. NEW JERSEY.* Super. Ct. N. J., App. Div. Certiorari denied.

No. 89-251. *EPIC METALS CORP. v. H. H. ROBERTSON CO.* C. A. Fed. Cir. Certiorari denied. Reported below: 870 F. 2d 1574.

No. 89-253. *PINKHAM v. MAINE.* Sup. Jud. Ct. Me. Certiorari denied. Reported below: 556 A. 2d 658.

No. 89-262. *BORUFF v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. Reported below: 870 F. 2d 316.

No. 89-277. *EVERETT v. SECRETARY OF THE ARMY ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 872 F. 2d 417.

No. 89-285. *DELANEY v. GIBBS ET AL.* C. A. 8th Cir. Certiorari denied. Reported below: 873 F. 2d 1445.

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No. 89-289. *GEORGE v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 877 F. 2d 63.

No. 89-304. *JOHNSON v. MONTGOMERY WARD & Co., INC.* App. Ct. Ill., 1st Dist. Certiorari denied. Reported below: 175 Ill. App. 3d 1157, 549 N. E. 2d 32.

No. 89-5001. *WALKER v. INDIANA*. Sup. Ct. Ind. Certiorari denied. Reported below: 527 N. E. 2d 706.

No. 89-5003. *CUEVAS-MENDOZA v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 874 F. 2d 814.

No. 89-5004. *ZABARE v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 871 F. 2d 282.

No. 89-5007. *MUNGUIA v. UNITED STATES PAROLE COMMISSION ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 871 F. 2d 517.

No. 89-5009. *TOUMA v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 875 F. 2d 857.

No. 89-5010. *HOLMES v. OHIO*. Ct. App. Ohio, Franklin County. Certiorari denied.

No. 89-5012. *STURM v. CALIFORNIA*. Ct. App. Cal., 1st App. Dist. Certiorari denied.

No. 89-5013. *MAY v. WARNER AMEX CABLE COMMUNICATIONS*. C. A. 6th Cir. Certiorari denied. Reported below: 859 F. 2d 922.

No. 89-5014. *MAY v. WARNER AMEX CABLE COMMUNICATIONS* (two cases). C. A. 6th Cir. Certiorari denied. Reported below: 865 F. 2d 259.

No. 89-5015. *MAY v. BERTELSMAN ET AL.* (three cases). C. A. 6th Cir. Certiorari denied. Reported below: 865 F. 2d 259.

No. 89-5017. *VAN DOREN v. STATE BAR OF TEXAS ET AL.* Ct. App. Tex., 5th Dist. Certiorari denied.

No. 89-5018. *BUCHANAN v. REYNOLDS ET AL.* C. A. D. C. Cir. Certiorari denied.

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No. 89-5020. *GRIFFIN v. TATE*, SUPERINTENDENT, CHILLICOTHE CORRECTIONAL INSTITUTE. C. A. 6th Cir. Certiorari denied. Reported below: 872 F. 2d 1025.

No. 89-5022. *GLASPER v. BUTLER*, WARDEN, ET AL. C. A. 5th Cir. Certiorari denied.

No. 89-5023. *JONES v. TAYLOR*, WARDEN. Sup. Ct. Va. Certiorari denied.

No. 89-5024. *CURTIS, FKA BAKER v. BAKER*. Sup. Ct. Iowa. Certiorari denied.

No. 89-5026. *FANNY v. ENGLEMAN ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 877 F. 2d 54.

No. 89-5027. *MCDONALD v. METROPOLITAN GOVERNMENT FOR NASHVILLE AND DAVIDSON COUNTY ET AL.* Sup. Ct. Tenn. Certiorari denied.

No. 89-5028. *MAK v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 875 F. 2d 857.

No. 89-5029. *JOHNSON v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 875 F. 2d 317.

No. 89-5031. *LAWSON v. TANEDO ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 872 F. 2d 1026.

No. 89-5033. *GALVAN-GARCIA v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 872 F. 2d 638.

No. 89-5034. *CAMPER v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 873 F. 2d 1307.

No. 89-5035. *LUCAS v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 875 F. 2d 856.

No. 89-5036. *A JUVENILE v. OHIO*. Sup. Ct. Ohio. Certiorari denied. Reported below: 42 Ohio St. 3d 124, 537 N. E. 2d 1286.

No. 89-5039. *SINDRAM v. MARYLAND*. Cir. Ct. Prince George's County, Md. Certiorari denied.

No. 89-5041. *HARRIS v. HALL ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 849 F. 2d 1469.

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No. 89-5043. *NELSON v. CITY OF MILWAUKEE*. Sup. Ct. Wis. Certiorari denied. Reported below: 149 Wis. 2d 434, 439 N. W. 2d 562.

No. 89-5045. *HAZIME v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 870 F. 2d 658.

No. 89-5046. *TELEPO v. SCHEIDEMENTEL, SUPERINTENDENT, ADULT DIAGNOSTIC AND TREATMENT CENTER, ET AL.* C. A. 3d Cir. Certiorari denied.

No. 89-5047. *SZYMANSKI v. BUDGET RENTAL*. C. A. 6th Cir. Certiorari denied. Reported below: 871 F. 2d 1089.

No. 89-5048. *OTERO v. FLORIDA ET AL.* C. A. 11th Cir. Certiorari denied. Reported below: 878 F. 2d 1440.

No. 89-5049. *NEYLAND v. HENSHAW ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 874 F. 2d 813.

No. 89-5050. *BRADLEY v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 875 F. 2d 24.

No. 89-5051. *BENNETT v. ESTELLE*. C. A. 5th Cir. Certiorari denied. Reported below: 875 F. 2d 859.

No. 89-5052. *BRYAN v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 868 F. 2d 1032.

No. 89-5054. *MARSHBURN v. RICHARD ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 875 F. 2d 315.

No. 89-5055. *MORRISON v. MINNESOTA*. Ct. App. Minn. Certiorari denied. Reported below: 437 N. W. 2d 422.

No. 89-5059. *SZYMANSKI v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 872 F. 2d 1030.

No. 89-5061. *FILMORE v. UNITED STATES COURT OF APPEALS FOR THE EIGHTH CIRCUIT*. C. A. 8th Cir. Certiorari denied.

No. 89-5063. *ALBRIGHT v. ALAN NEUMAN PRODUCTIONS, INC.* C. A. 9th Cir. Certiorari denied. Reported below: 862 F. 2d 1388.

No. 89-5064. *DOWLING v. VIRGIN ISLANDS*. C. A. 3d Cir. Certiorari denied. Reported below: 877 F. 2d 55.

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No. 89-5065. *JARRETT v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 881 F. 2d 1080.

No. 89-5066. *CHURCH v. THOMPSON, WARDEN, ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 872 F. 2d 416.

No. 89-5070. *MCDONALD v. ONOH*. Ct. App. Tenn. Certiorari denied. Reported below: 772 S. W. 2d 913.

No. 89-5073. *BLACKMON v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 874 F. 2d 378.

No. 89-5074. *GOLDSMITH v. JONES, WARDEN, ET AL.* C. A. 11th Cir. Certiorari denied.

No. 89-5075. *BIONDI v. UNITED STATES*. C. A. Fed. Cir. Certiorari denied. Reported below: 873 F. 2d 1451.

No. 89-5076. *JACKSON v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 874 F. 2d 820.

No. 89-5077. *WILLIAMS v. DUGGER, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS, ET AL.* C. A. 11th Cir. Certiorari denied.

No. 89-5078. *GRIFFIN v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 872 F. 2d 419.

No. 89-5079. *FLETCHER v. TENNESSEE DEPARTMENT OF CORRECTIONS ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 876 F. 2d 894.

No. 89-5080. *HARRIS v. MARYLAND ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 875 F. 2d 315.

No. 89-5081. *DAVIS v. DAVIS*. Ct. Sp. App. Md. Certiorari denied.

No. 89-5082. *BILDER v. CITY OF AKRON*. Ct. App. Ohio, Summit County. Certiorari denied.

No. 89-5084. *MOORE v. TENDER ET AL.* C. A. 10th Cir. Certiorari denied.

No. 89-5085. *WHITE v. NEW YORK*. Ct. App. N. Y. Certiorari denied. Reported below: 73 N. Y. 2d 468, 539 N. E. 2d 577.

No. 89-5086. *PROVOST v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 875 F. 2d 172.

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No. 89-5087. *HOPKINS v. KENTUCKY PAROLE BOARD ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 875 F. 2d 864.

No. 89-5089. *KALYON v. SCULLY, SUPERINTENDENT, GREEN HAVEN CORRECTIONAL FACILITY, ET AL.* C. A. 2d Cir. Certiorari denied.

No. 89-5091. *PARRON v. QUICK, SUPERINTENDENT, WALLKILL CORRECTIONAL FACILITY.* C. A. 2d Cir. Certiorari denied. Reported below: 869 F. 2d 87.

No. 89-5094. *DUNKINS v. JONES, WARDEN, ET AL.* C. A. 11th Cir. Certiorari denied.

No. 89-5098. *TAYLOR v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. Reported below: 869 F. 2d 812.

No. 89-5100. *HORNBUCKLE v. MISSOURI.* Sup. Ct. Mo. Certiorari denied. Reported below: 769 S. W. 2d 89.

No. 89-5103. *ROBINSON v. NEW YORK.* App. Div., Sup. Ct. N. Y., 4th Jud. Dept. Certiorari denied. Reported below: 147 App. Div. 2d 991, 538 N. Y. S. 2d 887.

No. 89-5105. *HORNE v. ALLEN METROPOLITAN HOUSING AUTHORITY.* C. A. 6th Cir. Certiorari denied. Reported below: 869 F. 2d 1490.

No. 89-5107. *PEREZ v. SEEVERS ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 869 F. 2d 425.

No. 89-5108. *CROW v. FUCHS ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 865 F. 2d 1264.

No. 89-5111. *RAMOS v. UNITED STATES.* C. A. 11th Cir. Certiorari denied. Reported below: 876 F. 2d 899.

No. 89-5112. *CASON v. UNITED STATES.* C. A. 11th Cir. Certiorari denied. Reported below: 876 F. 2d 899.

No. 89-5113. *BRAVO v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. Reported below: 875 F. 2d 859.

No. 89-5114. *LONG v. JONES, ASSISTANT DIRECTOR, COMMAND B, WASHINGTON DEPARTMENT OF CORRECTIONS.* C. A. 9th Cir. Certiorari denied. Reported below: 869 F. 2d 1497.

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No. 89-5115. *STOTTS v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 870 F. 2d 288.

No. 89-5116. *EDWARDS v. UNITED STATES*. C. A. 3d Cir. Certiorari denied.

No. 89-5118. *KANE v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 876 F. 2d 734.

No. 89-5122. *RADEMAKER v. VETERANS ADMINISTRATION*. C. A. 2d Cir. Certiorari denied. Reported below: 867 F. 2d 1424.

No. 89-5123. *TAPIA v. TAPIA*. Ct. App. N. M. Certiorari denied.

No. 89-5124. *SHELTON v. MCCARTHY ET AL.* C. A. 2d Cir. Certiorari denied.

No. 89-5126. *ENGLISH v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 875 F. 2d 319.

No. 89-5127. *KAAHANUI ET AL. v. PUBLIC UTILITIES COMMISSION OF HAWAII ET AL.* Sup. Ct. Haw. Certiorari denied. Reported below: 70 Haw. 648, 796 P. 2d 996.

No. 89-5128. *IVORY v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 875 F. 2d 868.

No. 89-5129. *EVERROAD ET AL. v. CARPENTER ET AL.* Ct. App. Ind. Certiorari denied. Reported below: 531 N. E. 2d 245.

No. 89-5130. *DIAMOND v. WINSTON*. Super. Ct. Pa. Certiorari denied.

No. 89-5131. *NICHOLAS v. UNITED STATES*. C. A. Fed. Cir. Certiorari denied. Reported below: 884 F. 2d 1397.

No. 89-5132. *MCGHEE v. BUTLER, WARDEN*. C. A. 5th Cir. Certiorari denied.

No. 89-5136. *ROBERSON v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 872 F. 2d 597.

No. 89-5137. *ALARIO v. WHITLEY, WARDEN*. C. A. 9th Cir. Certiorari denied. Reported below: 875 F. 2d 318.

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No. 89-5138. *MOORE v. BROWN ET AL.* C. A. 8th Cir. Certiorari denied. Reported below: 873 F. 2d 1447.

No. 89-5139. *TELEPO v. SCHEIDEMENTEL, SUPERINTENDENT, ADULT DIAGNOSTIC AND TREATMENT CENTER, ET AL.* C. A. 3d Cir. Certiorari denied.

No. 89-5140. *OLSON v. MINNESOTA.* Ct. App. Minn. Certiorari denied. Reported below: 436 N. W. 2d 817.

No. 89-5141. *GILMORE v. UNITED STATES.* C. A. 4th Cir. Certiorari denied. Reported below: 873 F. 2d 1441.

No. 89-5142. *ATWOOD v. LAWSON.* Sup. Ct. Ohio. Certiorari denied. Reported below: 42 Ohio St. 3d 69, 536 N. E. 2d 1167.

No. 89-5143. *TOMPKINS v. UNIVERSITY OF SOUTH ALABAMA ROTC, MILITARY SCIENCE DEPARTMENT, ET AL.* C. A. 11th Cir. Certiorari denied. Reported below: 874 F. 2d 820.

No. 89-5144. *BERKERY v. INTERNAL REVENUE SERVICE.* C. A. 3d Cir. Certiorari denied. Reported below: 872 F. 2d 411.

No. 89-5145. *JONES v. UNITED STATES.* C. A. 8th Cir. Certiorari denied. Reported below: 875 F. 2d 674.

No. 89-5147. *HAYWOOD v. UNITED STATES.* C. A. 6th Cir. Certiorari denied. Reported below: 874 F. 2d 378.

No. 89-5149. *DIAZ-VILLAFANE v. UNITED STATES.* C. A. 1st Cir. Certiorari denied. Reported below: 874 F. 2d 43.

No. 89-5150. *JAMES v. UNITED STATES.* C. A. 11th Cir. Certiorari denied. Reported below: 876 F. 2d 900.

No. 89-5152. *DESS v. MCCORMICK, WARDEN.* Sup. Ct. Mont. Certiorari denied.

No. 89-5153. *ISAAK v. UNITED STATES;* and

No. 89-5170. *TARVER v. UNITED STATES.* C. A. 11th Cir. Certiorari denied. Reported below: 876 F. 2d 899.

No. 89-5154. *LUCAS v. BUTLER, WARDEN.* C. A. 5th Cir. Certiorari denied.

No. 89-5157. *WASHINGTON v. MARTIN ET AL.* C. A. 10th Cir. Certiorari denied.

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No. 89-5160. FLORES-DOMINGUEZ *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 872 F. 2d 367.

No. 89-5161. RODGER *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 873 F. 2d 298.

No. 89-5162. MCCUBBINS *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 875 F. 2d 319.

No. 89-5164. DAVIS *v.* REDMAN, WARDEN, ET AL. C. A. 3d Cir. Certiorari denied.

No. 89-5165. WYCOFF *v.* NIX, WARDEN. C. A. 8th Cir. Certiorari denied. Reported below: 869 F. 2d 1111.

No. 89-5166. CASTLEBERRY *v.* NORTH CAROLINA. C. A. 4th Cir. Certiorari denied. Reported below: 869 F. 2d 593.

No. 89-5168. TYLER *v.* CALLAHAN. C. A. 8th Cir. Certiorari denied. Reported below: 881 F. 2d 1079.

No. 89-5169. HERNANDEZ *v.* UNITED STATES; and

No. 89-5235. CARDONA *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 876 F. 2d 774.

No. 89-5171. DOLENC *v.* DEMORE ET AL. C. A. 3d Cir. Certiorari denied.

No. 89-5172. MOON *v.* NEWSOME ET AL. C. A. 11th Cir. Certiorari denied. Reported below: 863 F. 2d 835.

No. 89-5176. EATON *v.* ILLINOIS. App. Ct. Ill., 1st Dist. Certiorari denied. Reported below: 178 Ill. App. 3d 1157, 551 N. E. 2d 836.

No. 89-5177. WENDT *v.* ILLINOIS. App. Ct. Ill., 1st Dist. Certiorari denied. Reported below: 176 Ill. App. 3d 1169, 549 N. E. 2d 358.

No. 89-5179. PURDY, INDIVIDUALLY AND AS INDEPENDENT EXECUTOR OF THE ESTATE OF PURDY, ET AL. *v.* MONEX INTERNATIONAL LTD. ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 867 F. 2d 1521.

No. 89-5181. WILLIAMS *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied. Reported below: 877 F. 2d 516.

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No. 89-5182. *NASH v. JONES, WARDEN, ET AL.* C. A. 2d Cir. Certiorari denied.

No. 89-5186. *DAVIS v. UNITED STATES.* C. A. 4th Cir. Certiorari denied. Reported below: 877 F. 2d 60.

No. 89-5188. *WATSON v. AMERICAN GENERAL FIRE & CASUALTY CO. ET AL.* Sup. Ct. Tex. Certiorari denied.

No. 89-5189. *MCCARTER v. UNITED STATES.* C. A. 6th Cir. Certiorari denied. Reported below: 875 F. 2d 868.

No. 89-5190. *UHARRIET v. WORKERS COMPENSATION APPEALS BOARD ET AL.* Ct. App. Cal., 1st App. Dist. Certiorari denied.

No. 89-5192. *TEMPEL v. VALLEY HOSPITAL ET AL.* Sup. Ct. Alaska. Certiorari denied.

No. 89-5194. *CHASE ET UX. v. HONSOWETZ.* Ct. App. Ore. Certiorari denied.

No. 89-5195. *MCCLINTON v. DUGGER, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS.* C. A. 11th Cir. Certiorari denied. Reported below: 876 F. 2d 899.

No. 89-5196. *BAZSULY v. UNITED STATES.* C. A. 11th Cir. Certiorari denied. Reported below: 877 F. 2d 973.

No. 89-5197. *BENTON v. UNITED STATES.* C. A. 11th Cir. Certiorari denied. Reported below: 877 F. 2d 974.

No. 89-5200. *MORRIS v. CHRISTIAN HOSPITAL.* C. A. 8th Cir. Certiorari denied.

No. 89-5202. *FELIX v. INDUSTRIAL COMMISSION OF ARIZONA ET AL.* Ct. App. Ariz. Certiorari denied.

No. 89-5203. *NUBINE v. LYNAUGH.* C. A. 5th Cir. Certiorari denied. Reported below: 878 F. 2d 1432.

No. 89-5204. *OBANDO-VASQUEZ ET AL. v. UNITED STATES.* C. A. 11th Cir. Certiorari denied. Reported below: 877 F. 2d 973.

No. 89-5205. *LORZA v. UNITED STATES.* C. A. 11th Cir. Certiorari denied. Reported below: 878 F. 2d 1440.

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No. 89-5206. *SCHOOR v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 876 F. 2d 891.

No. 89-5209. *COSTA-CABRERA v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 875 F. 2d 857.

No. 89-5213. *GALLAGHER v. PHILLIPS ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 876 F. 2d 103.

No. 89-5214. *BENNY v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 869 F. 2d 1496.

No. 89-5220. *WILKUS v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 875 F. 2d 649.

No. 89-5224. *FARMER v. GODISKA ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 869 F. 2d 588.

No. 89-5225. *NAUM v. GRIDER, WARDEN, ET AL.* C. A. 10th Cir. Certiorari denied.

No. 89-5226. *ABATECOLA v. VETERANS ADMINISTRATION ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 874 F. 2d 815.

No. 89-5227. *BRITTMAN v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 872 F. 2d 827.

No. 89-5228. *JOHNSON v. BUINNO ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 877 F. 2d 55.

No. 89-5229. *KUCHER v. DUKAKIS ET AL.* C. A. 1st Cir. Certiorari denied. Reported below: 879 F. 2d 853.

No. 89-5230. *PALMARIELLO v. BUTLER, SUPERINTENDENT, MASSACHUSETTS CORRECTIONAL INSTITUTION AT NORFOLK*. C. A. 1st Cir. Certiorari denied. Reported below: 873 F. 2d 491.

No. 89-5231. *DAVIS v. ILLINOIS*. App. Ct. Ill., 1st Dist. Certiorari denied. Reported below: 176 Ill. App. 3d 1166, 549 N. E. 2d 356.

No. 89-5234. *HEDRICK v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 875 F. 2d 868.

No. 89-5236. *ANDERSON v. LOUISIANA*. Ct. App. La., 2d Cir. Certiorari denied. Reported below: 540 So. 2d 974.

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No. 89-5239. *LEWIS v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 875 F. 2d 444.

No. 89-5240. *LEAVITT v. VASQUEZ, WARDEN*. C. A. 9th Cir. Certiorari denied. Reported below: 875 F. 2d 260.

No. 89-5242. *WALKER v. MISSOURI*. Sup. Ct. Mo. Certiorari denied. Reported below: 770 S. W. 2d 692.

No. 89-5243. *JACOBOWITZ, AKA RICE, AKA SCHLESINGER v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 877 F. 2d 162.

No. 89-5246. *KIRK v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 877 F. 2d 61.

No. 89-5247. *CARMONA v. BUTLER, WARDEN*. C. A. 5th Cir. Certiorari denied.

No. 89-5248. *MACGUIRE v. RASMUSSEN ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 873 F. 2d 1439.

No. 89-5250. *VELASQUEZ-MERCADO v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 872 F. 2d 632.

No. 89-5251. *STEVENHAGEN v. BOLTZ*. C. A. 6th Cir. Certiorari denied. Reported below: 869 F. 2d 1493.

No. 89-5255. *DEMPSEY v. MASSACHUSETTS*. C. A. 1st Cir. Certiorari denied.

No. 89-5258. *QUARLES v. MICHAELSON*. C. A. 3d Cir. Certiorari denied.

No. 89-5259. *PUCCI v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 873 F. 2d 295.

No. 89-5261. *DELOSSANTOS v. CONNECTICUT*. Sup. Ct. Conn. Certiorari denied. Reported below: 211 Conn. 258, 559 A. 2d 164.

No. 89-5262. *DAVIS v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 876 F. 2d 71.

No. 89-5264. *RIVA v. GETCHELL ET AL.* C. A. 1st Cir. Certiorari denied. Reported below: 873 F. 2d 1434.

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No. 89-5267. *WALKER v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 884 F. 2d 1390.

No. 89-5268. *THOMAS v. WISCONSIN*. Sup. Ct. Wis. Certiorari denied. Reported below: 150 Wis. 2d 374, 442 N. W. 2d 10.

No. 89-5269. *REED v. WHITE, WARDEN, ET AL.* C. A. 11th Cir. Certiorari denied. Reported below: 873 F. 2d 299.

No. 89-5273. *DEMPSEY v. SEARS, ROEBUCK & CO. ET AL.* C. A. 1st Cir. Certiorari denied.

No. 89-5274. *SMART v. LEEKE, COMMISSIONER, SOUTH CAROLINA DEPARTMENT OF CORRECTIONS, ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 873 F. 2d 1558.

No. 89-5276. *ROPER ET AL. v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 874 F. 2d 782.

No. 89-5278. *COOK ET AL. v. MARTINEZ ET AL.* C. A. 11th Cir. Certiorari denied. Reported below: 873 F. 2d 298.

No. 89-5281. *ROMAH v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 879 F. 2d 860.

No. 89-5283. *THOMAS v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 875 F. 2d 559.

No. 89-5285. *HAMPTON v. EARL C. SMITH MOTOR FREIGHT ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 875 F. 2d 864.

No. 89-5286. *JACKSON v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 877 F. 2d 970.

No. 89-5287. *PERCY v. PHELPS, SECRETARY, LOUISIANA DEPARTMENT OF CORRECTIONS, ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 878 F. 2d 1433.

No. 89-5288. *BARTHOLOMEW v. UNITED STATES*. C. A. 5th Cir. Certiorari denied.

No. 89-5289. *STANDLEY v. CAIN, WARDEN, ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 873 F. 2d 296.

No. 89-5290. *MORENO v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 875 F. 2d 857.

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No. 89-5292. *YURKO v. COWLEY, WARDEN, ET AL.* C. A. 10th Cir. Certiorari denied.

No. 89-5293. *PAIGE v. UNITED STATES.* C. A. 11th Cir. Certiorari denied. Reported below: 878 F. 2d 1441.

No. 89-5294. *TATE v. UNITED STATES.* C. A. 3d Cir. Certiorari denied. Reported below: 877 F. 2d 58.

No. 89-5296. *SHAW v. CAMPBELL, WARDEN, ET AL.* C. A. 6th Cir. Certiorari denied.

No. 89-5298. *YANG v. MCCARTHY ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 875 F. 2d 319.

No. 89-5299. *RHOADS v. SULLIVAN, SECRETARY OF HEALTH AND HUMAN SERVICES.* C. A. 3d Cir. Certiorari denied.

No. 89-5300. *TAYLOR v. KNAPP ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 871 F. 2d 803.

No. 89-5301. *HEARNE v. HEARNE.* Ct. App. Tenn. Certiorari denied.

No. 89-5302. *THOMPSON v. UNITED STATES.* C. A. 8th Cir. Certiorari denied. Reported below: 876 F. 2d 1381.

No. 89-5303. *DEGUZMAN v. UNITED STATES;* and
No. 89-5317. *HOYOS v. UNITED STATES.* C. A. 6th Cir. Certiorari denied. Reported below: 875 F. 2d 868.

No. 89-5305. *SCOTT v. FRANK, POSTMASTER GENERAL.* C. A. 8th Cir. Certiorari denied.

No. 89-5307. *MAKER v. UNITED STATES.* C. A. 3d Cir. Certiorari denied. Reported below: 875 F. 2d 312.

No. 89-5308. *DUNN v. WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY.* C. A. D. C. Cir. Certiorari denied. Reported below: 277 U. S. App. D. C. 195, 873 F. 2d 408.

No. 89-5312. *ANTHONY v. UNITED STATES.* C. A. 11th Cir. Certiorari denied. Reported below: 875 F. 2d 873.

No. 89-5313. *CLIFTON v. HENMAN, WARDEN, ET AL.* C. A. 7th Cir. Certiorari denied.

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No. 89-5322. *WHITE v. DENVER DISTRICT COURT ET AL.* Sup. Ct. Colo. Certiorari denied.

No. 89-5323. *BIRDEN v. NEW YORK.* Ct. Cl. N. Y. Certiorari denied.

No. 89-5324. *FARROW v. UNITED STATES.* C. A. 6th Cir. Certiorari denied. Reported below: 878 F. 2d 382.

No. 89-5328. *HERRERA v. UNITED STATES.* C. A. 10th Cir. Certiorari denied.

No. 89-5329. *ALADENOYE v. UNITED STATES.* C. A. 2d Cir. Certiorari denied. Reported below: 880 F. 2d 1319.

No. 89-5332. *JACKSON v. UNITED STATES.* C. A. 4th Cir. Certiorari denied. Reported below: 875 F. 2d 317.

No. 89-5338. *HARDEN v. IOWA.* Sup. Ct. Iowa. Certiorari denied. Reported below: 434 N. W. 2d 881.

No. 89-5339. *BROWN v. UNITED STATES.* C. A. 9th Cir. Certiorari denied. Reported below: 875 F. 2d 319.

No. 89-5340. *SMITH ET AL. v. UNITED STATES.* C. A. 9th Cir. Certiorari denied. Reported below: 876 F. 2d 898.

No. 89-5341. *SHAH v. UNITED STATES.* C. A. 9th Cir. Certiorari denied. Reported below: 878 F. 2d 1156.

No. 89-5342. *MARINO v. UNITED STATES.* C. A. 3d Cir. Certiorari denied. Reported below: 879 F. 2d 858.

No. 89-5345. *MILLS v. UNITED STATES.* C. A. 4th Cir. Certiorari denied. Reported below: 877 F. 2d 281.

No. 89-5347. *SMITH v. UNITED STATES.* C. A. 8th Cir. Certiorari denied. Reported below: 876 F. 2d 655.

No. 89-5351. *TARVER v. PETSOCK, SUPERINTENDENT, STATE CORRECTIONAL INSTITUTION (AND DIAGNOSTIC AND CLASSIFICATION CENTER) AT PITTSBURGH, ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 877 F. 2d 58.

No. 89-5352. *PRADO v. UNITED STATES.* C. A. 11th Cir. Certiorari denied. Reported below: 875 F. 2d 873.

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No. 89-5356. *LAMBERTI v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 875 F. 2d 872.

No. 89-5358. *REYNOLDS v. UNITED STATES*. Ct. App. D. C. Certiorari denied.

No. 89-5360. *GESUALE v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 879 F. 2d 860.

No. 89-5362. *HINDMAN v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 873 F. 2d 1441.

No. 89-5365. *DEMPSEY v. FEDERAL BUREAU OF INVESTIGATION ET AL.* C. A. 1st Cir. Certiorari denied. Reported below: 873 F. 2d 1434.

No. 89-5368. *DIPALING v. UNITED STATES*. C. A. Fed. Cir. Certiorari denied. Reported below: 867 F. 2d 615.

No. 89-5375. *LAROQUE v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 879 F. 2d 863.

No. 89-5376. *MAKER v. UNITED STATES*. C. A. 3d Cir. Certiorari denied.

No. 89-5378. *JAMES ET AL. v. QUINLAN, DIRECTOR, BUREAU OF PRISONS, ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 866 F. 2d 627.

No. 89-5386. *CASSADY v. ADAIR, INDIVIDUALLY AND AS SUPERINTENDENT OF MONTGOMERY COUNTY SCHOOLS, ET AL.* C. A. 11th Cir. Certiorari denied. Reported below: 873 F. 2d 298.

No. 89-5388. *MORSE v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 878 F. 2d 387.

No. 89-5406. *RAYMER v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 876 F. 2d 383.

No. 89-5412. *VARGAS v. YOUNG, SUPERINTENDENT, WAUPUN CORRECTIONAL INSTITUTION*. C. A. 7th Cir. Certiorari denied. Reported below: 878 F. 2d 384.

No. 89-5415. *CONNELLY v. GROSSMAN ET AL.* C. A. 11th Cir. Certiorari denied.

No. 89-5423. *BRAUGHTON v. TEXAS*. Ct. App. Tex., 13th Dist. Certiorari denied. Reported below: 749 S. W. 2d 528.

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No. 89-5427. GUNTER ET AL. *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 876 F. 2d 1113.

No. 89-5436. KAYLOR *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied. Reported below: 877 F. 2d 658.

No. 89-5438. JARRETT *v.* VOLT TECHNICAL SERVICES ET AL. C. A. 9th Cir. Certiorari denied.

No. 89-5441. PARKER *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 877 F. 2d 327.

No. 89-5451. TURNER *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 881 F. 2d 684.

No. 89-5453. OLAYA *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 880 F. 2d 419.

No. 89-5465. BETINSKY *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied. Reported below: 877 F. 2d 58.

No. 89-5466. WILLIAMS-EL *v.* JOHNSON ET AL. C. A. 8th Cir. Certiorari denied. Reported below: 872 F. 2d 224.

No. 88-1758. ONEIDA INDIAN NATION OF WISCONSIN ET AL. *v.* NEW YORK ET AL.; and

No. 88-1915. ONEIDA INDIAN NATION OF NEW YORK ET AL. *v.* NEW YORK ET AL. C. A. 2d Cir. Certiorari denied. THE CHIEF JUSTICE took no part in the consideration or decision of these petitions. Reported below: 860 F. 2d 1145.

No. 88-1762. KIDD ET AL. *v.* F/V ST. PATRICK ET AL.; and

No. 88-1960. BERGEN, ADMINISTRATRIX OF THE ESTATE OF KAUPPINEN, ET AL. *v.* F/V ST. PATRICK ET AL. C. A. 9th Cir. Certiorari denied. JUSTICE WHITE would grant certiorari.* Reported below: 816 F. 2d 1345 and 866 F. 2d 318.

No. 88-1889. NORTON ET AL. *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. JUSTICE WHITE would grant certiorari.* Reported below: 867 F. 2d 1354.

No. 88-1901. AIR LINE PILOTS ASSN., INTERNATIONAL *v.* DELTA AIR LINES, INC. C. A. 11th Cir. Certiorari denied. JUSTICE WHITE would grant certiorari. Reported below: 861 F. 2d 665.

*[REPORTER'S NOTE: For a statement of JUSTICE WHITE'S views on this case, see his separate dissenting opinion in *McMonagle v. Northeast Women's Center, Inc.*, *post*, p. 901.]

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No. 88-2088. *TILLER v. FLUDD*. C. A. 11th Cir. Certiorari denied. JUSTICE WHITE would grant certiorari.* Reported below: 863 F. 2d 822.

No. 89-72. *AUTOMOBILE IMPORTERS OF AMERICA, INC., ET AL. v. MINNESOTA ET AL.* C. A. 8th Cir. Certiorari denied. JUSTICE WHITE would grant certiorari.* Reported below: 871 F. 2d 717.

No. 89-107. *URQUHART & HASSELL v. CHAPMAN & COLE ET AL.* C. A. 5th Cir. Certiorari denied. JUSTICE WHITE would grant certiorari.* Reported below: 865 F. 2d 676.

No. 89-199. *ENCO MANUFACTURING CO., INC. v. CLAMP MANUFACTURING CO., INC.* C. A. 9th Cir. Certiorari denied. JUSTICE WHITE would grant certiorari.* Reported below: 870 F. 2d 512.

No. 89-206. *MEBA PENSION TRUST ET AL. v. RODRIGUEZ ET UX.* C. A. 4th Cir. Certiorari denied. JUSTICE WHITE would grant certiorari.* Reported below: 872 F. 2d 69.

No. 89-5233. *FARRELL v. ILLINOIS*. App. Ct. Ill., 4th Dist. Certiorari denied. JUSTICE WHITE would grant certiorari.* Reported below: 181 Ill. App. 3d 446, 536 N. E. 2d 476.

No. 88-1769. *MASSACHUSETTS MUNICIPAL WHOLESALE ELECTRIC CO. v. VERMONT DEPARTMENT OF PUBLIC SERVICE ET AL.* Sup. Ct. Vt. Motion of Continental Bank N. A. for leave to file a brief as *amicus curiae* granted. Certiorari denied. Reported below: 151 Vt. 73, 558 A. 2d 215.

No. 88-1844. *ARIZONA v. IKIRT*. Sup. Ct. Ariz. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 160 Ariz. 113, 770 P. 2d 1159.

No. 88-1942. *UNITED STATES v. BERNAL*. C. A. 5th Cir. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 861 F. 2d 434.

No. 88-1969. *MCCORMICK, WARDEN v. FITZPATRICK*. C. A. 9th Cir. Motion of respondent for leave to proceed *in forma pau-*

*[REPORTER'S NOTE: For a statement of JUSTICE WHITE'S views on this case, see his separate dissenting opinion in *McMonagle v. Northeast Women's Center, Inc.*, *post*, p. 901.]

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peris granted. Certiorari denied. Reported below: 869 F. 2d 1247.

No. 88-1987. PENNSYLVANIA *v.* ZOOK. Sup. Ct. Pa. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 520 Pa. 210, 553 A. 2d 920.

No. 88-2068. PERRETTI, ATTORNEY GENERAL OF NEW JERSEY *v.* FULLER. C. A. 3d Cir. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 868 F. 2d 604.

No. 88-2079. ILLINOIS *v.* MAHAFFEY. Sup. Ct. Ill. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 128 Ill. 2d 388, 539 N. E. 2d 1172.

No. 89-87. OHIO *v.* HOWARD. Sup. Ct. Ohio. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 42 Ohio St. 3d 18, 537 N. E. 2d 188.

No. 88-1899. LEVINE *v.* HEFFERNAN, CHIEF JUSTICE, SUPREME COURT OF WISCONSIN, ET AL. C. A. 7th Cir. Motion of National Right to Work Legal Defense Foundation for leave to file a brief as *amicus curiae* granted. Certiorari denied. Reported below: 864 F. 2d 457.

No. 88-1982. CAMER ET AL. *v.* SEATTLE SCHOOL DISTRICT NO. 1 ET AL. Ct. App. Wash. Motion of Eben Carlson for leave to file a brief as *amicus curiae* granted. Certiorari denied. Reported below: 52 Wash. App. 531, 762 P. 2d 356.

No. 88-2000. COWPER, GOVERNOR OF ALASKA, ET AL. *v.* SECRETARY OF THE INTERIOR ET AL. C. A. 9th Cir. Certiorari denied. JUSTICE BLACKMUN would grant certiorari. Reported below: 869 F. 2d 1185.

No. 88-2023. ELLIS *v.* MUMFORD ET AL. C. A. 11th Cir. Motion of respondents for damages denied. Certiorari denied. Reported below: 867 F. 2d 1430.

No. 88-2098. TOWNSHIP OF PARKS, PENNSYLVANIA *v.* BABCOCK & WILCOX Co. C. A. 3d Cir. Motion of Pennsylvania State Association of Township Supervisors et al. for leave to file a

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brief as *amici curiae* granted. Certiorari denied. Reported below: 866 F. 2d 1408.

- No. 88-2112. MARTINEZ-VILLAREAL *v.* ARIZONA. Super. Ct. Ariz., County of Santa Cruz;
- No. 88-7180. JARRELLS *v.* GEORGIA. Sup. Ct. Ga.;
- No. 88-7217. GAMES *v.* INDIANA. Sup. Ct. Ind.;
- No. 88-7222. TASSIN *v.* LOUISIANA. Sup. Ct. La.;
- No. 88-7427. BALDWIN *v.* ALABAMA. Ct. Crim. App. Ala.;
- No. 88-7469. O'NEAL *v.* MISSOURI. Sup. Ct. Mo.;
- No. 88-7492. KUBAT *v.* GREER, WARDEN, ET AL. C. A. 7th Cir.;
- No. 88-7520. MORAN *v.* WHITLEY, WARDEN, ET AL. Sup. Ct. Nev.;
- No. 88-7557. SINGLETON *v.* LOCKHART, COMMISSIONER, ARKANSAS DEPARTMENT OF CORRECTION. C. A. 8th Cir.;
- No. 88-7567. JONES *v.* MISSOURI. Sup. Ct. Mo.;
- No. 88-7620. PADILLA *v.* NEVADA. Sup. Ct. Nev.;
- No. 89-5037. HILL *v.* ALABAMA. Ct. Crim. App. Ala.;
- No. 89-5038. BROWNLEE *v.* ALABAMA. Sup. Ct. Ala.;
- No. 89-5040. THOMPSON *v.* ALABAMA. Sup. Ct. Ala.;
- No. 89-5060. COLEMAN *v.* OKLAHOMA. Ct. Crim. App. Okla.;
- No. 89-5071. DERRICK *v.* TEXAS. Ct. Crim. App. Tex.;
- No. 89-5092. CRANK *v.* TEXAS. Ct. Crim. App. Tex.;
- No. 89-5093. CAVANAUGH *v.* NEVADA. Sup. Ct. Nev.;
- No. 89-5099. KINSMAN *v.* GEORGIA. Sup. Ct. Ga.;
- No. 89-5238. DRISCOLL *v.* MISSOURI. Sup. Ct. Mo.;
- No. 89-5254. SINGLETON *v.* MCKELLAR, WARDEN, ET AL. C. A. 4th Cir.;
- No. 89-5260. TEAGUE *v.* TENNESSEE. Ct. Crim. App. Tenn.;
- No. 89-5270. MELSON *v.* TENNESSEE. Sup. Ct. Tenn.; and
- No. 89-5399. KILGORE *v.* MISSOURI. Sup. Ct. Mo. Certiorari denied. Reported below: No. 88-7180, 258 Ga. 833, 375 S. E. 2d 842; No. 88-7217, 535 N. E. 2d 530; No. 88-7222, 536 So. 2d 402; No. 88-7427, 539 So. 2d 1103; No. 88-7469, 766 S. W. 2d 91; No. 88-7492, 867 F. 2d 351; No. 88-7520, 105 Nev. 1041, 810 P. 2d 335; No. 88-7557, 871 F. 2d 1395; No. 88-7567, 767 S. W. 2d 41; No. 88-7620, 104 Nev. 867; No. 89-5037, 541 So. 2d 83; No. 89-5038, 545 So. 2d 166; No. 89-5040, 542 So. 2d 1300; No. 89-5071, 773 S. W. 2d 271; No. 89-5092, 761 S. W. 2d 328; No. 89-5093, 105 Nev. 1025, 810 P. 2d 319; No. 89-5099, 259 Ga. 89, 376 S. E. 2d

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845; No. 89-5238, 767 S. W. 2d 5; No. 89-5254, 873 F. 2d 1440; No. 89-5260, 772 S. W. 2d 915; No. 89-5270, 772 S. W. 2d 417; No. 89-5399, 771 S. W. 2d 57.

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. 88-2130. D'ANGELO *v.* ILLINOIS ATTORNEY REGISTRATION AND DISCIPLINARY COMMISSION. Sup. Ct. Ill. Motions of Illinois Attorneys for Criminal Justice, Justinian Society of Lawyers, and Illinois State Bar Association for leave to file briefs as *amici curiae* granted. Certiorari denied. Reported below: 126 Ill. 2d 45, 533 N. E. 2d 861.

No. 88-7230. DEMPSEY *v.* COCA-COLA CO. ET AL. C. A. 1st Cir. Certiorari denied. JUSTICE BLACKMUN took no part in the consideration or decision of this petition. Reported below: 879 F. 2d 853.

No. 88-7232. HUDSON *v.* FLORIDA. Sup. Ct. Fla. Certiorari denied. JUSTICE BLACKMUN would grant certiorari. Reported below: 538 So. 2d 829.

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. 88-7404. HOVERSTEN *v.* IOWA. Sup. Ct. Iowa. Certiorari denied. JUSTICE BRENNAN would grant certiorari. Reported below: 437 N. W. 2d 240.

No. 88-7435. MARTIN *v.* TOWNSEND ET AL. C. A. 3d Cir. Motion of petitioner to defer consideration of the petition for certiorari denied. Certiorari denied. Reported below: 875 F. 2d 311.

No. 89-5210. MARTIN *v.* DELAWARE LAW SCHOOL OF WIDENER UNIVERSITY, INC., ET AL. C. A. D. C. Cir. Motion of pe-

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tioner to defer consideration of the petition for certiorari denied. Certiorari denied.

No. 89-5211. *MARTIN v. SUPREME COURT OF PENNSYLVANIA ET AL.* C. A. 3d Cir. Motion of petitioner to defer consideration of the petition for certiorari denied. Certiorari denied. Reported below: 877 F. 2d 56.

No. 88-7438. *CARABALLO-SANDOVAL v. UNITED STATES*; and No. 88-7480. *CARABALLO-LUJAN v. UNITED STATES.* C. A. 11th Cir. Certiorari denied. JUSTICE BRENNAN and JUSTICE WHITE would grant certiorari.* Reported below: 866 F. 2d 1343.

No. 89-82. *RAYNER v. SMIRL ET AL.* C. A. 4th Cir. Certiorari denied. JUSTICE BRENNAN and JUSTICE WHITE would grant certiorari.* Reported below: 873 F. 2d 60.

No. 88-7466. *SPEARMAN v. LYNAUGH, DIRECTOR, TEXAS DEPARTMENT OF CORRECTIONS.* C. A. 5th Cir. Motion of petitioner for costs denied. Certiorari denied.

No. 88-7467. *SPEARMAN v. LYNAUGH, DIRECTOR, TEXAS DEPARTMENT OF CORRECTIONS.* C. A. 5th Cir. Motion of petitioner for costs denied. Certiorari denied.

No. 88-7495. *POTTS v. GEORGIA.* Sup. Ct. Ga. Certiorari denied. Reported below: 259 Ga. 96, 376 S. E. 2d 851.

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 to consider whether a defendant may be prevented from questioning prospective jurors regarding their ability to adhere to a state sentencing law that precludes jurors from considering the likelihood of parole in their decision whether to impose life imprisonment or death.

*[REPORTER'S NOTE: For a statement of JUSTICE WHITE'S views on this case, see his separate dissenting opinion in *McMonagle v. Northeast Women's Center, Inc.*, *post*, p. 901.]

Both the Georgia Supreme Court and the United States Court of Appeals for the Fifth Circuit have held that such a limit on *voir dire* is constitutional. 259 Ga. 96, 101, 376 S. E. 2d 851, 856 (1989); *King v. Lynaugh*, 850 F. 2d 1055, 1060-1061 (CA5 1988). These decisions, however, cannot be squared with minimal due process requirements permitting a defendant to ensure that the jurors who sentence him consider only those factors that the State has deemed relevant to their decision. In the many States that prohibit jury consideration of parole, the Constitution demands that the defendant be allowed to test the jurors' ability to set that factor aside.

Jack Howard Potts was convicted of murder. During *voir dire* in his sentencing proceeding, several members of the venire volunteered the information that their decision whether to impose the death penalty would be significantly affected by their assessment of the likelihood of parole if they sentenced petitioner to life in prison. Georgia law forbids jurors to consider the possibility of parole during their deliberations. Ga. Code Ann. §17-8-76(a) (1982); *Horton v. State*, 249 Ga. 871, 873, 295 S. E. 2d 281, 284 (1982), cert. denied, 459 U. S. 1188 (1983). Accordingly, the trial judge asked these jurors if they could make their sentencing decision without regard to the possibility of parole; some suggested that they could not. Petitioner sought to question other prospective jurors about the nature and strength of their attitudes about parole on the ground that they, too, might be unable to set such considerations aside. The court refused to permit the questioning.

During its subsequent deliberations, the jury requested information about Potts' eligibility for parole if it were to impose a life sentence. The court instructed the jury to ignore parole in its deliberations, and the jury recommended that Potts be sentenced to death.

A sentence of death is the most violent and final sanction the State can inflict. Jurors who are charged with deciding whether to impose this most serious sanction must make their decision on the basis of law, not on prejudices that operate to the defendant's detriment. If a court fails to permit a defendant to take all reasonable steps to ensure impartial jury deliberations, it undermines the legitimacy of the capital sentencing process and of the legal system itself. By refusing to permit Potts to explore the jurors'

prejudices with respect to parole, the court seriously undermined his fundamental right to an unbiased jury.

It is a commonplace that a criminal defendant (and the state) is entitled to a jury that will follow the law as embodied in the trial judge's instructions. Thus, a juror who cannot conscientiously follow the law as articulated by the court must be excused. See, *e. g.*, *Witherspoon v. Illinois*, 391 U. S. 510, 520 (1968) (on State's request, court must exclude for cause jurors who are so strongly opposed to the death penalty that they would in no circumstances consider imposing it). But the right to a jury that will follow the law would be nothing more than an empty promise if the criminal defendant were forbidden to inquire into prospective jurors' ability to abide by the court's instructions. A "right" without any effective means of vindication is hardly worthy of so lofty a designation.

The only means by which the defendant may vindicate his right to a jury that will follow the law is through our system of challenges—both peremptory and for cause. And the only means of developing the information necessary to decide which jurors should be challenged is *voir dire*. Accordingly, we have long held that, although the conduct of *voir dire* is a matter committed to the trial court's discretion, where there is substantial danger that jurors might consider impermissible factors in reaching their verdict, the defendant has a constitutional right to use *voir dire* to inquire into the jurors' beliefs respecting those factors. Most recently, in *Turner v. Murray*, 476 U. S. 28 (1986), we held that, in the sentencing phase of a capital case, a black defendant accused of killing a white man has a constitutional right to explore on *voir dire* whether prospective jurors harbor racial prejudices. *Id.*, at 36–37; accord, *Ham v. South Carolina*, 409 U. S. 524, 527 (1973); *Aldridge v. United States*, 283 U. S. 308, 315 (1931). When the defendant is a member of a racial minority, the danger that a juror might be influenced by racial prejudice is of such significance that the defendant *must* be permitted to ferret out such prejudice on *voir dire*.

A similar situation is presented here, where several jurors, without prompting, suggested that they would consider parole in their deliberations and that they would do so notwithstanding contrary instruction by the court. It is certainly not unreasonable to suggest that other jurors might well have subscribed to a similar prejudice. Where the risk of prejudice is both great and mani-

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fest, it is an abuse of discretion for the trial court to prevent the defendant from inquiring into whether the jurors harbor such prejudice. Cf. *Ham v. South Carolina*, *supra*, at 527-528 (judge not required to examine jurors on *voir dire* to determine whether they are prejudiced against bearded people).

The court in this case instructed the jury to ignore the possibility of parole in deciding what sentence to impose. Without knowing whether the jurors were able to follow such instructions, however, we cannot be confident that the jury acted properly. Indeed, the efficacy of those instructions is cast into grave doubt by the indications that several prospective jurors were unable to follow them. Thus, the trial court's rulings were blatantly inconsistent: while acknowledging the applicability of a state law forbidding the jury to consider the possibility that Potts might be paroled if they did not sentence him to death, the court nonetheless deprived Potts of the right to develop sufficient information on *voir dire* to discern whether his sentencing jury would follow that law. Because I believe that the court thereby effectively deprived Potts of his constitutional rights, I respectfully dissent.

No. 88-7593. KRICKENBARGER-OLIVER *v.* HUYLER ET AL. C. A. 5th Cir. Certiorari before judgment denied.

No. 88-7619. ROBERTSON *v.* CALIFORNIA. Sup. Ct. Cal. Certiorari denied. Reported below: 48 Cal. 3d 18, 767 P. 2d 1109.

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 penalty in this case. Even if I did not take this view, I would grant the petition because it raises the recurring issue whether evidence of prior unadjudicated criminal conduct may be introduced at the sentencing stage of a capital trial. As I have noted before, see, *e. g.*, *Miranda v. California*, 486 U. S. 1038 (1988) (MARSHALL, J., dissenting from denial of certiorari); *Williams v. Lynaugh*, 484 U. S. 935 (1987) (MARSHALL, J., dissenting from denial of certiorari), the States' highest courts have reached varying conclusions on this issue.

In addition, the petition poses a second question of profound constitutional significance: whether a defendant's waiver of his

right to a jury in a capital sentencing proceeding is voluntary, knowing, and intelligent when no evidence indicates that he was aware of a state statute requiring the court to impose a life sentence if the sentencing jury failed to reach a unanimous decision. The California statute at issue here provides that "[i]f the trier of fact [at the sentencing stage] is a jury and has been unable to reach a unanimous verdict as to what the penalty shall be, the court shall dismiss the jury and impose a punishment of confinement in state prison for life without possibility of parole." 1977 Cal. Stats., ch. 316, § 12. State high courts faced with the issue whether a defendant must be aware of similar capital sentencing provisions have reached differing conclusions. Compare *Harris v. State*, 295 Md. 329, 339-340, 455 A. 2d 979, 984 (1983) (holding that a court must explain the effect of a jury deadlock for a waiver to be effective), with *People v. Morgan*, 112 Ill. 2d 111, 141-142, 492 N. E. 2d 1303, 1315-1316 (1986) (holding that a court need only explain that a unanimous vote is required before a jury can impose the death penalty), cert. denied, 479 U. S. 1101 (1987).

In 1978, a jury convicted Andrew Robertson of murder and sentenced him to death. On appeal, the California Supreme Court vacated that sentence and remanded the case to the trial court. 33 Cal. 3d 21, 655 P. 2d 279 (1982). In a second sentencing proceeding, Robertson indicated his intention to waive his right to a jury. The court then asked him several questions in an attempt to ascertain if Robertson was aware of the effects of a waiver. At no time during the colloquy did the judge read or paraphrase the jury deadlock provision; instead, the court simply stated: "You understand, also, that if you do waive jury and submit [your sentencing] to the Court, the Court will act solely. If you have a jury trial, before a verdict can be returned either way, it requires unanimous agreement of all twelve jurors; do you understand that?" Pet. for Cert. 8. Robertson answered that he understood and then waived his right to a sentencing jury. He was again sentenced to death; this time, the California Supreme Court affirmed.

Robertson now claims that his sentence should be overturned because his agreement to waive a jury in the second sentencing proceeding was not voluntary, knowing, and intelligent. Petitioner concedes that the court's instruction was literally correct; if the jurors were not unanimous in recommending life imprisonment, they could not return a verdict to that effect. It is

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also true, however, that if they were not unanimously in favor of death, even if only one juror refused to agree to the death penalty, then the *court* was required to order a term of life imprisonment.

In rejecting this claim the California Supreme Court clearly could not rely on the argument that the trial court's instruction fairly apprised Robertson of the relevant law. Rather, the court presumed as a matter of law that Robertson's counsel must have informed him of that part of the law as to which the trial court's statement was misleading. The court adopted this presumption in the absence of any evidence that Robertson's counsel had informed him, or indeed even knew, of the relevant rule of law. Such a presumption is impossible to reconcile with this Court's decisions placing on the state the burden of establishing a valid waiver of a fundamental constitutional right. See, *e. g.*, *Michigan v. Jackson*, 475 U. S. 625, 633 (1986). Furthermore, it is directly contrary to our precedents requiring that any doubts arising inevitably from a silent record be resolved in favor of protecting the defendant's right to be sentenced by a jury. See *Carnley v. Cochran*, 369 U. S. 506, 516 (1962) ("Presuming waiver [of Sixth Amendment rights] from a silent record is impermissible"); *Boykin v. Alabama*, 395 U. S. 238, 242-243 (1969) (applying *Carnley* to jury waiver). A presumption that defendant's counsel will always inform him of the relevant factors in a decision to waive constitutional rights amounts to a rule that all waivers made after the defendant has retained counsel *necessarily* will be considered voluntary, knowing, and intelligent. Such a rule offends common sense and impermissibly strips a defendant of constitutional protections long recognized by this Court.

Respondent also argues that the court's presumption of knowledge was appropriate in this case because Robertson had previously been sentenced in a capital proceeding by a jury and thus was steeped in the intricacies of California capital sentencing law. But the jury in the first sentencing proceeding was unanimous in favor of death; in such a circumstance, there is no support for an assumption that Robertson was "familiar" with what might have happened at his first sentencing had one or more jurors held out. Indeed, this case is an especially inappropriate one in which to assume the defendant's knowledge of the law. A "hung jury" traditionally results in a mistrial, not the automatic imposition of a certain penalty; thus, even a sophisticated defendant might not be

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aware of the peculiar ramifications of a deadlock in the capital sentencing context.

Lastly, the state court reasoned that Robertson's arguments would lead to the adoption of a standard "too stringent for any situation; no waiver requires the court to explain every single conceivable benefit and burden of the choice being made." 48 Cal. 3d 18, 38, 767 P. 2d 1109, 1118 (1989) (footnote omitted). To be sure, the defendant need not be informed of every minute consideration that might be of the faintest interest to him. Applied to this case, however, that reasoning is disingenuous; informing a defendant that he will automatically receive the lesser penalty if the jury is unable to agree after a reasonable time is plainly relevant, if not central, to a rational defendant's choice between being sentenced by a judge or a jury. That the trial court believed it necessary to give the defendant some (albeit misleading) information on precisely the statute implicated here evidences the crucial role the issue plays in a knowing and voluntary jury waiver. Requiring a court to impart this information accurately is hardly imposing an unreasonable burden where the issue is literally one of life and death.

I dissent.

No. 89-12. RICHARDSON ET AL. *v.* RICHARDSON-MERRELL, INC. C. A. D. C. Cir. Motions of Association of Birth Defect Children and Association of Trial Lawyers of America for leave to file briefs as *amici curiae* granted. Certiorari denied. Reported below: 273 U. S. App. D. C. 32, 857 F. 2d 823.

No. 89-31. FRIENDS OF WARWICK POND AND HOXSIE, ALSO WARWICK LAND TRUST, ET AL. *v.* CHILDREN'S FRIEND & SERVICE, INC., ET AL. Sup. Ct. R. I. Motion of respondents for award of costs and fees denied. Certiorari denied.

No. 89-38. GUARDIAN PLANS, INC., ET AL. *v.* TEAGUE ET AL. C. A. 4th Cir. Motion of American Cemetery Association et al. for leave to file a brief as *amici curiae* granted. Certiorari denied. Reported below: 870 F. 2d 123.

No. 89-112. GOLDSTEIN *v.* STATE BAR OF CALIFORNIA. Sup. Ct. Cal. Motion of Association of Bar Defense Counsel for leave to file a brief as *amicus curiae* granted. Certiorari denied. Reported below: 47 Cal. 3d 937, 766 P. 2d 560.

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No. 89-114. FREEMAN *v.* WEISSMANN. C. A. 2d Cir. Motion of Abass Alavi et al. for leave to file a brief as *amici curiae* granted. Certiorari denied. Reported below: 868 F. 2d 1313.

No. 89-166. COURBOIS *v.* REDMON. C. A. D. C. Cir. Certiorari denied. JUSTICE WHITE took no part in the consideration or decision of this petition.

No. 89-5053. BOYD *v.* ALABAMA. Sup. Ct. Ala. Certiorari denied. JUSTICE WHITE would grant certiorari.* Reported below: 542 So. 2d 1276.

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. 89-5119. BERRIGAN ET AL. *v.* PENNSYLVANIA. Sup. Ct. Pa. Certiorari denied. JUSTICE BRENNAN and JUSTICE MARSHALL would grant certiorari. Reported below: 521 Pa. 609, 557 A. 2d 341.

No. 89-5271. MARTIN *v.* PENNSYLVANIA STATE REAL ESTATE COMMISSION ET AL. C. A. 3d Cir. Certiorari denied. JUSTICE BRENNAN took no part in the consideration or decision of this petition.

No. 89-5311. PARKER *v.* PARSONS, WARDEN, ET AL. C. A. 10th Cir. Certiorari before judgment denied.

Rehearing Denied

No. 87-1705. BARRETT *v.* UNITED STATES ET AL., 492 U. S. 926;

No. 88-1802. CHOW *v.* ATTORNEY GRIEVANCE COMMISSION, 492 U. S. 919;

No. 88-1975. BARROW *v.* HAWKINS ET AL., 492 U. S. 921;

No. 88-6315. BELL *v.* LYNAUGH, DIRECTOR, TEXAS DEPARTMENT OF CORRECTIONS, 492 U. S. 925;

*[REPORTER'S NOTE: For a statement of JUSTICE WHITE'S views on this case, see his separate dissenting opinion in *McMonagle v. Northeast Women's Center, Inc.*, *post*, p. 901.]

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No. 88-7055. JOHNSON *v.* GOVERNMENT EMPLOYEES INSURANCE CO. ET AL., 492 U. S. 909; and

No. 88-7064. IREDIA *v.* UNITED STATES, 492 U. S. 921. Petitions for rehearing denied.

No. 88-5964. AINSWORTH *v.* CALIFORNIA, 488 U. S. 1050. Motion for leave to file petition for rehearing denied.

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Miscellaneous Order

No. A-240. MAREK *v.* DUGGER, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS, ET AL. Application for stay of execution of sentence of death, presented to JUSTICE KENNEDY, 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.

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Dismissal Under Rule 53

No. 89-5221. PASTER *v.* LYNAUGH, DIRECTOR, TEXAS DEPARTMENT OF CORRECTIONS. C. A. 5th Cir. Certiorari dismissed under this Court's Rule 53. Reported below: 876 F. 2d 1184.

Certiorari Granted—Vacated and Remanded. (See also No. 88-7535, *ante*, p. 1.)

No. 88-7468. WHIGHAM *v.* FOLTZ, WARDEN. 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 *Harris v. Reed*, 489 U. S. 255 (1989).

No. 89-231. SHEARSON LEHMAN/AMERICAN EXPRESS INC. ET AL. *v.* BIRD, INDIVIDUALLY AND AS TRUSTEE OF THE FRANK L. BIRD PROFIT SHARING TRUST, ET AL. C. A. 2d Cir. Motion

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of Securities Industry Association et al. for leave to file a brief as *amici curiae* granted. Certiorari granted, judgment vacated, and case remanded for further consideration in light of *Rodriguez de Quijas v. Shearson/American Express, Inc.*, 490 U. S. 477 (1989). JUSTICE BRENNAN, JUSTICE MARSHALL, and JUSTICE STEVENS dissent. Reported below: 871 F. 2d 292.

No. 89-265. EASTON PUBLISHING CO. *v.* BOETTGER. Sup. Ct. Pa. Certiorari granted, judgment vacated, and case remanded for further consideration in light of *The Florida Star v. B. J. F.*, 491 U. S. 524 (1989). Reported below: 521 Pa. 366, 555 A. 2d 1234.

No. 89-5484. JAMES *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 *Penry v. Lynaugh*, 492 U. S. 302 (1989). Reported below: 772 S. W. 2d 84.

Miscellaneous Orders

No. — — —. NATIONAL RAILROAD PASSENGER CORPORATION *v.* TRANSPORTATION COMMUNICATIONS UNION ET AL. Motion to direct the Clerk to file petition for writ of certiorari out of time denied.

No. A-205 (89-440). CLARDY, EXECUTRIX OF THE ESTATE OF CLARDY, ET AL. *v.* SANDERS. Application for stay, presented to JUSTICE STEVENS, and by him referred to the Court, granted, and it is ordered that the execution and enforcement of the judgment of the Supreme Court of Alabama, case No. 87-1070, is 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. This order is further conditioned upon the supersedeas bond presently posted with the Clerk of the Circuit Court of Montgomery County, Alabama, Civil Action No. CV-87-448, remaining in effect.

No. A-247. HEALTHAMERICA ET AL. *v.* MENTON. Application for stay, presented to JUSTICE KENNEDY, and by him referred to the Court, granted, and it is ordered that the execution and enforcement of the judgment of the Supreme Court of Ala-

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bama, case No. 87-1100, is stayed pending the timely filing and disposition of a 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. This order is further conditioned upon the supersedeas bond presently posted with the Clerk of the Circuit Court of Mobile County, Alabama, Civil Action No. CV-86-003049, remaining in effect.

No. D-782. *IN RE DISBARMENT OF RICKS*. Everett Emmett Ricks, Jr., of Long Beach, Cal., having requested to resign as a member of the Bar of this Court, it is ordered that his name be stricken from the roll of attorneys admitted to practice before the Bar of this Court. The order of disbarment entered August 11, 1989 [492 U. S. 930], is vacated. The rule to show cause, heretofore issued on May 1, 1989 [490 U. S. 1044], is hereby discharged.

No. D-794. *IN RE DISBARMENT OF MONTEMAYOR*. Disbarment entered. [For earlier order herein, see 491 U. S. 903.]

No. D-797. *IN RE DISBARMENT OF RIPES*. Lawrence Ripes, of Northbrook, Ill., having requested to resign as a member of the Bar of this Court, it is ordered that his name be stricken from the roll of attorneys admitted to practice before the Bar of this Court. The rule to show cause, heretofore issued on August 11, 1989 [492 U. S. 931], is hereby discharged.

No. D-800. *IN RE DISBARMENT OF KLAN*. Disbarment entered. [For earlier order herein, see 492 U. S. 931.]

No. D-811. *IN RE DISBARMENT OF POWELL*. It is ordered that Nathan Norton Powell, 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. 8, Orig. *ARIZONA v. CALIFORNIA ET AL.* Motion of the state parties to reopen the decree to determine disputed boundary claims with respect to the Fort Mojave, Colorado River, and Fort Yuma Indian Reservations granted. JUSTICE MARSHALL took no part in the consideration or decision of this motion. [For earlier decision herein, see, *e. g.*, 466 U. S. 144.]

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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., 488 U. S. 997. Motion of respondent Fred Kyle for attorney's fees granted, and the United States Court of Appeals for the Sixth Circuit is directed to determine the fee to be allowed for the work performed by counsel before this Court.

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., 492 U. S. 408. Motion of respondents to retax costs granted, and it is ordered that two-thirds of the cost of the preparation of the joint appendix is assessed against respondents Confederated Tribes and Bands of the Yakima Indian Nation et al., and one-third of the cost of the preparation of the joint appendix is assessed against petitioner Philip Brendale.

No. 87-1965. ZINERMON ET AL. *v.* BURCH. C. A. 11th Cir. [Certiorari granted, 489 U. S. 1064.] Motion of American Civil Liberties Union et al. for leave to file a brief as *amici curiae* granted.

No. 87-2013. BOARD OF TRUSTEES OF THE STATE UNIVERSITY OF NEW YORK ET AL. *v.* FOX ET AL., 492 U. S. 469. Motion of respondents to retax costs denied.

No. 87-2048. TEXACO INC. *v.* HASBROUCK, DBA RICK'S TEXACO, ET AL. C. A. 9th Cir. [Certiorari granted, 490 U. S. 1105.] Motion of Service Station Dealers of America for leave to file a brief as *amicus curiae* granted.

No. 88-1264. SAFFLE, WARDEN, ET AL. *v.* PARKS. C. A. 10th Cir. [Certiorari granted, 490 U. S. 1034.] Motion of petitioners for leave to file a reply brief out of time granted.

No. 88-1323. SULLIVAN, SECRETARY OF HEALTH AND HUMAN SERVICES, ET AL. *v.* EVERHART ET AL. C. A. 10th Cir. Motion of the Solicitor General to permit Amy L. Wax, Esq., to present oral argument *pro hac vice* granted.

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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 respondent Detroit Free Press for reconsideration of the order denying the motion of divided argument [492 U. S. 936] denied. JUSTICE WHITE took no part in the consideration or decision of this motion.

No. 88-1668. ATLANTIC RICHFIELD Co. *v.* USA PETROLEUM Co. C. A. 9th Cir. [Certiorari granted, 490 U. S. 1097.] Motion of Society of Independent Gasoline Marketers of America for leave to file a brief as *amicus curiae* granted.

No. 88-1775. PEEL *v.* ATTORNEY REGISTRATION AND DISCIPLINARY COMMISSION OF ILLINOIS. Sup. Ct. Ill. [Certiorari granted, 492 U. S. 917.] Motion of National Board of Trial Advocacy for leave to file a brief as *amicus curiae* granted. Motion of the Solicitor General for leave to participate in oral argument as *amicus curiae* and for divided argument granted.

No. 89-152. ENGLISH *v.* GENERAL ELECTRIC Co. C. A. 4th Cir.; and

No. 89-266. PORTLAND GENERAL ELECTRIC Co. *v.* MONTANA DEPARTMENT OF REVENUE ET AL. Sup. Ct. Mont. The Solicitor General is invited to file briefs in these cases expressing the views of the United States.

No. 89-400. LUCAS ET AL. *v.* TOWNSEND, PRESIDENT OF THE BIBB COUNTY BOARD OF EDUCATION, ET AL. Appeal from D. C. M. D. Ga. Motion of appellees to expedite consideration of the appeal denied.

No. 89-5542. IN RE WILSON. Petition for writ of habeas corpus denied.

No. 89-5318. IN RE JORGENSON;

No. 89-5409. IN RE OGDEN; and

No. 89-5411. IN RE SOBAMOWO. Petitions for writs of mandamus and/or prohibition denied.

No. 89-5404. IN RE PALMER. Petition for writ of prohibition denied.

Certiorari Granted

No. 87-6700. SELVAGE *v.* LYNAUGH, DIRECTOR, TEXAS DEPARTMENT OF CORRECTIONS. C. A. 5th Cir. Motion of peti-

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tioner for leave to proceed *in forma pauperis* granted. Certiorari granted limited to Question 1 presented by the petition, but rephrased as follows: "At the time petitioner was tried, was there 'cause' for not raising a claim based upon arguments later accepted in *Penry v. Lynaugh*, 492 U. S. 302 (1989), and if not, would the application of a procedural bar to the claim result in a 'fundamental miscarriage of justice,' *Smith v. Murray*, 477 U. S. 527, 537-538 (1986)?" Reported below: 842 F. 2d 89.

No. 88-7164. *HORTON v. CALIFORNIA*. Ct. App. Cal., 6th App. Dist. Motion of petitioner for leave to proceed *in forma pauperis* granted. Certiorari granted.

No. 88-7194. *TAYLOR v. UNITED STATES*. C. A. 8th Cir. Motion of petitioner for leave to proceed *in forma pauperis* granted. Certiorari granted. Reported below: 864 F. 2d 625.

No. 89-61. *UNITED STATES v. OJEDA RIOS ET AL.* C. A. 2d Cir. Motions of respondents for leave to proceed *in forma pauperis* granted. Certiorari granted. Reported below: 875 F. 2d 17.

No. 89-189. *RICKETTS, DIRECTOR, ARIZONA DEPARTMENT OF CORRECTIONS, ET AL. v. JEFFERS*. C. A. 9th Cir. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari granted. Reported below: 832 F. 2d 476.

No. 89-243. *ELI LILLY & Co. v. MEDTRONIC, INC.* C. A. Fed. Cir. Motions for leave to file briefs as *amici curiae* filed by the following are granted: Procter & Gamble, Orrin G. Hatch et al., American Sterilizer Co., Intellectual Property Owners, Inc., Zimmer, Inc., et al., and Pfizer Hospital Products Group, Inc., et al. Certiorari granted. JUSTICE O'CONNOR took no part in the consideration or decision of these motions and this petition. Reported below: 872 F. 2d 402.

Certiorari Denied

No. 88-148. *SOUTHERN NATURAL GAS Co. v. FRITZ ET AL.* Sup. Ct. Miss. Certiorari denied. Reported below: 523 So. 2d 12.

No. 88-1877. *DEAN v. MARSH, SECRETARY OF THE ARMY*. C. A. 11th Cir. Certiorari denied. Reported below: 866 F. 2d 1423.

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No. 88-1931. *CAMEN v. SAFECO INSURANCE COMPANY OF AMERICA*. C. A. 9th Cir. Certiorari denied. Reported below: 867 F. 2d 612.

No. 88-2070. *BROCKI v. UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF PENNSYLVANIA*. C. A. 3d Cir. Certiorari denied. Reported below: 875 F. 2d 312.

No. 88-2134. *BAZARIAN v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 871 F. 2d 957.

No. 88-7494. *CELESTINE v. CALIFORNIA FRANCHISE TAX BOARD*. Ct. App. Cal., 6th App. Dist. Certiorari denied.

No. 88-7590. *PALMER v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 871 F. 2d 1202.

No. 88-7625. *PIMIEN-REDONDO v. UNITED STATES*. C. A. 1st Cir. Certiorari denied. Reported below: 874 F. 2d 9.

No. 89-24. *DANN ET AL. v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 873 F. 2d 1189.

No. 89-43. *HUGHES v. GEORGIA*. Sup. Ct. Ga. Certiorari denied. Reported below: 259 Ga. 227, 378 S. E. 2d 853.

No. 89-53. *MISSOURI DIVISION OF TRANSPORTATION ET AL. v. INTERSTATE COMMERCE COMMISSION ET AL.* C. A. 8th Cir. Certiorari denied. Reported below: 867 F. 2d 458.

No. 89-62. *TURK v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 873 F. 2d 298.

No. 89-68. *GONCE ET AL. v. VETERANS ADMINISTRATION*. C. A. Fed. Cir. Certiorari denied. Reported below: 872 F. 2d 995.

No. 89-74. *NOBLE v. WATKINS, SECRETARY OF ENERGY*. C. A. D. C. Cir. Certiorari denied.

No. 89-92. *DAVIS IRON WORKS, INC. v. ROSENBAUM*; and

No. 89-330. *ROSENBAUM v. DAVIS IRON WORKS, INC.* C. A. 6th Cir. Certiorari denied. Reported below: 871 F. 2d 1088.

No. 89-95. *RIVERFRONT ASSOCIATES, LTD., ET AL. v. FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION, RECEIVER FOR MAINLAND SAVINGS & LOAN ASSN.* C. A. 10th Cir. Certiorari denied. Reported below: 872 F. 2d 955.

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No. 89-103. GALAHAD *v.* WEINSHIENK, JUDGE, UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLORADO, ET AL. C. A. 10th Cir. Certiorari denied.

No. 89-113. PLYMOUTH STAMPING DIVISION, ELTEC CORP. *v.* NATIONAL LABOR RELATIONS BOARD. C. A. 6th Cir. Certiorari denied. Reported below: 870 F. 2d 1112.

No. 89-118. STONEMAN *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied. Reported below: 870 F. 2d 102.

No. 89-120. SOUTHERN NATURAL GAS CO. *v.* UNITED STATES;

No. 89-122. WARRIOR & GULF NAVIGATION CO. *v.* UNITED STATES; and

No. 89-123. PARKER TOWING CO., INC. *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 864 F. 2d 1550.

No. 89-143. LATRAVERSE *v.* UNITED STATES. C. A. 1st Cir. Certiorari denied. Reported below: 873 F. 2d 7.

No. 89-186. COMMUNITY ELECTRIC SERVICE OF LOS ANGELES, INC. *v.* NATIONAL ELECTRICAL CONTRACTORS ASSN., INC., ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 869 F. 2d 1235.

No. 89-191. TAYLOR ET AL. *v.* NATIONAL LABOR RELATIONS BOARD ET AL. C. A. 11th Cir. Certiorari denied.

No. 89-207. BRAINERD *v.* MASCO CORPORATION OF INDIANA. C. A. 7th Cir. Certiorari denied. Reported below: 871 F. 2d 626.

No. 89-217. GREGORIAN ET AL. *v.* IZVESTIA, MINISTRY OF FOREIGN TRADE OF THE UNION OF SOVIET SOCIALIST REPUBLICS, ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 871 F. 2d 1515.

No. 89-223. SCHOTTENFELD *v.* CONSOLIDATED EDISON COMPANY OF NEW YORK, INC., ET AL. C. A. 2d Cir. Certiorari denied. Reported below: 875 F. 2d 308.

No. 89-224. CANNEDY ET AL. *v.* PACIFIC GAS & ELECTRIC CO. Ct. App. Cal., 1st App. Dist. Certiorari denied.

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No. 89-225. *ROSENTHAL ET AL. v. VERLIN*. Super. Ct. Pa. Certiorari denied.

No. 89-227. *BROWN v. VIAL, HAMILTON, KOCH & KNOX ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 873 F. 2d 295.

No. 89-229. *LYONS ET AL. v. RHODE ISLAND PUBLIC EMPLOYEES COUNCIL 94 ET AL.* Sup. Ct. R. I. Certiorari denied. Reported below: 559 A. 2d 130.

No. 89-232. *PORT CLINTON FISH CO. v. OHIO*. Sup. Ct. Ohio. Certiorari denied. Reported below: 43 Ohio St. 3d 93, 538 N. E. 2d 1055.

No. 89-233. *GRAND LODGE OF TEXAS (ANCIENT, FREE, AND ACCEPTED MASONS), AS TRUSTEE FOR MASONIC HOME AND SCHOOL OF TEXAS, ET AL. v. GANT*. C. A. 10th Cir. Certiorari denied.

No. 89-235. *POLLY v. HOWELL CORP. ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 870 F. 2d 657.

No. 89-236. *COASTAL PETROLEUM CO. v. INTERNATIONAL MINERALS & CHEMICAL CORP.* C. A. 11th Cir. Certiorari denied. Reported below: 874 F. 2d 819.

No. 89-238. *HADLEY v. HADLEY*. Ct. App. Wash. Certiorari denied. Reported below: 53 Wash. App. 1044.

No. 89-240. *KOHL, BY HIS PARENTS AND GUARDIANS, KOHL ET UX. v. WOODHAVEN LEARNING CENTER ET AL.* C. A. 8th Cir. Certiorari denied. Reported below: 865 F. 2d 930.

No. 89-241. *HULSEY v. USAIR, INC.* C. A. 5th Cir. Certiorari denied. Reported below: 868 F. 2d 1423.

No. 89-248. *TYLER v. YTURRI ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 878 F. 2d 1439.

No. 89-250. *BLUE CROSS & BLUE SHIELD OF MARYLAND, INC. v. WEINER, PERSONAL REPRESENTATIVE OF THE ESTATE OF WEINER, ET AL.* C. A. 11th Cir. Certiorari denied. Reported below: 868 F. 2d 1550.

No. 89-252. *CLYDE v. NEVADA*. Sup. Ct. Nev. Certiorari denied. Reported below: 105 Nev. 1026, 810 P. 2d 320.

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No. 89-254. *MARKER ET UX. v. RIESCHEL ET AL.* C. A. 8th Cir. Certiorari denied.

No. 89-256. *TRIPLETT v. TRIPLETT.* Ct. App. Ohio, Franklin County. Certiorari denied.

No. 89-257. *RRI REALTY CORP. v. INCORPORATED VILLAGE OF SOUTHAMPTON, NEW YORK, ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 870 F. 2d 911.

No. 89-261. *BERMAN v. STATE BAR OF CALIFORNIA.* Sup. Ct. Cal. Certiorari denied. Reported below: 48 Cal. 3d 517, 769 P. 2d 984.

No. 89-263. *CALESNICK ET UX. v. REDEVELOPMENT AUTHORITY OF THE CITY OF PHILADELPHIA ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 875 F. 2d 309.

No. 89-268. *BORDELON ET AL. v. MARSHALL.* C. A. 5th Cir. Certiorari denied. Reported below: 869 F. 2d 1486.

No. 89-271. *BELISLE ET AL. v. ANZIVINO, TRUSTEE OF THE BANKRUPTCY ESTATE OF PLUNKETT, ET UX.* C. A. 7th Cir. Certiorari denied. Reported below: 877 F. 2d 512.

No. 89-273. *JACKSON v. COUNTY OF WAYNE, MICHIGAN, ET AL.* Ct. App. Mich. Certiorari denied.

No. 89-281. *KEEL v. ALABAMA.* Ct. Crim. App. Ala. Certiorari denied. Reported below: 546 So. 2d 403.

No. 89-300. *GEORGE v. CONNECTICUT.* App. Ct. Conn. Certiorari denied. Reported below: 17 Conn. App. 587, 554 A. 2d 769.

No. 89-307. *SUTHERLAND v. UNITED STATES POSTAL SERVICE ET AL.* C. A. 3d Cir. Certiorari denied.

No. 89-309. *SEVEN STAR, INC., ET AL. v. UNITED STATES ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 873 F. 2d 225.

No. 89-310. *MANIFOLD ET AL. v. BLUNT, SECRETARY OF STATE OF MISSOURI.* C. A. 8th Cir. Certiorari denied. Reported below: 863 F. 2d 1368.

No. 89-313. *WOODS v. ILLINOIS.* App. Ct. Ill., 1st Dist. Certiorari denied. Reported below: 178 Ill. App. 3d 1159, 551 N. E. 2d 837.

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No. 89-315. *ROBERTSON v. SNOW ET AL.* Sup. Jud. Ct. Mass. Certiorari denied. Reported below: 404 Mass. 515, 536 N. E. 2d 344.

No. 89-318. *BARANCIK v. COUNTY OF MARIN, CALIFORNIA.* C. A. 9th Cir. Certiorari denied. Reported below: 872 F. 2d 834.

No. 89-332. *GENERAL TEAMSTERS, WAREHOUSEMEN & HELPERS UNION, LOCAL 890 v. J. R. NORTON CO.* Ct. App. Cal., 6th App. Dist. Certiorari denied. Reported below: 208 Cal. App. 3d 430, 256 Cal. Rptr. 246.

No. 89-340. *LERMAN v. CITY OF PORTLAND, MAINE.* C. A. 1st Cir. Certiorari denied. Reported below: 879 F. 2d 852.

No. 89-341. *GRADER v. CITY OF LYNNWOOD.* Ct. App. Wash. Certiorari denied. Reported below: 53 Wash. App. 431, 767 P. 2d 952.

No. 89-347. *WILLIAMS v. DVOSKIN ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 879 F. 2d 863.

No. 89-348. *JACK L. HARGROVE BUILDERS, INC., ET AL. v. ROSCH.* Sup. Ct. Ill. Certiorari denied. Reported below: 128 Ill. 2d 179, 538 N. E. 2d 530.

No. 89-360. *LAND v. UNITED STATES.* C. A. 8th Cir. Certiorari denied. Reported below: 877 F. 2d 17.

No. 89-406. *CAMPBELL v. UNITED STATES.* C. A. 6th Cir. Certiorari denied. Reported below: 878 F. 2d 170.

No. 89-408. *JOYCE v. CASEY, GOVERNOR OF PENNSYLVANIA, ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 877 F. 2d 56.

No. 89-420. *MUSLIU v. UNITED STATES.* C. A. 9th Cir. Certiorari denied. Reported below: 872 F. 2d 431.

No. 89-421. *DEMOS REALTY v. MINNEAPOLIS COMMUNITY DEVELOPMENT AGENCY.* Sup. Ct. Minn. Certiorari denied. Reported below: 439 N. W. 2d 708.

No. 89-446. *KING v. UNITED STATES.* C. A. 3d Cir. Certiorari denied. Reported below: 879 F. 2d 857.

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No. 89-5042. *BENZEL v. GRAMMER, INDIVIDUALLY AND AS WARDEN OF NEBRASKA STATE PENITENTIARY, ET AL.* C. A. 8th Cir. Certiorari denied. Reported below: 869 F. 2d 1105.

No. 89-5056. *SILVAGGIO v. CALIFORNIA.* Ct. App. Cal., 2d App. Dist. Certiorari denied.

No. 89-5096. *FRANKS ET AL. v. HARWELL, SHERIFF, ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 869 F. 2d 1485.

No. 89-5178. *MOSIER v. LOCKHART, DIRECTOR, ARKANSAS DEPARTMENT OF CORRECTION.* C. A. 8th Cir. Certiorari denied.

No. 89-5184. *RUTHERFORD v. UNITED STATES.* C. A. 10th Cir. Certiorari denied.

No. 89-5187. *CANNIZZARO v. UNITED STATES.* C. A. 9th Cir. Certiorari denied. Reported below: 871 F. 2d 809.

No. 89-5216. *CAMPBELL v. MCCORMICK, WARDEN.* C. A. 9th Cir. Certiorari denied.

No. 89-5249. *SMITH v. BUTLER, SUPERINTENDENT, MASSACHUSETTS CORRECTIONAL INSTITUTION AT NORFOLK.* C. A. 1st Cir. Certiorari denied. Reported below: 879 F. 2d 853.

No. 89-5252. *SALAMONE v. UNITED STATES.* C. A. 3d Cir. Certiorari denied. Reported below: 869 F. 2d 221.

No. 89-5291. *LUFKIN v. NASSAU COUNTY POLICE DEPARTMENT ET AL.* C. A. 2d Cir. Certiorari denied.

No. 89-5309. *PRENZLER v. SULLIVAN, SECRETARY OF HEALTH AND HUMAN SERVICES, ET AL.* C. A. 9th Cir. Certiorari denied.

No. 89-5314. *LUFKIN v. SHELL OIL Co. ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 877 F. 2d 56.

No. 89-5315. *HADDAD v. PUCKETT, SUPERINTENDENT, MISSISSIPPI STATE PENITENTIARY, ET AL.* C. A. 5th Cir. Certiorari denied.

No. 89-5320. *EDWARDS v. SOUTH CAROLINA.* Sup. Ct. S. C. Certiorari denied. Reported below: 298 S. C. 272, 379 S. E. 2d 888.

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No. 89-5321. *HENDERSON v. CLINTON, GOVERNOR OF ARKANSAS, ET AL.* C. A. 8th Cir. Certiorari denied. Reported below: 881 F. 2d 1082.

No. 89-5326. *BOYD v. VILLAGE OF WHEELING, ILLINOIS, ET AL.* C. A. 7th Cir. Certiorari denied. Reported below: 873 F. 2d 1443.

No. 89-5330. *VENERI v. CASEY, GOVERNOR OF PENNSYLVANIA, ET AL.* C. A. 3d Cir. Certiorari denied.

No. 89-5334. *HAUPT v. BOARD OF PROFESSIONAL RESPONSIBILITY, DISTRICT OF COLUMBIA COURT OF APPEALS.* Ct. App. D. C. Certiorari denied.

No. 89-5335. *HERRING v. TEXAS.* Ct. App. Tex., 13th Dist. Certiorari denied. Reported below: 758 S. W. 2d 849.

No. 89-5336. *ANDREWS v. DAHM, WARDEN.* C. A. 8th Cir. Certiorari denied. Reported below: 881 F. 2d 1080.

No. 89-5337. *GALLAGHER v. HALL ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 876 F. 2d 894.

No. 89-5344. *VINSON v. WATKINS.* C. A. 5th Cir. Certiorari denied. Reported below: 877 F. 2d 971.

No. 89-5349. *OGUNLEYE v. HARGETT, WARDEN, ET AL.* C. A. 10th Cir. Certiorari denied.

No. 89-5350. *YANG v. MCCARTHY ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 875 F. 2d 319.

No. 89-5354. *WIGGINS v. DISTRICT OF COLUMBIA ET AL.* Ct. App. D. C. Certiorari denied.

No. 89-5363. *DAVIS v. SCULLY, SUPERINTENDENT, GREEN HAVEN CORRECTIONAL FACILITY, ET AL.* C. A. 2d Cir. Certiorari denied.

No. 89-5364. *DONATI v. JARVIS ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 881 F. 2d 1069.

No. 89-5367. *BATES v. CALLINAN.* Super. Ct. N. J., App. Div. Certiorari denied.

No. 89-5369. *BONDS v. WHARTON, SUPERINTENDENT, MEN'S CORRECTIONAL INSTITUTION.* C. A. 11th Cir. Certiorari denied.

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No. 89-5370. *CLIFFORD v. MILLER*. Sup. Ct. N. M. Certiorari denied.

No. 89-5371. *AVERHART, AKA AZANIA v. MARTIN ET AL.* C. A. 7th Cir. Certiorari denied. Reported below: 872 F. 2d 424.

No. 89-5377. *VINSON v. TEXAS BOARD OF CORRECTIONS ET AL.* C. A. 5th Cir. Certiorari denied.

No. 89-5379. *DEMPSEY v. SOMERVILLE HOSPITAL ET AL.* C. A. 1st Cir. Certiorari denied.

No. 89-5381. *GARCIA v. ROWLAND, DIRECTOR, CALIFORNIA DEPARTMENT OF CORRECTIONS, ET AL.* C. A. 9th Cir. Certiorari denied.

No. 89-5384. *HURD v. DORSEY, WARDEN.* C. A. 10th Cir. Certiorari denied.

No. 89-5387. *PERKINS v. ILLINOIS.* C. A. 7th Cir. Certiorari denied. Reported below: 878 F. 2d 384.

No. 89-5389. *YOUNG v. PATTERSON ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 875 F. 2d 308.

No. 89-5390. *RODGERS v. RUSSELL, SUPERINTENDENT, LIMA CORRECTIONAL INSTITUTION.* C. A. 6th Cir. Certiorari denied.

No. 89-5391. *MARTIN v. CITY OF TULSA.* Ct. Crim. App. Okla. Certiorari denied. Reported below: 775 P. 2d 824.

No. 89-5393. *RIGGINS v. McMACKIN, SUPERINTENDENT, MARION CORRECTIONAL INSTITUTION.* C. A. 6th Cir. Certiorari denied. Reported below: 872 F. 2d 1028.

No. 89-5400. *LOCKERT v. DUCKWORTH, WARDEN, ET AL.* C. A. 7th Cir. Certiorari denied. Reported below: 878 F. 2d 384.

No. 89-5402. *MALCOLM v. JONES ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 873 F. 2d 1439.

No. 89-5405. *CROY v. DEPARTMENT OF TRANSPORTATION.* C. A. Fed. Cir. Certiorari denied. Reported below: 878 F. 2d 1444.

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No. 89-5410. *WOJTCZAK v. FULCOMER, SUPERINTENDENT, STATE CORRECTIONAL INSTITUTION AT HUNTINGDON, ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 877 F. 2d 58.

No. 89-5416. *SANDERS v. TRICKEY, SUPERINTENDENT, MISSOURI EASTERN CORRECTIONAL CENTER, ET AL.* C. A. 8th Cir. Certiorari denied. Reported below: 875 F. 2d 205.

No. 89-5417. *WALTERS v. GAITHER, WARDEN.* C. A. 11th Cir. Certiorari denied. Reported below: 878 F. 2d 1441.

No. 89-5418. *LONG v. OHIO.* Ct. App. Ohio, Hamilton County. Certiorari denied. Reported below: 49 Ohio App. 3d 1, 550 N. E. 2d 522.

No. 89-5425. *GRANT v. FARNSWORTH ET AL.* C. A. 8th Cir. Certiorari denied. Reported below: 869 F. 2d 1149.

No. 89-5429. *DEMPSEY v. UNITED STATES ATTORNEY ET AL.* C. A. 1st Cir. Certiorari denied. Reported below: 887 F. 2d 258.

No. 89-5456. *SALAM v. LOCKHART, DIRECTOR, ARKANSAS DEPARTMENT OF CORRECTION.* C. A. 8th Cir. Certiorari denied. Reported below: 874 F. 2d 525.

No. 89-5458. *GALLAWAY v. UNITED STATES.* C. A. 9th Cir. Certiorari denied. Reported below: 875 F. 2d 871.

No. 89-5459. *SIMS v. SULLIVAN, SUPERINTENDENT, SING SING CORRECTIONAL FACILITY.* C. A. 2d Cir. Certiorari denied.

No. 89-5462. *HARDIN v. BOYD CIRCUIT COURT ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 878 F. 2d 382.

No. 89-5471. *WAYNE v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. Reported below: 878 F. 2d 1433.

No. 89-5472. *TANO v. UNITED STATES.* C. A. 9th Cir. Certiorari denied. Reported below: 875 F. 2d 319.

No. 89-5480. *BROWN v. UNITED STATES.* C. A. 11th Cir. Certiorari denied. Reported below: 872 F. 2d 385.

No. 89-5486. *CASTRO v. UNITED STATES.* C. A. 9th Cir. Certiorari denied. Reported below: 874 F. 2d 817.

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No. 89-5490. *TYLER v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 878 F. 2d 753.

No. 89-5491. *CLEVELAND ET AL. v. UNITED STATES*; and
No. 89-5494. *ESMENDE v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 878 F. 2d 1431.

No. 89-5500. *BRANHAM v. UNITED STATES*. C. A. 10th Cir. Certiorari denied.

No. 89-5501. *BROWN v. AMERICAN EXPRESS TRAVEL RELATED SERVICES Co., INC.* Ct. App. La., 2d Cir. Certiorari denied. Reported below: 542 So. 2d 220.

No. 89-5507. *HUGHES v. JABE, WARDEN*. C. A. 6th Cir. Certiorari denied.

No. 89-5508. *LARSON v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 881 F. 2d 1080.

No. 89-5511. *CASIANO v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 879 F. 2d 860.

No. 89-5514. *ACOSTA-CAZARES v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 878 F. 2d 945.

No. 89-5523. *SMITH v. UNITED STATES*. C. A. 11th Cir. Certiorari denied.

No. 89-5525. *TANNER v. DUCKWORTH, WARDEN, ET AL.* C. A. 7th Cir. Certiorari denied.

No. 89-5530. *ZARRILLI v. GARRITY ET AL.* C. A. 1st Cir. Certiorari denied. Reported below: 867 F. 2d 606.

No. 89-5536. *LEACH, AKA YOUNG v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 846 F. 2d 754.

No. 89-5544. *STEWART v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 879 F. 2d 1268.

No. 89-5550. *GORENC v. SALT RIVER PROJECT AGRICULTURAL IMPROVEMENT AND POWER DISTRICT*. C. A. 9th Cir. Certiorari denied. Reported below: 869 F. 2d 503.

No. 89-5556. *BROWN-BEY v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 881 F. 2d 1080.

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No. 89-5558. *BROOKS v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 879 F. 2d 863.

No. 89-5559. *KING v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 879 F. 2d 137.

No. 87-7191. *SOFFAR v. TEXAS*. Ct. Crim. App. Tex.;

No. 88-7465. *UNDERWOOD v. INDIANA*. Sup. Ct. Ind.;

No. 89-219. *BROWN v. ALABAMA*. Sup. Ct. Ala.;

No. 89-5083. *WILLIAMS v. TEXAS*. Ct. Crim. App. Tex.;

No. 89-5110. *LINGAR v. MISSOURI*. Sup. Ct. Mo.;

No. 89-5193. *KENNEDY v. ALABAMA*. Ct. Crim. App. Ala.;

No. 89-5245. *JULIUS v. JONES, WARDEN*. C. A. 11th Cir.;

No. 89-5256. *GUINAN v. MISSOURI*. Sup. Ct. Mo.;

No. 89-5442. *DELUNA v. LYNAUGH, DIRECTOR, TEXAS DEPARTMENT OF CORRECTIONS*. C. A. 5th Cir.; and

No. 89-5496. *COCHRAN v. ALABAMA*. Ct. Crim. App. Ala. Certiorari denied. Reported below: No. 87-7191, 742 S. W. 2d 371; No. 88-7465, 535 N. E. 2d 507; No. 89-219, 545 So. 2d 122; No. 89-5083, 773 S. W. 2d 525; No. 89-5110, 766 S. W. 2d 640; No. 89-5193, 545 So. 2d 214; No. 89-5245, 875 F. 2d 1520; No. 89-5256, 769 S. W. 2d 427; No. 89-5442, 873 F. 2d 757; No. 89-5496, 548 So. 2d 1062.

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. 88-1756. *PLATT v. UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT ET AL.* C. A. 7th Cir. Motion of Chicago Council of Lawyers for leave to file a brief as *amicus curiae* granted. Certiorari denied. JUSTICE BRENNAN and JUSTICE WHITE would grant certiorari. Reported below: 865 F. 2d 134.

No. 88-1937. *JONES v. CELOTEX CORP. ET AL.* C. A. 5th Cir. Motion of petitioner to defer consideration of the petition for certiorari denied. Certiorari denied. Reported below: 857 F. 2d 273.

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No. 88-1981. *DERANGO ET AL. v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. JUSTICE BRENNAN and JUSTICE WHITE would grant certiorari. Reported below: 873 F. 2d 1443.

No. 88-7142. *PINO-PEREZ v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. JUSTICE BRENNAN and JUSTICE WHITE would grant certiorari. Reported below: 870 F. 2d 1230.

No. 88-2129. *KENTUCKY v. TURNER*. Sup. Ct. Ky. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 767 S. W. 2d 557.

No. 88-2133. *COMMISSIONER OF INTERNAL REVENUE v. PRUSSIN ET UX*. C. A. 3d Cir. Certiorari denied. JUSTICE WHITE, JUSTICE BLACKMUN, and JUSTICE KENNEDY would grant certiorari. Reported below: 863 F. 2d 263.

No. 88-2137. *McMONAGLE ET AL. v. NORTHEAST WOMEN'S CENTER, INC.* C. A. 3d Cir. Certiorari denied. Reported below: 868 F. 2d 1342.

JUSTICE WHITE, dissenting.

A question presented in this case is whether liability under the Racketeer Influenced and Corrupt Organizations Act (RICO), 18 U. S. C. §1961 *et seq.* (1982 ed. and Supp. V), may be imposed where neither the "enterprise" nor the "pattern of racketeering activity" had any profit-making element. The Second and Eighth Circuits have held that it may not. *United States v. Ivic*, 700 F. 2d 51, 58-65 (CA2 1983) (enterprise or predicate acts must have financial purpose); *United States v. Flynn*, 852 F. 2d 1045, 1052 (CA8) (enterprise must be directed toward economic goal), cert. denied, 488 U. S. 974 (1988). The Third Circuit in this case upheld RICO liability despite the absence of any economic motivation on the part of the defendants. I would grant certiorari to resolve the conflict.

On the order list of October 2, 1989, the Court also denied certiorari in the following cases.

Norton v. United States, No. 88-1889, cert. denied, *ante*, p. 871: The Eleventh Circuit held that law enforcement officers reasonably relied on warrants calling for the search and seizure of "all corporate records . . . which are evidence and instrumentalities of the offense set forth in Section 1954 of Title 18 of the United States Code," and that the evidence seized pursuant to that warrant was admissible under the good-faith exception to the exclusionary rule articulated in *United States v. Leon*, 468 U. S.

897 (1984). 867 F. 2d 1354, 1360 (1989). The decision of the Eleventh Circuit conflicts with the Tenth Circuit's decision that a warrant ordering the seizure of all records "relating to the purchase, sale and illegal exportation of materials in violation of the Arms Export Control Act, 22 U. S. C. § 2778, and the Export Administration Act of 1979, 50 U. S. C. App. § 2410," was so facially overbroad that law enforcement officers could not reasonably rely on it, *United States v. Leary*, 846 F. 2d 592, 594 (1988), and a similar decision of the Ninth Circuit suppressing evidence seized under a warrant seeking "documents, books, ledgers, records and objects which are evidence of violations of federal criminal law," *Center Art Galleries-Hawaii, Inc. v. United States*, 875 F. 2d 747, 749 (1989). The conflict should be resolved.

Bergen v. F/V St. Patrick, No. 88-1960, and *Kidd v. F/V St. Patrick*, No. 88-1762, cert. denied, *ante*, p. 871: The Ninth Circuit held that where a Death on the High Seas Act claim, 41 Stat. 537, 46 U. S. C. App. § 761 *et seq.* (1982 ed., Supp. V), is joined with a Jones Act claim, 41 Stat. 1007, 46 U. S. C. App. § 688 (1982 ed., Supp. V), neither statutory scheme may be supplemented by an award of punitive damages under general maritime law. 816 F. 2d 1345 (1987), modified, 866 F. 2d 318 (1989). This holding is contrary to the Fifth Circuit's decision in *In re Merry Shipping, Inc.*, 650 F. 2d 622, 625-626 (1981), that punitive damages are available under general maritime law even when such a claim is joined with a Jones Act claim. The conflict should be resolved.

Tiller v. Fludd, No. 88-2088, cert. denied, *ante*, p. 872: The Eleventh Circuit held that *Batson v. Kentucky*, 476 U. S. 79 (1986), prohibits the use of race-based peremptory challenges by an attorney in a civil action. The Eleventh Circuit concluded that the trial court's participation in the exercise of the peremptory strikes provided the state action necessary to be a violation of the Equal Protection Clause. 863 F. 2d 822 (1989). The Eighth Circuit has expressed "strong doubts" whether *Batson* applies to civil actions, see *Swapshire v. Baer*, 865 F. 2d 948, 953 (1989); *Wilson v. Cross*, 845 F. 2d 163, 164 (1988), and this important issue should be resolved.

Caraballo-Sandoval v. United States, No. 88-7438, and *Caraballo-Lujan v. United States*, No. 88-7480, cert. denied, *ante*, p. 876: Pursuant to 98 Stat. 2044, 21 U. S. C. § 853(a) (1982 ed., Supp. V), defendants convicted of serious federal narcotics offenses must forfeit to the United States any assets derived from,

or used in, the commission of those crimes. 866 F. 2d 1343 (CA11 1989). The question here is whether, in this context, due process requires courts to provide a pretrial hearing to determine if some likelihood exists that the assets at issue will ultimately be subject to forfeiture. The Eleventh Circuit's resolution of this issue in this case conflicts with the Ninth Circuit's conclusion in *United States v. Crozier*, 777 F. 2d 1376, 1383-1384 (1985). The conflict should be resolved.

Automobile Importers of America, Inc. v. Minnesota, No. 89-72, cert. denied, *ante*, p. 872: The Eighth Circuit held that the federal Magnuson-Moss Warranty—Federal Trade Commission Improvement Act, 88 Stat. 2183, 15 U. S. C. § 2301 *et seq.*, does not pre-empt state efforts to regulate private dispute resolution mechanisms established by manufacturers to settle warranty disputes with consumers. 871 F. 2d 717 (1989). The Eighth Circuit's decision comports with that of the Fifth Circuit in *Chrysler Corp. v. Texas Motor Vehicle Comm'n*, 755 F. 2d 1192 (1985), but conflicts with the Fourth Circuit's decision in *Wolf v. Ford Motor Co.*, 829 F. 2d 1277 (1987). The conflict should be resolved.

Rayner v. Smirl, No. 89-82, cert. denied, *ante*, p. 876: The Fourth Circuit held that the whistle-blower provision of the Federal Railroad Safety Act of 1970, 84 Stat. 971, as amended, 45 U. S. C. § 441(a) (1982 ed. and Supp V), pre-empts a state-law action for wrongful discharge of a supervisory railroad employee who reports his employer's railroad safety violations. 873 F. 2d 60 (1989). In *Wheeler v. Caterpillar Tractor Co.*, 108 Ill. 2d 502, 485 N. E. 2d 372 (1985), cert. denied, 475 U. S. 1122 (1986), the Illinois Supreme Court reached a contrary result under a nearly identical statute, holding that the whistle-blower provision of the Energy Reorganization Act of 1974, 92 Stat. 2951, as added, 42 U. S. C. § 5851 (1982 ed.), did not pre-empt a state-law action for wrongful discharge of an employee who reported nuclear safety violations. The issue should be addressed.

Witters v. Washington Dept. of Services for Blind, No. 89-94, cert. denied, *ante*, p. 850: Petitioner was disqualified from receiving vocational aid under a state program that is primarily federally funded because he wants to study to become a minister. After the denial of aid to petitioner was upheld by the Washington Supreme Court, 102 Wash. 2d 624, 689 P. 2d 53 (1984), this Court granted certiorari. We reversed, 474 U. S. 481 (1986), concluding that the Establishment Clause presented no constitutional bar-

rier to the vocational aid scheme, and remanded for further factual development and consideration of the program's legitimacy under the stricter dictates of the Washington Constitution's Establishment Clause. On remand, the Washington Supreme Court again upheld the denial of aid, this time on state constitutional grounds. 112 Wash. 2d 363, 771 P. 2d 1119 (1989). Petitioner now presses a free exercise claim under our *Sherbert v. Verner*, 374 U. S. 398 (1963), line of cases. This case presents important federal questions regarding the free exercise rights of citizens who participate in state aid programs that permit recipients a private choice in using funds received and regarding the extent to which state involvement with religion that does not violate the Establishment Clause is required by the Free Exercise Clause. The fact that 80 percent of the program's funding is federal also may raise significant Supremacy Clause issues. These important federal questions deserve attention.

Urquhart & Hassell v. Chapman & Cole, No. 89-107, cert. denied, *ante*, p. 872: Petitioner asked us to consider the Fifth Circuit's decision that an abuse-of-discretion standard applies in a case under Federal Rule of Civil Procedure 11 when courts of appeals review district court determinations on questions of law and fact. 865 F. 2d 676 (1989). Other Circuits have applied a *de novo* standard to questions of law in this context. See, e. g., *Zaldivar v. Los Angeles*, 780 F. 2d 823, 829 (CA9 1986). We should resolve this conflict.

Enco Manufacturing Co. v. Clamp Manufacturing Co., No. 89-199, cert. denied, *ante*, p. 872: 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 Trademark Act, 60 Stat. 449, as amended, 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. 870 F. 2d 512 (CA9 1989). 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). We should resolve the conflict.

MEBA Pension Trust v. Rodriguez, No. 89-206, cert. denied, *ante*, p. 872: The Fourth Circuit held that the Employee Retirement Income Security Act of 1974 (ERISA), 88 Stat. 829, as amended, 29 U. S. C. § 1001 *et seq.* (1982 ed. and Supp. V), ap-

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plies to a denial of benefits, when the denial is based on an action by the plan prior to ERISA's effective date. 872 F. 2d 69 (1989). Other Courts of Appeals have held to the contrary. See, e. g., *Menhorn v. Firestone Tire & Rubber Co.*, 738 F. 2d 1496, 1501 (CA9 1984). This conflict should be resolved.

Boyd v. Alabama, No. 89-5053, cert. denied, *ante*, p. 883: The Alabama Supreme Court held that a warrantless search of an automobile in police custody need only be supported by probable cause. A showing of exigent circumstances is not required. 542 So. 2d 1276 (1986). Although this Court's decisions in cases such as *United States v. Johns*, 469 U. S. 478, 484 (1985); *California v. Carney*, 471 U. S. 386 (1985); and *Michigan v. Thomas*, 458 U. S. 259, 261-262 (1982) (*per curiam*), appear to have foreclosed a contrary position, some courts have continued to require a showing of exigent circumstances before validating a warrantless automobile search, see, e. g., *United States v. Alexander*, 835 F. 2d 1406, 1410 (CA11 1988); *United States v. Hepperle*, 810 F. 2d 836, 840 (CA8 1987). We should address this issue.

Farrell v. Illinois, No. 89-5233, cert. denied, *ante*, p. 872: The Illinois Appellate Court held that petitioner's affirmative response to a judge's question during his initial appearance regarding whether petitioner was going to hire an attorney was not enough to invoke petitioner's Sixth Amendment right to counsel under *Michigan v. Jackson*, 475 U. S. 625 (1986), and so did not bar further police-initiated interrogation. 181 Ill. App. 3d 446, 536 N. E. 2d 476 (1989). The Illinois Supreme Court denied discretionary review. 126 Ill. 2d 562, 541 N. E. 2d 1110 (1989). This holding is directly contrary to the holdings of *Fleming v. Kemp*, 837 F. 2d 940, 947 (CA11 1988) (*per curiam*), and *Wilson v. Murray*, 806 F. 2d 1232, 1235 (CA4 1986), cert. denied, 484 U. S. 870 (1987). The conflict deserves our attention.

No. 88-6986. *ORESKI v. UNITED STATES DISTRICT COURT, WESTERN DISTRICT OF PENNSYLVANIA*. C. A. 3d Cir. Certiorari denied. JUSTICE WHITE would grant certiorari. Reported below: 865 F. 2d 578.

No. 89-234. *CRATER v. MESA PETROLEUM CO. ET AL.* Ct. App. La., 3d Cir. Certiorari denied. JUSTICE WHITE would grant certiorari. Reported below: 539 So. 2d 88.

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No. 89-259. DEMOSTHENES, WARDEN *v.* NEUSCHAFFER. C. A. 9th Cir. Certiorari denied. JUSTICE WHITE would grant certiorari. Reported below: 860 F. 2d 1470.

No. 88-7294. DUNCAN *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. Reported below: 870 F. 2d 1532.

JUSTICE WHITE, dissenting.

This case involves the interpretation of 18 U. S. C. § 3663(a) (1982 ed., Supp. V), which provides that a court may order a defendant convicted under that title to make restitution "to any victim of such offense." *Ibid.* In this case, the Tenth Circuit read the term "offense" as used in § 3663(a) broadly: the term does not "restrict a sentencing judge to consid[er] only those acts for which conviction was had, or for which the defendant pleaded guilty." 870 F. 2d 1532, 1536 (1989). The Sixth Circuit, by contrast, has "adopted a narrow definition of 'offense' holding that '[a] natural construction of this language would require that the defendant make restitution only to victims of the offense for which he was convicted.'" *United States v. Mounts*, 793 F. 2d 125, 127 (1986) (citations omitted). I would grant the petition for a writ of certiorari in order to resolve this conflict.

No. 88-7388. DOE *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. JUSTICE BRENNAN, JUSTICE WHITE, and JUSTICE BLACKMUN would grant certiorari. Reported below: 867 F. 2d 562.

No. 88-7503. TAYLOR *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 873 F. 2d 295.

Opinion of JUSTICE STEVENS respecting the denial of the petition for writ of certiorari.

The question presented by this certiorari petition is whether a district court may disregard the Sentencing Guidelines after finding that a defendant's criminal history score inadequately accounts for past conduct when the court could instead adjust for the inadequacy by increasing the criminal history category one or more levels. In *United States v. Lopez*, 871 F. 2d 513 (1989), a panel of the Court of Appeals for the Fifth Circuit characterized this issue as "a significant question concerning the appropriateness of departure from the Guidelines," *id.*, at 514, and answered it in the negative. Two days earlier, however, in petitioner's case a different panel of the same court had given a different answer to that

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question. Petitioner's panel disposed of his case pursuant to Fifth Circuit Rule 47.5, which permits the Court of Appeals to leave unpublished those "opinions that have no precedential value and merely decide particular cases on the basis of well-settled principles of law." There is thus a conflict within the Fifth Circuit on both the answer and the importance of the question petitioner presents to us.

Because the petition does not identify any *inter-Circuit* conflict concerning the question presented, and because the answer provided by the Fifth Circuit's published opinion is widely supported, the Court's denial of certiorari today is entirely consistent with rules governing the management of our certiorari docket.* It is unfortunate that the summary disposition of petitioner's case by the Fifth Circuit and this Court may require petitioner to serve an 18-month prison sentence when the Guidelines would specify a range between only 9 and 15 months even if petitioner's criminal history category were increased two full levels. That, however, is the kind of burden that the individual litigant must occasionally bear when efficient management is permitted to displace the careful administration of justice in each case. Perhaps it is not too late for the Court of Appeals to exercise additional care in the administration of justice in this case.

No. 89-5148. *WATKINS v. MURRAY*, DIRECTOR, VIRGINIA DEPARTMENT OF CORRECTIONS. Sup. Ct. Va. Certiorari denied.

JUSTICE BRENNAN, dissenting.

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

JUSTICE MARSHALL, dissenting.

Adhering to my view that the death penalty is in all circumstances cruel and unusual punishment prohibited by the Eighth

*Other Circuits have reached the conclusion endorsed by the *Lopez* panel. See *United States v. Jackson*, 883 F. 2d 1007, 1009 (CA11 1989); *United States v. Cervantes*, 878 F. 2d 50, 53 (CA2 1989); *United States v. Miller*, 874 F. 2d 466, 470-471 (CA7 1989). See also *United States v. Joan*, 883 F. 2d 491, 495 (CA6 1989) (incrementally increasing offense level to account for inadequate criminal history when the defendant's criminal history score already placed him in the highest criminal history category).

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 penalty in this case. Even if I did not take this view, I would grant the petition to decide whether a court's failure either to inform a capital sentencing jury that it must consider mitigating evidence or to explain the concept of mitigation undermines a capital defendant's right to have the jury "consider and give effect to any mitigating evidence relevant to a defendant's background and character or the circumstances of the crime." *Penry v. Lynaugh*, 492 U. S. 302, 328 (1989). The judge's failure in this case to instruct the juries on the role of mitigating evidence created a substantial risk that the juries did not conduct their sentencing tasks properly. I therefore would vacate petitioner's death sentences and remand for new sentencing.

Petitioner Johnny Watkins was convicted of murder in two separate proceedings and sentenced to death for both crimes. The same judge presided at both trials. At the sentencing phase of each trial, petitioner's counsel introduced mitigating evidence concerning Watkins' character and urged the jury to consider those factors that called for mercy. The judge's instructions in each case stated that the prosecution had to prove beyond a reasonable doubt at least one of two aggravating circumstances:

"(1) That, after consideration of the circumstances surrounding this offense or the prior history and background of the defendant, there is a probability that he would commit criminal acts of violence that would constitute a continuing serious threat to society; or

"(2) That the defendant's conduct in committing the offense was outrageously or wantonly vile, horrible or inhuman, in that it involved an aggravated battery to the victim beyond the minimum necessary to accomplish the act of murder." App. F to Pet. for Cert.

The instructions stated that each jury could sentence Watkins to death if it found that the State had proved the existence of one of the aggravating circumstances beyond a reasonable doubt; alternatively, the jury could choose the punishment of life imprisonment if it believed "from all the evidence that the death penalty is not justified." *Ibid.* The instructions did not mention "mitigating evidence" or any equivalent concept. The judge also read the

verdict form to the jury in each case. That form required the jury to certify that, in reaching its verdict, it had "considered evidence in mitigation of the offense." *Ibid.* The form offered no explanation of "evidence in mitigation."

Petitioner's objections to the instructions were overruled in both cases. On direct appeal, the Virginia Supreme Court rejected his contention that the instructions had overemphasized the jury's duty to consider aggravating circumstances and underemphasized its duty to consider mitigating factors. The court held that the instructions and verdict form sufficiently guided the jury's consideration and ensured that the jury had considered mitigating factors. On state habeas, the Circuit Court held, tersely, that "the jury was properly instructed as to all matters and findings that they were required to make, including but not limited to evidence in mitigation of punishment." App. D to Pet. for Cert. The State Supreme Court, without addressing petitioner's challenge to the instructions, refused to hear his appeal.

Two central principles pervade this Court's capital punishment jurisprudence. First, "the sentencer may not refuse to consider or be precluded from considering 'any relevant mitigating evidence.'" *Skipper v. South Carolina*, 476 U. S. 1, 4 (1986) (quoting *Eddings v. Oklahoma*, 455 U. S. 104, 114 (1982)). Second, the sentencer's discretion "must be guided appropriately by objective standards," *Mills v. Maryland*, 486 U. S. 367, 374 (1988), "so as to minimize the risk of wholly arbitrary and capricious action," *Gregg v. Georgia*, 428 U. S. 153, 189 (1976) (joint opinion). Although these two principles may at times come into "tension," *California v. Brown*, 479 U. S. 538, 544 (1987) (O'CONNOR, J., concurring), this case presents a situation in which both principles demand the vacation of petitioner's death sentences.

The Constitution does not require a specific set of instructions on mitigating circumstances. See *Zant v. Stephens*, 462 U. S. 862, 890 (1983). Nonetheless, "the jury instructions—taken as a whole—must clearly inform the jury that they are to consider any relevant mitigating evidence." *Brown, supra*, at 545 (O'CONNOR, J., concurring). The instructions in this case—that the juries could sentence petitioner to life if they believed from "all the evidence" that the death penalty was not justified—were simply insufficient to inform the juries of their duty to consider factors in mitigation. Nor did the verdict form correct this error, as it merely stated in boilerplate language that the juries had "consid-

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ered evidence in mitigation of the offense." Although the instructions did not *preclude* consideration of relevant mitigating evidence, neither did they "clearly inform" the juries that they were required to consider such evidence. This situation creates an unacceptable risk that the juries did not consider "factors which may call for a less severe penalty." See *Penry, supra*, at 328. Petitioner's case must accordingly be remanded for resentencing.

Even if the juries were aware of their obligation to consider mitigating evidence, the instructions provided absolutely no guidance on what constitutes relevant mitigating evidence or how the juries should have considered such evidence. "Mitigating evidence" is a term of art, with a constitutional meaning that is unlikely to be apparent to a lay jury. See *Franklin v. Lynaugh*, 487 U. S. 164, 188 (1988) (O'CONNOR, J., concurring in judgment) ("We have defined mitigating circumstances as facts about the defendant's character or background, or the circumstances of the particular offense, that may call for a penalty less than death"). If it is possible for judges to misconstrue the term and exclude relevant mitigating evidence, see *Eddings v. Oklahoma, supra*, at 113-114, it seems probable that a jury operating without adequate guidance could do the same. The imposition of the death penalty should not be contingent on a particular jury's unguided understanding of a legal term of art. When a trial court refuses to give content to the words on which a defendant's life depends, the subsequent sentence is arbitrary and capricious. I therefore dissent.

No. 89-5327. *SCHIRO v. INDIANA*. Sup. Ct. Ind. Certiorari denied. Reported below: 533 N. E. 2d 1201.

Opinion of JUSTICE STEVENS respecting the denial of the petition for writ of certiorari.

There is a critical difference between a judgment of affirmance and an order denying a petition for a writ of certiorari. The former determines the rights of the parties; the latter expresses no opinion on the merits of the case.¹ Partly for that reason, and

¹"Inasmuch, therefore, as all that a denial of a petition for a writ of certiorari means is that fewer than four members of the Court thought it should be granted, this Court has rigorously insisted that such a denial carries with it no implication whatever regarding the Court's views on the merits of a case which it has declined to review. The Court has said this again and again; again and again the admonition has to be repeated.

"The one thing that can be said with certainty about the Court's denial of Maryland's petition in this case is that it does not remotely imply approval or

partly because our certiorari docket is so crowded, the Court does not explain its reasons for entering such orders. There is, accordingly, a danger that an individual Justice's statement of his or her views respecting the denial of certiorari may be misleading or counterproductive.² Nevertheless, I am persuaded that a brief comment on this troublesome and unusual case is appropriate.

This is a capital case. It is one of 63 such cases that were considered at our conference during the week of September 25, 1989. Despite the contrary views that were once expressed,³ it is neither feasible nor wise for this Court to review the merits of every capital case in which the petitioner asks us to review the decision of a State's highest court. In many of these cases review of the federal constitutional issues is more effectively administered in federal habeas corpus proceedings.⁴ The burdens associated with the delay in the date of execution are more than offset by the benefit of complete and adequate review of the decision to impose a death sentence.

In this case, despite the fact that petitioner was convicted of felony murder and sentenced to death in 1981, the Federal District Court has not yet had an opportunity to review his federal constitutional claims.⁵ The Indiana Supreme Court has, however, considered the validity of the death sentence on four different occasions. First, while the case was pending on direct review, the court unanimously granted *the State's* petition to remand the case to the trial judge to enable him to make the findings of fact that the Indiana statute requires to support a death sentence. Sec-

disapproval of what was said by the Court of Appeals of Maryland. The issues canvassed in the opinions of that court, and which the State of Maryland has asked us to review, are of a nature which very readily lend themselves to misconstruction of the denial of this petition. The present instance is peculiarly one where the redundant become the necessary." *Maryland v. Baltimore Radio Show, Inc.*, 338 U. S. 912, 919 (1950) (opinion of Frankfurter, J., respecting denial of certiorari).

² See *Singleton v. Commissioner*, 439 U. S. 940, 945-946 (1978) (opinion of STEVENS, J., respecting denial of certiorari).

³ See *Coleman v. Balkcom*, 451 U. S. 949, 956-964 (1981) (REHNQUIST, J., dissenting from denial of certiorari).

⁴ *E. g.*, *Watkins v. Virginia*, 475 U. S. 1099, 1100 (1986) (opinion of STEVENS, J., respecting denial of certiorari).

⁵ In 1986 petitioner did file an application for a writ of habeas corpus but the parties have advised that it was "remanded" to the state court because petitioner's state remedies had not yet been completely exhausted. See *Rose v. Lundy*, 455 U. S. 509 (1982).

ond, in 1983, after the trial judge entered his findings *nunc pro tunc*, a bare majority of the court affirmed the sentence and held that the findings were adequate to support the judge's decision to override the unanimous recommendation of the jury that the death penalty should not be imposed.⁶ Third, in 1985, a bare majority of the court affirmed the denial of postconviction relief, rejecting the claim that the trial judge violated the Due Process Clause by relying in imposing the death sentence on personal observations of petitioner's conduct not previously disclosed to counsel.⁷ Fourth, again by a bare majority, the Indiana Supreme Court rejected the claim that is asserted in the certiorari petition the Court has denied today.⁸

Petitioner claims that the imposition of a death sentence on the basis of the trial judge's finding that he intended to kill his victim, made after the jury had rejected the charge of intentional murder and had unanimously refused to recommend death, violates the Double Jeopardy Clause. It is undisputed that the trial judge's

⁶ See *Schiro v. State*, 451 N. E. 2d 1047 (1983). Ironically, although the trial judge refused to follow the jury's recommendation of life at the penalty phase, he apparently found its rejection of the insanity defense, at the guilt stage, dispositive on the sole aggravating factor that petitioner committed the murder intentionally. He explained that the sentence was supported by petitioner's conviction of felony murder and the fact that "[t]he jury rejected the plea of insanity by its verdict," further stating that since there was an aggravating circumstance and no mitigating circumstances to outweigh it, "the death sentence is required by the Statutes of the State of Indiana. This Court has no choice but to follow the law." *Id.*, at 1066-1067. One of the dissenting justices wrote:

"Under the evidence, Defendant could have been found guilty of the crime charged whether he killed Laura Luebbehusen *intentionally* or knowingly or merely accidentally while committing or attempting to commit a rape. He was subject to the death penalty, however, only if he killed her *intentionally*. The interposition and rejection of the defense of insanity (mental disease or defect) Ind. Code § 35-41-3-6 (Burns 1979) simply has no relevance to the issue of whether or not the killing was done intentionally; yet, it is obvious that the trial court judge regarded it as significant, if not in fact controlling." *Id.*, at 1068 (Prentice, J., concurring and dissenting).

⁷ See *Schiro v. State*, 479 N. E. 2d 556 (1985). In dissenting from the denial of certiorari, two Members of this Court expressed the opinion that the judge's rejection of the jury recommendation of no death sentence was inconsistent with the Court's holding in *Spaziano v. Florida*, 468 U. S. 447 (1984). See *Schiro v. Indiana*, 475 U. S. 1036 (1986) (MARSHALL, J., joined by BRENNAN, J.).

⁸ See 533 N. E. 2d 1201 (1989).

finding that petitioner intended to kill his victim is an essential predicate for the death penalty. Under Indiana law, that finding had to be made beyond a reasonable doubt. Ind. Code Ann. § 35-50-2-9 (Supp. 1989). Yet, the jury twice indicated that it did not believe that the murder was intentional. First, the jury apparently rejected the prosecutor's contention, at the guilt stage, that petitioner committed the murder knowingly. Petitioner was charged with murder in the knowing killing of the victim in Count I and with felony murder in Count II; although the jury convicted him of the latter, it implicitly acquitted him of the knowing state of mind necessary to support a conviction on Count I. Second, after the prosecutor had again argued to the jury that the murder was intentional, the jury unanimously refused to recommend the death penalty. Petitioner's claim was rejected as a matter of state law by the Indiana Supreme Court, which held that the jury's refusal to convict on Count I was not an acquittal of the elements of the offense charged in that Count. That holding might well be sufficient reason to deny review of a case arising from a state collateral proceeding. Nonetheless, petitioner's claim has a federal dimension that demands fresh analysis when it is first considered on its merits in a federal court.⁹

It cannot be disputed that petitioner was placed in jeopardy within the meaning of the Fifth Amendment to the Federal Constitution when the trial on Count I commenced. See *Crist v. Bretz*, 437 U. S. 28 (1978). The fact that Indiana may not consider the jury's silence an "acquittal" as a matter of state law surely does not determine the constitutional question whether he could again be placed in jeopardy on the same charge. Cf. *Price v. Georgia*, 398 U. S. 323 (1970). Nor does it determine whether the action by the jury—especially when illuminated by its unanimous decision at the penalty hearing—should be given preclusive effect either under the principles of double jeopardy in capital cases enunciated in *Bullington v. Missouri*, 451 U. S. 430 (1981), or under more general

⁹"As our opinions have made clear, no higher duty exists in the judging process than to exercise meticulous care where the sentence may be, or is, death." Address of Justice Powell, Eleventh Circuit Conference, May 8-10, 1983. See also Judicial Conference of the United States, Ad Hoc Committee on Federal Habeas Corpus in Capital Cases, Committee Report and Proposal 5 (Aug. 23, 1989) ("The merits of capital cases should be reviewed carefully and deliberately, and not under time pressure. This should be true both during state and federal collateral review").

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principles of collateral estoppel, see *Simpson v. Florida*, 403 U. S. 384 (1971); *Ashe v. Swenson*, 397 U. S. 436 (1970). These, as well as the other federal questions that petitioner has raised in the state courts, are open to and will presumably receive careful consideration from the federal court with habeas corpus jurisdiction over the case.¹⁰

The long delay that has occurred in this case is a matter of public concern and a matter that is relevant to any consideration of the efficacy of capital punishment. The State's dubious procedural scheme that allows a judge to override a jury's appraisal of the seriousness of a capital defendant's crime has resulted in eight years of litigation. Those years of litigation, and the costs that they have imposed on lawyers, judges, and court administrators, have not furthered any societal interest in incapacitation: since petitioner has been incarcerated continuously from the date of his trial, he has presented no greater threat to the community than if he had been executed promptly after the trial was completed. Nor, since juries presumably represent a fair cross section of the community, has the cost served any compelling interest in satisfying an outraged community's desire for revenge or retribution. The delay, however, is manifestly not relevant to, and should have no impact on, petitioner's entitlement to consideration of his substantial federal claims by the federal courts.

JUSTICE BRENNAN and JUSTICE MARSHALL, dissenting.

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

Rehearing Denied

No. 88-5751. *VAN CLEAVE v. INDIANA*, 488 U. S. 1019;

No. 88-5957. *GRANT v. CALIFORNIA*, 488 U. S. 1050;

No. 88-5981. *WILLIAMS v. CALIFORNIA*, 488 U. S. 1050;

No. 88-6341. *BONIN v. CALIFORNIA*, 489 U. S. 1091; and

No. 88-6767. *POLLACK v. UNITED STATES*, 490 U. S. 1027.

Motions for leave to file petitions for rehearing denied.

¹⁰ Cf. *Ashe v. Swenson*, 397 U. S., at 437, n. 1 (applying *Benton v. Maryland*, 395 U. S. 784 (1969), retroactively to cases on federal habeas).

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Dismissal Under Rule 53

No. 89-343. CITY OF DETROIT ET AL. *v.* STEWARD ET UX.
Ct. App. Mich. Certiorari dismissed under this Court's Rule 53.

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Vacated and Remanded on Appeal

No. 89-301. MONROE ET AL. *v.* CITY OF WOODVILLE, MISSISSIPPI, ET AL. Appeal from D. C. S. D. Miss. Judgment vacated and case remanded with instructions to dismiss the appeal as moot. *United States v. Munsingwear, Inc.*, 340 U. S. 36 (1950).

Miscellaneous Orders

No. A-246. CONSUMER VALUE STORES *v.* BOARD OF PHARMACY OF NEW JERSEY. Sup. Ct. N. J. Application for stay, addressed to JUSTICE BLACKMUN and referred to the Court, denied.

No. D-793. IN RE DISBARMENT OF CARTWRIGHT. Disbarment entered. [For earlier order herein, see 491 U. S. 903.]

No. D-796. IN RE DISBARMENT OF CANNON. Disbarment entered. [For earlier order herein, see 492 U. S. 931.]

No. D-804. IN RE DISBARMENT OF McMANUS. George W. McManus, Jr., of Baltimore, 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 August 11, 1989 [492 U. S. 932], is hereby discharged.

No. D-812. IN RE DISBARMENT OF MAHSHIE. It is ordered that George Towfick Mahshie, of DeWitt, 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-813. IN RE DISBARMENT OF KRAMER. It is ordered that Arthur Berlin Kramer, 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.

No. 111, Orig. DELAWARE *v.* NEW YORK. Motion of North Carolina for leave to intervene referred to the Special Mas-

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ter. Report of the Special Master on motions to intervene received and ordered filed. [For earlier order herein, see, *e. g.*, 490 U. S. 1104.]

No. 87-1720. *TAYLOR v. PEABODY COAL CO. ET AL.*, 488 U. S. 988. Motion of counsel for approval of attorney's fees of petitioner, Hubert Taylor, referred to the United States Court of Appeals for the Seventh Circuit to determine whether fees are to be allowed at all and then, if so, to determine their amount for the work performed by counsel before this Court.

No. 88-192. *MCKESSON CORP. v. DIVISION OF ALCOHOLIC BEVERAGES AND TOBACCO, DEPARTMENT OF BUSINESS REGULATION OF FLORIDA, ET AL.* Sup. Ct. Fla. [Certiorari granted, 488 U. S. 954.] Motion of California et al. for leave to file a brief as *amici curiae* granted.

No. 88-1668. *ATLANTIC RICHFIELD CO. v. USA PETROLEUM CO.* C. A. 9th Cir. [Certiorari granted, 490 U. S. 1097.] Motion of Service Station Dealers of America for leave to file a brief as *amicus curiae* granted.

No. 89-353. *SANCHEZ ET AL. v. BOND ET AL.* C. A. 10th Cir. The Solicitor General is invited to file a brief in this case expressing the views of the United States.

No. 89-5642. *IN RE SPARKS.* Petition for writ of habeas corpus denied.

Certiorari Granted

No. 89-213. *PENNSYLVANIA v. MUNIZ.* Super. Ct. Pa. Certiorari granted. Reported below: 377 Pa. Super. 382, 547 A. 2d 419.

No. 89-258. *CALIFORNIA v. AMERICAN STORES CO. ET AL.* C. A. 9th Cir. Certiorari granted. Reported below: 872 F. 2d 837.

No. 89-275. *COOTER & GELL v. HARTMARX CORP. ET AL.* C. A. D. C. Cir. Certiorari granted limited to Questions 1, 3, and 6 presented by the petition. Reported below: 277 U. S. App. D. C. 333, 875 F. 2d 890.

Certiorari Denied

No. 88-1912. *LITTLE v. LOCKHART, DIRECTOR, ARKANSAS DEPARTMENT OF CORRECTION.* C. A. 8th Cir. Certiorari denied. Reported below: 868 F. 2d 989.

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No. 88-2107. *JULIEN v. ZERINGUE ET AL.* C. A. Fed. Cir. Certiorari denied. Reported below: 864 F. 2d 1569.

No. 88-7348. *WEATHERSBY v. CHRANS, WARDEN.* C. A. 7th Cir. Certiorari denied. Reported below: 873 F. 2d 1444.

No. 88-7545. *GONZALEZ v. UNITED STATES.* C. A. 11th Cir. Certiorari denied. Reported below: 871 F. 2d 123.

No. 88-7564. *DOE v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. Reported below: 871 F. 2d 1248.

No. 88-7598. *PROWS v. SPANIOL ET AL.* C. A. D. C. Cir. Certiorari denied.

No. 88-7599. *NYBERG v. FLORIDA DEPARTMENT OF CORRECTIONS.* Dist. Ct. App. Fla., 1st Dist. Certiorari denied. Reported below: 545 So. 2d 871.

No. 88-7616. *WOLFORD v. ARMONTROUT, WARDEN.* Sup. Ct. Mo. Certiorari denied.

No. 89-142. *ROSCO ET AL. v. COUNTY OF LOS ANGELES ET AL.* Ct. App. Cal., 2d App. Dist. Certiorari denied.

No. 89-157. *PAN AMERICAN WORLD AIRWAYS, INC. v. CAUSEY, INDIVIDUALLY AND AS EXECUTOR OF THE ESTATE OF CAUSEY, ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 871 F. 2d 812.

No. 89-169. *IDAHO v. FAIN.* Sup. Ct. Idaho. Certiorari denied. Reported below: 116 Idaho 82, 774 P. 2d 252.

No. 89-180. *CITY OF GARFIELD HEIGHTS v. ASAD.* Ct. App. Ohio, Cuyahoga County. Certiorari denied.

No. 89-287. *NATIONAL RIGHT TO WORK LEGAL DEFENSE & EDUCATION FOUNDATION, INC. v. AMERICAN FEDERATION OF STATE, COUNTY & MUNICIPAL EMPLOYEES, AFL-CIO, ET AL.;* and

No. 89-292. *ESTATE OF GILPIN v. AMERICAN FEDERATION OF STATE, COUNTY & MUNICIPAL EMPLOYEES, AFL-CIO, ET AL.* C. A. 7th Cir. Certiorari denied. Reported below: 875 F. 2d 1310.

No. 89-291. *RAMSEY v. BOARD OF PROFESSIONAL RESPONSIBILITY OF THE SUPREME COURT OF TENNESSEE.* Sup. Ct. Tenn. Certiorari denied. Reported below: 771 S. W. 2d 116.

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No. 89-293. *POSTMA v. DISTRICT COURT OF IOWA, PLYMOUTH COUNTY*. Sup. Ct. Iowa. Certiorari denied. Reported below: 439 N. W. 2d 179.

No. 89-294. *GORDON ET AL. v. DEPARTMENT OF WATER AND POWER OF THE CITY OF LOS ANGELES*. C. A. 9th Cir. Certiorari denied. Reported below: 875 F. 2d 870.

No. 89-297. *ARGO v. BUTLER, WARDEN*. C. A. 5th Cir. Certiorari denied.

No. 89-299. *KEMPE ET AL., JOINT LIQUIDATORS OF MENTOR INSURANCE LTD. v. OCEAN DRILLING & EXPLORATION CO. ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 876 F. 2d 1138.

No. 89-305. *MCGUIRE, INDIVIDUALLY AND AS MOTHER AND NEXT FRIEND OF MCGUIRE, A MINOR v. CITY OF WOODWARD, OKLAHOMA, ET AL.* C. A. 10th Cir. Certiorari denied.

No. 89-306. *RILEY v. UNITED PARCEL SERVICE*. C. A. 3d Cir. Certiorari denied. Reported below: 875 F. 2d 311.

No. 89-308. *FUKOKU KOGYO Co., LTD., ET AL. v. C. ITOH & Co., LTD.* C. A. 3d Cir. Certiorari denied. Reported below: 879 F. 2d 856.

No. 89-314. *CITY OF NORMAN, OKLAHOMA, ET AL. v. O'ROURKE ET AL.* C. A. 10th Cir. Certiorari denied. Reported below: 875 F. 2d 1465.

No. 89-316. *CITY OF MONTCLAIR, CALIFORNIA v. UNITED ARTISTS COMMUNICATIONS, INC., ET AL.* Ct. App. Cal., 4th App. Dist. Certiorari denied. Reported below: 209 Cal. App. 3d 245, 257 Cal. Rptr. 124.

No. 89-319. *LAURENCE v. ANONYMOUS ET UX.* App. Div., Sup. Ct. N. Y., 2d Jud. Dept. Certiorari denied. Reported below: 144 App. Div. 2d 674, 534 N. Y. S. 2d 706.

No. 89-320. *NATIONAL DEMOCRATIC POLICY COMMITTEE v. UNITED STATES*. C. A. 1st Cir. Certiorari denied. Reported below: 871 F. 2d 156.

No. 89-321. *CLYDE SANDOZ MASONRY CONTRACTORS, INC., ET AL. v. JOYCE, TRUSTEE OF THE BRICKLAYERS & TROWEL*

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TRADES INTERNATIONAL PENSION FUND, ET AL. C. A. D. C. Cir. Certiorari denied. Reported below: 276 U. S. App. D. C. 379, 871 F. 2d 1119.

No. 89-325. DZINGLSKI *v.* WEIRTON STEEL CORP. ET AL. C. A. 4th Cir. Certiorari denied. Reported below: 875 F. 2d 1075.

No. 89-326. YOUNG, DBA TIFFANY'S *v.* MOUNT HAWLEY INSURANCE CO. ET AL. C. A. 8th Cir. Certiorari denied. Reported below: 881 F. 2d 1079.

No. 89-328. A. O. SMITH HARVESTORE PRODUCTS, INC., ET AL. *v.* SAYLOR ET UX., DBA UDDER NONSENSE DAIRY. C. A. 6th Cir. Certiorari denied. Reported below: 872 F. 2d 1028.

No. 89-336. KRINSK *v.* FUND ASSET MANAGEMENT, INC., ET AL. C. A. 2d Cir. Certiorari denied. Reported below: 875 F. 2d 404.

No. 89-338. ANDREWS *v.* INDIANA. Ct. App. Ind. Certiorari denied. Reported below: 529 N. E. 2d 360.

No. 89-345. KAMECKI, ADMINISTRATRIX OF THE ESTATE OF KAMECKI *v.* SMILEVSKY. Ct. App. D. C. Certiorari denied.

No. 89-361. PARRISH *v.* JOURNIGAN ET AL. C. A. 4th Cir. Certiorari denied. Reported below: 875 F. 2d 316.

No. 89-367. CAPODAGLI, ADMINISTRATRIX OF THE ESTATE OF CAPODAGLI *v.* WILSON. App. Ct. Ill., 1st Dist. Certiorari denied. Reported below: 180 Ill. App. 3d 456, 536 N. E. 2d 135.

No. 89-371. AMERICAN STEAMSHIP CO. *v.* MUSLEH. C. A. 6th Cir. Certiorari denied. Reported below: 878 F. 2d 382.

No. 89-391. DIETZ ET UX. *v.* COMPTROLLER OF THE TREASURY, INCOME TAX DIVISION OF THE STATE OF MARYLAND. Ct. Sp. App. Md. Certiorari denied. Reported below: 78 Md. App. 708.

No. 89-413. JOCHEN *v.* DEPARTMENT OF VETERANS AFFAIRS ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 872 F. 2d 428.

No. 89-429. INTERNATIONAL COMMERCIAL BANK OF CHINA *v.* NATIONAL BANK OF PAKISTAN. App. Div., Sup. Ct. N. Y., 1st

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Jud. Dept. Certiorari denied. Reported below: 147 App. Div. 2d 994, 537 N. Y. S. 2d 941.

No. 89-432. *PICOU v. GILLUM, SHERIFF, PASCO COUNTY, FLORIDA, ET AL.* C. A. 11th Cir. Certiorari denied. Reported below: 874 F. 2d 1519.

No. 89-436. *KEENE CORP. v. INDEPENDENT SCHOOL DISTRICT NO. 622 ET AL.* Ct. App. Minn. Certiorari denied.

No. 89-458. *BADGER v. UNITED STATES.* C. A. 11th Cir. Certiorari denied. Reported below: 874 F. 2d 820.

No. 89-461. *CAMOSCIO v. DUKAKIS ET AL.* C. A. 1st Cir. Certiorari denied. Reported below: 879 F. 2d 854.

No. 89-5069. *WILLIAMS v. FLORIDA.* Dist. Ct. App. Fla., 2d Dist. Certiorari denied. Reported below: 545 So. 2d 877.

No. 89-5097. *WILLIAMS v. ALABAMA.* Ct. Crim. App. Ala. Certiorari denied. Reported below: 531 So. 2d 73.

No. 89-5134. *HOUSTON v. LACK, WARDEN.* C. A. 6th Cir. Certiorari denied. Reported below: 875 F. 2d 864.

No. 89-5156. *FIELDS v. UNITED STATES.* C. A. 4th Cir. Certiorari denied. Reported below: 873 F. 2d 1441.

No. 89-5180. *MORGAN v. JACKSON, COMMISSIONER OF CORRECTIONAL FACILITY, WESTCHESTER COUNTY, ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 869 F. 2d 682.

No. 89-5207. *DAWES ET AL. v. UNITED STATES.* C. A. 10th Cir. Certiorari denied. Reported below: 874 F. 2d 746.

No. 89-5217. *JONES v. WISCONSIN.* Ct. App. Wis. Certiorari denied. Reported below: 149 Wis. 2d 763, 441 N. W. 2d 755.

No. 89-5218. *FORESTER v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. Reported below: 874 F. 2d 983.

No. 89-5359. *DAVIS v. O'LEARY, WARDEN, ET AL.* C. A. 7th Cir. Certiorari denied. Reported below: 867 F. 2d 1003.

No. 89-5366. *BROFFORD v. UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF OHIO.* C. A. 6th Cir. Certiorari denied.

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No. 89-5392. COFIELD *v.* ADAMS ET AL. C. A. D. C. Cir. Certiorari denied.

No. 89-5422. MORROW *v.* TEXAS. Ct. App. Tex., 1st Dist. Certiorari denied. Reported below: 757 S. W. 2d 484.

No. 89-5424. VINSON *v.* TEXAS STATE BOARD OF MEDICAL EXAMINERS ET AL. C. A. 5th Cir. Certiorari denied.

No. 89-5426. THOMAS *v.* DUGGER, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS, ET AL. C. A. 11th Cir. Certiorari denied. Reported below: 846 F. 2d 669.

No. 89-5432. TELEPO *v.* SCHEIDEMENTEL, SUPERINTENDENT, ADULT DIAGNOSTIC AND TREATMENT CENTER. C. A. 3d Cir. Certiorari denied.

No. 89-5445. ANSARI *v.* LEWIS, DIRECTOR, ARIZONA DEPARTMENT OF CORRECTIONS, ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 872 F. 2d 426.

No. 89-5447. JAMES *v.* MORRIS, JUDGE, CIRCUIT COURT OF SOUTH CAROLINA, THIRD CIRCUIT, ET AL. Sup. Ct. S. C. Certiorari denied.

No. 89-5449. SANCHEZ *v.* CALIFORNIA. Ct. App. Cal., 4th App. Dist. Certiorari denied. Reported below: 208 Cal. App. 3d 721, 256 Cal. Rptr. 446.

No. 89-5454. WALKER *v.* ILLINOIS. App. Ct. Ill., 1st Dist. Certiorari denied. Reported below: 177 Ill. App. 3d 743, 532 N. E. 2d 447.

No. 89-5455. STANDLEY *v.* CAIN, WARDEN, ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 873 F. 2d 296.

No. 89-5457. TELEPO *v.* SCHEIDEMENTEL, SUPERINTENDENT, ADULT DIAGNOSTIC AND TREATMENT CENTER, ET AL. C. A. 3d Cir. Certiorari denied.

No. 89-5461. JOHNSON *v.* HEARD ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 883 F. 2d 72.

No. 89-5463. GRASTY *v.* FOLTZ. C. A. 6th Cir. Certiorari denied. Reported below: 877 F. 2d 62.

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No. 89-5464. *CHARBONEAU v. IDAHO*. Sup. Ct. Idaho. Certiorari denied. Reported below: 116 Idaho 129, 774 P. 2d 299.

No. 89-5467. *DEVARDO v. MUNICIPALITY OF ANCHORAGE ET AL.* Sup. Ct. Alaska. Certiorari denied. Reported below: 775 P. 2d 515.

No. 89-5468. *BARBER v. MUNICIPALITY OF ANCHORAGE, ALASKA*. Sup. Ct. Alaska. Certiorari denied. Reported below: 776 P. 2d 1035.

No. 89-5469. *DEMOS v. UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF WASHINGTON ET AL.* C. A. 9th Cir. Certiorari denied.

No. 89-5474. *BONILLAS v. CALIFORNIA*. Sup. Ct. Cal. Certiorari denied. Reported below: 48 Cal. 3d 757, 771 P. 2d 844.

No. 89-5483. *DITTA v. BRANCH MOTOR EXPRESS & FREIGHT DRIVERS, HELPERS, DOCKMEN & ALLIED WORKERS, LOCAL UNION 375*. C. A. 2d Cir. Certiorari denied. Reported below: 880 F. 2d 1318.

No. 89-5557. *BLANCO-TORRES v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 886 F. 2d 1324.

No. 89-5561. *WEBER v. LOS ANGELES COUNTY DEPARTMENT OF CHILDREN'S SERVICES*. Ct. App. Cal., 2d App. Dist. Certiorari denied.

No. 89-5584. *BLOW v. UNITED STATES*. C. A. 1st Cir. Certiorari denied.

No. 89-5587. *LECKSTROM v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 882 F. 2d 513.

No. 89-5590. *GAYLE ET AL. v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 880 F. 2d 419.

No. 89-5594. *FARRELL ET AL. v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 877 F. 2d 870.

No. 89-5598. *AUBREY v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 878 F. 2d 825.

No. 89-5599. *MCINTOSH v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 878 F. 2d 387.

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No. 89-5604. TOOLE *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 881 F. 2d 1072.

No. 89-5606. SATTIEWHITE *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 877 F. 2d 971.

No. 89-5610. DAVIS *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. Reported below: 883 F. 2d 1022.

No. 89-5612. PICKERING *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. Reported below: 883 F. 2d 1022.

No. 88-1956. GEORGIA *v.* ROPER. Sup. Ct. Ga. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 258 Ga. 847, 375 S. E. 2d 600.

No. 89-151. IDAHO *v.* CHARBONEAU. Sup. Ct. Idaho. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 116 Idaho 129, 774 P. 2d 299.

No. 89-176. IDAHO *v.* LEAVITT. Sup. Ct. Idaho. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 116 Idaho 285, 775 P. 2d 599.

No. 89-48. HULSEY *v.* SARGENT, WARDEN. C. A. 8th Cir.;
No. 89-5068. BANDA *v.* TEXAS. Ct. Crim. App. Tex.;
No. 89-5117. CLARK *v.* NEW MEXICO. Sup. Ct. N. M.;
No. 89-5397. MAGWOOD *v.* ALABAMA. Sup. Ct. Ala.; and
No. 89-5421. ROGERS *v.* KEMP, WARDEN. Sup. Ct. Ga.
Certiorari denied. Reported below: No. 89-48, 865 F. 2d 954;
No. 89-5068, 768 S. W. 2d 294; No. 89-5117, 108 N. M. 288, 772
P. 2d 322; No. 89-5397, 548 So. 2d 516.

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. 89-67. DAVIS *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. JUSTICE WHITE and JUSTICE BLACKMUN would grant certiorari. Reported below: 873 F. 2d 900.

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No. 89-144. LOCAL UNION NO. 246, LABORERS' INTERNATIONAL UNION OF NORTH AMERICA, AFL-CIO *v.* BICKERSTAFF CLAY PRODUCTS CO., INC., ET AL. C. A. 11th Cir. Motion for leave to intervene in order to file a petition for writ of certiorari denied. Certiorari denied. Reported below: 871 F. 2d 980.

No. 89-335. BORMANN ET AL. *v.* AT&T COMMUNICATIONS, INC. C. A. 2d Cir. Certiorari denied. JUSTICE O'CONNOR took no part in the consideration or decision of this petition. Reported below: 875 F. 2d 399.

No. 89-5072. WILKERSON *v.* TEXAS. Ct. Crim. App. Tex. Certiorari denied.

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 hold this view, I would grant the petition to determine whether a prosecutor's exercise of peremptory challenges based in part on racial considerations violates the Equal Protection Clause.

I

Richard Wilkerson, an Afro-American, was convicted of murder by an all-white jury and sentenced to death. During *voir dire*, the prosecution exercised 4 of its 12 peremptory challenges to remove all of the potential Afro-American jurors. After trial, while petitioner's case was pending on direct review, this Court held that the Equal Protection Clause "forbids the States to strike black veniremen on the assumption that they will be biased in a particular case simply because the defendant is black." *Batson v. Kentucky*, 476 U. S. 79, 97 (1986). Petitioner subsequently raised a *Batson* claim in a petition for habeas corpus filed in state court.

The trial court concluded that Wilkerson had made a *prima facie* showing of purposeful discrimination by the prosecution in the jury selection process. At the *Batson* hearing, one of the prosecutors who conducted *voir dire* conceded that race was a factor in his peremptory strike of an Afro-American juror:

"Q. . . . When you say you felt a little uneasy about [the juror] generally, was it your considered opinion that the fact that she was black and that the Defendant was black might have some factor or might be some factor in her decision-making process?

"A. I was not completely satisfied that it would not, but that was my uneasiness." App. to Pet. for Cert. 3.

Responding to questions concerning his peremptory strike of a different juror, the prosecutor indicated that he "thought perhaps [the juror] might make some identification I guess, with the defendant to some extent." *Id.*, at 3-4. The questioning continued:

"Q. Based on [the defendant and the juror] being of the same race?

"A. Yeah, that is just a factor." *Id.*, at 4.

Finally, on redirect examination by the State, the same prosecutor stated that his perception that an Afro-American juror would extend sympathy to an Afro-American defendant was "[o]ne of the many considerations [for striking a particular juror] but nothing major about that." *Id.*, at 76.

The trial court nonetheless concluded that the prosecutors "did not exercise peremptory challenges in a discriminatory manner to exclude venirepersons based upon racial considerations, nor did they, in any way, purposefully or deliberately deny jury participation to black persons because of race." *Id.*, at 10. The court based this legal conclusion on several pages of factual findings that relate in detail the prosecution's race-neutral explanations for its peremptory challenges to the Afro-American venirepersons. Unaccountably, these findings do not mention, much less discuss, the prosecution's open admissions that race played a role in its decision to prevent the Afro-American members of the venire from serving on the petit jury. This omission in the state court's factual findings provides ample justification for this Court to dispense with the traditional deference, now codified by statute, that such findings are accorded on federal review. See 28 U. S. C. § 2254(d) (8) (1982 ed.) (presumption of correctness overcome if a federal court concludes that a state court's "factual determination[s] [are] not fairly supported by the record"). Accordingly, this case is properly characterized as one involving mixed prosecutorial mo-

tives in that the decision to challenge the Afro-American jurors rested on both race-neutral considerations and race-conscious factors.

II

The state trial court's implicit legal conclusion—that the Constitution does not prohibit a prosecutor from striking a juror even when the decision is based in part on his "intuitive judgment [that the juror] would be partial to the defendant because of their shared race," *Batson v. Kentucky*, 476 U. S., at 97—cannot be squared with *Batson's* unqualified requirement that the state offer "a neutral explanation" for its peremptory challenge, *id.*, at 98 (emphasis added). To be "neutral," the explanation must be based *wholly* on nonracial criteria.

The trial court seems to have transferred a legal standard formulated in other contexts to the *Batson* inquiry by requiring the defendant to show that the Afro-American venirepersons would not have been challenged "but for" the prosecution's impermissible assumptions about race. In some instances in which a defendant's actions were motivated by a mixture of permissible and impermissible factors, we have recognized as a defense to liability a showing that the challenged actions would have occurred even absent the improper consideration. See, e. g., *Mt. Healthy City Bd. of Ed. v. Doyle*, 429 U. S. 274, 285–287 (1977) (decision to terminate employment). A "but for" test is inappropriate in the *Batson* inquiry, however, because of the special difficulties of proof that a court applying that standard to a prosecutor's peremptory-challenge decisions necessarily would encounter.

The "but for" standard requires the factfinder to address a counterfactual: whether a prosecutor would have struck the challenged Afro-American jurors if his decisions had not been clouded by impermissible racial considerations. Put another way, the question is whether the prosecutor would have struck the Afro-American jurors had they been white. To answer this question, the factfinder must decide whether the prosecutor's intuitive, racially neutral reservations about the challenged Afro-American jurors were in each case greater than his intuitive reservations about the white jurors whom he chose not to strike. The court must determine not only whether a prosecutor's denial of racial motivation is credible—the current *Batson* question—but also whether a prosecutor's explanation for his *lack* of objection to white jurors is credible so that it can undertake the difficult task

of comparing prosecutorial judgments of challenged and unchallenged jurors.

But how is the factfinder to uncover the prosecutor's intuitive reservations regarding the unchallenged white jurors? The only avenue of inquiry is to ask the prosecutor himself. If he claims not to have entertained such reservations, the questioning must end, because external corroboration of the prosecutor's explanation of his inaction is necessarily unavailable. No record memorializes the prosecutor's contemporaneous justifications for failing to challenge a juror. Moreover, given the purely subjective nature of peremptory challenges, such a record could not be made. Thus, the prosecutor's claim that he harbored no reservations regarding a particular juror is insulated from meaningful review. In contrast, some external corroboration *is* available regarding the prosecutor's affirmative decisions to strike; the factfinder can examine a prosecutor's justifications in light of the characteristics of the jurors actually struck to determine generally whether the justifications were merely pretexts for racially motivated considerations.

In this respect, the *Batson* context differs decisively from the employment context, where the court can examine an employer's treatment of similarly situated applicants to test an employer's assertion that an Afro-American candidate would not have been hired absent a discriminatory motive. When an employer hires a white candidate over an Afro-American candidate, a factfinder can assess the employer's faithfulness to its own nonracial criteria by examining whether the particular white candidate's qualifications, as defined by the criteria, were superior to those of the Afro-American candidate. In the *Batson* context, though, the criteria underlying a prosecutor's peremptory challenges are private; a factfinder therefore lacks an independent means of evaluating the prosecutor's decisionmaking.

Thus, the "but for" test transforms a difficult credibility assessment—whether the prosecutor acted for the reasons he claims to have acted—into an impossible one—whether a prosecutor's non-racial ground for striking an Afro-American juror, taken alone, would have outweighed the prosecutor's possible grounds for objecting to unchallenged white jurors. The only choice, an untenable one at best, would be to accept at face value a prosecutor's claim that he "would have struck the Afro-American jurors anyway." A judicial inquiry designed to safeguard a criminal defend-

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ant's basic constitutional rights should not rest on the unverifiable assertions of a prosecutor who, having admitted to racial bias, subsequently attempts to reconstruct what his thought process would have been had he not entertained such bias.

III

Batson's greatest flaw is its implicit assumption that courts are capable of detecting race-based challenges to Afro-American jurors. Assuming good faith on the part of all involved, *Batson's* mandate requires the parties "to confront and overcome their own racism on all levels," *Batson v. Kentucky*, 476 U. S., at 106 (MARSHALL, J., concurring), a most difficult challenge to meet. This flaw has rendered *Batson* ineffective against all but the most obvious examples of racial prejudice—the cases in which a proffered "neutral explanation" plainly betrays an underlying impermissible purpose. To excuse such prejudice when it does surface, on the ground that a prosecutor can also articulate nonracial factors for his challenges, would be absurd. *Batson* would thereby become irrelevant, and racial discrimination in jury selection, perhaps the greatest embarrassment in the administration of our criminal justice system, would go undeterred. If such "smoking guns" are ignored, we have little hope of combating the more subtle forms of racial discrimination.

In sum, while I remain committed to my view that, until peremptory challenges are eliminated altogether, these challenges will inevitably be used to discriminate against racial minorities, *Batson v. Kentucky*, *supra*, at 103, 107–108 (MARSHALL, J., concurring), I would find that this Court's requirement that a prosecutor provide a "neutral" explanation for challenging an Afro-American juror means just what it says—that the explanation must not be tainted by *any* impermissible factors. Requiring anything less undermines an already underprotective means of safeguarding the integrity of the criminal jury selection process.

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Dismissals Under Rule 53

No. 89–435. IN RE ASSOCIATED GENERAL CONTRACTORS OF CALIFORNIA, INC., ET AL. Petition for writ of mandamus dismissed under this Court's Rule 53.

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No. 87-1294. CAPE PUBLICATIONS, INC., ET AL. *v.* HITCHNER ET UX. Appeal from Dist. Ct. App. Fla., 5th Dist., dismissed under this Court's Rule 53. Reported below: 514 So. 2d 1136.

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Certiorari Granted—Vacated and Remanded

No. 88-1601. PULLMAN-STANDARD, INC. *v.* SWINT ET AL.; and
No. 88-1602. SWINT ET AL. *v.* PULLMAN-STANDARD, INC., ET AL. C. A. 11th Cir. Certiorari granted, judgment vacated, and cases remanded for further consideration in light of *Patterson v. McLean Credit Union*, 491 U. S. 164 (1989), *Wards Cove Packing Co. v. Atonio*, 490 U. S. 642 (1989), and *Owens v. Okure*, 488 U. S. 235 (1989). Reported below: 854 F. 2d 1549.

Miscellaneous Orders

No. — — —. MILLER ET AL. *v.* FARMERS ALLIANCE MUTUAL INSURANCE CO. Motion to direct the Clerk to file petition for writ of certiorari out of time denied.

No. A-269. RICE *v.* UNITED STATES. Application for release on bond, addressed to JUSTICE BRENNAN and referred to the Court, denied.

No. A-276. PISELLO *v.* UNITED STATES. D. C. C. D. Cal. Application for stay, addressed to JUSTICE BRENNAN and referred to the Court, denied.

No. D-798. IN RE DISBARMENT OF ZEALY. Disbarment entered. [For earlier order herein, see 492 U. S. 931.]

No. 65, Orig. TEXAS *v.* NEW MEXICO. Motion of the Special Master for allowance of interim fees and disbursements granted, and the Special Master is awarded \$55,936.76 to be paid equally by the parties. [For earlier order herein, see, *e. g.*, *ante*, p. 802.]

No. 109, Orig. OKLAHOMA ET AL. *v.* NEW MEXICO. Interim report of the Special Master received and ordered filed. Motion of the Special Master for allowance of compensation and reimbursement of expenses granted, and the Special Master is awarded \$22,200.83, one-third to be paid by each party. [For earlier order herein, see, *e. g.*, 489 U. S. 1005.]

No. 111, Orig. DELAWARE *v.* NEW YORK. Motion of Texas for leave to file an amended complaint in intervention referred to the Special Master. [For earlier order herein, see, *e. g.*, *ante*, p. 915.]

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No. 88-1125. HODGSON ET AL. *v.* MINNESOTA ET AL. C. A. 8th Cir. [Certiorari granted, 492 U. S. 917.] Motions of Jeff White et al., Stanley John, Kenneth Fisher, and Herbert Ratner for leave to file briefs as *amici curiae* denied.

No. 88-1400. FRANCHISE TAX BOARD OF CALIFORNIA ET AL. *v.* ALCAN ALUMINIUM LTD. ET AL. C. A. 7th Cir. [Certiorari granted, 490 U. S. 1019.] Motion of respondents for reconsideration of order denying motion for divided argument [*ante*, p. 803] denied. Request of respondents to submit the case on the briefs denied.

No. 88-1503. CRUZAN, BY HER PARENTS AND CO-GUARDIANS, CRUZAN ET UX. *v.* DIRECTOR, MISSOURI DEPARTMENT OF HEALTH, ET AL. Sup. Ct. Mo. [Certiorari granted, 492 U. S. 917.] Motions for leave to file briefs as *amici curiae* filed by the following are denied: Frances Ambrose, Ralph Buglioni, Jack Butler, Center for Catholic Policy of the Free Congress Foundation, Christian Action Council et al., Philip Dreisbach, James Dunlap, Lawrence J. Frieders, Mechtild Grothues, Paul Marx, J. G. Morris, National Nurses for Life, Nurses for Life of Missouri, Pharmacists for Life, Right to Life League of Southern California, Inc., and Herbert Ratner.

No. 88-1725. VENEGAS *v.* MITCHELL. C. A. 9th Cir. [Certiorari granted, *ante*, p. 806.] Motion of petitioner to dispense with printing the joint appendix granted.

No. 88-1932. UNITED STATES *v.* MUNOZ-FLORES. C. A. 9th Cir. [Certiorari granted, *ante*, p. 808.] Motion of the Solicitor General to dispense with printing the joint appendix granted.

No. 88-1951. UNITED STATES *v.* DALM. C. A. 6th Cir. [Certiorari granted, *ante*, p. 807.] Motion of the Solicitor General to dispense with printing the joint appendix granted.

No. 88-1972. ILLINOIS *v.* PERKINS. App. Ct. Ill., 5th Dist. [Certiorari granted, *ante*, p. 808.] Motion for appointment of counsel granted, and it is ordered that Daniel M. Kirwin, Esq., of Mt. Vernon, Ill., be appointed to serve as counsel for respondent in this case.

No. 88-6546. DURO *v.* REINA, CHIEF OF POLICE, SALT RIVER DEPARTMENT OF PUBLIC SAFETY, SALT RIVER PIMA-MARICOPA

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INDIAN COMMUNITY, ET AL. C. A. 9th Cir. [Certiorari granted, 490 U. S. 1034.] Motion of the Solicitor General for leave to participate in oral argument as *amicus curiae* and for divided argument granted.

No. 88-7146. WHITMORE, INDIVIDUALLY AND AS NEXT FRIEND OF SIMMONS *v.* ARKANSAS ET AL. Sup. Ct. Ark. [Certiorari granted, 492 U. S. 917.] Motion of Washington Legal Foundation et al. for leave to file a brief as *amici curiae* granted.

No. 89-65. FORT STEWART SCHOOLS *v.* FEDERAL LABOR RELATIONS AUTHORITY ET AL. C. A. 11th Cir. [Certiorari granted, *ante*, p. 807.] Motion of the Acting Solicitor General to dispense with printing the joint appendix granted.

No. 89-400. LUCAS ET AL. *v.* TOWNSEND, PRESIDENT OF THE BIBB COUNTY BOARD OF EDUCATION, ET AL. Appeal from D. C. M. D. Ga. The Solicitor General is invited to file a brief in this case expressing the views of the United States.

No. 89-5398. JOHNSTON *v.* ACTING COMMISSIONER OF SOCIAL SECURITY. C. A. 7th Cir. Motion of petitioner for leave to proceed *in forma pauperis* denied. Petitioner is allowed until November 20, 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*.

No. 89-5700. REIS *v.* NEW YORK STATE HOUSING FINANCE AGENCY. Ct. App. N. Y. Motion of petitioner for leave to proceed *in forma pauperis* denied. Petitioner is allowed until November 20, 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 certiorari with-

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out reaching the merits of the motion to proceed *in forma pauperis*.

No. 89-5374. *IN RE GOTTLIEB*; and

No. 89-5705. *IN RE WATTERS*. Petitions for writs of mandamus and/or prohibition denied.

Certiorari Granted

No. 88-2018. *ILLINOIS v. RODRIGUEZ*. App. Ct. Ill., 1st Dist. Certiorari granted. Reported below: 177 Ill. App. 3d 1154, 550 N. E. 2d 65.

No. 89-386. *PORT AUTHORITY TRANS-HUDSON CORP. v. FEENEY*; and *PORT AUTHORITY TRANS-HUDSON CORP. v. FOSTER*. C. A. 2d Cir. Certiorari granted. Reported below: 873 F. 2d 628 (first case); 873 F. 2d 633 (second case).

No. 89-390. *PENSION BENEFIT GUARANTY CORPORATION v. LTV CORP. ET AL.* C. A. 2d Cir. Motion of Armco et al. for leave to file a brief as *amici curiae* granted. Certiorari granted. Reported below: 875 F. 2d 1008.

Certiorari Denied

No. 88-1805. *EASTERN NEBRASKA COMMUNITY OFFICE OF RETARDATION ET AL. v. GLOVER ET AL.* C. A. 8th Cir. Certiorari denied. Reported below: 867 F. 2d 461.

No. 88-2122. *EHR SAM v. PENNSYLVANIA*. Super. Ct. Pa. Certiorari denied. Reported below: 355 Pa. Super. 40, 512 A. 2d 1199.

No. 88-7409. *PRINCE v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 868 F. 2d 1379.

No. 88-7511. *CHAPMAN v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 866 F. 2d 1326.

No. 88-7566. *BRETT, AKA WILSON v. UNITED STATES*; and

No. 88-7586. *GREY, AKA GRAY v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 872 F. 2d 1365.

No. 89-39. *MEROS v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 866 F. 2d 1304.

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No. 89-59. *SPIGAROLO v. CONNECTICUT*. Sup. Ct. Conn. Certiorari denied. Reported below: 210 Conn. 359, 556 A. 2d 112.

No. 89-78. *ARZOLA-AMAYA ET AL. v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 867 F. 2d 1504.

No. 89-90. *JUNGEN, ADMINISTRATRIX OF THE ESTATE OF JUNGEN, ET AL. v. OREGON*. Ct. App. Ore. Certiorari denied. Reported below: 94 Ore. App. 101, 764 P. 2d 938.

No. 89-170. *SOSEBEE v. GEORGIA*. Ct. App. Ga. Certiorari denied. Reported below: 190 Ga. App. 746, 380 S. E. 2d 464.

No. 89-171. *DI-CARLANTONIO v. UNITED STATES*; and
No. 89-5641. *PRAYSO v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 870 F. 2d 1058.

No. 89-177. *AETNA CASUALTY & SURETY CO. v. MCMASTER*. Ct. App. La., 5th Cir. Certiorari denied.

No. 89-194. *VANCE v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 871 F. 2d 572.

No. 89-200. *OFMAN v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 872 F. 2d 1021.

No. 89-201. *DEAS v. LEVITT, NEW YORK CITY PERSONNEL DIRECTOR, ET AL.* Ct. App. N. Y. Certiorari denied. Reported below: 73 N. Y. 2d 525, 539 N. E. 2d 1086.

No. 89-211. *SOUTHERN ELECTRICAL RETIREMENT FUND v. CUSTER*. Ct. App. Tenn. Certiorari denied. Reported below: 776 S. W. 2d 92.

No. 89-212. *57,261 ITEMS OF DRUG PARAPHERNALIA ET AL. v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 869 F. 2d 955.

No. 89-216. *LAVERY v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 871 F. 2d 1181.

No. 89-220. *SECRETIST v. HARKIN, UNITED STATES SENATOR, ET AL.* C. A. 8th Cir. Certiorari denied. Reported below: 874 F. 2d 1244.

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No. 89-272. *LITTMAN, INDIVIDUALLY AND AS MAYOR OF THE TOWNSHIP OF MILLSTONE, NEW JERSEY, ET AL. v. GIMELLO, EXECUTIVE DIRECTOR, NEW JERSEY HAZARDOUS WASTE SITING COMMISSION, ET AL.* Sup. Ct. N. J. Certiorari denied. Reported below: 115 N. J. 154, 557 A. 2d 314.

No. 89-276. *ENGLAND v. KING, COMMISSIONER, SOCIAL SECURITY ADMINISTRATION.* C. A. 9th Cir. Certiorari denied. Reported below: 872 F. 2d 427.

No. 89-286. *ARGUBRIGHT ET AL. v. BEECH AIRCRAFT CORP.* C. A. 5th Cir. Certiorari denied. Reported below: 868 F. 2d 764.

No. 89-288. *DOUBLETREE ET AL. v. HAGER, COMMISSIONER OF INSURANCE OF IOWA, AS LIQUIDATOR OF IOWA NATIONAL MUTUAL INSURANCE CO.* Sup. Ct. Iowa. Certiorari denied. Reported below: 440 N. W. 2d 603.

No. 89-298. *DOWNING ET AL. v. CITY OF URBANA EX REL. NEWLIN, DIRECTOR OF LAW.* Sup. Ct. Ohio. Certiorari denied. Reported below: 43 Ohio St. 3d 109, 539 N. E. 2d 140.

No. 89-331. *CANO v. ALABAMA.* Ct. Crim. App. Ala. Certiorari denied. Reported below: 543 So. 2d 724.

No. 89-334. *ORTEGA v. CITY OF KANSAS CITY, KANSAS, ET AL.* C. A. 10th Cir. Certiorari denied. Reported below: 875 F. 2d 1497.

No. 89-339. *STEELE v. NOEL ET AL.* App. Div., Sup. Ct. N. Y., 2d Jud. Dept. Certiorari denied. Reported below: 143 App. Div. 2d 98, 531 N. Y. S. 2d 511.

No. 89-351. *TOWNSHIP OF KENNEDY v. KENVUE DEVELOPMENT, INC., ET AL.* Pa. Commw. Ct. Certiorari denied.

No. 89-354. *BROWN, PERSONAL REPRESENTATIVE OF THE ESTATE OF SWAN v. LAITNER ET AL.* Ct. App. Mich. Certiorari denied.

No. 89-355. *MOORE v. ORLEANS PARISH SCHOOL BOARD ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 871 F. 2d 119.

No. 89-356. *CICIRELLO v. NEW YORK TELEPHONE CO.* C. A. 3d Cir. Certiorari denied. Reported below: 879 F. 2d 855.

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No. 89-357. *ROSS v. MIDWEST COMMUNICATIONS, INC., DBA WCCO TELEVISION, ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 870 F. 2d 271.

No. 89-359. *STEWART v. PEARSON LUMBER Co.* C. A. 11th Cir. Certiorari denied. Reported below: 874 F. 2d 820.

No. 89-363. *SMILE v. TENNESSEE.* Ct. Crim. App. Tenn. Certiorari denied.

No. 89-374. *RAY v. JONES, WARDEN.* C. A. 6th Cir. Certiorari denied. Reported below: 871 F. 2d 1088.

No. 89-375. *TORCASO v. VIRGINIA.* Sup. Ct. Va. Certiorari denied.

No. 89-376. *GENERAL DYNAMICS CORP. v. TREVINO ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 865 F. 2d 1474.

No. 89-380. *CALDWELL v. SOUTHWESTERN BELL TELEPHONE Co.* C. A. 10th Cir. Certiorari denied.

No. 89-381. *MAINE v. WING ET AL.* Sup. Jud. Ct. Me. Certiorari denied. Reported below: 559 A. 2d 783.

No. 89-382. *SMITH ET AL. v. KENTUCKY DEMOCRATIC PARTY ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 872 F. 2d 1029.

No. 89-384. *BROWN ET AL. v. 1250 TWENTY-FOURTH STREET ASSOCIATES ET AL.* C. A. D. C. Cir. Certiorari denied.

No. 89-389. *MCDONNELL v. EPISCOPAL DIOCESE OF GEORGIA.* Ct. App. Ga. Certiorari denied. Reported below: 191 Ga. App. 174, 381 S. E. 2d 126.

No. 89-392. *BROWN ET AL. v. 1250 TWENTY-FOURTH STREET ASSOCIATES ET AL.* C. A. D. C. Cir. Certiorari denied.

No. 89-395. *DOW CHEMICAL Co. v. GREENHILL ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 868 F. 2d 1428.

No. 89-396. *WIGGINS ET AL. v. FIRESTONE TIRE & RUBBER Co.* C. A. 8th Cir. Certiorari denied. Reported below: 876 F. 2d 105.

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No. 89-398. *COFFIN v. JACKSON, CHAIRMAN, VIRGINIA PA-ROLE BOARD, ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 875 F. 2d 314.

No. 89-399. *KRUPA v. TEXAS.* Ct. App. Tex., 5th Dist. Certiorari denied. Reported below: 750 S. W. 2d 258.

No. 89-402. *GUINNANE v. CITY AND COUNTY OF SAN FRANCISCO PLANNING COMMISSION ET AL.* Ct. App. Cal., 1st App. Dist. Certiorari denied. Reported below: 209 Cal. App. 3d 732, 257 Cal. Rptr. 742.

No. 89-404. *MAGGIO, DBA PATCHOGUE NURSING CENTER v. LOCAL 1199, DRUG, HOSPITAL & HEALTH CARE EMPLOYEES UNION, R. W. D. S. U., AFL-CIO.* C. A. 2d Cir. Certiorari denied. Reported below: 880 F. 2d 1319.

No. 89-410. *CHRISTENSEN v. MINNESOTA.* Ct. App. Minn. Certiorari denied. Reported below: 439 N. W. 2d 389.

No. 89-414. *CASTELLA v. LONG, COMMANDER, ARMY AND AIR FORCE EXCHANGE SERVICE, UNITED STATES DEPARTMENT OF THE ARMY, ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 862 F. 2d 872.

No. 89-415. *BROOKS v. TOWN OF ASHLAND.* Ct. App. Va. Certiorari denied.

No. 89-416. *PARTEN v. FORD MOTOR CO. ET AL.* C. A. 10th Cir. Certiorari denied.

No. 89-417. *NEW JERSEY v. BOLTE.* Sup. Ct. N. J. Certiorari denied. Reported below: 115 N. J. 579, 560 A. 2d 644.

No. 89-423. *E. LAURSENS MASKINFABRIK A/S v. SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES.* Ct. App. Cal., 2d App. Dist. Certiorari denied.

No. 89-425. *CONSTANT v. HITACHI AMERICA, LTD., ET AL.* C. A. Fed. Cir. Certiorari denied.

No. 89-426. *MCGEE v. TREHARNE, PUBLIC GUARDIAN.* Ct. App. Cal., 2d App. Dist. Certiorari denied.

No. 89-428. *MULLEN v. UNITED STATES.* C. A. 8th Cir. Certiorari denied. Reported below: 873 F. 2d 1448.

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No. 89-437. *DIEFENBACH ET UX. v. WASHINGTON*. Ct. App. Wash. Certiorari denied. Reported below: 53 Wash. App. 1066.

No. 89-439. *DAVIS OIL CO. ET AL. v. MILLS ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 873 F. 2d 774.

No. 89-445. *BRUCE v. HARLAN & HARLAN ET AL.* C. A. 8th Cir. Certiorari denied.

No. 89-451. *WRENN v. STONE ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 871 F. 2d 1089.

No. 89-452. *ICG PETROLEUM, INC., ET AL. v. UNITED STATES DEPARTMENT OF ENERGY ET AL.* Temp. Emerg. Ct. App. Certiorari denied. Reported below: 883 F. 2d 80.

No. 89-460. *MARATHON OIL CO. ET AL. v. MCMORAN OFFSHORE EXPLORATION CO. ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 877 F. 2d 1214.

No. 89-462. *LIVERA ET AL. v. SMALL BUSINESS ADMINISTRATION ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 879 F. 2d 1186.

No. 89-467. *MULLEN v. MAXWELL ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 872 F. 2d 418.

No. 89-470. *KAYZAKIAN v. BUCK ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 865 F. 2d 1258.

No. 89-493. *OLITT v. DEPARTMENTAL DISCIPLINARY COMMITTEE FOR THE APPELLATE DIVISION, SUPREME COURT OF NEW YORK, FIRST JUDICIAL DEPARTMENT.* App. Div., Sup. Ct. N. Y., 1st Jud. Dept. Certiorari denied. Reported below: 145 App. Div. 2d 273, 538 N. Y. S. 2d 537.

No. 89-498. *HELLENIC REPUBLIC ET AL. v. RUSH-PRESBYTERIAN-ST. LUKE'S MEDICAL CENTER ET AL.* C. A. 7th Cir. Certiorari denied. Reported below: 877 F. 2d 574.

No. 89-512. *TEARNEY v. ADMINISTRATOR, FEDERAL AVIATION ADMINISTRATION, ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 868 F. 2d 1451.

No. 89-518. *PILASKI v. UNITED STATES.* C. A. 9th Cir. Certiorari denied. Reported below: 874 F. 2d 817.

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No. 89-539. *ONDRIZEK ET UX., INDIVIDUALLY AND AS GUARDIANS FOR ONDRIZEK ET AL. v. FLORIDA DEPARTMENT OF HEALTH AND REHABILITATIVE SERVICES ET AL.* C. A. 11th Cir. Certiorari denied. Reported below: 861 F. 2d 1280.

No. 89-541. *NEDZA v. UNITED STATES.* C. A. 7th Cir. Certiorari denied. Reported below: 880 F. 2d 896.

No. 89-5062. *ADAMS v. JOHN, SHERIFF OF NAMAHA COUNTY, ET AL.* C. A. 8th Cir. Certiorari denied.

No. 89-5088. *BRITSON v. LEWIS, DIRECTOR, ARIZONA DEPARTMENT OF CORRECTIONS, ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 865 F. 2d 263.

No. 89-5101. *BRUNER v. McMACKIN, SUPERINTENDENT, MARION CORRECTIONAL INSTITUTION.* C. A. 6th Cir. Certiorari denied. Reported below: 875 F. 2d 531.

No. 89-5109. *MACK v. HENDERSON, SUPERINTENDENT, AUBURN CORRECTIONAL FACILITY.* C. A. 2d Cir. Certiorari denied. Reported below: 875 F. 2d 857.

No. 89-5135. *CHAMBERS v. LOCKHART, DIRECTOR, ARKANSAS DEPARTMENT OF CORRECTION.* C. A. 8th Cir. Certiorari denied. Reported below: 872 F. 2d 274.

No. 89-5151. *LECRONE, EXECUTRIX OF THE ESTATE OF LECRONE v. FEDERAL NATIONAL MORTGAGE ASSN. ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 868 F. 2d 190.

No. 89-5183. *ULFERTS v. WOOD, WARDEN.* C. A. 8th Cir. Certiorari denied.

No. 89-5280. *ALSTON v. DUBOIS ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 869 F. 2d 1488.

No. 89-5357. *LEBBOS v. STATE BAR OF CALIFORNIA ET AL.* Ct. App. Cal., 6th App. Dist. Certiorari denied.

No. 89-5372. *LAWRENCE v. UNITED STATES ARMY (FORT HOOD).* C. A. 5th Cir. Certiorari denied. Reported below: 880 F. 2d 412.

No. 89-5373. *LAWRENCE v. UNITED STATES ARMY (TACOM).* C. A. 6th Cir. Certiorari denied. Reported below: 880 F. 2d 414.

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No. 89-5401. *BENSON v. LIVESAY, WARDEN*. C. A. 6th Cir. Certiorari denied. Reported below: 875 F. 2d 861.

No. 89-5414. *STEPHENS v. SULLIVAN, SECRETARY, HEALTH AND HUMAN SERVICES*. C. A. 4th Cir. Certiorari denied. Reported below: 884 F. 2d 1389.

No. 89-5428. *SPYCHALA v. RUSHEN ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 872 F. 2d 430.

No. 89-5439. *CLARK v. FRANK, POSTMASTER GENERAL OF THE UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 872 F. 2d 1024.

No. 89-5473. *GILLES v. INDIANA*. Ct. App. Ind. Certiorari denied. Reported below: 531 N. E. 2d 220.

No. 89-5475. *BLACKMON, AKA DENSON v. ARMONTROUT, WARDEN*. C. A. 8th Cir. Certiorari denied. Reported below: 875 F. 2d 164.

No. 89-5479. *MURRAY v. TANSY, WARDEN*. C. A. 10th Cir. Certiorari denied.

No. 89-5481. *TURNER v. ILLINOIS*. Sup. Ct. Ill. Certiorari denied. Reported below: 128 Ill. 2d 540, 539 N. E. 2d 1196.

No. 89-5487. *MANTER ET AL. v. TOWN OF FAYETTE*. Sup. Jud. Ct. Me. Certiorari denied. Reported below: 556 A. 2d 665.

No. 89-5488. *GOTTLIEB v. ABARIS BOOKS, INC., ET AL.* C. A. 2d Cir. Certiorari denied.

No. 89-5489. *TUCKER v. SCULLY, SUPERINTENDENT, GREEN HAVEN CORRECTIONAL FACILITY, ET AL.* C. A. 2d Cir. Certiorari denied.

No. 89-5492. *EVANS v. SCULLY, SUPERINTENDENT, GREEN HAVEN CORRECTIONAL FACILITY, ET AL.* C. A. 2d Cir. Certiorari denied.

No. 89-5498. *PRICE v. PRICE*. Cir. Ct. Mercer County, W. Va. Certiorari denied.

No. 89-5499. *PRENZLER v. COUNTY OF ORANGE ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 874 F. 2d 816.

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No. 89-5504. *FREIBERG v. MASSACHUSETTS*. Sup. Jud. Ct. Mass. Certiorari denied. Reported below: 405 Mass. 282, 540 N. E. 2d 1289.

No. 89-5505. *CHAIRES v. TEXAS*. Ct. App. Tex., 3d Dist. Certiorari denied.

No. 89-5506. *HAKIM v. DEPARTMENT OF CIVIL RIGHTS ET AL.* Ct. App. Mich. Certiorari denied.

No. 89-5509. *THOMPSON v. COLLINS ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 874 F. 2d 813.

No. 89-5516. *FIGUEROA ET AL. v. CHARLES ET AL.* C. A. 3d Cir. Certiorari denied.

No. 89-5517. *BYRD v. ZIMMERMAN, SUPERINTENDENT, STATE CORRECTIONAL INSTITUTION (AND DIAGNOSTIC AND CLASSIFICATION CENTER) AT GRATERFORD, ET AL.* C. A. 3d Cir. Certiorari denied.

No. 89-5518. *WHITE v. SUPERIOR COURT OF THE STATE OF CALIFORNIA, IN AND FOR THE CITY AND COUNTY OF SAN FRANCISCO*. Ct. App. Cal., 1st App. Dist. Certiorari denied.

No. 89-5520. *RIVERS v. TURNER, SUPERINTENDENT, GLADES CORRECTIONAL INSTITUTION*. C. A. 11th Cir. Certiorari denied. Reported below: 874 F. 2d 771.

No. 89-5521. *STUBBINS v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 877 F. 2d 42.

No. 89-5522. *OLIM v. SEARS, ROEBUCK & CO. ET AL.* C. A. 10th Cir. Certiorari denied.

No. 89-5524. *WILLOUGHBY v. CALIFORNIA*. Sup. Ct. Cal. Certiorari denied.

No. 89-5526. *LINTICUM v. DAVIS, WARDEN*. C. A. 6th Cir. Certiorari denied.

No. 89-5528. *BROOKS v. JOHNSON & JOHNSON, INC.* C. A. 3d Cir. Certiorari denied. Reported below: 875 F. 2d 309.

No. 89-5529. *FRANCO v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 878 F. 2d 1436.

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No. 89-5531. *ZARRILLI v. MARINO*. App. Ct. Mass. Certiorari denied. Reported below: 26 Mass. App. 1121, 533 N. E. 2d 654.

No. 89-5533. *OSSANDON ET AL. v. SWISS BANK CORP.* C. A. 2d Cir. Certiorari denied. Reported below: 880 F. 2d 1319.

No. 89-5537. *DENTON v. DUCKWORTH, SUPERINTENDENT, INDIANA STATE PRISON, ET AL.* C. A. 7th Cir. Certiorari denied. Reported below: 873 F. 2d 144.

No. 89-5538. *BRAMLETT v. LOCKHART, DIRECTOR, ARKANSAS DEPARTMENT OF CORRECTION.* C. A. 8th Cir. Certiorari denied. Reported below: 876 F. 2d 644.

No. 89-5541. *CARPENTER v. PHILIPS ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 872 F. 2d 1024.

No. 89-5549. *DAVIS v. UNITED STATES.* C. A. 11th Cir. Certiorari denied. Reported below: 878 F. 2d 1299.

No. 89-5551. *BONDARENKO v. BINDERUP ET AL.* Ct. App. Cal., 1st App. Dist. Certiorari denied.

No. 89-5554. *PEREA v. MONDRAGON, WARDEN.* C. A. 10th Cir. Certiorari denied.

No. 89-5555. *MANNING v. DUGGER, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS, ET AL.* C. A. 11th Cir. Certiorari denied. Reported below: 880 F. 2d 418.

No. 89-5560. *COULTER v. PUCKETT, SUPERINTENDENT, MISSISSIPPI STATE PENITENTIARY.* C. A. 5th Cir. Certiorari denied.

No. 89-5563. *FIXEL v. NEVADA SUPREME COURT ET AL.* Sup. Ct. Nev. Certiorari denied. Reported below: 105 Nev. 1030, 810 P. 2d 324.

No. 89-5564. *SMITH v. OKLAHOMA.* Ct. Crim. App. Okla. Certiorari denied.

No. 89-5565. *SMITH v. LYNAUGH.* C. A. 5th Cir. Certiorari denied. Reported below: 877 F. 2d 971.

No. 89-5566. *AUSTIN v. BERRYMAN ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 878 F. 2d 786.

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No. 89-5567. *GAROUX v. CALIFORNIA*. Ct. App. Cal., 4th App. Dist. Certiorari denied.

No. 89-5570. *MAY v. CHALLENGER COMMUNICATIONS SYSTEMS, INC.* C. A. 6th Cir. Certiorari denied. Reported below: 875 F. 2d 865.

No. 89-5572. *WARMACK v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 875 F. 2d 317.

No. 89-5574. *PICKETT v. ALABAMA*. Ct. Crim. App. Ala. Certiorari denied. Reported below: 550 So. 2d 1093.

No. 89-5576. *GALA v. UNITED STATES POSTAL SERVICE*. C. A. Fed. Cir. Certiorari denied. Reported below: 878 F. 2d 1445.

No. 89-5579. *GALLARDO v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 878 F. 2d 1441.

No. 89-5581. *OXBORROW v. EIKENBERRY, ATTORNEY GENERAL OF WASHINGTON, ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 877 F. 2d 1395.

No. 89-5585. *HALL v. DELAWARE*. Sup. Ct. Del. Certiorari denied. Reported below: 565 A. 2d 280.

No. 89-5602. *WILLIAMS v. LOCKHART, DIRECTOR, ARKANSAS DEPARTMENT OF CORRECTION*. C. A. 8th Cir. Certiorari denied. Reported below: 873 F. 2d 1129.

No. 89-5608. *ABDUL-AKBAR v. WATSON ET AL.* C. A. 3d Cir. Certiorari denied.

No. 89-5611. *JURICH v. MICHIGAN*. Ct. App. Mich. Certiorari denied.

No. 89-5613. *LOCKHART v. ROLLING ET AL.* C. A. 11th Cir. Certiorari denied. Reported below: 878 F. 2d 1441.

No. 89-5619. *HEDLUND v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 883 F. 2d 77.

No. 89-5627. *STRICKLER v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 879 F. 2d 861.

No. 89-5631. *GOSHO-KIM v. UNITED STATES*. C. A. 9th Cir. Certiorari denied.

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No. 89-5640. *READ v. PROTHONOTARY, NEW CASTLE COUNTY, DELAWARE, ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 882 F. 2d 512.

No. 89-5645. *WRIGHT v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. Reported below: 881 F. 2d 1072.

No. 89-5649. *ERLIN v. UNITED STATES.* C. A. 9th Cir. Certiorari denied. Reported below: 875 F. 2d 319.

No. 89-5653. *URREGO-LINARES v. UNITED STATES.* C. A. 4th Cir. Certiorari denied. Reported below: 879 F. 2d 1234.

No. 89-5660. *CARWILE v. SMITH, WARDEN, ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 874 F. 2d 382.

No. 89-5664. *OAKLEY v. UNITED STATES.* C. A. 3d Cir. Certiorari denied. Reported below: 884 F. 2d 1386.

No. 89-5665. *THORNLEY v. UNITED STATES.* C. A. 1st Cir. Certiorari denied.

No. 89-5667. *MARQUEZ-RODRIGUEZ v. UNITED STATES.* C. A. 11th Cir. Certiorari denied. Reported below: 877 F. 2d 895.

No. 89-5678. *LEWIS v. UNITED STATES.* C. A. 2d Cir. Certiorari denied.

No. 89-5681. *SANTIAGO v. UNITED STATES.* C. A. 3d Cir. Certiorari denied. Reported below: 884 F. 2d 1386.

No. 89-5685. *ABDUL-AKBAR, AKA DAVIS v. REDMAN, WARDEN, ET AL.* C. A. 3d Cir. Certiorari denied.

No. 89-5708. *LAND v. UNITED STATES.* C. A. 9th Cir. Certiorari denied. Reported below: 881 F. 2d 1085.

No. 89-5711. *USAN v. UNITED STATES.* C. A. 11th Cir. Certiorari denied. Reported below: 884 F. 2d 584.

No. 89-5714. *HINES v. UNITED STATES.* C. A. 10th Cir. Certiorari denied. Reported below: 881 F. 2d 844.

No. 89-5717. *SHAH v. UNITED STATES.* C. A. 6th Cir. Certiorari denied. Reported below: 880 F. 2d 1322.

No. 89-5719. *GRANT v. UNITED STATES.* C. A. 2d Cir. Certiorari denied. Reported below: 882 F. 2d 699.

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No. 89-5721. IZQUIERDO *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied. Reported below: 884 F. 2d 1385.

No. 89-5722. FAZZINO *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 884 F. 2d 1390.

No. 89-5730. PORTER *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. Reported below: 881 F. 2d 878.

No. 88-1449. KOREAN AIR LINES *v.* MACNAMARA; and

No. 88-1551. MACNAMARA *v.* KOREAN AIR LINES. C. A. 3d Cir. Certiorari denied. JUSTICE WHITE would grant certiorari. Reported below: 863 F. 2d 1135.

No. 89-383. HANSON *v.* ARROWSMITH ET AL. C. A. 6th Cir. Certiorari denied. JUSTICE WHITE would grant certiorari. Reported below: 872 F. 2d 745.

No. 89-45. HAWAII *v.* ROMAN. Sup. Ct. Haw. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 70 Haw. 351, 772 P. 2d 113.

No. 89-187. MCCORMICK, WARDEN, ET AL. *v.* COLEMAN. C. A. 9th Cir. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 874 F. 2d 1280.

No. 89-247. COLORADO *v.* LACY. Sup. Ct. Colo. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 775 P. 2d 1.

No. 89-168. REXALL DRUG CO. *v.* TIGUE ET AL.;

No. 89-204. E. R. SQUIBB & SONS, INC. *v.* HYMOWITZ ET AL.; E. R. SQUIBB & SONS, INC. *v.* TIGUE ET AL.; E. R. SQUIBB & SONS, INC. *v.* DOLAN ET AL.; and

No. 89-397. ELI LILLY & CO. *v.* HYMOWITZ ET AL.; and ELI LILLY & CO. *v.* DOLAN ET AL. Ct. App. N. Y. Certiorari denied. JUSTICE O'CONNOR and JUSTICE SCALIA took no part in the consideration or decision of these petitions. Reported below: 73 N. Y. 2d 487, 539 N. E. 2d 1069.

No. 89-365. POLYAK *v.* STACK ET AL. C. A. 6th Cir. Motion of petitioner to defer consideration of the petition for writ of certiorari and to consolidate with other cases denied. Certiorari denied. Reported below: 871 F. 2d 1088.

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No. 89-5106. *HERRERA v. REDMAN, WARDEN*. C. A. 6th Cir. Certiorari denied. JUSTICE WHITE and JUSTICE BLACKMUN would grant certiorari. Reported below: 869 F. 2d 1490.

No. 89-5385. *GATES v. ZANT, SUPERINTENDENT, GEORGIA DIAGNOSTIC AND CLASSIFICATION CENTER*. C. A. 11th Cir.;

No. 89-5433. *LILES v. OKLAHOMA*. Ct. Crim. App. Okla.;

No. 89-5510. *RUTHERFORD v. FLORIDA*. Sup. Ct. Fla.;

No. 89-5535. *FERGUSON v. SNYDER, CIRCUIT JUDGE FOR THE ELEVENTH JUDICIAL CIRCUIT*. Sup. Ct. Fla.;

No. 89-5547. *ANDREWS v. BARNES, WARDEN*. Sup. Ct. Utah;

No. 89-5548. *HALLFORD v. ALABAMA*. Sup. Ct. Ala.;

No. 89-5589. *FITZGERALD v. THOMPSON, WARDEN*. Ct. App. Va.; and

No. 89-5741. *TAYLOR v. TENNESSEE*. Sup. Ct. Tenn. Certiorari denied. Reported below: No. 89-5385, 863 F. 2d 1492; No. 89-5510, 545 So. 2d 853; No. 89-5535, 548 So. 2d 662; No. 89-5547, 779 P. 2d 228; No. 89-5548, 548 So. 2d 547; No. 89-5589, 6 Va. App. 38, 366 S. E. 2d 615; No. 89-5741, 774 S. W. 2d 163.

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. 89-5503. *LYNN v. ALABAMA*. Ct. Crim. App. Ala. Certiorari denied. Reported below: 543 So. 2d 704.

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 hold this view, I would grant the petition to determine whether a prosecutor's reliance on a nonracial criterion in exercising his peremptory jury challenges violates the Equal Protection Clause where that criterion is highly correlated to race and the

bias that the prosecutor seeks to exclude through the use of that criterion could easily have been discovered on *voir dire*.

Petitioner Frederick Lynn, an Afro-American, was convicted of murder by an all-white jury and sentenced to death. During *voir dire*, the prosecutor exercised 11 of his 14 peremptory challenges to remove all of the potential Afro-American jurors. The crime occurred in Barbour County, Alabama, a small community with approximately equal white and Afro-American populations. General Population Characteristics, Alabama, Census of Population 2-15 (1980) (13,693 whites, 11,003 Afro-Americans). Certain neighborhoods within the community are populated predominately by people of color.

While Lynn's appeal was pending, this Court lowered the threshold showing required for a criminal defendant to establish a *prima facie* case of purposeful discrimination in jury selection. *Batson v. Kentucky*, 476 U. S. 79, 97 (1986). To make out such a case, a defendant must establish first that he is a member of a cognizable racial group and that the prosecutor has acted to remove members of that group from the venire; second, that the procedure used by the State permits those "who are of a mind to discriminate" to do so; and third, that the facts and circumstances of the case raise the inference that the State acted in a discriminatory manner. *Id.*, at 96. To rebut a *prima facie* case of racial discrimination, the prosecutor must offer a "'clear and reasonably specific' explanation of his 'legitimate reasons' for exercising the challenges." *Id.*, at 98, n. 20 (quoting *Texas Dept. of Community Affairs v. Burdine*, 450 U. S. 248, 258 (1981)). We subsequently determined that the ruling in *Batson* applies retroactively to state convictions pending on direct review at the time of the *Batson* decision. *Griffith v. Kentucky*, 479 U. S. 314 (1987).

The Alabama Court of Criminal Appeals remanded Lynn's case to the trial court to conduct an evidentiary hearing on his *Batson* claim. At that hearing, the prosecutor gave a juror-by-juror explanation of his peremptory strikes. The prosecutor stated that he exercised his fourth strike to exclude an Afro-American juror that "live[d] on the Gammage Road in an area where the defendant, Frederick Lynn, was living at the time of this crime, and also where . . . the defendant's grandmother and aunt . . . have lived for numerous years. I felt that friendship would possibly be there that would bias [the juror], and for that reason struck him."

App. 5 to Pet. for Cert. 7. The prosecutor indicated that he struck another juror on similar grounds:

“She also lives on Gammage Road and was a neighbor to [defendant’s grandmother] and also [defendant’s aunt], and also was living in close proximity to the defendant who was living with his grandmother and aunt at the time of the crime. We felt the *possibility* of knowing these people might affect her fairness, and for that reason we struck her.” *Id.*, at 11 (emphasis added).

On cross-examination, the prosecutor stated that the area along Gammage Road is populated primarily by people of color. *Id.*, at 20.

The trial court determined that these explanations rebutted petitioner’s prima facie case of discrimination in jury selection. The Alabama Court of Criminal Appeals, applying a “clear error” standard to the trial court’s determination, affirmed in a split decision. *Ex parte Lynn*, 543 So. 2d 709 (Ala. 1988).

In a small community with racially identifiable neighborhoods, an individual’s address closely corresponds to his or her race. In this case, the prosecutor justified two of his strikes on the possibility that the challenged venirepersons “might” have known persons connected with or interested in the trial merely because they lived in the same neighborhood. Yet the prosecutor did not ask these potential jurors whether they *actually* knew anyone involved in the trial, although he had ample opportunity to do so on *voir dire*. Such an inquiry is a standard part of *voir dire* practice. In fact, if the prosecutor’s true concern was the challenged jurors’ familiarity with persons interested in the trial’s outcome, he could have established the validity of that concern and struck such jurors for *cause*, preserving the State’s peremptory strikes. His failure to do so suggests that the proxy for bias on which he actually relied was not place of residence but race.

Mere place of residence, or any other factor closely related to race, should not be regarded as a legitimate basis for exercising peremptory challenges without some corroboration on *voir dire* that the challenged venirepersons actually entertain the bias underlying the use of that factor. This is true particularly when, as in this case, the prosecutor can easily ascertain the existence of the alleged bias without use of the overly broad proxy for bias.

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To hold otherwise would render *Batson's* protections against race discrimination in jury selection illusory.

Accordingly, I would find that the prosecutor's uncorroborated suspicions of bias on the part of two challenged venirepersons insufficient to rebut the prima facie case of discrimination in this case. A *Batson* violation occurs when a prosecutor strikes any juror on the basis of race. *Batson, supra*, at 99, n. 22 ("The standard we adopt under the Federal Constitution is designed to ensure that a State does not use peremptory challenges to strike any black juror because of his race"). I dissent.

Rehearing Denied

No. 88-5032. *RUIZ v. CALIFORNIA*, 488 U. S. 871; and

No. 88-6190. *WILLIAMS v. OHIO*, 489 U. S. 1040. Motions for leave to file petitions for rehearing denied.

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Certiorari Granted—Vacated and Remanded

No. 89-401. *WECHT, PRESIDENT OF THE ALLEGHENY COUNTY BOARD OF PRISON INSPECTORS, ET AL. v. INMATES OF THE ALLEGHENY COUNTY JAIL ET AL.* C. A. 3d Cir. Certiorari granted, judgment vacated, and case remanded for further consideration in light of *University of Texas v. Camenisch*, 451 U. S. 390 (1981). Reported below: 874 F. 2d 147.

Miscellaneous Orders

No. — — —. *RAMACHANDRAN v. SECRETARY OF THE NAVY*. Motion to direct the Clerk to file petition for writ of certiorari out of time denied.

No. — — —. *STOCKS v. UNITED STATES*. Motion to direct the Clerk to file petition for writ of certiorari out of time denied. JUSTICE BLACKMUN dissents and would grant the motion.

No. A-62 (89-243). *ELI LILLY & Co. v. MEDTRONIC, INC.* C. A. Fed. Cir. [Certiorari granted, *ante*, p. 889.] Application for recall and stay of mandate of the United States Court of Appeals for the Federal Circuit, addressed to THE CHIEF JUSTICE and referred to the Court, denied. JUSTICE O'CONNOR took no part in the consideration or decision of this application.

No. A-166 (89-5728). *PREUSS v. DISTRICT OF COLUMBIA ET AL.* Ct. App. D. C. Application for stay, addressed to JUSTICE BRENNAN and referred to the Court, denied.

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No. A-300 (88-2043). BALILES, GOVERNOR OF VIRGINIA, ET AL. *v.* VIRGINIA HOSPITAL ASSN. C. A. 4th Cir. [Certiorari granted, *ante*, p. 808.] Application for stay of District Court proceedings, presented to THE CHIEF JUSTICE, and by him referred to the Court, denied.

No. D-814. IN RE DISBARMENT OF BERNSTEIN. It is ordered that Zale A. Bernstein, of Fort Lauderdale, 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-815. IN RE DISBARMENT OF SHIMEK. It is ordered that Paul Shimek, Jr., of Pensacola, 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-816. IN RE DISBARMENT OF CHANDLER. It is ordered that Robert Thomas Chandler, of Spokane, Wash., 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-817. IN RE DISBARMENT OF SINGER. It is ordered that Phillip Singer, of Beverly Hills, 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-818. IN RE DISBARMENT OF SAUL. It is ordered that Edwin S. Saul, of Encino, Cal., be suspended from the practice of law in this Court and that a rule issue, returnable within 40 days, requiring him to show cause why he should not be disbarred from the practice of law in this Court.

No. D-819. IN RE DISBARMENT OF CHANG. It is ordered that Timothy Theodore Chang, of El Segundo, 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-820. IN RE DISBARMENT OF McDONNELL. It is ordered that John Joseph McDonnell, of Chicago, Ill., be suspended from the practice of law in this Court and that a rule issue, return-

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able within 40 days, requiring him to show cause why he should not be disbarred from the practice of law in this Court.

No. D-821. *IN RE DISBARMENT OF ELLIOTT*. It is ordered that Alfred Elliott, of Overland Park, Kan., be suspended from the practice of law in this Court and that a rule issue, returnable within 40 days, requiring him to show cause why he should not be disbarred from the practice of law in this Court.

No. D-822. *IN RE DISBARMENT OF MASTERS*. It is ordered that Alan Masters, of Summit, 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-823. *IN RE DISBARMENT OF WINTER*. It is ordered that Edward John Winter, Jr., of Miami, Fla., be suspended from the practice of law in this Court and that a rule issue, returnable within 40 days, requiring him to show cause why he should not be disbarred from the practice of law in this Court.

No. D-824. *IN RE DISBARMENT OF HOPP*. It is ordered that Kenneth H. Hopp, of Yucaipa, 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-825. *IN RE DISBARMENT OF KOSLOW*. It is ordered that David Solomon Koslow, 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-826. *IN RE DISBARMENT OF RUDD*. It is ordered that Leon J. Rudd, of Boca Raton, 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-827. *IN RE DISBARMENT OF COGHLAN*. It is ordered that John P. Coghlan, Jr., 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.

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No. 87-2012. FW/PBS, INC., DBA PARIS ADULT BOOKSTORE II, ET AL. *v.* CITY OF DALLAS ET AL.;

No. 87-2051. M. J. R., INC., ET AL. *v.* CITY OF DALLAS; and

No. 88-49. BERRY ET AL. *v.* CITY OF DALLAS ET AL. C. A. 5th Cir. [Certiorari granted, 489 U. S. 1051.] Motion of petitioners M. J. R., Inc., et al. for leave to file a supplemental brief after argument granted. Request of petitioners FW/PBS, Inc., et al. for leave to join the supplemental brief granted.

No. 87-2066. W. S. KIRKPATRICK & CO., INC., ET AL. *v.* ENVIRONMENTAL TECTONICS CORP., INTERNATIONAL. C. A. 3d Cir. [Certiorari granted, 492 U. S. 905.] Motion of the Solicitor General for leave to participate in oral argument as *amicus curiae* and for divided argument granted.

No. 88-325. AMERICAN TRUCKING ASSNS., INC., ET AL. *v.* SMITH, DIRECTOR, ARKANSAS HIGHWAY AND TRANSPORTATION DEPARTMENT, ET AL. Sup. Ct. Ark. [Certiorari granted, 488 U. S. 954.] Motion of respondents for leave to file a brief on reargument granted.

No. 88-493. UNIVERSITY OF PENNSYLVANIA *v.* EQUAL EMPLOYMENT OPPORTUNITY COMMISSION. C. A. 3d Cir. [Certiorari granted, 488 U. S. 992 and 490 U. S. 1015.] Motion of President and Fellows of Harvard College for leave to file a brief as *amicus curiae* granted.

No. 88-1503. CRUZAN, BY HER PARENTS AND CO-GUARDIANS, CRUZAN ET UX. *v.* DIRECTOR, MISSOURI DEPARTMENT OF HEALTH, ET AL. Sup. Ct. Mo. [Certiorari granted, 492 U. S. 917.] Motion of the Solicitor General for leave to participate in oral argument as *amicus curiae* and for divided argument granted.

No. 88-1943. OFFICE OF PERSONNEL MANAGEMENT *v.* RICHMOND. C. A. Fed. Cir. [Certiorari granted, *ante*, p. 806.] Motion of the Solicitor General to dispense with printing the joint appendix granted.

No. 88-6546. DURO *v.* REINA, CHIEF OF POLICE, SALT RIVER DEPARTMENT OF PUBLIC SAFETY, SALT RIVER PIMA-MARICOPA INDIAN COMMUNITY, ET AL. C. A. 9th Cir. [Certiorari granted, 490 U. S. 1034.] Motion of Rosebud Sioux Tribe et al. for leave to file a brief as *amici curiae* granted.

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No. 88-6613. *BOYDE v. CALIFORNIA*. Sup. Ct. Cal. [Certiorari granted, 490 U. S. 1097.] Motion for appointment of counsel granted, and it is ordered that Dennis A. Fischer, Esq., of Santa Monica, Cal., be appointed to serve as counsel for petitioner in this case.

No. 88-7164. *HORTON v. CALIFORNIA*. Ct. App. Cal., 6th App. Dist. [Certiorari granted, *ante*, p. 889.] Motion for appointment of counsel granted, and it is ordered that Juliana Drous, Esq., of San Francisco, Cal., be appointed to serve as counsel for petitioner in this case.

No. 88-7194. *TAYLOR v. UNITED STATES*. C. A. 8th Cir. [Certiorari granted, *ante*, p. 889.] Motion for appointment of counsel granted, and it is ordered that Bruce Livingston, Esq., of St. Louis, Mo., be appointed to serve as counsel for petitioner in this case.

No. 89-189. *RICKETTS, DIRECTOR, ARIZONA DEPARTMENT OF CORRECTIONS, ET AL. v. JEFFERS*. C. A. 9th Cir. [Certiorari granted, *ante*, p. 889.] Motion for appointment of counsel granted, and it is ordered that James S. Liebman, Esq., of New York, N. Y., be appointed to serve as counsel for respondent in this case.

No. 89-641. *GARNETT, BY AND THROUGH HIS NEXT FRIEND, SMITH, ET AL. v. RENTON SCHOOL DISTRICT NO. 403 ET AL.* C. A. 9th Cir. Motion of petitioners to expedite consideration of petition for writ of certiorari denied.

No. 89-5614. *HOPKINS v. ARIZONA DEPARTMENT OF REAL ESTATE ET AL.* Ct. App. Ariz. Motion of petitioner for leave to proceed *in forma pauperis* denied. Petitioner is allowed until November 27, 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 certiorari without reaching the merits of the motion to proceed *in forma pauperis*.

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No. 89-584. *IN RE MARIK*. Petition for writ of habeas corpus denied.

No. 89-5600. *IN RE MAKER*. Petition for writ of mandamus denied.

Certiorari Granted

No. 89-98. *DAVIS ET UX. v. UNITED STATES*. C. A. 9th Cir. Certiorari granted. Reported below: 861 F. 2d 558.

No. 89-474. *GRADY, DISTRICT ATTORNEY OF DUTCHESS COUNTY v. CORBIN*. Ct. App. N. Y. Certiorari granted. Reported below: 74 N. Y. 2d 279, 543 N. E. 2d 714.

No. 89-431. *YELLOW FREIGHT SYSTEM, INC. v. DONNELLY*. C. A. 7th Cir. Certiorari granted limited to Question 1 presented by the petition. Reported below: 874 F. 2d 402.

Certiorari Denied

No. 88-2085. *LOCAL 30, UNITED SLATE, TILE & COMPOSITION ROOFERS, DAMP & WATERPROOF WORKERS ASSN., ET AL. v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 871 F. 2d 401.

No. 88-7300. *CONNER v. DIRECTOR, DIVISION OF ADULT CORRECTIONS OF IOWA*. C. A. 8th Cir. Certiorari denied. Reported below: 870 F. 2d 1384.

No. 88-7322. *STUMPF v. COMMISSIONER OF INTERNAL REVENUE*. C. A. 9th Cir. Certiorari denied. Reported below: 865 F. 2d 1271.

No. 88-7477. *BENTLEY v. CARLSON, FORMER DIRECTOR, BUREAU OF PRISONS, ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 869 F. 2d 1488.

No. 88-7607. *JOHNSON v. LYNAUGH, DIRECTOR, TEXAS DEPARTMENT OF CORRECTIONS*. C. A. 5th Cir. Certiorari denied.

No. 88-7611. *JOHNSTON v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 876 F. 2d 589.

No. 89-34. *BARRIOS-MORIERA v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 872 F. 2d 12.

No. 89-47. *COLEMAN ET AL. v. YEUTTER, SECRETARY OF AGRICULTURE, ET AL.* C. A. 8th Cir. Certiorari denied. Reported below: 864 F. 2d 604.

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No. 89-73. *JAFFEE v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 861 F. 2d 232.

No. 89-75. *PARRILLO v. PARRILLO*. Sup. Ct. R. I. Certiorari denied. Reported below: 554 A. 2d 1043.

No. 89-127. *CASTIGLIONE v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 876 F. 2d 73.

No. 89-175. *EVANS v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 874 F. 2d 817.

No. 89-179. *TOWN OF BEECH MOUNTAIN, NORTH CAROLINA, ET AL. v. COUNTY OF WATAUGA, NORTH CAROLINA, ET AL.* Sup. Ct. N. C. Certiorari denied. Reported below: 324 N. C. 409, 378 S. E. 2d 780.

No. 89-196. *RAILROAD COMMISSION OF TEXAS v. FEDERAL ENERGY REGULATORY COMMISSION*; and

No. 89-394. *WALKER OPERATING CORP. ET AL. v. FEDERAL ENERGY REGULATORY COMMISSION*. C. A. 10th Cir. Certiorari denied. Reported below: 874 F. 2d 1320.

No. 89-237. *PAYNE v. IMMIGRATION AND NATURALIZATION SERVICE*. C. A. 4th Cir. Certiorari denied. Reported below: 879 F. 2d 863.

No. 89-246. *SQUITTIERI ET AL. v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 879 F. 2d 861.

No. 89-264. *DURHAM v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 868 F. 2d 1010.

No. 89-274. *GREENLEAF MOTOR EXPRESS, INC., ET AL. v. NATIONAL LABOR RELATIONS BOARD*. C. A. 6th Cir. Certiorari denied. Reported below: 872 F. 2d 1027.

No. 89-283. *AMY TRAVEL SERVICES, INC., ET AL. v. FEDERAL TRADE COMMISSION*. C. A. 7th Cir. Certiorari denied. Reported below: 875 F. 2d 564.

No. 89-329. *NATIONAL TOOL & MANUFACTURING Co., INC. v. LEPORE*. Sup. Ct. N. J. Certiorari denied. Reported below: 115 N. J. 226, 557 A. 2d 1371.

No. 89-342. *SHERMAN v. NISSAN MOTOR CORP. ET AL.* Ct. App. Cal., 1st App. Dist. Certiorari denied.

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No. 89-372. *AMANDA ACQUISITION CORP. v. UNIVERSAL FOODS CORP. ET AL.* C. A. 7th Cir. Certiorari denied. Reported below: 877 F. 2d 496.

No. 89-434. *JULIEN v. BAKER.* Ct. App. Tex., 14th Dist. Certiorari denied. Reported below: 758 S. W. 2d 873.

No. 89-457. *MCCLURE ET UX. v. JEFFERSON ARMS CORP.* Ct. App. Mo., Eastern Dist. Certiorari denied. Reported below: 770 S. W. 2d 406.

No. 89-463. *TIERNEY v. NEW MEXICO.* Ct. App. N. M. Certiorari denied.

No. 89-466. *MAALOUF v. KAZAN.* C. A. 9th Cir. Certiorari denied. Reported below: 860 F. 2d 1089.

No. 89-491. *AMERICAN INVESTORS OF PITTSBURGH, INC., ET AL. v. UNITED STATES;* and

No. 89-520. *ZYTNICK v. UNITED STATES.* C. A. 3d Cir. Certiorari denied. Reported below: 879 F. 2d 1087.

No. 89-495. *ALEXANDER v. MASSACHUSETTS LABOR RELATIONS COMMISSION.* Sup. Jud. Ct. Mass. Certiorari denied. Reported below: 404 Mass. 1005, 537 N. E. 2d 139.

No. 89-499. *FIRTH ET AL. v. SOLGAR MARYLAND REALTY, INC., ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 873 F. 2d 1438.

No. 89-509. *CITY OF PHILADELPHIA ET AL. v. WALMSLEY, ADMINISTRATRIX OF THE ESTATE OF WALMSLEY, ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 872 F. 2d 546.

No. 89-526. *RIVERA DEL SOCORRO v. UNITED STATES.* C. A. 11th Cir. Certiorari denied. Reported below: 883 F. 2d 77.

No. 89-587. *ROPER v. UNITED STATES.* C. A. 11th Cir. Certiorari denied. Reported below: 874 F. 2d 782.

No. 89-5057. *VOLANTY v. LYNAUGH, DIRECTOR, TEXAS DEPARTMENT OF CORRECTIONS.* C. A. 5th Cir. Certiorari denied. Reported below: 874 F. 2d 243.

No. 89-5067. *FIELDS ET AL. v. UNITED STATES.* C. A. 1st Cir. Certiorari denied. Reported below: 871 F. 2d 188.

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No. 89-5102. *JOHNSON v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 875 F. 2d 868.

No. 89-5175. *MARCO L. v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 868 F. 2d 1121.

No. 89-5191. *WILLIAMS v. MICHIGAN*. Ct. App. Mich. Certiorari denied. Reported below: 171 Mich. App. 234, 429 N. W. 2d 649.

No. 89-5304. *SEDILLO v. SULLIVAN, WARDEN*. C. A. 10th Cir. Certiorari denied.

No. 89-5348. *STURDIVANT v. UNITED STATES*. Ct. App. D. C. Certiorari denied. Reported below: 551 A. 2d 1338.

No. 89-5361. *BERTRAM v. UNITED STATES*. C. A. 11th Cir. Certiorari denied.

No. 89-5380. *BURRELL v. STOCK ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 867 F. 2d 1427.

No. 89-5403. *OBALAJA v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 877 F. 2d 174.

No. 89-5532. *LAURENCO v. SULLIVAN, SECRETARY, DEPARTMENT OF HEALTH AND HUMAN SERVICES*. C. A. 4th Cir. Certiorari denied. Reported below: 879 F. 2d 862.

No. 89-5571. *CHICCO v. RADIO STATION WBSM ET AL.* C. A. 1st Cir. Certiorari denied.

No. 89-5573. *FLEMING v. MAKEL, WARDEN*. C. A. 6th Cir. Certiorari denied. Reported below: 880 F. 2d 414.

No. 89-5577. *SCRUGGS v. MOELLERING ET AL.* C. A. 7th Cir. Certiorari denied. Reported below: 870 F. 2d 376.

No. 89-5582. *DEMOS v. SUPREME COURT OF WASHINGTON*. Sup. Ct. Wash. Certiorari denied.

No. 89-5583. *HARKRIDER v. SULLIVAN, SHERIFF OF ARAPAHOE COUNTY, COLORADO, ET AL.* C. A. 10th Cir. Certiorari denied.

No. 89-5588. *RODRIGUEZ v. KELLY, SUPERINTENDENT, AT-TICA CORRECTIONAL FACILITY*. C. A. 2d Cir. Certiorari denied.

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No. 89-5592. ASCH ET UX. *v.* MERRILL LYNCH, PIERCE, FENNER & SMITH INC. ET AL. C. A. 3d Cir. Certiorari denied.

No. 89-5597. TELEPO *v.* ARNOLD ET AL. C. A. 3d Cir. Certiorari denied.

No. 89-5607. LEPISCOPO *v.* MOWRER, JUDGE, DISTRICT COURT OF NEW MEXICO, SECOND JUDICIAL DISTRICT, ET AL. Sup. Ct. N. M. Certiorari denied.

No. 89-5625. OSPINA-VILLA *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied. Reported below: 885 F. 2d 873.

No. 89-5639. SPARKS *v.* SPARKS. Ct. App. Mo., Eastern Dist. Certiorari denied. Reported below: 768 S. W. 2d 563.

No. 89-5643. DARROMAN *v.* UNITED STATES PAROLE COMMISSION. C. A. 5th Cir. Certiorari denied. Reported below: 878 F. 2d 1432.

No. 89-5646. MYERS *v.* IBERIA PARISH COUNCIL ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 877 F. 2d 971.

No. 89-5652. BIRDWELL *v.* MCMAHON ET AL. C. A. 9th Cir. Certiorari denied.

No. 89-5663. GALLARDO ET AL. *v.* QUINLAN ET AL. C. A. 3d Cir. Certiorari denied. Reported below: 874 F. 2d 186.

No. 89-5668. BOREN, AKA WILLIAMS *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied. Reported below: 885 F. 2d 873.

No. 89-5671. LOWE *v.* WELLS, WARDEN. C. A. 6th Cir. Certiorari denied. Reported below: 877 F. 2d 62.

No. 89-5673. NIETO *v.* SULLIVAN, WARDEN. C. A. 10th Cir. Certiorari denied. Reported below: 879 F. 2d 743.

No. 89-5677. SMITH *v.* PENNSYLVANIA UNEMPLOYMENT COMPENSATION BOARD OF REVIEW. Pa. Commw. Ct. Certiorari denied.

No. 89-5682. SIMMONS *v.* LYNAUGH, DIRECTOR, TEXAS DEPARTMENT OF CORRECTIONS, ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 874 F. 2d 813.

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No. 89-5687. *TYREE ET AL. v. THORNBURGH, ATTORNEY GENERAL OF THE UNITED STATES*. C. A. D. C. Cir. Certiorari denied.

No. 89-5693. *KERRIS v. UNITED STATES COURT OF APPEALS FOR THE ELEVENTH CIRCUIT*. C. A. 11th Cir. Certiorari denied.

No. 89-5695. *CORDERO v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 884 F. 2d 584.

No. 89-5696. *RIGDON v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 874 F. 2d 774.

No. 89-5716. *CORDEIRO v. UNITED STATES*. C. A. Fed. Cir. Certiorari denied. Reported below: 883 F. 2d 1027.

No. 89-5744. *JUSTICE v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 877 F. 2d 664.

No. 89-5750. *HIMITOLA ET AL. v. UNITED STATES*. C. A. 1st Cir. Certiorari denied. Reported below: 882 F. 2d 546.

No. 89-5760. *MORALES v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 880 F. 2d 827.

No. 89-5764. *FRITZ v. BARKER, JUDGE, KENTUCKY CIRCUIT COURT AT FAYETTE, ET AL.* Sup. Ct. Ky. Certiorari denied.

No. 89-5766. *MONSON v. UNITED STATES*. C. A. 10th Cir. Certiorari denied.

No. 88-1042. *FERNANDEZ v. FERNANDEZ*. Sup. Ct. Conn. Certiorari denied. JUSTICE BLACKMUN would grant certiorari. Reported below: 208 Conn. 329, 545 A. 2d 1036.

No. 89-280. *ESTATE OF LEAVITT ET AL. v. COMMISSIONER OF INTERNAL REVENUE*. C. A. 4th Cir. Certiorari denied. JUSTICE WHITE would grant certiorari. Reported below: 875 F. 2d 420.

No. 89-282. *COMBINED INSURANCE COMPANY OF AMERICA v. AINSWORTH*. Sup. Ct. Nev. Certiorari denied. JUSTICE WHITE would grant certiorari. Reported below: 104 Nev. 587, 763 P. 2d 673, and 105 Nev. 237, 774 P. 2d 1003.

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No. 89-440. CLARDY, EXECUTRIX OF THE ESTATE OF CLARDY, ET AL. *v.* SANDERS. Sup. Ct. Ala. Certiorari denied. JUSTICE WHITE would grant certiorari. Reported below: 551 So. 2d 1057.

No. 89-441. MENARD-SANFORD ET AL. *v.* A. H. ROBINS CO., INC., ET AL. C. A. 4th Cir. Certiorari denied. JUSTICE WHITE would grant certiorari. Reported below: 880 F. 2d 694.

No. 89-442. ANDERSON ET AL. *v.* AETNA CASUALTY & SURETY CO. ET AL. C. A. 4th Cir. Certiorari denied. JUSTICE WHITE would grant certiorari. Reported below: 880 F. 2d 709.

No. 89-456. VINTAGE ENTERPRISES, INC. *v.* JAYE ET UX. Sup. Ct. Ala. Certiorari denied. JUSTICE WHITE would grant certiorari. Reported below: 547 So. 2d 1169.

No. 89-295. STONE *v.* WILLIAMS ET AL. C. A. 2d Cir. Motion of petitioner to defer consideration of the petition for writ of certiorari denied. Certiorari denied. Reported below: 873 F. 2d 620.

No. 89-5279. WEST *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. JUSTICE BRENNAN and JUSTICE WHITE would grant certiorari. Reported below: 877 F. 2d 281.

No. 89-5634. PERRY *v.* LOCKHART, DIRECTOR, ARKANSAS DEPARTMENT OF CORRECTION. C. A. 8th Cir. Certiorari denied. Reported below: 871 F. 2d 1384.

JUSTICE BRENNAN and JUSTICE MARSHALL, dissenting.

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

Rehearing Denied

No. 88-6895. HEIGHTLAND *v.* UNITED STATES, *ante*, p. 826;
No. 88-7362. McDONALD *v.* YELLOW CAB METRO, INC., *ante*, p. 833;

No. 88-7364. MARTINEZ *v.* NEW MEXICO ET AL., *ante*, p. 833;

No. 88-7580. McDONALD *v.* JOHNSON, *ante*, p. 843;

No. 88-7609. MATHEWS *v.* LOUISIANA ET AL., *ante*, p. 844;

No. 88-7622. McDONALD *v.* TENNESSEE, *ante*, p. 845;

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- No. 89-5012. *STURM v. CALIFORNIA*, *ante*, p. 856;
 No. 89-5027. *MCDONALD v. METROPOLITAN GOVERNMENT FOR NASHVILLE AND DAVIDSON COUNTY ET AL.*, *ante*, p. 857;
 No. 89-5035. *LUCAS v. UNITED STATES*, *ante*, p. 857;
 No. 89-5070. *MCDONALD v. ONOH*, *ante*, p. 859;
 No. 89-5172. *MOON v. NEWSOME ET AL.*, *ante*, p. 863;
 No. 89-5311. *PARKER v. PARSONS, WARDEN, ET AL.*, *ante*, p. 883; and
 No. 89-5415. *CONNELLY v. GROSSMAN ET AL.*, *ante*, p. 870.
 Petitions for rehearing denied.

- No. 88-5861. *GUZMAN v. CALIFORNIA*, 488 U. S. 1050; and
 No. 88-5988. *IN RE MARTIN*, 489 U. S. 1009. Motions for leave to file petitions for rehearing denied.

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Dismissal Under Rule 53

- No. 89-52. *UNITED STATES v. ALBERTSON*. C. A. D. C. Cir. Certiorari dismissed under this Court's Rule 53. Reported below: 277 U. S. App. D. C. 37, 872 F. 2d 472.

Miscellaneous Orders

- No. — — —. *FIREY v. WASHINGTON ET AL.* Motion to direct the Clerk to file petition for writ of certiorari out of time denied.

- No. A-299 (89-555). *MUSSLEWHITE v. STATE BAR OF TEXAS*. Sup. Ct. Tex. Application for stay and other relief, addressed to JUSTICE MARSHALL and referred to the Court, denied.

- No. D-799. *IN RE DISBARMENT OF DAVIS*. Disbarment entered. [For earlier order herein, see 492 U. S. 931.]

- No. D-802. *IN RE DISBARMENT OF ROLLMAN*. Disbarment entered. [For earlier order herein, see 492 U. S. 931.]

- No. D-803. *IN RE DISBARMENT OF DIRICCO*. Disbarment entered. [For earlier order herein, see 492 U. S. 931.]

- No. D-828. *IN RE DISBARMENT OF KAVANAUGH*. It is ordered that Michael Joseph Kavanaugh, of Millford, 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.

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No. D-829. *IN RE DISBARMENT OF ISIS.* It is ordered that Herman T. Isis, of Coral Gables, 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-830. *IN RE DISBARMENT OF NICHOLSON.* It is ordered that Brandt Nicholson, of San Francisco, 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-831. *IN RE DISBARMENT OF BRASS.* It is ordered that E. Lawrence Brass, of 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-832. *IN RE DISBARMENT OF BATKIN.* It is ordered that Lewis M. Batkin, of 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-833. *IN RE DISBARMENT OF LAIRD.* It is ordered that Joseph R. Laird, Jr., of Sherman Oaks, 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-834. *IN RE DISBARMENT OF RAIKOS.* It is ordered that John D. Raikos, of Indianapolis, Ind., be suspended from the practice of law in this Court and that a rule issue, returnable within 40 days, requiring him to show cause why he should not be disbarred from the practice of law in this Court.

No. D-835. *IN RE DISBARMENT OF THORP.* It is ordered that Charles Monroe Thorp III, of Pittsburgh, Pa., be suspended from the practice of law in this Court and that a rule issue, returnable within 40 days, requiring him to show cause why he should not be disbarred from the practice of law in this Court.

No. 74, Orig. *GEORGIA v. SOUTH CAROLINA.* Motion of South Carolina for leave to file a rebuttal brief granted. [For earlier order herein, see, *e. g., ante*, p. 802.]

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No. 88-1125. HODGSON ET AL. *v.* MINNESOTA ET AL.; and

No. 88-1309. MINNESOTA ET AL. *v.* HODGSON ET AL. C. A. 8th Cir. [Certiorari granted, 492 U. S. 917.] Motion of Abortion Rights Council et al. for leave to consider their brief as *amici curiae* filed in No. 88-790, *Turnock, Director of the Illinois Department of Public Health, et al. v. Ragsdale et al.* [probable jurisdiction postponed, 492 U. S. 916], and No. 88-805, *Ohio v. Akron Center for Reproductive Health et al.* [probable jurisdiction noted, 492 U. S. 916], filed in these cases granted.

No. 88-1597. BOARD OF EDUCATION OF THE WESTSIDE COMMUNITY SCHOOLS (DIST. 66) ET AL. *v.* MERGENS, BY AND THROUGH HER NEXT FRIEND, MERGENS, ET AL. C. A. 8th Cir. [Certiorari granted, 492 U. S. 917.] Motion of the Solicitor General for divided argument granted.

No. 88-1650. TAFFLIN ET AL. *v.* LEVITT ET AL. C. A. 4th Cir. [Certiorari granted in part, 490 U. S. 1089.] Motion of petitioners for leave to file petition for rehearing of partial denial of petition for writ of certiorari denied.

No. 88-1671. UNITED STATES DEPARTMENT OF LABOR *v.* TRIPLETT ET AL.; and

No. 88-1688. COMMITTEE ON LEGAL ETHICS OF THE WEST VIRGINIA STATE BAR *v.* TRIPLETT ET AL. Sup. Ct. App. W. Va. [Certiorari granted, *ante*, p. 807.] Motion of the Solicitor General to dispense with printing the joint appendix granted.

No. 88-1872. RUTAN ET AL. *v.* REPUBLICAN PARTY OF ILLINOIS ET AL.; and

No. 88-2074. FRECH ET AL. *v.* RUTAN ET AL. C. A. 7th Cir. [Certiorari granted, *ante*, p. 807.] Motion of petitioners/cross-respondents to dispense with printing the joint appendix granted.

No. 89-459. DELTA AIR LINES, INC. *v.* ASSOCIATION OF FLIGHT ATTENDANTS, AFL-CIO. C. A. D. C. Cir. The Solicitor General is invited to file a brief in this case expressing the views of the United States.

No. 89-510. MEACHUM, COMMISSIONER, CONNECTICUT DEPARTMENT OF CORRECTIONS *v.* ALEXANDER. C. A. 2d Cir. Motion of respondent for leave to proceed *in forma pauperis* granted.

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No. 89-682. COLORADO DEPARTMENT OF SOCIAL SERVICES ET AL. *v.* AMISUB (PSL), DBA AMI ST. LUKE'S HOSPITAL, INC., ET AL. C. A. 10th Cir. Motion of respondents to expedite consideration of petition for writ of certiorari denied.

No. 89-494. IN RE SPARKS. Petition for writ of mandamus denied.

Certiorari Granted

No. 89-255. UNITED STATES *v.* ENERGY RESOURCES CO., INC., ET AL. C. A. 1st Cir. Certiorari granted. Reported below: 871 F. 2d 223.

No. 89-5383. HOWLETT, A MINOR, BY AND THROUGH HOWLETT, HIS MOTHER, NATURAL GUARDIAN, AND NEXT FRIEND *v.* ROSE, AS SUPERINTENDENT OF SCHOOLS FOR PINELAS COUNTY, FLORIDA, ET AL. Dist. Ct. App. Fla., 2d Dist. Motion of petitioner for leave to proceed *in forma pauperis* granted. Certiorari granted. Reported below: 537 So. 2d 706.

Certiorari Denied

No. 88-2019. PENNSYLVANIA *v.* GIBBS; and

No. 89-134. GIBBS *v.* PENNSYLVANIA. Sup. Ct. Pa. Certiorari denied. Reported below: 520 Pa. 151, 553 A. 2d 409.

No. 88-7549. CARTER *v.* SUPERIOR COURT OF CALIFORNIA, SACRAMENTO COUNTY, ET AL. Ct. App. Cal., 3d App. Dist. Certiorari denied.

No. 88-7626. RIVERA *v.* OROWEAT FOODS CO., INC., ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 865 F. 2d 265.

No. 89-29. LEWIS *v.* LOUISIANA. Ct. App. La., 2d Cir. Certiorari denied. Reported below: 535 So. 2d 943.

No. 89-155. HORNER *v.* UNITED STATES PAROLE COMMISSION. C. A. 9th Cir. Certiorari denied. Reported below: 870 F. 2d 1489.

No. 89-205. GUINEY *v.* ROACHE. C. A. 1st Cir. Certiorari denied. Reported below: 873 F. 2d 1557.

No. 89-245. GARCIA *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 875 F. 2d 316.

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No. 89-290. *JONES ET AL. v. TRUCK DRIVERS LOCAL UNION NO. 299*. C. A. 6th Cir. Certiorari denied. Reported below: 838 F. 2d 856.

No. 89-311. *CONSOLIDATED GAS COMPANY OF FLORIDA, INC. v. FEDERAL ENERGY REGULATORY COMMISSION*. C. A. D. C. Cir. Certiorari denied. Reported below: 276 U. S. App. D. C. 358, 871 F. 2d 155.

No. 89-327. *LUCAS ET AL. v. LLOYD'S LEASING ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 868 F. 2d 1447.

No. 89-350. *LANTANA CASCADE OF PALM BEACH, LTD. v. LANCA HOMEOWNERS, INC.* Sup. Ct. Fla. Certiorari denied. Reported below: 541 So. 2d 1121.

No. 89-362. *ROE ET AL. v. DOE ET AL.* Sup. Ct. Fla. Certiorari denied. Reported below: 543 So. 2d 741.

No. 89-405. *MOKI MAC RIVER EXPEDITIONS, INC. v. ARIZONA DEPARTMENT OF REVENUE*. Ct. App. Ariz. Certiorari denied. Reported below: 160 Ariz. 369, 773 P. 2d 474.

No. 89-422. *WILLIAMS v. HEALEY*. C. A. 2d Cir. Certiorari denied.

No. 89-438. *GREG'S HESS STATION, INC. v. NEW JERSEY COMMISSIONER OF TRANSPORTATION ET AL.* Super. Ct. N. J., App. Div. Certiorari denied. Reported below: 226 N. J. Super. 256, 543 A. 2d 1050.

No. 89-468. *DOUGLAS v. LEGAL ETHICS COMMITTEE OF THE WEST VIRGINIA STATE BAR*. Sup. Ct. App. W. Va. Certiorari denied.

No. 89-472. *WHITE ET AL. v. CELOTEX CORP. ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 878 F. 2d 144.

No. 89-477. *CHANDLER'S COVE INN, LTD. v. HOLLAND, JUDGE, UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF NEW YORK*. C. A. 2d Cir. Certiorari denied. Reported below: 876 F. 2d 890.

No. 89-487. *REPUBLIC OF GHANA ET AL. v. TREFALCON CORP. ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 880 F. 2d 1318.

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No. 89-489. *SMITH v. MASSACHUSETTS INSTITUTE OF TECHNOLOGY ET AL.* C. A. 1st Cir. Certiorari denied. Reported below: 877 F. 2d 1106.

No. 89-490. *JAY v. SUCHER ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 875 F. 2d 864.

No. 89-492. *NISTANK v. KABOLI.* Sup. Ct. Nev. Certiorari denied. Reported below: 105 Nev. 1036, 810 P. 2d 330.

No. 89-500. *MILLWRIGHT LOCAL NO. 1079 v. UNITED BROTHERHOOD OF CARPENTERS & JOINERS OF AMERICA ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 878 F. 2d 960.

No. 89-502. *WOLFBERG v. GREENBERG.* C. A. 10th Cir. Certiorari denied.

No. 89-505. *THOMPSON v. HINTON, JUDGE, FLEMING CIRCUIT COURT.* Sup. Ct. Ky. Certiorari denied.

No. 89-507. *PACIFIC LIGHTING LAND CO. v. JOHNSON ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 878 F. 2d 297.

No. 89-519. *BURR ET VIR v. HUTHNANCE DRILLING CO. ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 877 F. 2d 970.

No. 89-545. *BOWLING v. BRONNER ET AL.* C. A. 11th Cir. Certiorari denied. Reported below: 871 F. 2d 123.

No. 89-561. *LARAIA v. PHILLIS ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 879 F. 2d 857.

No. 89-574. *MILLER v. CITY OF LOCK HAVEN ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 877 F. 2d 56.

No. 89-581. *CORPORATION OF MERCER UNIVERSITY v. UNITED STATES GYPSUM CO. ET AL.* C. A. 11th Cir. Certiorari denied. Reported below: 877 F. 2d 35.

No. 89-614. *LOCAL 112, INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS, AFL-CIO v. BRAY ET AL.* Sup. Ct. Wash. Certiorari denied. Reported below: 112 Wash. 2d 253, 770 P. 2d 634.

No. 89-622. *TRIMPER v. UNITED STATES.* Ct. Mil. App. Certiorari denied. Reported below: 28 M. J. 460.

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No. 89-633. *CIVELLI v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 883 F. 2d 191.

No. 89-639. *NATIONAL FUNERAL SERVICES, INC. v. CAPERTON, GOVERNOR OF WEST VIRGINIA, ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 870 F. 2d 136.

No. 89-5006. *LOGSDON v. LYNAUGH, DIRECTOR, TEXAS DEPARTMENT OF CORRECTIONS*. C. A. 5th Cir. Certiorari denied. Reported below: 874 F. 2d 813.

No. 89-5019. *GOBER v. KENTUCKY*. Sup. Ct. Ky. Certiorari denied.

No. 89-5095. *DAKINS v. UNITED STATES*. C. A. D. C. Cir. Certiorari denied. Reported below: 277 U. S. App. D. C. 91, 872 F. 2d 1061.

No. 89-5163. *WATKINS v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 873 F. 2d 299.

No. 89-5215. *THOMPSON v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 877 F. 2d 973.

No. 89-5241. *MOSS v. VIRGINIA*. Sup. Ct. Va. Certiorari denied.

No. 89-5244. *ERBE v. ILLINOIS*. App. Ct. Ill., 4th Dist. Certiorari denied. Reported below: 178 Ill. App. 3d 1161, 551 N. E. 2d 838.

No. 89-5284. *CHANNELL, AKA CHANNEL v. CALIFORNIA*. Ct. App. Cal., 2d App. Dist. Certiorari denied.

No. 89-5431. *DELGADO v. ARIZONA*. Ct. App. Ariz. Certiorari denied.

No. 89-5568. *ROBINSON v. NEW YORK*. Ct. App. N. Y. Certiorari denied. Reported below: 74 N. Y. 2d 773, 543 N. E. 2d 733.

No. 89-5615. *MARTIN v. DELAWARE LAW SCHOOL OF WIDENER UNIVERSITY ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 884 F. 2d 1384.

No. 89-5617. *CHAPLIN v. PRUDENTIAL-BACHE SECURITIES INC.* C. A. 2d Cir. Certiorari denied. Reported below: 862 F. 2d 304.

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No. 89-5618. COLEMAN, AKA WOODSON *v.* WILLIAMS, WARDEN, ET AL. C. A. 4th Cir. Certiorari denied. Reported below: 884 F. 2d 1387.

No. 89-5620. ADAMS *v.* PETSOCK, SUPERINTENDENT, STATE CORRECTIONAL INSTITUTION AT PITTSBURGH, ET AL. C. A. 3d Cir. Certiorari denied.

No. 89-5623. HARMER *v.* MADISON CIRCUIT COURT ET AL. Sup. Ct. Ind. Certiorari denied.

No. 89-5628. WALLS *v.* DELAWARE. Sup. Ct. Del. Certiorari denied. Reported below: 560 A. 2d 1038.

No. 89-5630. EDDLEMON *v.* TEXAS. Ct. App. Tex., 5th Dist. Certiorari denied.

No. 89-5644. ALI *v.* CALIFORNIA. Ct. App. Cal., 2d App. Dist. Certiorari denied.

No. 89-5647. HOLBROOK *v.* WILLIAMS, WARDEN, ET AL. C. A. 11th Cir. Certiorari denied. Reported below: 861 F. 2d 726.

No. 89-5648. ADAMS *v.* FULCOMER, SUPERINTENDENT, STATE CORRECTIONAL INSTITUTION AT HUNTINGDON, ET AL. C. A. 3d Cir. Certiorari denied.

No. 89-5650. FISHER *v.* ESTELLE, WARDEN. C. A. 9th Cir. Certiorari denied.

No. 89-5651. BANDGREN *v.* MERCURY MORTGAGE Co., INC. C. A. 10th Cir. Certiorari denied.

No. 89-5655. MACGUIRE *v.* FLORIDA BAR. Sup. Ct. Fla. Certiorari denied. Reported below: 529 So. 2d 669.

No. 89-5656. MOHR *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 872 F. 2d 431.

No. 89-5657. WHITTAKER *v.* BUTLER, WARDEN, ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 876 F. 2d 892.

No. 89-5658. MOORE *v.* BUTLER COUNTY JAIL ET AL. C. A. 10th Cir. Certiorari denied.

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No. 89-5659. *PERRINO v. HENDERSON, SUPERINTENDENT, AUBURN CORRECTIONAL FACILITY*. C. A. 2d Cir. Certiorari denied.

No. 89-5669. *SELSOR v. OKLAHOMA*. Ct. Crim. App. Okla. Certiorari denied.

No. 89-5706. *TRUJILLO v. KERBY, WARDEN, ET AL.* C. A. 10th Cir. Certiorari denied.

No. 89-5724. *FIGUEROA v. SULLIVAN, SECRETARY OF HEALTH AND HUMAN SERVICES*. C. A. 1st Cir. Certiorari denied. Reported below: 879 F. 2d 853.

No. 89-5725. *BROWN v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 884 F. 2d 584.

No. 89-5739. *PARKER v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 875 F. 2d 860.

No. 89-5745. *SERRANO SEPULVEDA v. UNITED STATES*. C. A. 1st Cir. Certiorari denied.

No. 89-5751. *GARCES ET AL. v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 878 F. 2d 1329.

No. 89-5763. *SCHMANKE v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 882 F. 2d 1128.

No. 89-5769. *LABINE v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 878 F. 2d 382.

No. 89-5771. *BYRD ET AL. v. UNITED STATES*. Ct. App. D. C. Certiorari denied. Reported below: 551 A. 2d 96.

No. 89-5772. *LENIS-LLANOS v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 884 F. 2d 584.

No. 89-5774. *ACQUISTI v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 878 F. 2d 1440.

No. 89-5776. *MONTES v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 884 F. 2d 584.

No. 89-5783. *VILLARREAL-FARIAS v. UNITED STATES*; and
No. 89-5793. *RICHARDSON v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 880 F. 2d 376.

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No. 89-5796. MARTINEZ-GUTIERREZ *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 883 F. 2d 1025.

No. 89-5803. ANGUIANO *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 873 F. 2d 1314.

No. 89-5804. CHAFIN *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 885 F. 2d 866.

No. 89-5808. MAKRES *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied. Reported below: 889 F. 2d 1092.

No. 89-5811. SHAW *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 883 F. 2d 1025.

No. 89-5813. WILSON *v.* LYNAUGH, DIRECTOR, TEXAS DEPARTMENT OF CORRECTIONS. C. A. 5th Cir. Certiorari denied. Reported below: 878 F. 2d 846.

No. 89-5816. HOLMES *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 876 F. 2d 1502.

No. 89-5830. TINSLEY *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 884 F. 2d 1390.

No. 89-5845. ESPARZA *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 882 F. 2d 143.

No. 89-228. VOLKSWAGEN OF AMERICA, INC., ET AL. *v.* GIBBS ET AL. Super. Ct. N. J., App. Div. Motion of Product Liability Advisory Council, Inc., for leave to file a brief as *amicus curiae* granted. Certiorari denied.

No. 89-449. UNITED SERVICES AUTOMOBILE ASSN. ET AL. *v.* FOSTER, INSURANCE COMMISSIONER OF PENNSYLVANIA, ET AL. C. A. 3d Cir. Motion of Financial Services Council et al. for leave to file a brief as *amici curiae* granted. Certiorari denied. Reported below: 874 F. 2d 926.

No. 89-522. POWELL, COMMISSIONER, DEPARTMENT OF CORRECTIONS, ET AL. *v.* COPPOLA. C. A. 1st Cir. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 878 F. 2d 1562.

No. 89-5593. RONDON *v.* INDIANA. Sup. Ct. Ind.;

No. 89-5595. HINTON *v.* ALABAMA. Sup. Ct. Ala.;

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No. 89-5626. *MARTIN v. ALABAMA*. Sup. Ct. Ala.; and
No. 89-5683. *ELLIS v. LYNAUGH, DIRECTOR, TEXAS DEPARTMENT OF CORRECTIONS*. C. A. 5th Cir. Certiorari denied. Reported below: No. 89-5593, 534 N. E. 2d 719; No. 89-5595, 548 So. 2d 562; No. 89-5626, 548 So. 2d 496; No. 89-5683, 873 F. 2d 830.

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. 88-1964. *POLYAK v. HAMILTON, JUDGE, CHANCERY AND CIRCUIT COURTS OF LAWRENCE COUNTY*, *ante*, p. 815;

No. 88-2026. *PACYNIA v. MARSH, SECRETARY OF THE ARMY, ET AL.*, *ante*, p. 819;

No. 88-5682. *LEVITT v. UNIVERSITY OF TEXAS AT EL PASO ET AL.*, 488 U. S. 984;

No. 88-7104. *BAKER v. UNITED STATES*, *ante*, p. 827;

No. 88-7221. *IN RE MARTIN*, *ante*, p. 806;

No. 88-7291. *THOMAS v. COWLEY, WARDEN, ET AL.*, *ante*, p. 831;

No. 88-7359. *GIBSON v. TURNER, SUPERINTENDENT, RENZ CORRECTIONAL CENTER AT CEDAR CITY, MISSOURI*, *ante*, p. 833;

No. 88-7603. *HOOPER v. DISTRICT OF COLUMBIA OFFICE OF HUMAN RIGHTS*, *ante*, p. 844;

No. 89-18. *WINER v. NIXON*, *ante*, p. 847;

No. 89-5031. *LAWSON v. TANEDO ET AL.*, *ante*, p. 857;

No. 89-5045. *HAZIME v. UNITED STATES*, *ante*, p. 858;

No. 89-5056. *SILVAGGIO v. CALIFORNIA*, *ante*, p. 895;

No. 89-5210. *MARTIN v. DELAWARE LAW SCHOOL OF WIDENER UNIVERSITY, INC., ET AL.*, *ante*, p. 875;

No. 89-5211. *MARTIN v. SUPREME COURT OF PENNSYLVANIA ET AL.*, *ante*, p. 876;

No. 89-5216. *CAMPBELL v. MCCORMICK, WARDEN*, *ante*, p. 895;

No. 89-5254. *SINGLETON v. MCKELLAR, WARDEN, ET AL.*, *ante*, p. 874; and

No. 89-5462. *HARDIN v. BOYD CIRCUIT COURT ET AL.*, *ante*, p. 898. Petitions for rehearing denied.

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NOVEMBER 16, 1989

Certiorari Denied

No. 89-5989 (A-371). JULIUS *v.* JONES, WARDEN. 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.

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.

NOVEMBER 17, 1989

Miscellaneous Order

No. 8, Orig. ARIZONA *v.* CALIFORNIA ET AL. It is ordered that Robert B. McKay, Esq., of New York, N. Y., Professor Emeritus, New York University School of Law, be appointed Special Master in this case to reopen decree to determine disputed boundary claims with respect to the Fort Mojave, Colorado River, and Fort Yuma Indian Reservations. He shall have the authority to fix the time and conditions for the filing of additional pleadings and to direct subsequent proceedings, and the 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. JUSTICE MARSHALL took no part in the consideration or decision of this order. [For earlier order herein, see, *e. g.*, *ante*, p. 886.]

NOVEMBER 20, 1989

Miscellaneous Order

No. A-377. LANKFORD *v.* IDAHO. Application for stay of execution of sentence of death, presented to JUSTICE O'CONNOR, and

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by her 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 in effect pending the issuance of the mandate of this Court.

NOVEMBER 22, 1989

Miscellaneous Order

No. A-378 (89-5892). *SILVA v. CALIFORNIA*. Sup. Ct. Cal. Application for stay of execution of sentence of death, presented to JUSTICE O'CONNOR, and by her 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 issuance of the mandate of this Court.

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Appeal Dismissed

No. 89-5863. *GOUDIE, AKA WEBSTER v. GENERAL TELEPHONE COMPANY OF THE SOUTHEAST ET AL.* Appeal from Cir. Ct. W. Va., Jefferson County, dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari denied.

Miscellaneous Orders

No. D-787. *IN RE DISBARMENT OF PRANTIL*. Disbarment entered. [For earlier order herein, see 490 U. S. 1062.]

No. D-836. *IN RE DISBARMENT OF EVANS*. It is ordered that James Clifford Evans, of Pittsburgh, Pa., be suspended from the practice of law in this Court and that a rule issue, returnable within 40 days, requiring him to show cause why he should not be disbarred from the practice of law in this Court.

No. D-837. *IN RE DISBARMENT OF MARCONE*. It is ordered that Frank J. Marccone, of Springfield, 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-838. *IN RE DISBARMENT OF ADELMAN*. It is ordered that Barry Leonard Adelman, of Philadelphia, Pa., 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. D-839. *IN RE DISBARMENT OF HIGGINBOTHAM*. It is ordered that William S. Higginbotham, of Athens, Ga., 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-840. *IN RE DISBARMENT OF PEMBERTON*. It is ordered that Charles A. Pemberton, of Decatur, Ga., 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-841. *IN RE DISBARMENT OF FARLEY*. It is ordered that Milliard Eugene Farley, 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. 108, Orig. *NEBRASKA v. WYOMING ET AL.* Third motion of the Special Master for compensation and reimbursement of expenses granted, and the Special Master is awarded \$97,843.24 to be paid to him 20 percent by the United States and 40 percent each by the States of Nebraska and Wyoming. [For earlier order herein, see, *e. g.*, 492 U. S. 903.]

No. 87-6700. *SELVAGE v. LYNAUGH, DIRECTOR, TEXAS DEPARTMENT OF CORRECTIONS*. C. A. 5th Cir. [Certiorari granted, *ante*, p. 888.] Motion of petitioner to suspend briefing and further consideration denied. Motion of petitioner to certify question to Court of Criminal Appeals of Texas denied.

No. 88-325. *AMERICAN TRUCKING ASSNS., INC., ET AL. v. SMITH, DIRECTOR, ARKANSAS HIGHWAY AND TRANSPORTATION DEPARTMENT, ET AL.* Sup. Ct. Ark. [Certiorari granted, 488 U. S. 954.] Motion of petitioners for leave to file a supplemental brief on reargument granted.

No. 88-1503. *CRUZAN, BY HER PARENTS AND CO-GUARDIANS, CRUZAN ET UX. v. DIRECTOR, MISSOURI DEPARTMENT OF*

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HEALTH, ET AL. Sup. Ct. Mo. [Certiorari granted, 492 U. S. 917.] Motion of respondent Thad C. McCause, Guardian ad Litem, for divided argument denied.

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, 491 U. S. 903.] Motion of respondents/cross-petitioners, Joseph Bonjorno et al., to open oral argument and to present a summary outline of issues for use in determining the order of oral argument denied.

No. 88-1897. MICHIGAN DEPARTMENT OF STATE POLICE ET AL. v. SITZ ET AL. Ct. App. Mich. [Certiorari granted, *ante*, p. 806.] Motion of Insurance Institute for Highway Safety et al. for leave to file a brief as *amici curiae* granted.

No. 88-1905. KELLER ET AL. v. STATE BAR OF CALIFORNIA ET AL. Sup. Ct. Cal. [Certiorari granted, *ante*, p. 806.] Motion of Trayton L. Lathrop for leave to file a brief as *amicus curiae* granted.

No. 88-2123. DEPARTMENT OF THE TREASURY, INTERNAL REVENUE SERVICE v. FEDERAL LABOR RELATIONS AUTHORITY ET AL. C. A. D. C. Cir. [Certiorari granted, *ante*, p. 807.] Motion of the Acting Solicitor General to dispense with printing the joint appendix granted.

No. 89-386. PORT AUTHORITY TRANS-HUDSON CORP. v. FEENEY; and PORT AUTHORITY TRANS-HUDSON CORP. v. FOSTER. C. A. 2d Cir. [Certiorari granted, *ante*, p. 932.] Motion of petitioner to dispense with printing the joint appendix granted.

No. 89-560. IN RE NORTON. Petition for writ of mandamus and/or prohibition denied.

Certiorari Denied. (See also No. 89-5863, *supra*.)

No. 89-17. PROFESSIONAL CABIN CREW ASSN. ET AL. v. NATIONAL MEDIATION BOARD. C. A. D. C. Cir. Certiorari denied. Reported below: 277 U. S. App. D. C. 21, 872 F. 2d 456.

No. 89-33. BOBBITT v. TEXAS. Ct. Crim. App. Tex. Certiorari denied.

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No. 89-40. CALIFORNIA *v.* BOYER. Sup. Ct. Cal. Certiorari denied. Reported below: 48 Cal. 3d 247, 768 P. 2d 610.

No. 89-242. PINCHAM *v.* ILLINOIS JUDICIAL INQUIRY BOARD ET AL. C. A. 7th Cir. Certiorari denied. Reported below: 872 F. 2d 1341.

No. 89-244. PELLEGRINI *v.* MASSACHUSETTS. Sup. Jud. Ct. Mass. Certiorari denied. Reported below: 405 Mass. 86, 539 N. E. 2d 514.

No. 89-267. CHRISTOPHER *v.* MADISON HOTEL CORP. C. A. 4th Cir. Certiorari denied. Reported below: 875 F. 2d 314.

No. 89-302. HAMPTON ET AL. *v.* TENNESSEE BOARD OF LAW EXAMINERS ET AL. Ct. App. Tenn. Certiorari denied. Reported below: 770 S. W. 2d 755.

No. 89-323. WELEX *v.* DOLE, SECRETARY OF LABOR. C. A. 5th Cir. Certiorari denied.

No. 89-349. CHILA *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 871 F. 2d 1015.

No. 89-358. GILL *v.* UNITED STATES ET AL. C. A. 8th Cir. Certiorari denied. Reported below: 881 F. 2d 1079.

No. 89-368. MERCK & Co., INC. *v.* BIOCRAFT LABORATORIES, INC. C. A. Fed. Cir. Certiorari denied. Reported below: 874 F. 2d 804.

No. 89-370. PRICE *v.* DIGITAL EQUIPMENT CORP. C. A. 5th Cir. Certiorari denied.

No. 89-377. INTERNATIONAL UNION OF OPERATING ENGINEERS, LOCAL 150, AFL-CIO, ET AL. *v.* LOWE EXCAVATING CO. App. Ct. Ill., 2d Dist. Certiorari denied. Reported below: 180 Ill. App. 3d 39, 535 N. E. 2d 1065.

No. 89-379. COONAN ET UX. *v.* UNITED STATES;

No. 89-5497. RITTER *v.* UNITED STATES;

No. 89-5512. BOKUN *v.* UNITED STATES; and

No. 89-5601. MCELROY *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. Reported below: 876 F. 2d 891.

No. 89-385. BARR *v.* UNITED PARCEL SERVICE, INC., ET AL. C. A. 2d Cir. Certiorari denied. Reported below: 868 F. 2d 36.

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No. 89-388. CITY OF NEW YORK ET AL. *v.* SEAWALL ASSOCIATES ET AL.;

No. 89-403. COALITION FOR THE HOMELESS *v.* SEAWALL ASSOCIATES ET AL.; and

No. 89-552. WILKERSON ET AL. *v.* SEAWALL ASSOCIATES ET AL. Ct. App. N. Y. Certiorari denied. Reported below: 74 N. Y. 2d 92, 542 N. E. 2d 1059.

No. 89-409. CITY OF MILWAUKEE ET AL. *v.* YEUTTER, SECRETARY OF AGRICULTURE, ET AL. C. A. 7th Cir. Certiorari denied. Reported below: 877 F. 2d 540.

No. 89-412. HEARN ET AL. *v.* CITY OF OVERLAND PARK, KANSAS. Sup. Ct. Kan. Certiorari denied. Reported below: 244 Kan. 638, 772 P. 2d 758.

No. 89-447. PENCE, INDIVIDUALLY AND AS PERSONAL REPRESENTATIVE AND ADMINISTRATRIX OF THE ESTATE OF PENCE *v.* BOARD OF COUNTY COMMISSIONERS OF HAMILTON COUNTY, OHIO, ET AL. Ct. App. Ohio, Hamilton County. Certiorari denied. Reported below: 56 Ohio App. 3d 176, 565 N. E. 2d 877.

No. 89-448. WELCH, EXECUTIVE DIRECTOR, SOUTH CAROLINA STATE PORTS AUTHORITY, ET AL. *v.* COAKLEY. C. A. 4th Cir. Certiorari denied. Reported below: 877 F. 2d 304.

No. 89-476. TOWN OF HULL, MASSACHUSETTS, ET AL. *v.* MILLER ET AL. C. A. 1st Cir. Certiorari denied. Reported below: 878 F. 2d 523.

No. 89-517. WOODS *v.* HUDAK. C. A. 3d Cir. Certiorari denied. Reported below: 879 F. 2d 857.

No. 89-528. TOWNE *v.* TOMLIN PROPERTIES ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 878 F. 2d 1433.

No. 89-529. JAKOBOWSKI *v.* DUBIN. C. A. 3d Cir. Certiorari denied. Reported below: 879 F. 2d 856.

No. 89-533. DENMAN RUBBER MANUFACTURING CO. ET AL. *v.* HALL. C. A. 5th Cir. Certiorari denied. Reported below: 876 F. 2d 893.

No. 89-537. CAMP *v.* NEW YORK UNIVERSITY ET AL. C. A. 2d Cir. Certiorari denied. Reported below: 862 F. 2d 304.

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No. 89-540. DAVOLI, ASSISTANT SECRETARY, LOUISIANA DEPARTMENT OF CORRECTIONS, ET AL. *v.* FRAZIER. C. A. 5th Cir. Certiorari denied. Reported below: 873 F. 2d 820.

No. 89-543. SLAYTON *v.* BECHTEL POWER CORP. ET AL. Ct. App. Cal., 4th App. Dist. Certiorari denied.

No. 89-546. MORRIS *v.* WACKER ET AL. C. A. 3d Cir. Certiorari denied. Reported below: 877 F. 2d 56.

No. 89-547. OHIO *v.* BOOHER. Ct. App. Ohio, Defiance County. Certiorari denied. Reported below: 54 Ohio App. 3d 1, 560 N. E. 2d 786.

No. 89-548. BILECKI ET UX. *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 876 F. 2d 1128.

No. 89-550. CANTRELL ET VIR *v.* BUCHANAN. Ct. App. Tenn. Certiorari denied.

No. 89-555. MUSSLEWHITE *v.* STATE BAR OF TEXAS. Sup. Ct. Tex. Certiorari denied.

No. 89-559. ATKINS *v.* WEST VIRGINIA. Sup. Ct. App. W. Va. Certiorari denied.

No. 89-570. MORRIS *v.* MASSACHUSETTS BOARD OF REGISTRATION IN MEDICINE. Sup. Jud. Ct. Mass. Certiorari denied. Reported below: 405 Mass. 103, 539 N. E. 2d 50.

No. 89-576. FREY, DIRECTOR, METROPOLITAN CORRECTIONS DEPARTMENT, ET AL. *v.* MASTERS. C. A. 6th Cir. Certiorari denied. Reported below: 872 F. 2d 1248.

No. 89-577. WALDO R., INC., ET AL. *v.* PIPEFITTERS HEALTH AND WELFARE TRUST ET AL. C. A. 8th Cir. Certiorari denied. Reported below: 872 F. 2d 815.

No. 89-583. WILSON ET AL. *v.* ARMSTRONG WORLD INDUSTRIES, INC., ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 873 F. 2d 869.

No. 89-585. McDONALD ET AL. *v.* GOTTLIEB ET AL. Ct. App. Wash. Certiorari denied. Reported below: 53 Wash. App. 1031.

No. 89-586. MALINAK *v.* MATELICH. Sup. Ct. Nev. Certiorari denied. Reported below: 105 Nev. 203, 772 P. 2d 319.

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No. 89-615. REARDON ET AL. *v.* REARDON ET AL. C. A. 3d Cir. Certiorari denied. Reported below: 877 F. 2d 57.

No. 89-620. ELLIOTT *v.* ANDERSON. Sup. Jud. Ct. Me. Certiorari denied. Reported below: 555 A. 2d 1042.

No. 89-626. FOX ET AL. *v.* CONNECTICUT. C. A. 2d Cir. Certiorari denied. Reported below: 888 F. 2d 125.

No. 89-629. STORINO *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 878 F. 2d 380.

No. 89-652. SAFIR *v.* UNITED STATES LINES, INC., ET AL. C. A. 2d Cir. Certiorari denied.

No. 89-665. YAZDCHI *v.* IMMIGRATION AND NATURALIZATION SERVICE. C. A. 5th Cir. Certiorari denied. Reported below: 878 F. 2d 166.

No. 89-668. POWELL ET UX. *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied.

No. 89-681. JASON *v.* ROADWAY EXPRESS, INC., ET AL. Ct. App. Cal., 4th App. Dist. Certiorari denied.

No. 89-685. HUBBARD CHEVROLET CO. *v.* GENERAL MOTORS CORP. C. A. 5th Cir. Certiorari denied. Reported below: 873 F. 2d 873.

No. 89-705. MARIORENZI *v.* UNITED STATES. Ct. Mil. App. Certiorari denied. Reported below: 29 M. J. 320.

No. 89-706. CORBETT *v.* UNITED STATES. Ct. Mil. App. Certiorari denied. Reported below: 29 M. J. 253.

No. 89-5185. BANKS *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied. Reported below: 881 F. 2d 1079.

No. 89-5272. WOODRUFF *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 867 F. 2d 1334.

No. 89-5275. MORRIS *v.* GLUCH, WARDEN. C. A. 8th Cir. Certiorari denied. Reported below: 881 F. 2d 1079.

No. 89-5310. MCCOLLUM *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 874 F. 2d 820.

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No. 89-5343. *MCCROSKEY v. LOCKHART, DIRECTOR, ARKANSAS DEPARTMENT OF CORRECTION*. C. A. 8th Cir. Certiorari denied. Reported below: 881 F. 2d 1079.

No. 89-5353. *SALAS v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 879 F. 2d 530.

No. 89-5355. *HEADLEE v. SULLIVAN, SECRETARY OF HEALTH AND HUMAN SERVICES*. C. A. 10th Cir. Certiorari denied. Reported below: 869 F. 2d 548.

No. 89-5382. *ALEXANDER v. UNITED STATES*. C. A. 1st Cir. Certiorari denied. Reported below: 868 F. 2d 492.

No. 89-5413. *WATSON v. BROWN, DIRECTOR, MICHIGAN DEPARTMENT OF CORRECTIONS, ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 869 F. 2d 1494.

No. 89-5419. *DAVIS v. ESTELLE ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 869 F. 2d 1485.

No. 89-5420. *BRADEN v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 878 F. 2d 387.

No. 89-5502. *LOPEZ-TORRES v. UNITED STATES*. C. A. 1st Cir. Certiorari denied. Reported below: 876 F. 2d 4.

No. 89-5562. *MORENO v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 878 F. 2d 817.

No. 89-5661. *DEBROSSE v. OHIO*. Ct. App. Ohio, Miami County. Certiorari denied.

No. 89-5662. *SASSOWER v. DILLON ET AL.* App. Div., Sup. Ct. N. Y., 2d Jud. Dept. Certiorari denied.

No. 89-5670. *BARELA v. BAKER, SECRETARY OF STATE*. C. A. 9th Cir. Certiorari denied.

No. 89-5672. *POLUMBO v. NEW MEXICO*. C. A. 10th Cir. Certiorari denied.

No. 89-5674. *LIGHTSEY v. TEXAS*. Ct. App. Tex., 1st Dist. Certiorari denied.

No. 89-5675. *GRIBBLE v. LIVESAY, WARDEN, ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 875 F. 2d 864.

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No. 89-5679. *HOWARD v. DAVIS, WARDEN*. C. A. 6th Cir. Certiorari denied.

No. 89-5690. *HAMILTON v. WORKERS' COMPENSATION APPEALS BOARD ET AL.* Ct. App. Cal., 4th App. Dist. Certiorari denied.

No. 89-5692. *O'CONNOR ET UX. v. LAWRY*. Sup. Ct. Nev. Certiorari denied. Reported below: 105 Nev. 1042, 810 P. 2d 336.

No. 89-5694. *DILLON v. WALKER, SUPERINTENDENT, AUBURN CORRECTIONAL FACILITY*. C. A. 2d Cir. Certiorari denied.

No. 89-5698. *KIRKMAN v. SUTTON ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 873 F. 2d 1439.

No. 89-5699. *SHANNON v. CONNECTICUT*. Sup. Ct. Conn. Certiorari denied. Reported below: 212 Conn. 387, 563 A. 2d 646.

No. 89-5702. *GRAY v. GREER, WARDEN*. C. A. 7th Cir. Certiorari denied. Reported below: 878 F. 2d 384.

No. 89-5703. *DEMOS v. SUPREME COURT OF WASHINGTON* (two cases). Sup. Ct. Wash. Certiorari denied.

No. 89-5709. *PASTRANA v. PUGET SOUND NAVAL SHIPYARD*. C. A. 9th Cir. Certiorari denied.

No. 89-5710. *THOMAS v. KANSAS STATE UNIVERSITY ET AL.* C. A. 10th Cir. Certiorari denied.

No. 89-5713. *EASON v. JOHNSON, WARDEN, ET AL.* C. A. 11th Cir. Certiorari denied. Reported below: 886 F. 2d 1324.

No. 89-5718. *RICHARDSON v. ARNOLD ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 883 F. 2d 75.

No. 89-5726. *MOORE v. TENNESSEE*. Sup. Ct. Tenn. Certiorari denied. Reported below: 776 S. W. 2d 933.

No. 89-5728. *PREUSS v. DISTRICT OF COLUMBIA ET AL.* Ct. App. D. C. Certiorari denied.

No. 89-5731. *SPYCHALA v. RUSHEN ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 877 F. 2d 64.

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No. 89-5733. *KUCHER v. MASSACHUSETTS*. C. A. 1st Cir. Certiorari denied.

No. 89-5735. *FAIR v. BRONSON, WARDEN*. Sup. Ct. Conn. Certiorari denied. Reported below: 211 Conn. 398, 559 A. 2d 1094.

No. 89-5736. *KIMELMAN v. CITY OF COLORADO SPRINGS ET AL.* Ct. App. Colo. Certiorari denied. Reported below: 775 P. 2d 51.

No. 89-5738. *BILDER v. CITY OF AKRON*. Ct. App. Ohio, Summit County. Certiorari denied.

No. 89-5740. *GARDNER v. ALABAMA ET AL.* C. A. 11th Cir. Certiorari denied.

No. 89-5746. *CARMACK v. HATCHER, WARDEN, ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 877 F. 2d 64.

No. 89-5748. *GALLAGHER v. LOGSON-BABICH*. C. A. 6th Cir. Certiorari denied. Reported below: 884 F. 2d 579.

No. 89-5752. *MYLES v. CASTLE CONSTRUCTION CO. ET AL.* C. A. 11th Cir. Certiorari denied.

No. 89-5754. *PATE v. ILLINOIS*. App. Ct. Ill., 4th Dist. Certiorari denied. Reported below: 177 Ill. App. 3d 1158, 550 N. E. 2d 67.

No. 89-5770. *NUNEZ v. UNITED STATES*;

No. 89-5773. *MARTINEZ v. UNITED STATES*; and

No. 89-5800. *NUNEZ v. UNITED STATES*. C. A. 10th Cir. Certiorari denied. Reported below: No. 89-5770, 877 F. 2d 1470; No. 89-5773, 877 F. 2d 1480; No. 89-5800, 877 F. 2d 1475.

No. 89-5775. *IN HO KIM, AKA SANG IN PAK v. UNITED STATES*; and

No. 89-5891. *JONG MUN PARK, AKA JONG SOO KIM, ET AL. v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 885 F. 2d 878.

No. 89-5778. *RADCLIFF v. NORTHWEST MANOR, INC., ET AL.* Ct. App. Cal., 2d App. Dist. Certiorari denied.

No. 89-5782. *FLANERY v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 879 F. 2d 863.

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No. 89-5790. *WATTS v. JOHNSON, WARDEN, ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 873 F. 2d 1441.

No. 89-5794. *ANDERSON, AKA ALFONSI v. UNITED STATES.* C. A. 8th Cir. Certiorari denied. Reported below: 879 F. 2d 369.

No. 89-5805. *PICKENS v. MAKEL, WARDEN.* C. A. 6th Cir. Certiorari denied. Reported below: 884 F. 2d 580.

No. 89-5806. *LOVETT v. FOLTZ, WARDEN.* C. A. 6th Cir. Certiorari denied. Reported below: 884 F. 2d 579.

No. 89-5810. *FORERO v. UNITED STATES.* C. A. 11th Cir. Certiorari denied. Reported below: 884 F. 2d 584.

No. 89-5818. *BARTLETT v. FLORIDA ET AL.* C. A. 11th Cir. Certiorari denied. Reported below: 881 F. 2d 1086.

No. 89-5824. *AGAR v. UNITED STATES.* C. A. 2d Cir. Certiorari denied. Reported below: 870 F. 2d 822.

No. 89-5829. *MANTANONA v. UNITED STATES.* C. A. 9th Cir. Certiorari denied. Reported below: 878 F. 2d 1439.

No. 89-5835. *WHITMORE ET AL. v. NEW YORK LIFE INSURANCE Co.* C. A. 8th Cir. Certiorari denied. Reported below: 889 F. 2d 1091.

No. 89-5839. *SIERS v. DUGGER, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS.* C. A. 11th Cir. Certiorari denied.

No. 89-5850. *MCCARTY v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. Reported below: 884 F. 2d 575.

No. 89-5851. *ROBINSON v. UNITED STATES.* C. A. 6th Cir. Certiorari denied. Reported below: 884 F. 2d 581.

No. 89-5852. *ROSA-IBARRA v. UNITED STATES.* C. A. 11th Cir. Certiorari denied. Reported below: 877 F. 2d 895.

No. 89-5854. *FAZZINI v. UNITED STATES.* C. A. 7th Cir. Certiorari denied. Reported below: 871 F. 2d 635.

No. 89-5858. *VOIGT v. UNITED STATES.* C. A. 10th Cir. Certiorari denied. Reported below: 877 F. 2d 1465.

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No. 89-5860. *GAY v. ESPOSITO, SUPERINTENDENT, METRO CORRECTIONAL INSTITUTION*. C. A. 11th Cir. Certiorari denied. Reported below: 884 F. 2d 585.

No. 89-5862. *TAYLOR v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 884 F. 2d 1390.

No. 89-5864. *BAKER v. UNITED STATES; and SHAW v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 883 F. 2d 13 (first case); 883 F. 2d 10 (second case).

No. 89-5866. *KOHLER v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 878 F. 2d 1441.

No. 89-5872. *AVILA v. UNITED STATES*. C. A. 10th Cir. Certiorari denied.

No. 89-5880. *WILLIAMS v. UNITED STATES*. C. A. 10th Cir. Certiorari denied.

No. 89-5885. *BARNETTE v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 886 F. 2d 1324.

No. 89-5886. *ROGERS v. UNITED STATES*. Ct. App. D. C. Certiorari denied.

No. 89-5887. *WAGSTAFF-EL v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 873 F. 2d 1441.

No. 89-5889. *MUSSER v. UNITED STATES*. C. A. D. C. Cir. Certiorari denied. Reported below: 277 U. S. App. D. C. 256, 873 F. 2d 1513.

No. 89-5906. *DE LA ROSA v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 885 F. 2d 869.

No. 89-515. *ROCHESTER, NEW HAMPSHIRE, SCHOOL DISTRICT v. TIMOTHY W., BY HIS MOTHER AND NEXT FRIEND, CYNTHIA W.* C. A. 1st Cir. Motions of National School Boards Association et al. and National League of Cities et al. for leave to file briefs as *amici curiae* granted. Certiorari denied. Reported below: 875 F. 2d 954.

No. 89-531. *MOUNTAIN STATES TELEPHONE & TELEGRAPH CO., DBA MOUNTAIN BELL v. DISTRICT COURT, CITY AND*

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COUNTY OF DENVER, COLORADO, ET AL. Sup. Ct. Colo. Motions of Chevron Corp. and Edison Electric Institute et al. for leave to file briefs as *amici curiae* granted. Certiorari denied. JUSTICE O'CONNOR took no part in the consideration or decision of these motions and this petition. Reported below: 778 P. 2d 667.

No. 89-591. LEE v. BIDEN, UNITED STATES SENATOR, ET AL. C. A. 9th Cir. Certiorari denied. JUSTICE KENNEDY took no part in the consideration or decision of this petition. Reported below: 876 F. 2d 897.

No. 89-5460. ROGERS v. TEXAS. Ct. Crim. App. Tex.;
No. 89-5534. MORALES v. CALIFORNIA. Sup. Ct. Cal.;
No. 89-5575. NOLTE v. OKLAHOMA. Ct. Crim. App. Okla.;
No. 89-5707. MENDYK v. FLORIDA. Sup. Ct. Fla.; and
No. 89-5798. BLANKS v. KEMP, WARDEN. Super. Ct. Ga.,
Butts County. Certiorari denied. Reported below: No. 89-5460,
774 S. W. 2d 247; No. 89-5534, 48 Cal. 3d 527, 770 P. 2d 244; No.
89-5707, 545 So. 2d 846.

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. 89-5765. FRANZ, INDIVIDUALLY AND AS NEXT FRIEND OF SIMMONS, ET AL. v. LOCKHART, DIRECTOR, ARKANSAS DEPARTMENT OF CORRECTION, ET AL. C. A. 8th Cir. Motion of the parties to consolidate this petition with No. 88-7146, *Whitmore, Individually and as Next Friend of Simmons v. Arkansas et al.* [certiorari granted, 492 U. S. 917], denied. Certiorari before judgment denied.

JUSTICE BRENNAN and JUSTICE MARSHALL, dissenting.

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

Rehearing Denied

No. 88-1708. SPAWR OPTICAL RESEARCH, INC., ET AL. v. UNITED STATES, *ante*, p. 809;

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- No. 88-1966. ZILL *v.* AVIS RENT-A-CAR SYSTEMS, INC., *ante*, p. 816;
- No. 88-1979. FLEMING *v.* MOORE ET AL., *ante*, p. 816;
- No. 88-2106. ROSENBERG *v.* COMERICA BANK, *ante*, p. 824;
- No. 88-2116. JOHNSON *v.* JOHNSON ET AL., *ante*, p. 824;
- No. 88-2127. VAHLSING *v.* MAINE, *ante*, p. 825;
- No. 88-6850. STREETER *v.* NATIONAL LABOR RELATIONS BOARD, *ante*, p. 826;
- No. 88-6976. WOOLWORTH *v.* DUGGER, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS, *ante*, p. 827;
- No. 88-7139. STUTZMAN *v.* BOARD OF EDUCATION OF THE CITY OF CHICAGO ET AL., *ante*, p. 828;
- No. 88-7180. JARRELLS *v.* GEORGIA, *ante*, p. 874;
- No. 88-7204. KERKMAN *v.* UNITED STATES, *ante*, p. 828;
- No. 88-7217. GAMES *v.* INDIANA, *ante*, p. 874;
- No. 88-7278. DEVINE *v.* HERALD-MAIL CO., *ante*, p. 830;
- No. 88-7316. GORMAN *v.* UNITED STATES, *ante*, p. 828;
- No. 88-7388. DOE *v.* UNITED STATES, *ante*, p. 906;
- No. 88-7418. KELLY *v.* HINES-RINALDI FUNERAL HOME, INC., *ante*, p. 835;
- No. 88-7429. ASCH *v.* PHILIPS, APPEL & WALDEN, INC., ET AL., *ante*, p. 835;
- No. 88-7435. MARTIN *v.* TOWNSEND ET AL., *ante*, p. 875;
- No. 88-7465. UNDERWOOD *v.* INDIANA, *ante*, p. 900;
- No. 88-7475. WESTOVER *v.* UNITED STATES, *ante*, p. 837;
- No. 88-7491. VAN LEEUWEN ET VIR *v.* UNITED STATES ET AL., *ante*, p. 838;
- No. 88-7495. POTTS *v.* GEORGIA, *ante*, p. 876;
- No. 88-7504. FORGEY ET UX. *v.* BACA STATE BANK ET AL., *ante*, p. 839;
- No. 88-7514. HARNAGE *v.* UNITED STATES, *ante*, p. 839;
- No. 88-7597. WRIGHT *v.* UNITED STATES, *ante*, p. 844;
- No. 88-7612. KARAAGAC *v.* DISTRICT OF COLUMBIA BOARD OF MEDICINE, *ante*, p. 844;
- No. 88-7619. ROBERTSON *v.* CALIFORNIA, *ante*, p. 879;
- No. 88-7627. NELSON *v.* INGRAM ET AL., *ante*, p. 845;
- No. 89-69. LOVE *v.* UNITED STATES, *ante*, p. 849;
- No. 89-74. NOBLE *v.* WATKINS, SECRETARY OF ENERGY, *ante*, p. 890;
- No. 89-76. PATNER *v.* COUNTY OF LAKE, *ante*, p. 849;

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- No. 89-88. *WOODWARD v. STATE BAR OF GEORGIA ET AL.*,
ante, p. 849;
- No. 89-105. *ROBINSON v. QUICK ET AL.*, *ante*, p. 850;
- No. 89-160. *O'CONNOR v. MULLIGAN*, *ante*, p. 853;
- No. 89-185. *CONNOR v. SACHS ET AL.*, *ante*, p. 854;
- No. 89-203. *SIEGEL v. EDMONDS CO., INC., PROFIT SHARING
PLAN ET AL.*, *ante*, p. 854;
- No. 89-249. *KENNA v. NEW JERSEY*, *ante*, p. 855;
- No. 89-340. *LERMAN v. CITY OF PORTLAND, MAINE*, *ante*,
p. 894;
- No. 89-341. *GRADER v. CITY OF LYNNWOOD*, *ante*, p. 894;
- No. 89-5038. *BROWNLEE v. ALABAMA*, *ante*, p. 874;
- No. 89-5040. *THOMPSON v. ALABAMA*, *ante*, p. 874;
- No. 89-5053. *BOYD v. ALABAMA*, *ante*, p. 883;
- No. 89-5066. *CHURCH v. THOMPSON, WARDEN, ET AL.*, *ante*,
p. 859;
- No. 89-5081. *DAVIS v. DAVIS*, *ante*, p. 859;
- No. 89-5099. *KINSMAN v. GEORGIA*, *ante*, p. 874;
- No. 89-5105. *HORNE v. ALLEN METROPOLITAN HOUSING AU-
THORITY*, *ante*, p. 860;
- No. 89-5143. *TOMPKINS v. UNIVERSITY OF SOUTH ALABAMA
ROTC, MILITARY SCIENCE DEPARTMENT, ET AL.*, *ante*, p. 862;
- No. 89-5157. *WASHINGTON v. MARTIN ET AL.*, *ante*, p. 862;
- No. 89-5192. *TEMPEL v. VALLEY HOSPITAL ET AL.*, *ante*,
p. 864;
- No. 89-5200. *MORRIS v. CHRISTIAN HOSPITAL*, *ante*, p. 864;
- No. 89-5264. *RIVA v. GETCHELL ET AL.*, *ante*, p. 866;
- No. 89-5298. *YANG v. MCCARTHY ET AL.*, *ante*, p. 868;
- No. 89-5330. *VENERI v. CASEY, GOVERNOR OF PENNSYLVANIA,
ET AL.*, *ante*, p. 896;
- No. 89-5344. *VINSON v. WATKINS*, *ante*, p. 896;
- No. 89-5372. *LAWRENCE v. UNITED STATES ARMY (FORT
HOOD)*, *ante*, p. 938;
- No. 89-5373. *LAWRENCE v. UNITED STATES ARMY (TACOM)*,
ante, p. 938;
- No. 89-5386. *CASSADY v. ADAIR, INDIVIDUALLY AND AS SU-
PERINTENDENT OF MONTGOMERY COUNTY SCHOOLS, ET AL.*,
ante, p. 870;
- No. 89-5387. *PERKINS v. ILLINOIS*, *ante*, p. 897;
- No. 89-5409. *IN RE OGDEN*, *ante*, p. 888;
- No. 89-5411. *IN RE SOBAMOWO*, *ante*, p. 888;

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No. 89-5530. ZARRILLI *v.* GARRITY ET AL., *ante*, p. 899;
No. 89-5556. BROWN-BEY *v.* UNITED STATES, *ante*, p. 899;
and

No. 89-5642. IN RE SPARKS, *ante*, p. 916. Petitions for re-hearing denied.

No. 86-1523. CHANDLER *v.* CHANDLER, 481 U. S. 1049; and
No. 87-1689. CHANDLER *v.* CHANDLER ET AL., 486 U. S. 1023. Motion of petitioner for leave to proceed further herein *in forma pauperis* granted. Motion for leave to file petition for re-hearing denied.

No. 89-5271. MARTIN *v.* PENNSYLVANIA STATE REAL ESTATE COMMISSION ET AL., *ante*, p. 883. Petition for rehearing denied. JUSTICE BRENNAN took no part in the consideration or decision of this petition.

NOVEMBER 29, 1989

Miscellaneous Order

No. A-412 (89-6144). PREJEAN *v.* SMITH, WARDEN, ET AL. Sup. Ct. La. 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 issuance of the mandate of this Court.

DECEMBER 1, 1989

Miscellaneous Order

No. 88-790. TURNOCK, DIRECTOR OF THE ILLINOIS DEPARTMENT OF PUBLIC HEALTH, ET AL. *v.* RAGSDALE ET AL. C. A. 7th Cir. [Probable jurisdiction postponed, 492 U. S. 916.] Joint motion to defer further proceedings in this case granted. JUSTICE STEVENS took no part in the consideration or decision of this motion.

DECEMBER 4, 1989

Miscellaneous Orders

No. A-390. CLARK *v.* CLARK ET AL. Sup. Ct. Iowa. Application for stay, addressed to THE CHIEF JUSTICE and referred to the Court, denied.

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No. A-401. FREEMAN ET AL. *v.* PITTS ET AL. Application for stay of mandate of the United States Court of Appeals for the Eleventh Circuit, presented to JUSTICE KENNEDY, and by him referred to the Court, denied. The order heretofore entered by JUSTICE KENNEDY on November 22, 1989, is vacated.

No. D-777. IN RE DISBARMENT OF COOPER. Disbarment entered. [For earlier order herein, see 490 U. S. 1016.]

No. D-795. IN RE DISBARMENT OF HELD. Disbarment entered. [For earlier order herein, see 492 U. S. 930.]

No. D-805. IN RE DISBARMENT OF POLLACK. Disbarment entered. [For earlier order herein, see 492 U. S. 940.]

No. D-842. IN RE DISBARMENT OF EISENBERG. It is ordered that Donald S. Eisenberg, of Miami Beach, 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-843. IN RE DISBARMENT OF BROWN. It is ordered that Lawrence Brown, of Encino, Cal., be suspended from the practice of law in this Court and that a rule issue, returnable within 40 days, requiring him to show cause why he should not be disbarred from the practice of law in this Court.

No. D-844. IN RE DISBARMENT OF RAY. It is ordered that R. Lewis Ray, of Winston-Salem, N. C., be suspended from the practice of law in this Court and that a rule issue, returnable within 40 days, requiring him to show cause why he should not be disbarred from the practice of law in this Court.

No. D-845. IN RE DISBARMENT OF DAVIS. It is ordered that C. Michael Davis, 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-846. IN RE DISBARMENT OF SANCHEZ-NAVARRO. It is ordered that Peter Sanchez-Navarro, 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.

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No. 105, Orig. KANSAS *v.* COLORADO. Motion of the Special Master for award of interim fees and expenses granted, and the Special Master is awarded a total of \$83,082.76 to be paid by Kansas, Colorado, and the United States pursuant to the allocation order filed by the Special Master on October 9, 1989. [For earlier order herein, see, *e. g.*, 489 U. S. 1005.]

No. 111, Orig. DELAWARE *v.* NEW YORK. Motion of Minnesota for leave to intervene referred to the Special Master. Motion of California, Michigan, Nebraska, Ohio, and Rhode Island for leave to file complaint in intervention referred to the Special Master. Motion of Colorado for leave to intervene referred to the Special Master. Motion of Arkansas, Florida, Iowa, Mississippi, Missouri, New Hampshire, and West Virginia for leave to file complaint in intervention referred to the Special Master. [For earlier order herein, see, *e. g.*, *ante*, p. 929.]

No. 88-1872. RUTAN ET AL. *v.* REPUBLICAN PARTY OF ILLINOIS ET AL. C. A. 7th Cir. [Certiorari granted, *ante*, p. 807.] Motion of Independent Voters of Illinois Independent Precinct Organization et al. for leave to file a brief as *amici curiae* granted.

No. 88-1897. MICHIGAN DEPARTMENT OF STATE POLICE ET AL. *v.* SITZ ET AL. Ct. App. Mich. [Certiorari granted, *ante*, p. 806.] Motions of National Organization of Mothers Against Drunk Driving, Washington Legal Foundation et al., American Alliance for Rights and Responsibilities, Inc., et al., National Governors' Association et al., and Appellate Committee of the California District Attorneys Association for leave to file briefs as *amici curiae* granted.

No. 88-1916. MINNESOTA *v.* OLSON. Sup. Ct. Minn. [Certiorari granted, *ante*, p. 806.] Motion of respondent for leave to proceed further herein *in forma pauperis* granted. Motion for appointment of counsel granted, and it is ordered that Glenn P. Bruder, Esq., of Edina, Minn., be appointed to serve as counsel for respondent in this case.

No. 88-2043. BALILES, GOVERNOR OF VIRGINIA, ET AL. *v.* VIRGINIA HOSPITAL ASSN. C. A. 4th Cir. [Certiorari granted, *ante*, p. 808.] Motion of the Solicitor General for leave to participate in oral argument as *amicus curiae* and for divided argument granted.

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No. 88-2102. STEWART ET AL. *v.* ABEND, DBA AUTHORS RESEARCH CO. C. A. 9th Cir. [Certiorari granted, *ante*, p. 807.] Motion of Columbia Pictures Industries, Inc., et al. for leave to file a brief as *amici curiae* granted.

No. 88-2123. DEPARTMENT OF THE TREASURY, INTERNAL REVENUE SERVICE *v.* FEDERAL LABOR RELATIONS AUTHORITY ET AL. C. A. D. C. Cir. [Certiorari granted, *ante*, p. 807.] Motion of respondent National Treasury Employees Union for divided argument granted.

No. 88-6546. DURO *v.* REINA, CHIEF OF POLICE, SALT RIVER DEPARTMENT OF PUBLIC SAFETY, SALT RIVER PIMA-MARICOPA INDIAN COMMUNITY, ET AL. C. A. 9th Cir. [Certiorari granted, 490 U. S. 1034.] Motion of New Mexico et al. for leave to file a brief as *amici curiae* out of time denied.

No. 88-7351. WALTON *v.* ARIZONA. Sup. Ct. Ariz. [Certiorari granted, *ante*, p. 808.] Motion of American Civil Liberties Union et al. for leave to file a brief as *amici curiae* granted.

No. 89-61. UNITED STATES *v.* OJEDA RIOS ET AL. C. A. 2d Cir. [Certiorari granted, *ante*, p. 889.] Motions for appointment of counsel granted, and it is ordered that Margaret P. Levy, Esq., of Hartford, Conn., be appointed to serve as counsel for respondents in this case.

No. 89-156. PENNSYLVANIA DEPARTMENT OF PUBLIC WELFARE ET AL. *v.* DAVENPORT ET UX. C. A. 3d Cir. [Certiorari granted, *ante*, p. 808.] Motions of Council of State Governments et al. and Washington Legal Foundation et al. for leave to file briefs as *amici curiae* granted.

No. 89-593. LIBERTY MUTUAL INSURANCE CO. ET AL. *v.* COMMISSIONER OF REVENUE OF MASSACHUSETTS. Sup. Jud. Ct. Mass. The Solicitor General is invited to file a brief in this case expressing the views of the United States.

No. 89-5953. IN RE STULL ET AL. Petition for writ of habeas corpus denied.

Certiorari Granted

No. 88-1260. CITIBANK, N. A. *v.* WELLS FARGO ASIA LTD. C. A. 2d Cir. Certiorari granted. Reported below: 852 F. 2d 657.

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No. 89-333. CALIFORNIA *v.* FEDERAL ENERGY REGULATORY COMMISSION ET AL. C. A. 9th Cir. Certiorari granted. Reported below: 877 F. 2d 743.

No. 89-369. GENERAL MOTORS CORP. *v.* UNITED STATES. C. A. 1st Cir. Certiorari granted. Reported below: 876 F. 2d 1060.

Certiorari Denied

No. 88-7440. JAMESON *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 872 F. 2d 1029.

No. 89-284. LOFTUS ET AL. *v.* COMMISSIONER OF INTERNAL REVENUE ET AL. C. A. 2d Cir. Certiorari denied. Reported below: 872 F. 2d 1021.

No. 89-373. ALABAMA POWER CO. ET AL. *v.* ENVIRONMENTAL DEFENSE FUND ET AL. C. A. 2d Cir. Certiorari denied. Reported below: 870 F. 2d 892.

No. 89-378. ALABAMA EX REL. SIEGELMAN, ATTORNEY GENERAL OF ALABAMA, ET AL. *v.* UNITED STATES ENVIRONMENTAL PROTECTION AGENCY ET AL. C. A. 11th Cir. Certiorari denied. Reported below: 871 F. 2d 1548.

No. 89-411. WISTROM *v.* DULUTH, MISSABE & IRON RANGE RAILWAY CO. Ct. App. Minn. Certiorari denied. Reported below: 437 N. W. 2d 730.

No. 89-418. FRANCO ET AL. *v.* UNITED STATES. C. A. Fed. Cir. Certiorari denied. Reported below: 878 F. 2d 1445.

No. 89-419. JOHNSON *v.* DULUTH, MISSABE & IRON RANGE RAILWAY CO. Ct. App. Minn. Certiorari denied. Reported below: 437 N. W. 2d 727.

No. 89-430. NOONS ET AL. *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 878 F. 2d 153.

No. 89-443. CAJUN ELECTRIC POWER COOPERATIVE, INC. *v.* LOUISIANA PUBLIC SERVICE COMMISSION. Sup. Ct. La. Certiorari denied. Reported below: 544 So. 2d 362.

No. 89-464. WILSON ET AL. *v.* CANTERINO, AKA WILLIAMS, ET AL. C. A. 6th Cir. Certiorari denied. Reported below: 875 F. 2d 862.

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No. 89-482. UNITED STATES *v.* WASHINGTON, INDIVIDUALLY AND AS GUARDIAN AD LITEM FOR WASHINGTON, A MINOR. C. A. 9th Cir. Certiorari denied. Reported below: 868 F. 2d 332.

No. 89-568. CHRYSLER CORP. ET AL. *v.* SMOLAREK ET AL. C. A. 6th Cir. Certiorari denied. Reported below: 879 F. 2d 1326.

No. 89-571. ADMINISTRATORS OF THE TULANE EDUCATIONAL FUND *v.* PRESTI ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 878 F. 2d 1433.

No. 89-572. HELMSLEY ET AL. *v.* BEAUFORD ET AL. C. A. 2d Cir. Certiorari denied. Reported below: 893 F. 2d 1433.

No. 89-578. CAIN *v.* LARSON, POLICE CHIEF, VILLAGE OF HERSCHER, ILLINOIS, ET AL. C. A. 7th Cir. Certiorari denied. Reported below: 879 F. 2d 1424.

No. 89-580. ABRAMS ET AL. *v.* COMMUNICATIONS WORKERS OF AMERICA, AFL-CIO. C. A. D. C. Cir. Certiorari denied. Reported below: 280 U. S. App. D. C. 189, 884 F. 2d 628.

No. 89-582. POTTS ET AL. *v.* ILLINOIS DEPARTMENT OF REGISTRATION AND EDUCATION. Sup. Ct. Ill. Certiorari denied. Reported below: 128 Ill. 2d 322, 538 N. E. 2d 1140.

No. 89-588. NOBLE *v.* McMILLAN ET UX. Ct. App. La., 4th Cir. Certiorari denied. Reported below: 538 So. 2d 714.

No. 89-590. WILKINSON *v.* SAFEWAY STORES, INC., ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 879 F. 2d 866.

No. 89-592. GREGORY *v.* GREGORY. Ct. App. Mo., Eastern Dist. Certiorari denied. Reported below: 770 S. W. 2d 372.

No. 89-594. LANE ET UX. *v.* PETERSON ET AL. C. A. 8th Cir. Certiorari denied. Reported below: 889 F. 2d 1092.

No. 89-596. BRAINIS *v.* JEFFERSON PARISH SCHOOL BOARD ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 884 F. 2d 575.

No. 89-598. PELSNIK *v.* CITY OF FAIRVIEW PARK, OHIO. Ct. App. Ohio, Cuyahoga County. Certiorari denied.

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No. 89-600. *ST. CLAIR ET AL. v. CITY OF CHICO, CALIFORNIA, ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 880 F. 2d 199.

No. 89-602. *HARVILL v. SPARROW.* Super. Ct. D. C. Certiorari denied.

No. 89-603. *BUCHOLTZ AVIATION, INC. v. CITY OF BUFFALO, NEW YORK.* App. Div., Sup. Ct. N. Y., 4th Jud. Dept. Certiorari denied. Reported below: 147 App. Div. 2d 915, 537 N. Y. S. 2d 370.

No. 89-604. *ERNST & WHINNEY v. BRADFORD-WHITE CORP.* C. A. 3d Cir. Certiorari denied. Reported below: 872 F. 2d 1153.

No. 89-605. *ROBERTSON v. STATE BOARD OF MEDICAL EXAMINERS ET AL.* C. A. 10th Cir. Certiorari denied.

No. 89-608. *BLACK ET AL. v. BOLIN ET AL.* C. A. 8th Cir. Certiorari denied. Reported below: 875 F. 2d 1343.

No. 89-611. *NEWSOME, WARDEN v. GUNN.* C. A. 11th Cir. Certiorari denied. Reported below: 881 F. 2d 949.

No. 89-613. *ENGEL v. CLARK COUNTY, NEVADA.* C. A. 9th Cir. Certiorari denied. Reported below: 878 F. 2d 1438.

No. 89-619. *CAMOSCIO v. CROWLEY.* C. A. 1st Cir. Certiorari denied. Reported below: 879 F. 2d 853.

No. 89-621. *MARTINEZ, GOVERNOR OF FLORIDA, ET AL. v. RASKE.* C. A. 11th Cir. Certiorari denied. Reported below: 876 F. 2d 1496.

No. 89-637. *PROZZILLO ET AL. v. AMERICAN STATES INSURANCE CO.* C. A. 4th Cir. Certiorari denied. Reported below: 881 F. 2d 1069.

No. 89-638. *CARVALHO v. "ANDREA C" ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 880 F. 2d 416.

No. 89-648. *DIAZ ET AL. v. UNITED STATES.* C. A. 2d Cir. Certiorari denied. Reported below: 878 F. 2d 608.

No. 89-717. *MAYER ET AL. v. UNITED STATES.* C. A. 9th Cir. Certiorari denied. Reported below: 875 F. 2d 871.

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No. 89-723. *GELB v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 881 F. 2d 1155.

No. 89-725. *NELSON v. PRN PRODUCTIONS, INC., ET AL.* C. A. 8th Cir. Certiorari denied. Reported below: 873 F. 2d 1141.

No. 89-727. *THE PORTMAN v. NATIONAL LABOR RELATIONS BOARD ET AL.* C. A. 11th Cir. Certiorari denied. Reported below: 885 F. 2d 878.

No. 89-733. *TOTH ET AL. v. USX CORP.* C. A. 7th Cir. Certiorari denied. Reported below: 883 F. 2d 1297.

No. 89-744. *MOODY v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 886 F. 2d 1323.

No. 89-752. *WEINSTEIN v. EHRENHAUS ET AL., DBA JACK EHRENHAUS ASSOCIATES*. C. A. 2d Cir. Certiorari denied. Reported below: 876 F. 2d 891.

No. 89-5104. *RYONO v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 867 F. 2d 614.

No. 89-5173. *KITCHEN v. OJEDA ET AL.* C. A. 2d Cir. Certiorari denied.

No. 89-5333. *JOSHUA ET UX. v. NEWELL, FOSTER HOME LICENSOR, DEPARTMENT OF SOCIAL AND HEALTH SERVICES, ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 871 F. 2d 884.

No. 89-5394. *AGNEW v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 878 F. 2d 219.

No. 89-5450. *NAVARRO-HERNANDEZ v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 884 F. 2d 1396.

No. 89-5495. *COOPER v. ELEAZER ET AL.* C. A. 11th Cir. Certiorari denied. Reported below: 869 F. 2d 1500.

No. 89-5519. *NEUBAUER v. UNITED STATES*; and
No. 89-5720. *HILLING v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 874 F. 2d 817.

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No. 89-5546. *CORBIT v. HOTEL REDMONT ET AL.* Sup. Ct. Ala. Certiorari denied. Reported below: 547 So. 2d 505.

No. 89-5603. *MOORE v. VIRGINIA.* Ct. App. Va. Certiorari denied.

No. 89-5622. *SCHOOLCRAFT v. UNITED STATES.* C. A. 3d Cir. Certiorari denied. Reported below: 879 F. 2d 64.

No. 89-5636. *SMITH v. MAZURKIEWICZ, SUPERINTENDENT, STATE CORRECTIONAL INSTITUTION AT ROCKVIEW, ET AL.* C. A. 3d Cir. Certiorari denied.

No. 89-5638. *BARTE v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. Reported below: 868 F. 2d 773 and 878 F. 2d 829.

No. 89-5755. *GALLAGHER v. HOLLAND.* C. A. 6th Cir. Certiorari denied. Reported below: 876 F. 2d 103.

No. 89-5756. *GALLAGHER v. CURL.* C. A. 6th Cir. Certiorari denied. Reported below: 876 F. 2d 103.

No. 89-5757. *GALLAGHER v. CURL ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 872 F. 2d 1025.

No. 89-5758. *HAYES v. BE&K CONSTRUCTION Co.* C. A. 4th Cir. Certiorari denied. Reported below: 873 F. 2d 1438.

No. 89-5759. *TREADWAY v. ESTELLE, WARDEN.* C. A. 9th Cir. Certiorari denied. Reported below: 879 F. 2d 866.

No. 89-5777. *LEBLANC v. JANI-KING, INC., ET AL.* Ct. App. La., 4th Cir. Certiorari denied. Reported below: 538 So. 2d 1156.

No. 89-5779. *JOHNS v. YEE.* Sup. Ct. Haw. Certiorari denied.

No. 89-5780. *HARTMANN v. HARTMANN ET AL.* Ct. App. Mich. Certiorari denied.

No. 89-5781. *MCCLEARY v. RAY.* C. A. 5th Cir. Certiorari denied. Reported below: 885 F. 2d 868.

No. 89-5785. *GAMBRELL v. MARTIN ET AL.* Super. Ct. N. J., App. Div. Certiorari denied.

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No. 89-5786. *FORSYTH v. WILLIAMS ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 877 F. 2d 59.

No. 89-5787. *WOODS v. JONES, WARDEN.* C. A. 11th Cir. Certiorari denied.

No. 89-5788. *JACKSON v. GENERAL MOTORS ACCEPTANCE CORP.* Sup. Ct. Ala. Certiorari denied. Reported below: 549 So. 2d 38.

No. 89-5791. *GRAY v. LEWIS, DIRECTOR, ARIZONA DEPARTMENT OF CORRECTIONS.* C. A. 9th Cir. Certiorari denied. Reported below: 881 F. 2d 821.

No. 89-5799. *LOPEZ v. TANSY, WARDEN.* C. A. 10th Cir. Certiorari denied. Reported below: 875 F. 2d 273.

No. 89-5801. *DAVENPORT v. PENNSYLVANIA.* Super. Ct. Pa. Certiorari denied. Reported below: 355 Pa. Super. 631, 509 A. 2d 1319.

No. 89-5812. *HENDERSON v. BUTLER, WARDEN, ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 880 F. 2d 411.

No. 89-5819. *HOLMES v. HORTON, WARDEN, ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 883 F. 2d 69.

No. 89-5820. *BOND v. JOHNSTONE ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 886 F. 2d 1315.

No. 89-5823. *ENSMINGER v. BORG, WARDEN, ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 875 F. 2d 318.

No. 89-5826. *SPAHR v. ILLINOIS.* App. Ct. Ill., 2d Dist. Certiorari denied. Reported below: 180 Ill. App. 3d 1104, 552 N. E. 2d 819.

No. 89-5834. *MCDONALD v. BAILEY.* C. A. 6th Cir. Certiorari denied. Reported below: 884 F. 2d 579.

No. 89-5836. *GLUNT v. KEOHANE, WARDEN.* C. A. 3d Cir. Certiorari denied. Reported below: 870 F. 2d 651.

No. 89-5840. *NICHOLS v. JABE, WARDEN.* C. A. 6th Cir. Certiorari denied.

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No. 89-5841. *BROWN v. DISTRICT OF COLUMBIA DEPARTMENT OF CORRECTIONS ET AL.* C. A. D. C. Cir. Certiorari denied.

No. 89-5842. *JAMES v. EVATT, COMMISSIONER, SOUTH CAROLINA DEPARTMENT OF CORRECTIONS.* Sup. Ct. S. C. Certiorari denied.

No. 89-5843. *SMITH v. PUCKETT, SUPERINTENDENT, MISSISSIPPI STATE PENITENTIARY AT PARCHMAN.* C. A. 5th Cir. Certiorari denied.

No. 89-5846. *YOWELL v. WITHROW.* C. A. 6th Cir. Certiorari denied. Reported below: 883 F. 2d 76.

No. 89-5859. *ALLEN v. HOUSTON CHRONICLE PUBLISHING CO.* C. A. 5th Cir. Certiorari denied.

No. 89-5897. *TURNER v. UNITED STATES.* C. A. 11th Cir. Certiorari denied. Reported below: 871 F. 2d 1574.

No. 89-5905. *MONGER v. UNITED STATES.* C. A. 6th Cir. Certiorari denied. Reported below: 879 F. 2d 218.

No. 89-5908. *GARCIA v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. Reported below: 885 F. 2d 868.

No. 89-5910. *PRITZ v. UNITED STATES.* C. A. 9th Cir. Certiorari denied. Reported below: 879 F. 2d 866.

No. 89-5911. *MINES v. UNITED STATES.* C. A. 9th Cir. Certiorari denied. Reported below: 883 F. 2d 801.

No. 89-5912. *HOLLAND v. UNITED STATES.* C. A. 8th Cir. Certiorari denied. Reported below: 884 F. 2d 354.

No. 89-5919. *MASKULI v. UNITED STATES.* C. A. 4th Cir. Certiorari denied. Reported below: 884 F. 2d 1390.

No. 89-5921. *SCIARRINO v. UNITED STATES.* C. A. 3d Cir. Certiorari denied. Reported below: 884 F. 2d 95.

No. 89-5932. *ALVEY v. SOWDERS, WARDEN.* C. A. 6th Cir. Certiorari denied.

No. 89-5942. *WILLIAMS v. UNITED STATES.* C. A. 4th Cir. Certiorari denied. Reported below: 885 F. 2d 867.

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No. 89-5957. PAPATHANASION *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. Reported below: 884 F. 2d 1550.

No. 89-5960. MASON *v.* LOCKHART, DIRECTOR, ARKANSAS DEPARTMENT OF CORRECTION. C. A. 8th Cir. Certiorari denied. Reported below: 881 F. 2d 573.

No. 89-5965. RIVERA *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 879 F. 2d 1247.

No. 89-567. JIM SKINNER FORD, INC. *v.* WARREN ET UX. Sup. Ct. Ala. Motion of Automobile Dealers Association of Alabama et al. for leave to file a brief as *amici curiae* granted. Certiorari denied. JUSTICE WHITE and JUSTICE BLACKMUN would grant certiorari. Reported below: 548 So. 2d 157.

Rehearing Denied

No. 89-2. CAMOSCIO *v.* TIERNEY, ADMINISTRATIVE JUSTICE, BOSTON MUNICIPAL COURT DEPARTMENT, ET AL., *ante*, p. 845;

No. 89-305. MCGUIRE, INDIVIDUALLY AND AS MOTHER AND NEXT FRIEND OF MCGUIRE, A MINOR *v.* CITY OF WOODWARD, OKLAHOMA, ET AL., *ante*, p. 918;

No. 89-306. RILEY *v.* UNITED PARCEL SERVICE, *ante*, p. 918;
No. 89-445. BRUCE *v.* HARLAN & HARLAN ET AL., *ante*, p. 937;

No. 89-461. CAMOSCIO *v.* DUKAKIS ET AL., *ante*, p. 920;

No. 89-5117. CLARK *v.* NEW MEXICO, *ante*, p. 923; and

No. 89-5483. DITTA *v.* BRANCH MOTOR EXPRESS & FREIGHT DRIVERS, HELPERS, DOCKMEN & ALLIED WORKERS, LOCAL UNION 375, *ante*, p. 922. Petitions for rehearing denied.

No. 88-5763. SILVA *v.* CALIFORNIA, 488 U. S. 1019. Motion for leave to file petition for rehearing denied.

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*Miscellaneous Orders**

No. A-425 (89-6166). TOMPKINS *v.* FLORIDA. Sup. Ct. Fla. Application for stay of execution of sentence of death, presented to JUSTICE KENNEDY, and by him referred to the Court, denied.

*For the Court's order approving revisions to the Rules of this Court, see *post*, p. 1098.

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JUSTICE BRENNAN and JUSTICE MARSHALL, dissenting.

Adhering to our views that the death penalty is in all circumstances cruel and unusual punishment prohibited by the Eighth and Fourteenth Amendments, *Gregg v. Georgia*, 428 U. S. 153, 227, 231 (1976), we would grant 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-433. DELUNA *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, 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.

DECEMBER 11, 1989

Miscellaneous Orders

No. — — —. HUMPHREY *v.* BATES ET AL. Motion to direct the Clerk to file petition for writ of certiorari out of time denied. JUSTICE BLACKMUN dissents and would grant the motion.

No. D-806. IN RE DISBARMENT OF BIAGGI. Disbarment entered. [For earlier order herein, see 492 U. S. 941.]

No. D-809. IN RE DISBARMENT OF EHRlich. Disbarment entered. [For earlier order herein, see 492 U. S. 941.]

No. D-810. IN RE DISBARMENT OF SIMON. Disbarment entered. [For earlier order herein, see 492 U. S. 941.]

No. D-817. IN RE DISBARMENT OF SINGER. Phillip Singer, of Beverly Hills, Cal., having requested to resign as a member of the Bar of this Court, it is ordered that his name be stricken from

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the roll of attorneys admitted to practice before the Bar of this Court. The rule to show cause, heretofore issued on November 6, 1989 [*ante*, p. 949], is hereby discharged.

No. D-847. *IN RE DISBARMENT OF NIXON*. It is ordered that Walter L. Nixon, Jr., of Biloxi, Miss., be suspended from the practice of law in this Court and that a rule issue, returnable within 40 days, requiring him to show cause why he should not be disbarred from the practice of law in this Court.

No. D-848. *IN RE DISBARMENT OF WILLIAMS*. It is ordered that Gerald Duane Williams, of Portland, Ore., 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. 88-1281. *NGIRAINGAS ET AL. v. SANCHEZ ET AL.* C. A. 9th Cir. [Certiorari granted, *ante*, p. 807.] Motion of the Solicitor General for leave to participate in oral argument as *amicus curiae* and for divided argument granted. JUSTICE KENNEDY took no part in the consideration or decision of this motion.

No. 88-1400. *FRANCHISE TAX BOARD OF CALIFORNIA ET AL. v. ALCAN ALUMINIUM LTD. ET AL.* C. A. 7th Cir. [Certiorari granted, 490 U. S. 1019.] Motion of respondent Imperial Chemical Industries PLC to expunge representations of counsel made during oral argument denied.

No. 88-1897. *MICHIGAN DEPARTMENT OF STATE POLICE ET AL. v. SITZ ET AL.* Ct. App. Mich. [Certiorari granted, *ante*, p. 806.] Motion of Mothers Against Drunk Driving in Michigan for leave to participate in oral argument as *amicus curiae*, for divided argument, and for additional time for oral argument denied. Motion of the Solicitor General for leave to participate in oral argument as *amicus curiae* and for divided argument granted.

No. 88-2018. *ILLINOIS v. RODRIGUEZ*. App. Ct. Ill., 1st Dist. [Certiorari granted, *ante*, p. 932.] Motion of respondent to supplement the record granted.

No. 88-7351. *WALTON v. ARIZONA*. Sup. Ct. Ariz. [Certiorari granted, *ante*, p. 808.] Motion of petitioner for additional time for oral argument denied.

No. 89-156. *PENNSYLVANIA DEPARTMENT OF PUBLIC WELFARE ET AL. v. DAVENPORT ET UX.* C. A. 3d Cir. [Certiorari

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granted, *ante*, p. 808.] Motion of the Solicitor General for leave to participate in oral argument as *amicus curiae* and for divided argument denied.

No. 89-243. ELI LILLY & Co. *v.* MEDTRONIC, INC. C. A. Fed. Cir. [Certiorari granted, *ante*, p. 889.] Motion of Neuro-medical Technologies, 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. 89-255. UNITED STATES *v.* ENERGY RESOURCES Co., INC., ET AL. C. A. 1st Cir. [Certiorari granted, *ante*, p. 963.] Motion of the Solicitor General to dispense with printing the joint appendix granted.

No. 89-579. CHARTER Co. *v.* CERTIFIED CLASS IN THE CHARTER SECURITIES LITIGATION ET AL. C. A. 11th Cir. Motion of the parties to defer consideration of petition for writ of certiorari granted.

No. 89-5884. MILLER *v.* HALL. Ct. App. Cal., 2d App. Dist. Motion of petitioner for leave to proceed *in forma pauperis* denied. Petitioner is allowed until January 2, 1990, 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. 89-656. IN RE GABRIEL INTERNATIONAL, INC. Petition for writ of mandamus denied.

Certiorari Granted

No. 89-742. LYNAUGH, DIRECTOR, TEXAS DEPARTMENT OF CORRECTIONS *v.* YOUNGBLOOD. C. A. 5th Cir. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari granted. Reported below: 882 F. 2d 956.

Certiorari Denied

No. 88-7595. CHAMBLESS ET AL. *v.* UNITED STATES; and DIAZ *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 869 F. 2d 822 (first case).

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No. 89-193. DISTRICT NO. 1, PACIFIC COAST DISTRICT, MARINE ENGINEERS' BENEFICIAL ASSN., ET AL. *v.* FINNIE. Ct. App. Cal., 1st App. Dist. Certiorari denied.

No. 89-387. POSS ET AL. *v.* HOWARD ET AL. C. A. 11th Cir. Certiorari denied. Reported below: 871 F. 2d 1000.

No. 89-454. AMOCO PRODUCTION CO. *v.* LUJAN, SECRETARY OF THE INTERIOR, ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 877 F. 2d 1243.

No. 89-455. CLOUD *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 872 F. 2d 846.

No. 89-471. CONSTANT *v.* UNITED STATES. C. A. Fed. Cir. Certiorari denied. Reported below: 884 F. 2d 1398.

No. 89-475. PEAT MARWICK MAIN & CO. *v.* ROBERTS ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 857 F. 2d 646.

No. 89-488. SEPULVEDA ET AL. *v.* PACIFIC MARITIME ASSN. ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 878 F. 2d 1137.

No. 89-496. STICH *v.* UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF CALIFORNIA (JENSEN, JUDGE, SUPERIOR COURT OF CALIFORNIA, SOLANO COUNTY, ET AL., REAL PARTIES IN INTEREST). C. A. 9th Cir. Certiorari denied. Reported below: 881 F. 2d 1084.

No. 89-551. MOOR *v.* CITY OF AUBURN HILLS ET AL. C. A. 6th Cir. Certiorari denied. Reported below: 875 F. 2d 866.

No. 89-573. BOB HERBERT & ASSOCIATES, INC. *v.* KING MANUFACTURING & SALES, INC. C. A. 10th Cir. Certiorari denied.

No. 89-623. AVILA *v.* UNITED STATES. Ct. Mil. App. Certiorari denied. Reported below: 29 M. J. 299.

No. 89-625. HILL *v.* FLORIDA BAR. Sup. Ct. Fla. Certiorari denied.

No. 89-627. STANFIELD *v.* HORN ET AL. C. A. 6th Cir. Certiorari denied. Reported below: 884 F. 2d 580.

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No. 89-630. CITY OF KILGORE, TEXAS *v.* MOORE. C. A. 5th Cir. Certiorari denied. Reported below: 877 F. 2d 364.

No. 89-632. GK TRUCKING CORP. ET AL. *v.* LACINA ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 877 F. 2d 741.

No. 89-634. CENTRAL STATES, SOUTHEAST AND SOUTHWEST AREAS PENSION FUND *v.* BANNER INDUSTRIES, INC., ET AL. C. A. 7th Cir. Certiorari denied. Reported below: 875 F. 2d 1285.

No. 89-636. BARRETT, DBA BARRETT OUTDOOR COMMUNICATIONS *v.* BURNS, COMMISSIONER OF TRANSPORTATION OF CONNECTICUT. Sup. Ct. Conn. Certiorari denied. Reported below: 212 Conn. 176, 561 A. 2d 1378.

No. 89-642. COLUMBUS-MCKINNON, INC. *v.* GEARENCH, INC. C. A. 5th Cir. Certiorari denied. Reported below: 872 F. 2d 1221.

No. 89-643. GOLUB *v.* HYDRA OFFSHORE, INC., ET AL. C. A. 2d Cir. Certiorari denied. Reported below: 875 F. 2d 388.

No. 89-646. DUNCAN *v.* IMMIGRATION AND NATURALIZATION SERVICE ET AL. C. A. 11th Cir. Certiorari denied. Reported below: 874 F. 2d 819.

No. 89-683. WATERHOUSE *v.* RODRIGUEZ, CHAIRMAN, NEW YORK STATE BOARD OF PAROLE, ET AL. C. A. 2d Cir. Certiorari denied. Reported below: 883 F. 2d 1022.

No. 89-687. CLARK *v.* IOWA. Sup. Ct. Iowa. Certiorari denied.

No. 89-714. POWELL ET UX. *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied.

No. 89-718. MARTEL *v.* TALBOT ET AL. C. A. 1st Cir. Certiorari denied.

No. 89-719. UNITED STATES *v.* NOFZIGER. C. A. D. C. Cir. Certiorari denied. Reported below: 278 U. S. App. D. C. 340, 878 F. 2d 442.

No. 89-730. DIETRICK ET UX. *v.* COMMISSIONER OF INTERNAL REVENUE. C. A. 6th Cir. Certiorari denied. Reported below: 881 F. 2d 336.

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No. 89-765. *WHITFIELD v. UNITED STATES*. C. A. 10th Cir. Certiorari denied.

No. 89-5198. *ANDERSON v. WASHINGTON*. Sup. Ct. Wash. Certiorari denied. Reported below: 112 Wash. 2d 546, 772 P. 2d 510.

No. 89-5540. *HAINES ET AL. v. WISCONSIN*. Sup. Ct. Wis. Certiorari denied. Reported below: 150 Wis. 2d 513, 442 N. W. 2d 36.

No. 89-5569. *BUCEY v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 876 F. 2d 1297.

No. 89-5578. *THOMPSON v. MARYLAND*. Ct. Sp. App. Md. Certiorari denied. Reported below: 78 Md. App. 722.

No. 89-5591. *LUTEN v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 889 F. 2d 1091.

No. 89-5605. *ANDERSON ET AL. v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 872 F. 2d 1508.

No. 89-5637. *PASTOR v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 872 F. 2d 1030.

No. 89-5684. *ABDUL-AKBAR v. FOWLER ET AL.* C. A. 3d Cir. Certiorari denied.

No. 89-5732. *WATSON v. JENNINGS ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 875 F. 2d 313.

No. 89-5789. *GIBSON v. UNITED STATES ARMY ET AL.* C. A. 3d Cir. Certiorari denied.

No. 89-5815. *TRIPATI v. FEDERAL DEPOSIT INSURANCE CORPORATION*. C. A. 10th Cir. Certiorari denied.

No. 89-5821. *MCKEEVER v. BLOCK ET AL.* C. A. 9th Cir. Certiorari denied.

No. 89-5838. *BOUT v. BROWN ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 876 F. 2d 103.

No. 89-5857. *HOSKINS v. VASQUEZ, WARDEN*. C. A. 9th Cir. Certiorari denied. Reported below: 883 F. 2d 1024.

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No. 89-5899. *JARRETT v. MINUTE MAN, INC., ET AL.* C. A. 9th Cir. Certiorari denied.

No. 89-5907. *JACKSON v. UNITED STATES.* C. A. 11th Cir. Certiorari denied. Reported below: 886 F. 2d 1323.

No. 89-5917. *NOE v. UNITED STATES.* C. A. 3d Cir. Certiorari denied. Reported below: 879 F. 2d 860.

No. 89-5918. *HENDERSON v. UNITED STATES.* Ct. App. D. C. Certiorari denied.

No. 89-5929. *DELAY v. UNITED STATES.* C. A. 8th Cir. Certiorari denied.

No. 89-5939. *JENKINS v. UNITED STATES.* C. A. 9th Cir. Certiorari denied. Reported below: 884 F. 2d 433.

No. 89-5941. *WEAKLEY v. INDIANA.* Ct. App. Ind. Certiorari denied. Reported below: 539 N. E. 2d 994.

No. 89-5945. *LIPSCOMB v. CAROTHERS, SUPERINTENDENT, YUKON KUSKOKWIM CORRECTIONAL CENTER.* C. A. 9th Cir. Certiorari denied. Reported below: 886 F. 2d 1320.

No. 89-5966. *HARTOG v. IOWA.* Sup. Ct. Iowa. Certiorari denied. Reported below: 440 N. W. 2d 852.

No. 89-5967. *HARRIS v. UNITED STATES.* C. A. 11th Cir. Certiorari denied. Reported below: 876 F. 2d 1502.

No. 89-5968. *LAWSE v. CORRY ET AL.* C. A. 8th Cir. Certiorari denied.

No. 89-5988. *ABADIE ET AL. v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. Reported below: 879 F. 2d 1260.

No. 88-7384. *SOROLA v. TEXAS.* Ct. Crim. App. Tex. Certiorari denied. Reported below: 769 S. W. 2d 920.

JUSTICE BRENNAN, with whom JUSTICE MARSHALL joins, dissenting.

Petitioner, Joe Sorola, was indicted for capital murder under Tex. Penal Code Ann. § 19.03(a)(2) (Supp. 1988-1989). At trial, the State announced in open court that it would not seek the death penalty and jury selection proceeded as if the death penalty was not at issue.¹ As the lower court explained:

¹See Tex. Code Crim. Proc. Ann., Art. 35.25 (Vernon 1989) (prescribing *voir dire* procedure for capital cases in which State has agreed not to seek death penalty). See generally *Witherspoon v. Illinois*, 391 U. S. 510 (1968).

"The record reflects that following the jury's decision that [Sorola] was guilty of capital murder, the jury was sent back to the jury room. Outside the presence of the jury, the trial court, the State, and [Sorola] agreed that because the State had waived the death penalty in this case, the proper procedure was to have the court assess punishment. The trial court then found [Sorola] guilty of capital murder and sentenced him to life imprisonment in the Texas Department of Corrections. Thereafter without objection, the court informed the parties he was going to release the jury panel." 674 S. W. 2d 809, 810 (Tex. App. 1984).

Petitioner appealed his conviction and sentence. The Texas Court of Criminal Appeals found that under state law, the State cannot waive its right to seek the death penalty, and a defendant cannot waive the right to a jury's assessment of punishment. 693 S. W. 2d 417, 419 (1985). Upon remand for a new trial, petitioner filed an application for writ of habeas corpus arguing that the Double Jeopardy Clause barred the State from seeking the death penalty if he were once again found guilty of capital murder on retrial.² The Texas courts rejected his claim and he now seeks certiorari.³ 769 S. W. 2d 920, 926-928 (Tex. Crim. App. 1989). Because I believe the Double Jeopardy Clause bars the State from subjecting petitioner to the death penalty on retrial, I would grant the petition and reverse the Texas Court of Criminal Appeals.

I

In *Bullington v. Missouri*, 451 U. S. 430 (1981), this Court held that the Double Jeopardy Clause prohibits the State from subjecting a defendant who received a life sentence in his first sentencing proceeding to the possibility of a death sentence on retrial after reversal of his conviction or sentence. The Court concluded that because the capital sentencing proceeding "in all relevant respects was like the immediately preceding trial on the issue of guilt or in-

² Although the Texas courts found reversible error only at the sentencing phase, under Texas law petitioner is entitled to a new trial on both guilt and sentencing. 769 S. W. 2d 920, 923 (Tex. Crim. App. 1989).

³ We have jurisdiction under 28 U. S. C. § 1257 (1982 ed.) because the judgment rejecting petitioner's double jeopardy claim is "final." See *Bullington v. Missouri*, 451 U. S. 430, 437, n. 8 (1981); see also *Abney v. United States*, 431 U. S. 651 (1977).

nocence," *id.*, at 438, the jury's conclusion that the evidence did not support the death penalty constituted an acquittal of death. *Id.*, at 445. In *Arizona v. Rumsey*, 467 U. S. 203, 211 (1984), the Court made clear that the fact that the acquittal resulted from an error of law did not deprive it of finality under the Double Jeopardy Clause.

There should be no doubt that *Bullington* and *Rumsey* apply to capital sentencing determinations made by Texas juries.⁴ Thus if a Texas jury had determined that petitioner deserved a life sentence, this case would require a straightforward application of *Bullington* and *Rumsey*. In this case, the life sentence was imposed by the trial judge after the State waived the right to seek the death penalty. But this difference is of no significance for double jeopardy purposes because the form of the judicial action does not determine whether it constitutes an acquittal. Rather, the determination turns on "whether the ruling of the judge, whatever its label, actually represents a resolution, correct or not, of some or all of the factual elements of the offense charged." *United States v. Martin Linen Supply Co.*, 430 U. S. 564, 571 (1977).⁵ In the context of capital sentencing, "*Bullington* indicates that the proper inquiry is whether the sentencer or reviewing court has 'decided that the prosecution has not proved its case'

⁴The Texas capital sentencing scheme has been described in detail elsewhere. See, e. g., *Penry v. Lynaugh*, 492 U. S. 302, 310-311 (1989). It is sufficient for present purposes to note that the Texas capital sentencing scheme has the same characteristics as the Missouri and Arizona sentencing proceedings that made them comparable to a trial for double jeopardy purposes: (1) the sentencer's discretion is limited to two options: life or death; (2) the sentencer's discretion is guided by substantive standards; and (3) the proceeding resembles a trial at which evidence is introduced and in which the State must prove the existence of predicate facts justifying the death penalty beyond a reasonable doubt. Tex. Code Crim. Proc. Ann., Art. 37.071 (Vernon Supp. 1988-1989). See *Bullington*, *supra*, at 438; *Rumsey*, 467 U. S., at 209. Thus "when the [Texas] sentencer imposes a sentence of life imprisonment in a capital sentencing proceeding, it has determined that the prosecutor has failed to prove its case." *Id.*, at 209-210.

⁵The Texas Court of Criminal Appeals held that the trial judge's action did not constitute an acquittal on the merits because the judge made no findings that the death penalty was not justified. This finding is not binding on this Court, for whether a trial judge's action constitutes an acquittal is a federal question. *Justices of Boston Municipal Court v. Lydon*, 466 U. S. 294, 321 (1984) (opinion of BRENNAN, J.). Cf. *Crist v. Bretz*, 437 U. S. 28, 37-38 (1978).

that the death penalty is appropriate." *Poland v. Arizona*, 476 U. S. 147, 155 (1986) (emphasis in original).

The judge's imposition of a life sentence cannot be characterized as anything other than an acquittal of death. The trial judge imposed a sentence of life imprisonment because the State waived its right to seek the death penalty. Thus, there was absolutely no evidence in the record to support the death penalty. That the judge's decision was based on the complete lack of evidence rather than the existence of insufficient evidence should strengthen petitioner's claim to double jeopardy protection. A core purpose of the Double Jeopardy Clause is to ensure that the state does not get a second opportunity to prove its case after failing to do so initially. This principle is equally applicable in the capital sentencing context: "[h]aving received 'one fair opportunity to offer whatever proof it could assemble,' the State is not entitled to another." *Bullington*, *supra*, at 446 (quoting *Burks v. United States*, 437 U. S. 1, 16 (1978)).

To be sure, *Bullington* and *Rumsey* relied on the fact that the sentencer had determined after a trial-like hearing that the evidence was insufficient to impose the death penalty and in this case there was no sentencing hearing. But the significance of the presence of a trial-like proceeding was that it distinguished a capital case from the noncapital sentencing context, where the imposition of a particular sentence is not an implied acquittal of a greater sentence. See *Bullington*, 451 U. S., at 439-441. The Court justified an exception to the general rule because of the unique features of the capital sentencing scheme where the state bears the burden of proving, often beyond a reasonable doubt, that death is the appropriate penalty. *Ibid.* As noted, the Texas capital punishment statute requires the State to prove certain facts beyond a reasonable doubt. See Tex. Code Crim. Proc. Ann., Art. 37.071 (Vernon Supp. 1988-1989). Thus, the prosecutor's decision to waive the death penalty makes this case more like *Bullington* than a decision to seek a specific sentence in a noncapital sentencing context; it reflects the prosecutor's conclusion that there was insufficient evidence to justify the death penalty. See *Bullington*, *supra*, at 441 (use of beyond-reasonable-doubt standard reflects society's belief that defendant's interests are so great that State should bear the risk of error). The fact

that the prosecutor responsibly acknowledges the weakness of the case should not lessen the effect of the trial judge's imposition of a life sentence. A contrary conclusion would mean that the Double Jeopardy Clause protects the defendant only if the prosecutor, knowing that the case is weak, actually presents it to the jury and it ratifies that initial judgment by rejecting the death penalty. We do not have such a rule in the guilt phase. See *United States v. Martin Linen Supply Co.*, *supra*, at 574 (no difference for double jeopardy purposes between entry of judgment of acquittal before or after submission to jury); *Smalis v. Pennsylvania*, 476 U. S. 140, 144-145 (1986) (granting demurrer at end of state's case constitutes acquittal even if based on erroneous legal ruling). I see no reason to require such a rule at the sentencing phase.⁶

⁶ I find it irrational and perhaps unconstitutional for state law to require the parties to proceed with a capital sentencing hearing when both parties agree that the death penalty is inappropriate. A prosecutor's decision to waive the death penalty rather than burden the defendant, the court, and the jury with a meaningless proceeding should be respected, if not applauded. The Texas law significantly interferes with prosecutorial discretion and raises grave constitutional concerns in a capital sentencing context. It creates institutional pressure on a prosecutor to charge capital murder even if he believes that the death penalty is unwarranted to ensure that the defendant will be sentenced to life. Pressuring a prosecutor to charge capital murder even when he believes the evidence does not support the death penalty increases the risk of arbitrary imposition of the death penalty. Cf. *Beck v. Alabama*, 447 U. S. 625, 637-638 (1980) (prohibiting jury from considering lesser included offense to capital murder increases arbitrariness by depriving jury of "third option" between acquittal and death penalty).

I pause to note just how odd the state court's decision that the prosecutor may not waive the death penalty is. The Texas Court of Criminal Appeals acknowledged that a trial judge has statutory authority to enter a sentence of life imprisonment in several types of cases: (1) when the defendant is a juvenile; (2) when the defendant is found guilty of a lesser included offense; (3) when the jury is unable to answer the questions at the sentencing hearing; and (4) even after the jury imposes a verdict of death, when the trial judge determines that the evidence is insufficient. 769 S. W. 2d, at 927 (discussing statutes). Concluding that state law precludes a trial judge from imposing a life sentence when the prosecutor affirmatively waives the death penalty is especially anomalous when the Texas Criminal Code provides for a special *voir dire* procedure in capital cases in which the State waives the death penalty. See Tex. Code Crim. Proc. Ann, Art. 35.25 (Vernon 1989) (applicable "in capital cases in which the State's attorney has announced that he will not qualify the jury for, or seek the death penalty . . ." (emphasis added)). See also 769 S. W. 2d, at 933-936 (Clinton, J., concurring) (arguing that rule prohibiting

Finally, the fact that the trial judge did not have the authority under state law to allow the State to waive the death penalty is irrelevant for purposes of the Double Jeopardy Clause.⁷ We have consistently held that “the fact that ‘the acquittal may result from erroneous evidentiary rulings or erroneous interpretations of governing legal principles’ . . . affects the accuracy of that determination, but it does not alter its essential character.” *United States v. Scott*, 437 U. S. 82, 98 (1978) (quoting *id.*, at 106 (BRENNAN, J., dissenting)); see also *Rumsey*, 467 U. S., at 211. Moreover, the trial judge’s actions in this case are not distinguishable from those in *Fong Foo v. United States*, 369 U. S. 141 (1962) (*per curiam*). In that case, the District Court ordered the jury to enter judgments of acquittal as to all the defendants based on insufficient evidence and prosecutorial misconduct. The Court held that even if the trial judge’s actions were improper, the protection of the Double Jeopardy Clause attached to the acquittal. *Id.*, at 143. If the judgment in *Fong Foo* constituted an acquittal, the life sentence in this case must constitute an acquittal of death.

State from waiving death penalty is vestige from era before *Gregg v. Georgia*, 428 U. S. 153 (1976), and should not be continued). Although this Court cannot review a state court’s interpretation of its own laws, neither may a State adopt a rule which effectively limits a trial judge’s ability to grant an acquittal. Cf. *Crist v. Bretz*, 437 U. S., at 37–38 (State cannot adopt its own rule about when jeopardy attaches).

⁷Petitioner was clearly placed in jeopardy as to the sentence: he was indicted for capital murder, the jury was sworn and empaneled, and it convicted him of capital murder. *Ibid.* The State argues, however, that because petitioner appealed on the issue of the trial judge’s authority to impose a life sentence, the concept of “continuing jeopardy” applies and the State is free to subject him to the death penalty on retrial. See *North Carolina v. Pearce*, 395 U. S. 711, 719–720 (1969) (when defendant wins reversal of conviction on appeal, “the slate [is] wiped clean” and double jeopardy does not bar imposition of harsher punishment on retrial). This begs the precise question in this case. Because the trial judge’s actions constituted an acquittal, the concept of continuing jeopardy is inapplicable. See *Bullington*, 451 U. S., at 443 (“[T]he ‘clean slate’ rationale recognized in *Pearce* is inapplicable whenever a jury agrees or an appellate court decides that the prosecution has not proved its case”); see also *Smalis v. Pennsylvania*, 476 U. S. 140, 145 (1986) (“continuing jeopardy” inapplicable when trial judge’s ruling constitutes an acquittal). Petitioner’s decision to appeal his sentence cannot transform what was already an acquittal into something less.

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II

Even if I did not conclude that the Double Jeopardy Clause prevents the imposition of the death penalty on resentencing, my belief that the death penalty is in all circumstances cruel and unusual punishment prohibited by the Eighth and Fourteenth Amendments, see *Gregg v. Georgia*, 428 U. S. 153, 227 (1976) (BRENNAN, J., dissenting), would compel me to vacate the judgment below and remand for resentencing on the condition that the State be precluded from imposing the death sentence.

No. 89-450. TEXAS MEDICAL ASSN. ET AL. *v.* SULLIVAN, SECRETARY OF HEALTH AND HUMAN SERVICES, ET AL. C. A. 5th Cir. Motion of petitioners to strike brief of Blue Cross/Blue Shield of Texas, Inc., denied. Motion of petitioners to defer consideration of petition for writ of certiorari denied. Certiorari denied. Reported below: 875 F. 2d 1160.

No. 89-595. RATELLE, WARDEN *v.* MARTIN. C. A. 9th Cir. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 875 F. 2d 870.

No. 89-650. DUGGER, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS, ET AL. *v.* HARRIS. C. A. 11th Cir. Certiorari denied. Reported below: 874 F. 2d 756.

JUSTICE BRENNAN, concurring.

I agree that respondent's lawyers rendered ineffective assistance of counsel in violation of the Sixth and Fourteenth Amendments. Adhering to my view that the death penalty is in all circumstances cruel and unusual punishment prohibited by the Eighth and Fourteenth Amendments, see *Gregg v. Georgia*, 428 U. S. 153, 227 (1976) (dissenting opinion), I would hold that the State is precluded on remand from imposing a sentence of death.

No. 89-653. GAGLIARDI *v.* AMERICAN TELEPHONE & TELEGRAPH CO. ET AL. C. A. 3d Cir. Certiorari denied. JUSTICE O'CONNOR took no part in the consideration or decision of this petition. Reported below: 879 F. 2d 856.

No. 89-654. DEAN *v.* JOHNSON ET AL. C. A. 10th Cir. Certiorari denied. JUSTICE WHITE and JUSTICE BLACKMUN would grant certiorari. Reported below: 881 F. 2d 948.

No. 89-5158. ASH *v.* WILT, WARDEN, ET AL. C. A. 4th Cir. Certiorari denied. JUSTICE WHITE would grant certiorari. Reported below: 875 F. 2d 314.

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No. 89-5319. *FRANZEN v. DEEDS, WARDEN, ET AL.* C. A. 9th Cir. Certiorari denied. JUSTICE WHITE would grant certiorari. Reported below: 877 F. 2d 26.

No. 89-5795. *PUTMAN v. ZANT, SUPERINTENDENT, GEORGIA DIAGNOSTIC AND CLASSIFICATION CENTER.* Super. Ct. Ga., Butts County;

No. 89-5802. *HOLLADAY v. ALABAMA.* Sup. Ct. Ala.; and

No. 89-5958. *VALERIO v. NEVADA.* Sup. Ct. Nev. Certiorari denied. Reported below: No. 89-5802, 549 So. 2d 135; No. 89-5958, 105 Nev. 1051, 810 P. 2d 344.

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. 89-5392. *COFIELD v. ADAMS ET AL.*, *ante*, p. 921;

No. 89-5532. *LAURENCO v. SULLIVAN, SECRETARY, DEPARTMENT OF HEALTH AND HUMAN SERVICES*, *ante*, p. 956; and

No. 89-5640. *READ v. PROTHONOTARY, NEW CASTLE COUNTY, DELAWARE, ET AL.*, *ante*, p. 943. Petitions for rehearing denied.

DECEMBER 13, 1989

Dismissal Under Rule 53

No. 89-536. *PONCE v. UNITED STATES.* C. A. 9th Cir. Certiorari dismissed under this Court's Rule 53.

DECEMBER 28, 1989

Dismissal Under Rule 53

No. 89-269. *DOULIN ET AL. v. CITY OF CHICAGO.* C. A. 7th Cir. Certiorari dismissed under this Court's Rule 53. Reported below: 868 F. 2d 959.

Miscellaneous Order

No. A-476. *CHABAD ET AL. v. CITY OF PITTSBURGH.* Motion of City of Pittsburgh to vacate the order entered by JUSTICE BRENNAN on December 22, 1989, denied. THE CHIEF JUSTICE, JUSTICE STEVENS, and JUSTICE SCALIA would grant the motion.

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Appeals Dismissed

No. 89-556. LOUISIANA EX REL. GUSTE, ATTORNEY GENERAL OF LOUISIANA *v.* UNITED STATES ET AL.;

No. 89-557. BOARD OF SUPERVISORS OF SOUTHERN UNIVERSITY AND AGRICULTURAL AND MECHANICAL COLLEGE *v.* UNITED STATES ET AL.; and

No. 89-771. LOUISIANA EX REL. ROEMER, GOVERNOR OF LOUISIANA *v.* UNITED STATES ET AL. Appeals from D. C. E. D. La. dismissed for want of jurisdiction. Reported below: 692 F. Supp. 642; 718 F. Supp. 499, 521, and 525.

No. 89-6061. RAWLS *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: 823 F. 2d 1553.

Certiorari Granted—Vacated and Remanded

No. 89-647. CITY OF IDAHO FALLS, IDAHO *v.* PROJECT 80'S, INC., ET AL. C. A. 9th Cir. Certiorari granted, judgment vacated, and case remanded for further consideration in light of *Board of Trustees of State University of N. Y. v. Fox*, 492 U. S. 469 (1989). Reported below: 876 F. 2d 711.

No. 89-5991. PATTERSON *v.* SOUTH CAROLINA. Sup. Ct. S. 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 *Griffith v. Kentucky*, 479 U. S. 314 (1987). Reported below: 299 S. C. 280, 384 S. E. 2d 699.

Miscellaneous Orders

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

No. — — —. FLEMING *v.* DISTRICT COURT FOR THE COUNTY OF EL PASO, COLORADO, ET AL.; and

No. — — —. SALTER *v.* GOLDBERG ET AL. Motions to direct the Clerk to file petitions for writs of certiorari out of time denied.

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No. — — —. *EWING v. MAPLES ET AL.* Motion to direct the Clerk to file petition for writ of certiorari out of time denied. JUSTICE BLACKMUN dissents and would grant the motion.

No. A-259. *FAZZINI v. GLUCH ET AL.* Motion to direct the Clerk to file petition for writ of certiorari out of time denied. JUSTICE BLACKMUN dissents and would grant the motion.

No. A-389. *ROSSI v. YMCA OF GREATER NEW YORK.* Application for stay, addressed to JUSTICE WHITE and referred to the Court, denied.

No. A-452. *PACIFIC MUTUAL LIFE INSURANCE CO. v. HASLIP ET AL.* Application for stay, presented to JUSTICE KENNEDY, and by him referred to the Court, granted, and it is ordered that execution and enforcement of the judgment of the Supreme Court of Alabama, case No. 87-482, is stayed pending the timely filing and disposition of a 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. This order is further conditioned upon the supersedeas bond presently posted with the Clerk of the Circuit Court of Jefferson County, Alabama, Civil Action No. CV-82-2453, remaining in effect.

No. D-824. *IN RE DISBARMENT OF HOPP.* Kenneth H. Hopp, of Yucaipa, Cal., having requested to resign as a member of the Bar of this Court, it is ordered that his name be stricken from the roll of attorneys admitted to practice before the Bar of this Court. The rule to show cause, heretofore issued on November 6, 1989 [*ante*, p. 950], is hereby discharged.

No. 74, Orig. *GEORGIA v. SOUTH CAROLINA.* Motion of Georgia for leave to file a rebuttal brief granted. [For earlier order herein, see, *e. g.*, *ante*, p. 961.]

No. 88-1323. *SULLIVAN, SECRETARY OF HEALTH AND HUMAN SERVICES, ET AL. v. EVERHART ET AL.* C. A. 10th Cir. [Certiorari granted, 490 U. S. 1080.] Motion of respondents to substitute Doris Everhart as party respondent in place of Thomas Everhart, deceased, granted.

No. 88-1597. *BOARD OF EDUCATION OF THE WESTSIDE COMMUNITY SCHOOLS (DIST. 66) ET AL. v. MERGENS, BY AND*

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THROUGH HER NEXT FRIEND, MERGENS, ET AL. C. A. 8th Cir. [Certiorari granted, 492 U. S. 917.] Motion of petitioner for leave to file a reply brief out of time granted.

No. 88-1872. RUTAN ET AL. *v.* REPUBLICAN PARTY OF ILLINOIS ET AL.; and

No. 88-2074. FRECH ET AL. *v.* RUTAN ET AL. C. A. 7th Cir. [Certiorari granted, *ante*, p. 807.] Motion of North Carolina Professional Fire Fighters Association for leave to file a brief as *amicus curiae* granted.

No. 88-1891. M & M CONSTRUCTION CO., INC. *v.* GREAT AMERICAN INSURANCE CO., *ante*, p. 801. Motion of appellee for damages denied.

No. 88-1916. MINNESOTA *v.* OLSON. Sup. Ct. Minn. [Certiorari granted, *ante*, p. 806.] Motion of the Solicitor General for leave to participate in oral argument as *amicus curiae* and for divided argument granted. Motion of Connecticut et al. for leave to participate in oral argument as *amici curiae*, for divided argument, and for additional time for oral argument denied.

No. 88-1951. UNITED STATES *v.* DALM. C. A. 6th Cir. [Certiorari granted, *ante*, p. 807.] Motion of the Solicitor General to permit Christine Desan Husson, Esq., to present oral argument *pro hac vice* granted.

No. 88-1972. ILLINOIS *v.* PERKINS. App. Ct. Ill., 5th Dist. [Certiorari granted, *ante*, p. 808.] Motion of the Solicitor General for leave to participate in oral argument as *amicus curiae* and for divided argument granted.

No. 88-7146. WHITMORE, INDIVIDUALLY AND AS NEXT FRIEND OF SIMMONS *v.* ARKANSAS ET AL. Sup. Ct. Ark. [Certiorari granted, 492 U. S. 917.] Motion of respondent Arkansas' counsel to be designated to present oral argument on behalf of both respondents granted. Request for divided argument denied.

No. 89-61. UNITED STATES *v.* OJEDA RIOS ET AL. C. A. 2d Cir. [Certiorari granted, *ante*, p. 889.] Motion of respondents Ojeda Rios, Diamante, Garcia, Ramos, Claudio, Negron, Carrion, Ruiz, and Osorio for reconsideration of order appointing counsel and to appoint Richard A. Reeve, Esq., to argue the case granted. Motion of respondents Garcia, Ramos, Claudio, Negron, Carrion, and Ruiz for reconsideration of order appointing counsel and to ap-

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point James L. Sultan, Esq., to brief the case denied. The order appointing Margaret P. Levy, Esq., entered December 4, 1989 [*ante*, p. 990], is vacated. Respondents are directed to file a single brief.

No. 89-213. PENNSYLVANIA *v.* MUNIZ. Super. Ct. Pa. [Certiorari granted, *ante*, p. 916.] Motion of the Solicitor General for leave to participate in oral argument as *amicus curiae* and for divided argument denied.

No. 89-386. PORT AUTHORITY TRANS-HUDSON CORP. *v.* FEENEY; and PORT AUTHORITY TRANS-HUDSON CORP. *v.* FOSTER. C. A. 2d Cir. [Certiorari granted, *ante*, p. 932] Motion of Council of State Governments et al. for leave to file a brief as *amici curiae* granted.

No. 89-390. PENSION BENEFIT GUARANTY CORPORATION *v.* LTV CORP. ET AL. C. A. 2d Cir. [Certiorari granted, *ante*, p. 932.] Motions of American Society of Pension Actuaries, Armco et al., and Retired Employees Benefits Coalition, Inc., for leave to file briefs as *amici curiae* granted.

No. 89-564. GLOSEMEYER ET AL. *v.* MISSOURI-KANSAS-TEXAS RAILROAD ET AL. C. A. 8th Cir. Motion of National Association of Reversionary Property Owners for leave to file a brief as *amicus curiae* granted.

No. 89-5915. SMACZNAK *v.* INTERNAL REVENUE SERVICE. C. A. 5th Cir. Motion of petitioner for leave to proceed *in forma pauperis* denied. Petitioner is allowed until January 29, 1990, within which to pay the docketing fee required by Rule 38(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. 89-5894. IN RE MORRIS. C. A. 6th Cir.;

No. 89-5943. IN RE MANCHESTER. C. A. 3d Cir.; and

No. 89-6233. IN RE SHELTON ET AL. C. A. 2d Cir. Petitions for writs of common-law certiorari denied.

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No. 89-6092. IN RE CYNTJE. Petition for writ of habeas corpus denied.

No. 89-743. IN RE HAGEBUSH ET AL.; and

No. 89-796. IN RE POLYAK. Petitions for writs of mandamus denied.

Certiorari Granted

No. 89-322. UNITED STEELWORKERS OF AMERICA, AFL-CIO-CLC *v.* RAWSON, INDIVIDUALLY AND AS GUARDIAN AD LITEM FOR RAWSON, ET AL. Sup. Ct. Idaho. Certiorari granted, and the parties are directed to adhere to the following briefing schedule: Brief for petitioner must be received by the Clerk on or before February 9, 1990; brief for respondents must be received by the Clerk on or before March 6, 1990; and a reply brief, if any, must be received by the Clerk on or before March 16, 1990. Reported below: 115 Idaho 785, 770 P. 2d 794.

No. 89-393. BEGIER, TRUSTEE *v.* INTERNAL REVENUE SERVICE. C. A. 3d Cir. Certiorari granted, and the parties are directed to adhere to the following briefing schedule: Brief for petitioner must be received by the Clerk on or before February 9, 1990; brief for respondent must be received by the Clerk on or before March 6, 1990; and a reply brief, if any, must be received by the Clerk on or before March 16, 1990. Reported below: 878 F. 2d 762.

No. 89-542. PERPICH, GOVERNOR OF MINNESOTA, ET AL. *v.* DEPARTMENT OF DEFENSE ET AL. C. A. 8th Cir. Certiorari granted, and the parties are directed to adhere to the following briefing schedule: Brief for petitioners must be received by the Clerk on or before February 9, 1990; brief for respondents must be received by the Clerk on or before March 6, 1990; and a reply brief, if any, must be received by the Clerk on or before March 16, 1990. Reported below: 880 F. 2d 11.

No. 89-453. METRO BROADCASTING, INC. *v.* FEDERAL COMMUNICATIONS COMMISSION ET AL. C. A. D. C. Cir. Motion of Competitive Enterprise Institute for leave to file a brief as *amicus curiae* granted. Certiorari granted limited to Questions 1 and 2 presented by the petition, and the parties are directed to adhere to the following briefing schedule: Brief for petitioner must be received by the Clerk on or before February 9, 1990; briefs for

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respondents must be received by the Clerk on or before March 6, 1990; and a reply brief, if any, must be received by the Clerk on or before March 16, 1990. Reported below: 277 U. S. App. D. C. 134, 873 F. 2d 347.

No. 89-535. SULLIVAN, SECRETARY OF HEALTH AND HUMAN SERVICES *v.* STROOP ET AL. C. A. 4th Cir. Motion of respondents for leave to proceed *in forma pauperis* granted. Certiorari granted, and the parties are directed to adhere to the following briefing schedule: Brief for petitioner must be received by the Clerk on or before February 9, 1990; brief for respondents must be received by the Clerk on or before March 6, 1990; and a reply brief, if any, must be received by the Clerk on or before March 16, 1990. Reported below: 870 F. 2d 969.

No. 89-700. ASTROLINE COMMUNICATIONS COMPANY LIMITED PARTNERSHIP *v.* SHURBERG BROADCASTING OF HARTFORD, INC., ET AL. C. A. D. C. Cir. Motion of Congressional Black Caucus et al. for leave to file a brief as *amici curiae* granted. Certiorari granted, and the parties are directed to adhere to the following briefing schedule: Brief for petitioner must be received by the Clerk on or before February 9, 1990; briefs for respondents must be received by the Clerk on or before March 6, 1990; and a reply brief, if any, must be received by the Clerk on or before March 16, 1990. Reported below: 278 U. S. App. D. C. 24, 876 F. 2d 902.

No. 89-5691. HUGHEY *v.* UNITED STATES. C. A. 5th Cir. Motion of petitioner for leave to proceed *in forma pauperis* granted. Certiorari granted, and the parties are directed to adhere to the following briefing schedule: Brief for petitioner must be received by the Clerk on or before February 9, 1990; brief for respondent must be received by the Clerk on or before March 6, 1990; and a reply brief, if any, must be received by the Clerk on or before March 16, 1990. Reported below: 877 F. 2d 1256.

Certiorari Denied. (See also Nos. 89-6061, 89-5894, 89-5943, and 89-6233, *supra*.)

No. 89-222. PIRAINO *v.* TEXAS. Ct. Crim. App. Tex. Certiorari denied.

No. 89-278. KENNISON ET AL. *v.* HOLCOMBE. Ct. App. S. C. Certiorari denied.

No. 89-303. TEXAS *v.* SMITH. Ct. App. Tex., 1st Dist. Certiorari denied. Reported below: 754 S. W. 2d 310.

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No. 89-312. SYRACUSE PEACE COUNCIL ET AL. *v.* FEDERAL COMMUNICATIONS COMMISSION ET AL. C. A. D. C. Cir. Certiorari denied. Reported below: 276 U. S. App. D. C. 38, 867 F. 2d 654.

No. 89-317. WALL *v.* UNITED STATES ET AL. C. A. 10th Cir. Certiorari denied. Reported below: 871 F. 2d 1540.

No. 89-346. ALASKA AIRLINES, INC., ET AL. *v.* DEPARTMENT OF REVENUE OF OREGON. Sup. Ct. Ore. Certiorari denied. Reported below: 307 Ore. 406, 769 P. 2d 193.

No. 89-352. SILVERSTEIN *v.* NEW YORK. Ct. App. N. Y. Certiorari denied. Reported below: 74 N. Y. 2d 768, 543 N. E. 2d 729.

No. 89-366. WOMEN INVOLVED IN FARM ECONOMICS *v.* YEUTTER, SECRETARY OF AGRICULTURE, ET AL. C. A. D. C. Cir. Certiorari denied. Reported below: 278 U. S. App. D. C. 116, 876 F. 2d 994.

No. 89-407. WEIDNER ET AL. *v.* ALASKA ET AL. Ct. App. Alaska. Certiorari denied. Reported below: 764 P. 2d 717.

No. 89-424. MISSOURI *v.* BULLOCH. Sup. Ct. Mo. Certiorari denied. Reported below: 771 S. W. 2d 71.

No. 89-433. DIRECTOR OF REVENUE OF MISSOURI *v.* HACKMAN ET UX. Sup. Ct. Mo. Certiorari denied. Reported below: 771 S. W. 2d 77.

No. 89-480. WHITE *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 876 F. 2d 893.

No. 89-484. FAIRPRENE INDUSTRIAL PRODUCTS CO., INC. *v.* NATIONAL LABOR RELATIONS BOARD. C. A. 2d Cir. Certiorari denied. Reported below: 880 F. 2d 1318.

No. 89-497. HARRIS COUNTY FLOOD CONTROL DISTRICT ET AL. *v.* JOHNSTON. C. A. 5th Cir. Certiorari denied. Reported below: 869 F. 2d 1565.

No. 89-508. UNITED STATES CAN CO. ET AL. *v.* INTERNATIONAL ASSOCIATION OF MACHINISTS & AEROSPACE WORKERS ET AL. Sup. Ct. Wis. Certiorari denied. Reported below: 150 Wis. 2d 479, 441 N. W. 2d 710.

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No. 89-513. *FISHER v. KRAJEWSKI, JUDGE, LAKE COUNTY, INDIANA COUNTY COURT*. C. A. 7th Cir. Certiorari denied. Reported below: 873 F. 2d 1057.

No. 89-514. *TRINITY COALITION, INC. v. COMMISSIONER, TEXAS DEPARTMENT OF HUMAN SERVICES, ET AL.* Ct. App. Tex., 8th Dist. Certiorari denied. Reported below: 759 S. W. 2d 762.

No. 89-544. *CURCIO ET AL. v. BOYLE, SUFFOLK COUNTY ATTORNEY, ET AL.* Ct. App. N. Y. Certiorari denied. Reported below: 74 N. Y. 2d 733, 543 N. E. 2d 83.

No. 89-549. *STAGGS v. UNITED STATES*. C. A. 10th Cir. Certiorari denied. Reported below: 881 F. 2d 1527.

No. 89-553. *GUCCIONE v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 847 F. 2d 1031.

No. 89-558. *GREY v. FIRST NATIONAL BANK OF CHICAGO ET AL.* App. Ct. Ill., 1st Dist. Certiorari denied. Reported below: 169 Ill. App. 3d 936, 523 N. E. 2d 1138.

No. 89-563. *VIEUX CARRE PROPERTY OWNERS, RESIDENTS & ASSOCIATES, INC. v. BROWN ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 875 F. 2d 453.

No. 89-565. *UNITED TRANSPORTATION UNION ET AL. v. CSX TRANSPORTATION, INC.* C. A. 2d Cir. Certiorari denied. Reported below: 879 F. 2d 990.

No. 89-569. *HOODKROFT CONVALESCENT CENTER, INC., ET AL. v. NEW HAMPSHIRE DIVISION OF HUMAN SERVICES ET AL.* C. A. 1st Cir. Certiorari denied. Reported below: 879 F. 2d 968.

No. 89-575. *HARTER v. UNITED STATES ET AL.* C. A. D. C. Cir. Certiorari denied. Reported below: 276 U. S. App. D. C. 400, 871 F. 2d 1140.

No. 89-597. *GREGORY, SHERIFF OF PATRICK COUNTY, VIRGINIA, ET AL. v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 871 F. 2d 1239.

No. 89-606. *HUBER v. LEIS, SHERIFF, HAMILTON COUNTY, OHIO*. C. A. 6th Cir. Certiorari denied. Reported below: 884 F. 2d 579.

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No. 89-612. OTTAVIANI ET AL. *v.* STATE UNIVERSITY OF NEW YORK AT NEW PALTZ ET AL. C. A. 2d Cir. Certiorari denied. Reported below: 875 F. 2d 365.

No. 89-618. BRUNO ET AL. *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied. Reported below: 879 F. 2d 1087.

No. 89-657. CALABRO *v.* PENNSYLVANIA WORKMEN'S COMPENSATION APPEAL BOARD (ROCKWELL INTERNATIONAL). Pa. Commw. Ct. Certiorari denied.

No. 89-659. ELECTRO-TECH, INC. *v.* H. F. CAMPBELL CO. ET AL. Sup. Ct. Mich. Certiorari denied. Reported below: 433 Mich. 57, 445 N. W. 2d 61.

No. 89-660. ENGEL *v.* CITY OF STOCKTON, CALIFORNIA, ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 876 F. 2d 896.

No. 89-661. TWENTIETH CENTURY FOX FILM CORP. *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. Reported below: 882 F. 2d 656.

No. 89-663. MAYER *v.* CHESAPEAKE INSURANCE CO. LTD. ET AL. C. A. 2d Cir. Certiorari denied. Reported below: 877 F. 2d 1154.

No. 89-667. LOFTIS *v.* LOS ANGELES UNIFIED SCHOOL DISTRICT ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 878 F. 2d 386.

No. 89-669. GOAD *v.* GOAD. Ct. App. Tex., 6th Dist. Certiorari denied. Reported below: 768 S. W. 2d 356.

No. 89-670. ZAPP ET AL. *v.* UNITED TRANSPORTATION UNION. C. A. 7th Cir. Certiorari denied. Reported below: 879 F. 2d 1439.

No. 89-673. YIAMOUIYIANNIS *v.* THOMPSON ET AL. Ct. App. Tex., 4th Dist. Certiorari denied. Reported below: 764 S. W. 2d 338.

No. 89-676. PEARSON ET UX. *v.* DUCK. C. A. 6th Cir. Certiorari denied. Reported below: 871 F. 2d 579.

No. 89-678. POLING *v.* MURPHY ET AL. C. A. 6th Cir. Certiorari denied. Reported below: 872 F. 2d 757.

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No. 89-684. *SAMPLE, INC. v. PENDLETON WOOLEN MILLS, INC.* C. A. 2d Cir. Certiorari denied. Reported below: 880 F. 2d 1319.

No. 89-691. *TYLER ET AL. v. BERODT ET AL.* C. A. 8th Cir. Certiorari denied. Reported below: 877 F. 2d 705.

No. 89-692. *BIG APPLE INDUSTRIAL BUILDINGS, INC., ET AL. v. PROCTER & GAMBLE CO. ET AL.*; and

No. 89-805. *AMERICAN INTERNATIONAL CONTRACTORS, INC. v. PROCTER & GAMBLE CO. ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 879 F. 2d 10.

No. 89-693. *MARINE TRANSPORT LINES, INC. v. INTERNATIONAL ORGANIZATION OF MASTERS, MATES & PILOTS.* C. A. 2d Cir. Certiorari denied. Reported below: 878 F. 2d 41.

No. 89-694. *ELECTRIC POWER BOARD OF CHATTANOOGA v. MONSANTO CO. ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 879 F. 2d 1368.

No. 89-698. *LEISURE v. MISSOURI.* Ct. App. Mo., Western Dist. Certiorari denied. Reported below: 772 S. W. 2d 674.

No. 89-702. *CHAMPION MORTGAGE CO. v. LAKE TRAVIS ISLAND LTD.* C. A. 5th Cir. Certiorari denied. Reported below: 878 F. 2d 1433.

No. 89-703. *EWING v. ST. LOUIS SOUTHWESTERN RAILWAY Co.* Ct. App. Mo., Eastern Dist. Certiorari denied. Reported below: 772 S. W. 2d 774.

No. 89-708. *MIAMI CENTER LIMITED PARTNERSHIP v. BANK OF NEW YORK.* C. A. 11th Cir. Certiorari denied. Reported below: 874 F. 2d 780.

No. 89-710. *ALASKA DIVERSIFIED CONTRACTORS, INC., ET AL. v. LOWER KUSKOKWIM SCHOOL DISTRICT.* Sup. Ct. Alaska. Certiorari denied. Reported below: 778 P. 2d 581.

No. 89-712. *ALABAMA v. HELMS.* Ct. Crim. App. Ala. Certiorari denied. Reported below: 549 So. 2d 598.

No. 89-713. *MOR-FLO INDUSTRIES, INC., ET AL. v. STATE INDUSTRIES, INC.* C. A. Fed. Cir. Certiorari denied. Reported below: 883 F. 2d 1573.

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No. 89-716. *WATSTEIN v. UNITED STATES*. C. A. Fed. Cir. Certiorari denied. Reported below: 878 F. 2d 1446.

No. 89-720. *AVDEL CORP. v. JALIL*. C. A. 3d Cir. Certiorari denied. Reported below: 873 F. 2d 701.

No. 89-721. *AVERBACH v. RIVAL MANUFACTURING Co.* C. A. 3d Cir. Certiorari denied. Reported below: 879 F. 2d 1196.

No. 89-724. *SOUTH DAKOTA ET AL. v. KANSAS CITY SOUTHERN RAILWAY Co. ET AL.* C. A. 8th Cir. Certiorari denied. Reported below: 880 F. 2d 40.

No. 89-726. *ACRISON, INC. v. HITESMAN*. C. A. 3d Cir. Certiorari denied. Reported below: 884 F. 2d 1383.

No. 89-731. *FRANK ROSENBERG, INC. v. TAZEWELL COUNTY ET AL.* C. A. 7th Cir. Certiorari denied. Reported below: 882 F. 2d 1165.

No. 89-732. *HANOVER INSURANCE Co. v. UNITED STATES*. C. A. 1st Cir. Certiorari denied. Reported below: 880 F. 2d 1503.

No. 89-734. *BOHANON v. CALIFORNIA*. Ct. App. Cal., 1st App. Dist. Certiorari denied.

No. 89-737. *COOK v. SUPREME COURT OF INDIANA ET AL.* Sup. Ct. Ind. Certiorari denied. Reported below: 526 N. E. 2d 703.

No. 89-738. *AGIPCOAL USA, INC. v. INTERNATIONAL UNION, UNITED MINE WORKERS OF AMERICA, ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 877 F. 2d 62.

No. 89-740. *MIURA ET AL. v. WESTERN UNION INTERNATIONAL, INC.* C. A. 9th Cir. Certiorari denied. Reported below: 875 F. 2d 318.

No. 89-745. *CITY OF ROCKWALL, TEXAS v. MCKEE*. C. A. 5th Cir. Certiorari denied. Reported below: 877 F. 2d 409.

No. 89-750. *WILLS v. DEPARTMENT OF THE NAVY*. C. A. Fed. Cir. Certiorari denied. Reported below: 884 F. 2d 1399.

No. 89-754. *RADIX GROUP INTERNATIONAL, INC. v. MCGRUFF TREADING Co., INC.* Ct. App. Cal., 2d App. Dist. Certiorari denied.

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No. 89-755. *HARNESS v. HARTZ MOUNTAIN CORP.* C. A. 6th Cir. Certiorari denied. Reported below: 877 F. 2d 1307.

No. 89-762. *NENEMAN v. TASSIN*; and

No. 89-776. *NENEMAN v. DURANT, ADMINISTRATRIX OF THE ESTATE OF DURANT, ET AL.* C. A. 10th Cir. Certiorari denied. Reported below: 884 F. 2d 1350.

No. 89-766. *SLAUGHTER v. AT&T INFORMATION SYSTEMS, INC.* C. A. 5th Cir. Certiorari denied. Reported below: 880 F. 2d 412.

No. 89-768. *MATHES, AKA MATHEWS v. UNITED STATES.* C. A. 6th Cir. Certiorari denied. Reported below: 884 F. 2d 1392.

No. 89-769. *TEXAS APPAREL CO. v. UNITED STATES.* C. A. Fed. Cir. Certiorari denied. Reported below: 883 F. 2d 66.

No. 89-770. *SMEC, INC. v. DATASCOPE, INC.* C. A. Fed. Cir. Certiorari denied. Reported below: 879 F. 2d 820.

No. 89-772. *HOANG v. OFFICE OF PERSONNEL MANAGEMENT ET AL.* C. A. 7th Cir. Certiorari denied. Reported below: 873 F. 2d 1443.

No. 89-774. *MCCARTY v. DEPARTMENT OF THE ARMY.* C. A. Fed. Cir. Certiorari denied. Reported below: 883 F. 2d 1027.

No. 89-788. *VENUS INDEPENDENT SCHOOL DISTRICT ET AL. v. SHELLY C., BY NEXT FRIENDS, SHELBIE C. ET UX.* C. A. 5th Cir. Certiorari denied. Reported below: 878 F. 2d 862.

No. 89-790. *EIMANN ET AL. v. SOLDIER OF FORTUNE MAGAZINE, INC., ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 880 F. 2d 830.

No. 89-792. *OLYMPIA BREWING CO. v. SINGER, SUCCESSOR IN INTEREST TO TROSTER, SINGER & Co.* C. A. 2d Cir. Certiorari denied. Reported below: 878 F. 2d 596.

No. 89-795. *WEST v. INTERNAL REVENUE SERVICE ET AL.* C. A. 10th Cir. Certiorari denied.

No. 89-806. *SPARKS v. UNITED STATES.* Ct. Mil. App. Certiorari denied. Reported below: 29 M. J. 52.

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No. 89-808. *SUTTON ET AL. v. NATIONAL INTERGROUP, INC., ET AL.* C. A. 4th Cir. Certiorari denied.

No. 89-810. *DOE, A MINOR, BY AND THROUGH HIS PARENT AND NEXT FRIEND, DOE v. SUMNER COUNTY BOARD OF EDUCATION.* C. A. 6th Cir. Certiorari denied. Reported below: 879 F. 2d 1340.

No. 89-818. *JAFFE v. MICHIGAN DEPARTMENT OF TREASURY.* Ct. App. Mich. Certiorari denied. Reported below: 172 Mich. App. 116, 431 N. W. 2d 416.

No. 89-820. *KINDIG v. PAN AMERICAN WORLD AIRWAYS, INC., ET AL.* C. A. 9th Cir. Certiorari denied.

No. 89-822. *OCORO v. NEW JERSEY.* Super. Ct. N. J., App. Div. Certiorari denied.

No. 89-824. *GAGLIARDI ET AL. v. DUQUESNE LIGHT CO. ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 882 F. 2d 511.

No. 89-830. *MARTIN v. COMMISSIONER OF INTERNAL REVENUE.* C. A. 11th Cir. Certiorari denied. Reported below: 887 F. 2d 1092.

No. 89-832. *PEEL v. UNITED STATES.* Ct. Mil. App. Certiorari denied. Reported below: 29 M. J. 235.

No. 89-833. *GAGLIARDI v. SORICK ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 882 F. 2d 511.

No. 89-840. *PULLIAM v. UNITED STATES.* C. A. 10th Cir. Certiorari denied.

No. 89-842. *BROCK v. HUNSICKER ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 882 F. 2d 510.

No. 89-856. *BROWN v. UNITED STATES.* C. A. 9th Cir. Certiorari denied. Reported below: 884 F. 2d 1309.

No. 89-892. *TRAVIS v. UNITED STATES.* C. A. 9th Cir. Certiorari denied.

No. 89-895. *DOWNING ET AL. v. UNITED STATES.* C. A. 6th Cir. Certiorari denied. Reported below: 881 F. 2d 1077.

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No. 89-5237. *J. L. v. VERMONT DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES*. Sup. Ct. Vt. Certiorari denied. Reported below: 151 Vt. 480, 563 A. 2d 241.

No. 89-5325. *HILLERY v. CALIFORNIA*. Ct. App. Cal., 6th App. Dist. Certiorari denied.

No. 89-5398. *JOHNSTON v. ACTING COMMISSIONER OF SOCIAL SECURITY*. C. A. 7th Cir. Certiorari denied. Reported below: 863 F. 2d 885.

No. 89-5430. *SNYDER v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 880 F. 2d 1322.

No. 89-5434. *STATEN v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 878 F. 2d 382.

No. 89-5437. *THOMAS v. UNITED STATES*; and

No. 89-5831. *BELL v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 872 F. 2d 431.

No. 89-5482. *WILKINS v. MCDANIEL*. C. A. 7th Cir. Certiorari denied. Reported below: 872 F. 2d 190.

No. 89-5539. *GUDIN v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 881 F. 2d 1086.

No. 89-5552. *BARNTHOUSE v. COLORADO*. Sup. Ct. Colo. Certiorari denied. Reported below: 775 P. 2d 545.

No. 89-5553. *BRAGGS v. UNITED STATES ARMY CORPS OF ENGINEERS ET AL.* C. A. 11th Cir. Certiorari denied.

No. 89-5614. *HOPKINS v. ARIZONA DEPARTMENT OF REAL ESTATE ET AL.* Ct. App. Ariz. Certiorari denied.

No. 89-5632. *AMOS v. ILLINOIS* (two cases). Sup. Ct. Ill. Certiorari denied. Reported below: 125 Ill. 2d 567, 537 N. E. 2d 812 (first case); 126 Ill. 2d 561, 541 N. E. 2d 132 (second case).

No. 89-5676. *LEE v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 881 F. 2d 1073.

No. 89-5749. *KING v. LOCKHART, DIRECTOR, ARKANSAS DEPARTMENT OF CORRECTION*. C. A. 8th Cir. Certiorari denied. Reported below: 881 F. 2d 1082.

No. 89-5753. *DAVIS v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 881 F. 2d 973.

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No. 89-5825. *QUARLES v. CHAMPION INTERNATIONAL CORP.*
Sup. Ct. Tex. Certiorari denied.

No. 89-5832. *PERRY v. BALL, SECRETARY OF THE NAVY.*
C. A. 9th Cir. Certiorari denied. Reported below: 880 F. 2d
416.

No. 89-5865. *SPYCHALA v. BORG, WARDEN.* C. A. 9th Cir.
Certiorari denied. Reported below: 875 F. 2d 871.

No. 89-5868. *HARRIS v. DAVIS ET AL.* C. A. 7th Cir. Cer-
tiorari denied. Reported below: 874 F. 2d 461.

No. 89-5869. *ASSENATO v. ILLINOIS.* App. Ct. Ill., 2d Dist.
Certiorari denied. Reported below: 186 Ill. App. 3d 331, 542
N. E. 2d 457.

No. 89-5870. *WILLIAMS v. BERNARD ET AL.* C. A. 10th Cir.
Certiorari denied.

No. 89-5874. *FRANK v. BROOKHART, WARDEN.* C. A. 8th
Cir. Certiorari denied. Reported below: 877 F. 2d 671.

No. 89-5875. *HUDSON v. CALIFORNIA.* Ct. App. Cal., 6th
App. Dist. Certiorari denied. Reported below: 210 Cal. App. 3d
784, 258 Cal. Rptr. 563.

No. 89-5876. *COLEMAN v. DELAWARE.* Sup. Ct. Del. Cer-
tiorari denied. Reported below: 562 A. 2d 1171.

No. 89-5879. *THAKKAR v. MARTIN.* C. A. 3d Cir. Certiorari
denied.

No. 89-5881. *PATTERSON v. UNITED STATES.* C. A. 1st Cir.
Certiorari denied. Reported below: 882 F. 2d 595.

No. 89-5882. *WEST v. JONES, WARDEN, ET AL.* C. A. 11th
Cir. Certiorari denied. Reported below: 878 F. 2d 1441.

No. 89-5888. *HUTCHINSON v. JUSTICE COURT OF NEEDLES
JUDICIAL DISTRICT (CALIFORNIA, REAL PARTY IN INTEREST).*
Ct. App. Cal., 4th App. Dist. Certiorari denied.

No. 89-5895. *DAWKINS v. NABISCO BRANDS, INC., ET AL.*
C. A. 11th Cir. Certiorari denied. Reported below: 884 F. 2d
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No. 89-5902. *WESTLAKE v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 881 F. 2d 1086.

No. 89-5903. *BODDIE v. AMERICAN BROADCASTING COS., INC., ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 881 F. 2d 267.

No. 89-5913. *YOUNG v. ST. LOUIS UNIVERSITY ET AL.* Ct. App. Mo., Eastern Dist. Certiorari denied. Reported below: 773 S. W. 2d 143.

No. 89-5920. *MURRAY v. PUCKETT, SUPERINTENDENT, MISSISSIPPI STATE PENITENTIARY*. C. A. 5th Cir. Certiorari denied. Reported below: 883 F. 2d 71.

No. 89-5922. *SHULTS v. HAWAII*. Sup. Ct. Haw. Certiorari denied. Reported below: 70 Haw. 658, 796 P. 2d 1002.

No. 89-5923. *GAMBRILL v. PRISONER REVIEW BOARD*. App. Ct. Ill., 5th Dist. Certiorari denied. Reported below: 180 Ill. App. 3d 1109, 552 N. E. 2d 822.

No. 89-5926. *SUTTON v. MURRAY, DIRECTOR, VIRGINIA DEPARTMENT OF CORRECTIONS*. C. A. 4th Cir. Certiorari denied. Reported below: 881 F. 2d 1070.

No. 89-5927. *HASSAN v. NEW JERSEY ET AL.* C. A. 3d Cir. Certiorari denied.

No. 89-5931. *FRIEND v. SUPERIOR COURT OF CALIFORNIA, COUNTY OF ALAMEDA (CALIFORNIA, REAL PARTY IN INTEREST)*. Ct. App. Cal., 1st App. Dist. Certiorari denied.

No. 89-5933. *TAYLOR v. FOLTZ, WARDEN*. C. A. 6th Cir. Certiorari denied.

No. 89-5936. *SHAW v. WOODARD ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 881 F. 2d 1070.

No. 89-5940. *THOMAS v. COWLEY, WARDEN, ET AL.* C. A. 10th Cir. Certiorari denied.

No. 89-5944. *SMITH v. LOCKHART, DIRECTOR, ARKANSAS DEPARTMENT OF CORRECTION*. C. A. 8th Cir. Certiorari denied. Reported below: 882 F. 2d 331.

No. 89-5946. *JACKSON v. HOROWITZ*. C. A. 3d Cir. Certiorari denied.

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No. 89-5950. *LEBBOS v. STATE BAR OF CALIFORNIA*. Sup. Ct. Cal. Certiorari denied.

No. 89-5951. *GAINER v. DOE ET AL.* C. A. 9th Cir. Certiorari denied.

No. 89-5954. *STROOP ET AL. v. SULLIVAN, SECRETARY OF HEALTH AND HUMAN SERVICES, ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 870 F. 2d 969.

No. 89-5955. *BYNUM v. BUREAU OF PRISONS*. C. A. 11th Cir. Certiorari denied.

No. 89-5956. *BYNUM v. UNITED STATES*. C. A. 11th Cir. Certiorari denied.

No. 89-5964. *MARTINEZ v. TANSY, WARDEN*. C. A. 10th Cir. Certiorari denied. Reported below: 881 F. 2d 921.

No. 89-5969. *LAVRICK v. NEW YORK*. App. Div., Sup. Ct. N. Y., 2d Jud. Dept. Certiorari denied. Reported below: 146 App. Div. 2d 648, 536 N. Y. S. 2d 548.

No. 89-5970. *GAINER v. KRAMER ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 887 F. 2d 262.

No. 89-5972. *MURRAY v. PUCKETT, SUPERINTENDENT, MISSISSIPPI STATE PENITENTIARY*. C. A. 5th Cir. Certiorari denied. Reported below: 883 F. 2d 71.

No. 89-5973. *UPSHAW v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 879 F. 2d 861.

No. 89-5974. *SMITH v. ALABAMA ET AL.* C. A. 11th Cir. Certiorari denied.

No. 89-5975. *SOBAMOWO v. UNITED STATES ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 884 F. 2d 574.

No. 89-5976. *KEPHART v. GOODSON ET AL.* C. A. 3d Cir. Certiorari denied.

No. 89-5977. *ROCHON v. LOUISIANA STATE PENITENTIARY INMATE ACCOUNT ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 880 F. 2d 845.

No. 89-5978. *STOKES v. MISSISSIPPI*. Sup. Ct. Miss. Certiorari denied. Reported below: 548 So. 2d 118.

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No. 89-5979. *FERGUSON v. LYNAUGH, DIRECTOR, TEXAS DEPARTMENT OF CORRECTIONS*. C. A. 5th Cir. Certiorari denied.

No. 89-5980. *DONALSON v. GEORGIA*. Ct. App. Ga. Certiorari denied. Reported below: 192 Ga. App. 37, 383 S. E. 2d 588.

No. 89-5982. *SOTO ALVAREZ v. UNITED STATES*. C. A. 1st Cir. Certiorari denied. Reported below: 876 F. 2d 209.

No. 89-5983. *CHASE v. OREGON*. Ct. App. Ore. Certiorari denied.

No. 89-5986. *SPARKS v. PUCKETT, SUPERINTENDENT, MISSISSIPPI STATE PENITENTIARY*. C. A. 5th Cir. Certiorari denied.

No. 89-5987. *CHEARS v. MCWHERTER, WARDEN*. Ct. Crim. App. Tenn. Certiorari denied.

No. 89-5992. *WATSON v. RISLEY, WARDEN*. C. A. 9th Cir. Certiorari denied. Reported below: 883 F. 2d 1025.

No. 89-5993. *TEASLEY v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 887 F. 2d 264.

No. 89-5994. *STUDNICKA v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 881 F. 2d 1086.

No. 89-5995. *RIGGINS v. BUTLER, WARDEN*. C. A. 5th Cir. Certiorari denied. Reported below: 884 F. 2d 576.

No. 89-5996. *RAHIMI-ARDEBILI v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 886 F. 2d 1320.

No. 89-6000. *SMALL v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 883 F. 2d 77.

No. 89-6001. *HAYES v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 884 F. 2d 1393.

No. 89-6004. *RODMAN v. DALTON ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 886 F. 2d 1316.

No. 89-6007. *WHEAT v. MISSOURI*. Sup. Ct. Mo. Certiorari denied. Reported below: 775 S. W. 2d 155.

No. 89-6008. *MCNEAL v. RDO, SUPERINTENDENT, GREEN MEADOW CORRECTIONAL FACILITY*. C. A. 2d Cir. Certiorari denied. Reported below: 888 F. 2d 126.

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No. 89-6009. RUBIN *v.* THRESHOLDS, INC. C. A. 7th Cir. Certiorari denied.

No. 89-6010. NEWMAN *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 878 F. 2d 1439.

No. 89-6012. D'SOUZA *v.* MALONEY ET AL. C. A. 2d Cir. Certiorari denied.

No. 89-6014. MAZO-SUAREZ *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 886 F. 2d 1324.

No. 89-6016. RAMIREZ *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 886 F. 2d 1320.

No. 89-6018. REUTER *v.* CALIFORNIA. Ct. App. Cal., 6th App. Dist. Certiorari denied.

No. 89-6020. LAWRENCE *v.* TEXAS EMPLOYMENT COMMISSION. Ct. App. Tex., 3d Dist. Certiorari denied.

No. 89-6021. POLLARD *v.* SMITH, SHERIFF, BELL COUNTY, TEXAS, ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 883 F. 2d 72.

No. 89-6022. LEE *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 885 F. 2d 878.

No. 89-6023. MARTIN *v.* TATE. C. A. 6th Cir. Certiorari denied.

No. 89-6025. WILLIAMS *v.* LECUREUX, WARDEN. C. A. 6th Cir. Certiorari denied.

No. 89-6029. LONG *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 886 F. 2d 1323.

No. 89-6031. DEMOS *v.* RIVELAND, SECRETARY, WASHINGTON DEPARTMENT OF CORRECTIONS. Sup. Ct. Wash. Certiorari denied.

No. 89-6032. DARUD *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied. Reported below: 886 F. 2d 1034.

No. 89-6033. LABAYRE *v.* IOWA. Sup. Ct. Iowa. Certiorari denied. Reported below: 446 N. W. 2d 290.

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No. 89-6036. *CLINE v. SEABOLD, WARDEN*. C. A. 6th Cir. Certiorari denied.

No. 89-6037. *JACKSON v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 883 F. 2d 1007.

No. 89-6038. *JONES v. UNITED STATES ET AL.* C. A. 8th Cir. Certiorari denied.

No. 89-6041. *WION v. WILSON, DETECTIVE, MIDLAND CITY POLICE DEPARTMENT*. C. A. 5th Cir. Certiorari denied. Reported below: 885 F. 2d 869.

No. 89-6048. *LOPEZ v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 885 F. 2d 1428.

No. 89-6050. *ABDOLLAHI v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 885 F. 2d 871.

No. 89-6051. *PAIGE v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 886 F. 2d 998.

No. 89-6052. *JEFFERSON v. UNITED STATES*. Ct. App. D. C. Certiorari denied. Reported below: 558 A. 2d 298.

No. 89-6055. *RYAN v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 887 F. 2d 264.

No. 89-6057. *WHITING v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 887 F. 2d 1092.

No. 89-6058. *HAYES v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 884 F. 2d 1393.

No. 89-6059. *GILYARD v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 884 F. 2d 584.

No. 89-6063. *THARPE v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 884 F. 2d 1393.

No. 89-6064. *NORD v. LINCOLN COUNTY CIRCUIT COURT*. Sup. Ct. Ark. Certiorari denied.

No. 89-6065. *BILAL v. LOCKHART, DIRECTOR, ARKANSAS DEPARTMENT OF CORRECTION*. C. A. 8th Cir. Certiorari denied.

No. 89-6066. *VISSER v. UNITED STATES DISTRICT COURT FOR THE CENTRAL DISTRICT OF CALIFORNIA (WELLS FARGO BANK, REAL PARTY IN INTEREST)*. C. A. 9th Cir. Certiorari denied.

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No. 89-6069. CHARLES *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 883 F. 2d 355.

No. 89-6071. CLARK *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 885 F. 2d 323.

No. 89-6074. GARCIA *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 881 F. 2d 1072.

No. 89-6075. GRIFFIN *v.* PRESCOTT. Dist. Ct. App. Fla., 1st Dist. Certiorari denied.

No. 89-6079. JOLIVET *v.* BARNES, WARDEN. Sup. Ct. Utah. Certiorari denied. Reported below: 784 P. 2d 1148.

No. 89-6084. DEBARDELEBEN *v.* O'CONNOR, UNITED STATES DISTRICT JUDGE. C. A. 10th Cir. Certiorari denied.

No. 89-6090. MASON *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 887 F. 2d 1092.

No. 89-6094. LANG *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 881 F. 2d 1070.

No. 89-6096. VAUGHN *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 887 F. 2d 1084.

No. 89-6097. PAIGE *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied. Reported below: 886 F. 2d 998.

No. 89-6100. GOMETZ *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied. Reported below: 879 F. 2d 256.

No. 89-6103. GREEN *v.* MASSACHUSETTS. C. A. 1st Cir. Certiorari denied. Reported below: 887 F. 2d 259.

No. 89-6106. DEMOS *v.* UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF WASHINGTON. C. A. 9th Cir. Certiorari denied.

No. 89-6109. BUTLER *v.* DUCHARME, SUPERINTENDENT, WASHINGTON STATE REFORMATORY. C. A. 9th Cir. Certiorari denied. Reported below: 875 F. 2d 318.

No. 89-6111. BYNUM *v.* WOOD. Dist. Ct. App. Fla., 1st Dist. Certiorari denied. Reported below: 550 So. 2d 468.

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No. 89-6112. *MAY v. PRO-GUARD, INC.* C. A. 6th Cir. Certiorari denied. Reported below: 883 F. 2d 75.

No. 89-6115. *BARBER v. UNITED STATES.* C. A. 6th Cir. Certiorari denied. Reported below: 887 F. 2d 266.

No. 89-6118. *ALSTON v. LEEKE, COMMISSIONER, SOUTH CAROLINA DEPARTMENT OF CORRECTIONS, ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 883 F. 2d 68.

No. 89-6122. *DELUCIA v. UNITED STATES.* C. A. 3d Cir. Certiorari denied. Reported below: 883 F. 2d 1172.

No. 89-6128. *CAMACHO v. UNITED STATES.* C. A. 2d Cir. Certiorari denied. Reported below: 868 F. 2d 1268.

No. 89-6130. *GAITO v. PETSOCK, SUPERINTENDENT, STATE CORRECTIONAL INSTITUTION (AND DIAGNOSTIC AND CLASSIFICATION CENTER) AT PITTSBURGH, ET AL.* C. A. 3d Cir. Certiorari denied.

No. 89-6132. *BRANNER v. FREDERICK COUNTY JAIL ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 879 F. 2d 862.

No. 89-6133. *FOTOVICH v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. Reported below: 885 F. 2d 241.

No. 89-6135. *CARTWRIGHT v. UNITED STATES.* C. A. 8th Cir. Certiorari denied. Reported below: 886 F. 2d 998.

No. 89-6136. *BROWN v. UNITED STATES.* C. A. 8th Cir. Certiorari denied. Reported below: 889 F. 2d 1091.

No. 89-6138. *NOBLE v. UNITED STATES.* C. A. 4th Cir. Certiorari denied. Reported below: 889 F. 2d 1085.

No. 89-6141. *PARSON v. UNITED STATES.* C. A. 11th Cir. Certiorari denied. Reported below: 886 F. 2d 1323.

No. 89-6145. *DIXON v. UNITED STATES.* C. A. 8th Cir. Certiorari denied. Reported below: 889 F. 2d 1092.

No. 89-6150. *BARANY v. UNITED STATES.* C. A. 9th Cir. Certiorari denied. Reported below: 884 F. 2d 1255.

No. 89-6151. *RODRIGUEZ-AMPARO v. UNITED STATES.* C. A. 11th Cir. Certiorari denied. Reported below: 886 F. 2d 1323.

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No. 89-6153. *CAMBRELL v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 888 F. 2d 1387.

No. 89-6155. *ROSS v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 888 F. 2d 1397.

No. 89-6161. *WHITE v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 887 F. 2d 264.

No. 89-6183. *VERA v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 887 F. 2d 264.

No. 89-6190. *RESTREPO v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 884 F. 2d 1381.

No. 89-6201. *EAGLE v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 889 F. 2d 1093.

No. 89-6202. *DORSEY v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 888 F. 2d 79.

No. 89-6204. *SENK v. ZIMMERMAN, SUPERINTENDENT, STATE CORRECTIONAL INSTITUTION (AND DIAGNOSTIC AND CLASSIFICATION CENTER) AT GRATERFORD, ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 886 F. 2d 611.

No. 89-6209. *RHODES v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 881 F. 2d 1077.

No. 89-270. *RICHARDSON v. CITY OF CHICAGO*. C. A. 7th Cir. Certiorari denied. JUSTICE WHITE and JUSTICE MARSHALL would grant certiorari. Reported below: 868 F. 2d 959.

No. 89-465. *CUNNINGHAM v. COUNTY OF LOS ANGELES ET AL.* C. A. 9th Cir. Motion of Police Misconduct Lawyers Referral Service for leave to file a brief as *amicus curiae* granted. Certiorari denied. Reported below: 879 F. 2d 481.

No. 89-481. *MICHIGAN v. SESI*. Ct. App. Mich. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied.

No. 89-501. *NORTHWESTERN INDIANA TELEPHONE CO., INC., ET AL. v. FEDERAL COMMUNICATIONS COMMISSION ET AL.* C. A. D. C. Cir. Certiorari denied. JUSTICE O'CONNOR took no part

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in the consideration or decision of this petition. Reported below: 277 U. S. App. D. C. 30, 872 F. 2d 465.

No. 89-704. KROZSER, ADMINISTRATOR OF THE ESTATE OF KROZSER *v.* CONNECTICUT. Sup. Ct. Conn. Motion of petitioner to defer consideration of petition for writ of certiorari denied. Certiorari denied. Reported below: 212 Conn. 415, 562 A. 2d 1080.

No. 89-741. PRICE *v.* VIKING PENGUIN, INC., ET AL. C. A. 8th Cir. Certiorari denied. JUSTICE BLACKMUN took no part in the consideration or decision of this petition. Reported below: 881 F. 2d 1426.

No. 89-5666. LACKLAND *v.* J. C. PENNEY CO. Ct. App. Cal., 1st App. Dist. Certiorari denied. JUSTICE BLACKMUN took no part in the consideration or decision of this petition.

No. 89-749. PLAYTEX FAMILY PRODUCTS CORP. *v.* ST. PAUL SURPLUS LINES INSURANCE CO. ET AL. Sup. Ct. Kan. Motion of Product Liability Advisory Council, Inc., for leave to file a brief as *amicus curiae* granted. Certiorari denied. Reported below: 245 Kan. 258, 777 P. 2d 1259.

No. 89-784. SWANSON *v.* ELMHURST CHRYSLER PLYMOUTH, INC. C. A. 7th Cir. Certiorari denied. JUSTICE WHITE and JUSTICE BLACKMUN would grant certiorari. Reported below: 882 F. 2d 1235.

No. 89-854. SILVERMAN, ADMINISTRATRIX, ESTATE OF SILVERMAN *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. JUSTICE KENNEDY took no part in the consideration or decision of this petition. Reported below: 859 F. 2d 1352.

No. 89-5697. ALLEY *v.* TENNESSEE. Sup. Ct. Tenn.;
No. 89-5935. LESKO *v.* OWENS, COMMISSIONER, PENNSYLVANIA DEPARTMENT OF CORRECTIONS, ET AL. C. A. 3d Cir.;
No. 89-6068. SPENCER *v.* VIRGINIA. Sup. Ct. Va.;
No. 89-6078. WALTON *v.* FLORIDA. Sup. Ct. Fla.; and
No. 89-6191. HEIDNIK *v.* PENNSYLVANIA. Sup. Ct. Pa. Certiorari denied. Reported below: No. 89-5697, 776 S. W. 2d 506; No. 89-5935, 881 F. 2d 44; No. 89-6068, 238 Va. 275, 384 S. E. 2d 775; No. 89-6078, 547 So. 2d 622.

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JUSTICE BRENNAN and JUSTICE MARSHALL, dissenting.

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

No. 89-6015. *O'DELL v. ARMONTROUT*. C. A. 8th Cir. Motion of petitioner to certify question to Supreme Court of Missouri denied. Certiorari denied. Reported below: 878 F. 2d 1076.

Rehearing Denied

No. — — —. *STOCKS v. UNITED STATES*, *ante*, p. 948;

No. 88-42. *HALLSTROM ET UX. v. TILLAMOOK COUNTY*, *ante*, p. 20;

No. 88-2054. *SMITH v. SULLIVAN, SECRETARY OF HEALTH AND HUMAN SERVICES*, *ante*, p. 821;

No. 88-2140. *HANCOCK v. CITY OF DAVENPORT ET AL.*, *ante*, p. 826;

No. 88-7540. *TAYLOR v. GREEN ET AL.*, *ante*, p. 841;

No. 88-7626. *RIVERA v. OROWEAT FOODS CO., INC., ET AL.*, *ante*, p. 963;

No. 89-90. *JUNGEN, ADMINISTRATRIX OF THE ESTATE OF JUNGEN, ET AL. v. OREGON*, *ante*, p. 933;

No. 89-254. *MARKER ET UX. v. RIESCHEL ET AL.*, *ante*, p. 893;

No. 89-294. *GORDON ET AL. v. DEPARTMENT OF WATER AND POWER OF THE CITY OF LOS ANGELES*, *ante*, p. 918;

No. 89-342. *SHERMAN v. NISSAN MOTOR CORP. ET AL.*, *ante*, p. 954;

No. 89-365. *POLYAK v. STACK ET AL.*, *ante*, p. 944;

No. 89-384. *BROWN ET AL. v. 1250 TWENTY-FOURTH STREET ASSOCIATES ET AL.*, *ante*, p. 935;

No. 89-494. *IN RE SPARKS*, *ante*, p. 963;

No. 89-584. *IN RE MARIK*, *ante*, p. 953;

No. 89-5041. *HARRIS v. HALL ET AL.*, *ante*, p. 857;

No. 89-5106. *HERRERA v. REDMAN, WARDEN*, *ante*, p. 945;

No. 89-5115. *STOTTS v. UNITED STATES*, *ante*, p. 861;

No. 89-5361. *BERTRAM v. UNITED STATES*, *ante*, p. 956;

No. 89-5384. *HURD v. DORSEY, WARDEN*, *ante*, p. 897;

No. 89-5397. *MAGWOOD v. ALABAMA*, *ante*, p. 923;

No. 89-5428. *SPYCHALA v. RUSHEN ET AL.*, *ante*, p. 939;

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- No. 89-5458. GALLAWAY *v.* UNITED STATES, *ante*, p. 898;
No. 89-5501. BROWN *v.* AMERICAN EXPRESS TRAVEL RELATED SERVICES CO., INC., *ante*, p. 899;
No. 89-5522. OLIM *v.* SEARS, ROEBUCK & CO. ET AL., *ante*, p. 940;
No. 89-5528. BROOKS *v.* JOHNSON & JOHNSON, INC., *ante*, p. 940;
No. 89-5531. ZARRILLI *v.* MARINO, *ante*, p. 941;
No. 89-5570. MAY *v.* CHALLENGER COMMUNICATIONS SYSTEMS, INC., *ante*, p. 942;
No. 89-5576. GALA *v.* UNITED STATES POSTAL SERVICE, *ante*, p. 942;
No. 89-5593. RONDON *v.* INDIANA, *ante*, p. 969;
No. 89-5613. LOCKHART *v.* ROLLING ET AL., *ante*, p. 942;
No. 89-5615. MARTIN *v.* DELAWARE LAW SCHOOL OF WIDENER UNIVERSITY ET AL., *ante*, p. 966;
No. 89-5639. SPARKS *v.* SPARKS, *ante*, p. 957;
No. 89-5716. CORDEIRO *v.* UNITED STATES, *ante*, p. 958;
No. 89-5790. WATTS *v.* JOHNSON, WARDEN, ET AL., *ante*, p. 982; and
No. 89-5820. BOND *v.* JOHNSTONE ET AL., *ante*, p. 996. Petitions for rehearing denied.

No. 88-7050. KALLIEL *v.* UNITED STATES, *ante*, p. 827; and
No. 89-5184. RUTHERFORD *v.* UNITED STATES, *ante*, p. 895.
Motions for leave to file petitions for rehearing denied.

No. 89-591. LEE *v.* BIDEN, UNITED STATES SENATOR, ET AL., *ante*, p. 984. Petition for rehearing denied. JUSTICE KENNEDY took no part in the consideration or decision of this petition.

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Certiorari Granted—Vacated and Remanded

No. 88-2092. UNITED STATES *v.* SALAMONE. C. A. 3d Cir. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari granted, judgment vacated, and case remanded for further consideration in light of *Dowling v. United States*, *ante*, p. 342. JUSTICE STEVENS dissents and would deny certiorari. Reported below: 869 F. 2d 221.

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Miscellaneous Orders

No. A-498. SMITH *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 BLACKMUN would grant the application. The order heretofore entered by JUSTICE BLACKMUN is vacated.

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-503. MOBIL OIL EXPLORATION & PRODUCING SOUTHEAST INC. *v.* UNITED DISTRIBUTION COS. ET AL. Application for stay of mandate of the United States Court of Appeals for the Fifth Circuit, presented to JUSTICE WHITE, and by him referred to the Court, granted, and the mandate is stayed pending the timely filing and disposition of the petitions for writs of certiorari. If the petitions for writs of certiorari are denied, this order terminates automatically. Should the petitions for writs of certiorari be granted, this order is to remain in effect pending the sending down of the judgment of this Court.

No. D-811. IN RE DISBARMENT OF POWELL. Disbarment entered. [For earlier order herein, see *ante*, p. 886.]

No. D-812. IN RE DISBARMENT OF MAHSHIE. Disbarment entered. [For earlier order herein, see *ante*, p. 915.]

No. D-813. IN RE DISBARMENT OF KRAMER. Disbarment entered. [For earlier order herein, see *ante*, p. 915.]

No. D-825. IN RE DISBARMENT OF KOSLOW. David Solomon Koslow, of Los Angeles, Cal., having requested to resign as a member of the Bar of this Court, it is ordered that his name be stricken from the roll of attorneys admitted to practice before the Bar of this Court. The rule to show cause, heretofore issued on November 6, 1989 [*ante*, p. 950], is hereby discharged.

No. D-826. IN RE DISBARMENT OF RUDD. Disbarment entered. [For earlier order herein, see *ante*, p. 950.]

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No. D-827. *IN RE DISBARMENT OF COGLAN*. Disbarment entered. [For earlier order herein, see *ante*, p. 950.]

No. D-849. *IN RE DISBARMENT OF REINER*. It is ordered that Edward Norman Reiner, of Alexandria, Va., 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-850. *IN RE DISBARMENT OF MORRISON*. It is ordered that James Robert Morrison III, of Alton, 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-851. *IN RE DISBARMENT OF DWORKIN*. It is ordered that Edwin Lawrence Dworkin, of Randallstown, Md., be suspended from the practice of law in this Court and that a rule issue, returnable within 40 days, requiring him to show cause why he should not be disbarred from the practice of law in this Court.

No. D-852. *IN RE DISBARMENT OF VOORHIES*. It is ordered that Peter Gordon Voorhies, of Portland, Ore., 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-853. *IN RE DISBARMENT OF JONES*. It is ordered that Richard D. Jones, of Kansas City, Mo., be suspended from the practice of law in this Court and that a rule issue, returnable within 40 days, requiring him to show cause why he should not be disbarred from the practice of law in this Court.

No. 88-1480. *REVES ET AL. v. ARTHUR YOUNG & CO.* C. A. 8th Cir. [Certiorari granted, 490 U. S. 1105.] Motion of respondent to substitute Ernst & Young as respondent in place of Arthur Young & Co. granted.

No. 88-2018. *ILLINOIS v. RODRIGUEZ*. App. Ct. Ill., 1st Dist. [Certiorari granted, *ante*, p. 932.] Motion of the Solicitor General for leave to participate in oral argument as *amicus curiae* and for divided argument granted.

No. 89-390. *PENSION BENEFIT GUARANTY CORPORATION v. LTV CORP. ET AL.* C. A. 2d Cir. [Certiorari granted, *ante*,

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p. 932.] Motion of Bethlehem Steel Corp. et al. for leave to participate in oral argument as *amici curiae*, for divided argument, and for additional time for oral argument denied. Motion of respondents David H. Miller and William W. Shaffer for divided argument denied. Motion of respondent LTV Bank Group for divided argument and for additional time for oral argument denied. Motion of respondent Official Committee of Unsecured Creditors of LTV Steel Co., Inc., and Certain Affiliates for divided argument denied. Motion of respondent Official Parent Creditors' Committee of the LTV Corp. for divided argument denied. Motion of respondent BancTexas, Dallas, N. A., for divided argument denied.

No. 89-401. WECHT, PRESIDENT OF THE ALLEGHENY COUNTY BOARD OF PRISON INSPECTORS, ET AL. *v.* INMATES OF THE ALLEGHENY COUNTY JAIL ET AL., *ante*, p. 948. Motion of respondents to retax costs granted.

No. 89-753. ANGELONE, DIRECTOR, NEVADA DEPARTMENT OF PRISONS, ET AL. *v.* DEUTSCHER. C. A. 9th Cir. Motion of respondent for leave to proceed *in forma pauperis* granted.

No. 89-6175. IN RE BROWN. Petition for writ of habeas corpus denied.

Certiorari Granted

No. 88-2109. KANSAS ET AL. *v.* KANSAS POWER & LIGHT CO. ET AL. C. A. 10th Cir. Certiorari granted. Reported below: 866 F. 2d 1286.

No. 89-260. IDAHO *v.* WRIGHT. Sup. Ct. Idaho. Certiorari granted. Reported below: 116 Idaho 382, 775 P. 2d 1224.

No. 89-530. PORTLAND GOLF CLUB *v.* COMMISSIONER OF INTERNAL REVENUE. C. A. 9th Cir. Certiorari granted. Reported below: 876 F. 2d 897.

No. 89-624. MAISLIN INDUSTRIES, U. S., INC., ET AL. *v.* PRIMARY STEEL, INC., ET AL. C. A. 8th Cir. Certiorari granted. Reported below: 879 F. 2d 400.

No. 89-478. MARYLAND *v.* CRAIG. Ct. App. Md. Motions of National Association of Counsel for Children et al. and People Against Child Abuse, Inc., et al. for leave to file briefs as *amici curiae* granted. Motion of respondent for leave to proceed *in*

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forma pauperis granted. Certiorari granted. Reported below: 316 Md. 551, 560 A. 2d 1120.

No. 89-640. LUJAN, SECRETARY OF THE INTERIOR, ET AL. *v.* NATIONAL WILDLIFE FEDERATION ET AL. C. A. D. C. Cir. Motion of American Farm Bureau Federation et al. for leave to file a brief as *amici curiae* granted. Certiorari granted. Reported below: 278 U. S. App. D. C. 320, 878 F. 2d 422.

No. 89-789. ALABAMA *v.* WHITE. Ct. Crim. App. Ala. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari granted. Reported below: 550 So. 2d 1074.

No. 89-5809. SAWYER *v.* SMITH, INTERIM WARDEN. C. A. 5th Cir. Motion of petitioner for leave to proceed *in forma pauperis* granted. Certiorari granted. Reported below: 881 F. 2d 1273.

Certiorari Denied

No. 88-1865. ARIZONA *v.* BAUER ET AL. Ct. App. Ariz. Certiorari denied. Reported below: 159 Ariz. 443, 768 P. 2d 175.

No. 88-1884. ILLINOIS *v.* SEQUOIA BOOKS, INC., ET AL. Sup. Ct. Ill. Certiorari denied. Reported below: 127 Ill. 2d 271, 537 N. E. 2d 302.

No. 88-2062. COTTON *v.* BABCOCK, DIRECTOR, MICHIGAN DEPARTMENT OF SOCIAL SERVICES. C. A. 6th Cir. Certiorari denied. Reported below: 863 F. 2d 1241.

No. 89-296. NELSON *v.* FARREY. C. A. 7th Cir. Certiorari denied. Reported below: 874 F. 2d 1222.

No. 89-427. INTERNATIONAL ASSOCIATION OF MACHINISTS & AEROSPACE WORKERS, AFL-CIO, ET AL. *v.* LONG ISLAND RAILROAD CO. ET AL.; and

No. 89-674. LONG ISLAND RAILROAD CO. ET AL. *v.* INTERNATIONAL ASSOCIATION OF MACHINISTS & AEROSPACE WORKERS, AFL-CIO, ET AL. C. A. 2d Cir. Certiorari denied. Reported below: 874 F. 2d 901.

No. 89-503. WALLACE *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 878 F. 2d 388.

No. 89-511. KWALLEK *v.* ENDELL, COMMISSIONER, DEPARTMENT OF CORRECTIONS, ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 875 F. 2d 318.

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No. 89-521. *TRANSOIL (JERSEY), LTD., ET AL. v. REX OIL, LTD., ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 873 F. 2d 82.

No. 89-523. *BERMUDA STAR LINE, INC. v. MARKOZANNES.* Sup. Ct. La. Certiorari denied. Reported below: 545 So. 2d 537.

No. 89-534. *FOXMEYER CORP. ET AL. v. STONE'S PHARMACY, INC.* C. A. 8th Cir. Certiorari denied. Reported below: 875 F. 2d 665.

No. 89-538. *LITTLEWOLF ET AL. v. LUJAN, SECRETARY OF THE INTERIOR, ET AL.* C. A. D. C. Cir. Certiorari denied. Reported below: 278 U. S. App. D. C. 270, 877 F. 2d 1058.

No. 89-554. *HENNEPIN COUNTY, MINNESOTA, ET AL. v. SULLIVAN, SECRETARY OF HEALTH AND HUMAN SERVICES.* C. A. D. C. Cir. Certiorari denied. Reported below: 280 U. S. App. D. C. 13, 883 F. 2d 85.

No. 89-617. *TEXARKANA NATIONAL BANK v. FEDERAL DEPOSIT INSURANCE CORPORATION.* C. A. 5th Cir. Certiorari denied. Reported below: 874 F. 2d 264.

No. 89-631. *PHILPOT ET AL. v. UNITED STATES.* C. A. 10th Cir. Certiorari denied. Reported below: 871 F. 2d 902 and 881 F. 2d 866.

No. 89-651. *BURRELL ET AL. v. CITY OF LOS ANGELES ET AL.* Ct. App. Cal., 2d App. Dist. Certiorari denied. Reported below: 209 Cal. App. 3d 568, 257 Cal. Rptr. 427.

No. 89-655. *DAVIES v. SOUTHERN PACIFIC TRANSPORTATION CO. ET AL.* C. A. 11th Cir. Certiorari denied. Reported below: 883 F. 2d 78.

No. 89-662. *MIDDLE EARTH GRAPHICS, INC. v. NATIONAL LABOR RELATIONS BOARD.* C. A. 6th Cir. Certiorari denied. Reported below: 872 F. 2d 1027.

No. 89-664. *INTERNATIONAL BROTHERHOOD OF TEAMSTERS, CHAUFFEURS, WAREHOUSEMEN & HELPERS OF AMERICA, AIRLINE DIVISION, ET AL. v. SOUTHWEST AIRLINES CO.* C. A. 5th Cir. Certiorari denied. Reported below: 875 F. 2d 1129.

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No. 89-666. WEST VIRGINIA STATE MEDICAL ASSN. *v.* COMMISSIONER OF INTERNAL REVENUE. C. A. 4th Cir. Certiorari denied. Reported below: 882 F. 2d 123.

No. 89-672. CHURCH UNIVERSAL & TRIUMPHANT, INC., ET AL. *v.* WITT, EXECUTRIX OF THE ESTATE OF MULL. Ct. App. Cal., 2d App. Dist. Certiorari denied.

No. 89-677. ROE *v.* UNITED STATES. C. A. D. C. Cir. Certiorari denied. Reported below: 278 U. S. App. D. C. 148, 877 F. 2d 83.

No. 89-689. DUGAN *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied. Reported below: 877 F. 2d 632.

No. 89-695. WISHART *v.* FLORIDA BAR ASSN. Sup. Ct. Fla. Certiorari denied. Reported below: 543 So. 2d 1250.

No. 89-747. CHICAGO CABLE COMMUNICATIONS ET AL. *v.* CHICAGO CABLE COMMISSION ET AL. C. A. 7th Cir. Certiorari denied. Reported below: 879 F. 2d 1540.

No. 89-756. BROTHERHOOD OF RAILROAD SIGNALMEN, AFL-CIO, ET AL. *v.* SOUTHEASTERN PENNSYLVANIA TRANSPORTATION AUTHORITY. C. A. 3d Cir. Certiorari denied. Reported below: 882 F. 2d 778.

No. 89-763. FERDINAND *v.* UNITED STATES. Ct. Mil. App. Certiorari denied. Reported below: 29 M. J. 164.

No. 89-780. SMITH ET AL. *v.* STONEKING. C. A. 3d Cir. Certiorari denied. Reported below: 882 F. 2d 720.

No. 89-782. SMITH ET AL. *v.* SOWERS. C. A. 3d Cir. Certiorari denied. Reported below: 887 F. 2d 262.

No. 89-783. INDEPENDENT FEDERATION OF FLIGHT ATTENDANTS *v.* TRANS WORLD AIRLINES, INC. C. A. 8th Cir. Certiorari denied. Reported below: 878 F. 2d 254.

No. 89-787. HEDICKE *v.* TEXAS. Ct. Crim. App. Tex. Certiorari denied. Reported below: 779 S. W. 2d 837.

No. 89-791. MCGEE ET AL. *v.* INTERINSURANCE EXCHANGE OF THE AUTOMOBILE CLUB OF SOUTHERN CALIFORNIA. Ct. App. Cal., 2d App. Dist. Certiorari denied.

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No. 89-793. *STRAUCH v. GATES RUBBER CO.* C. A. 5th Cir. Certiorari denied. Reported below: 879 F. 2d 1282.

No. 89-797. *PIERCE ET AL. v. COMMERCIAL WAREHOUSE ET AL.* C. A. 11th Cir. Certiorari denied. Reported below: 876 F. 2d 86.

No. 89-799. *MAHSHIE v. GRIEVANCE COMMITTEE OF THE FIFTH JUDICIAL DISTRICT, STATE OF NEW YORK.* App. Div., Sup. Ct. N. Y., 4th Jud. Dept. Certiorari denied. Reported below: 145 App. Div. 2d 164, 538 N. Y. S. 2d 121.

No. 89-801. *CONSUMER VALUE STORES v. BOARD OF PHARMACY OF NEW JERSEY.* Sup. Ct. N. J. Certiorari denied. Reported below: 116 N. J. 490, 561 A. 2d 1160.

No. 89-802. *GOLDMAN, SACHS & CO. ET AL. v. UTLEY.* C. A. 1st Cir. Certiorari denied. Reported below: 883 F. 2d 184.

No. 89-803. *HEAD v. HEAD.* Ct. App. Ohio, Lucas County. Certiorari denied.

No. 89-807. *CLINE v. UNITED STATES.* Ct. Mil. App. Certiorari denied. Reported below: 29 M. J. 83.

No. 89-812. *ROBERTS v. BREA HOSPITAL NEUROPSYCHIATRIC CENTER.* Ct. App. Cal., 4th App. Dist. Certiorari denied.

No. 89-813. *SHIPMAN v. MISSOURI DIVISION OF CHILD SUPPORT ENFORCEMENT ET AL.* C. A. 8th Cir. Certiorari denied. Reported below: 877 F. 2d 678.

No. 89-814. *CENTRAL GULF LINES, INC. v. WILLIAMS, PERSONAL REPRESENTATIVE OF THE ESTATE OF WILLIAMS.* C. A. 5th Cir. Certiorari denied. Reported below: 874 F. 2d 1058.

No. 89-816. *CITY OF LOS ANGELES ET AL. v. UNITED FIREFIGHTERS OF LOS ANGELES CITY, LOCAL 112, IAFF, AFL-CIO, ET AL.* Ct. App. Cal., 2d App. Dist. Certiorari denied. Reported below: 210 Cal. App. 3d 1095, 259 Cal. Rptr. 65.

No. 89-817. *SERVICE BUSINESS FORMS INDUSTRIES, INC., ET AL. v. GREENBERG ET AL.* C. A. 10th Cir. Certiorari denied. Reported below: 882 F. 2d 1538.

No. 89-821. *SHORES, EXECUTOR OF THE ESTATE OF BISHOP v. SKLAR ET AL.* C. A. 11th Cir. Certiorari denied. Reported below: 885 F. 2d 760.

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No. 89-823. *LAYNE ET UX. v. COUNTY OF SAN MATEO, CALIFORNIA, ET AL.* Ct. App. Cal., 1st App. Dist. Certiorari denied.

No. 89-834. *SMITH v. SOUTH CAROLINA.* C. A. 4th Cir. Certiorari denied. Reported below: 882 F. 2d 895.

No. 89-836. *CRANE ET AL. v. CONTINENTAL TELEPHONE COMPANY OF CALIFORNIA, DBA CONTINENTAL TELEPHONE COMPANY OF NEVADA.* Sup. Ct. Nev. Certiorari denied. Reported below: 105 Nev. 399, 775 P. 2d 705.

No. 89-845. *ROTHBURY INVESTMENTS, LTD. v. DURA SYSTEMS, INC.* C. A. 3d Cir. Certiorari denied. Reported below: 886 F. 2d 551.

No. 89-880. *FLEMING v. CANNON, JUDGE, EL PASO COUNTY DISTRICT COURT, ET AL.* C. A. 10th Cir. Certiorari denied.

No. 89-923. *BALL ET AL. v. PENNSYLVANIA.* Sup. Ct. Pa. Certiorari denied. Reported below: 523 Pa. 216, 565 A. 2d 1143.

No. 89-926. *MC GEE v. UNITED STATES.* C. A. 8th Cir. Certiorari denied. Reported below: 890 F. 2d 418.

No. 89-5543. *REYNOLDS v. BUTLER, SHERIFF, ET AL.* C. A. 10th Cir. Certiorari denied.

No. 89-5680. *PITRE v. NECAISE ET AL.* Ct. App. La., 5th Cir. Certiorari denied. Reported below: 544 So. 2d 1197.

No. 89-5689. *HUERTA v. UNITED STATES.* C. A. 2d Cir. Certiorari denied. Reported below: 878 F. 2d 89.

No. 89-5723. *CHAVIS v. FLORIDA.* Dist. Ct. App. Fla., 5th Dist. Certiorari denied. Reported below: 546 So. 2d 1094.

No. 89-5729. *MADSEN v. MISSOURI.* Sup. Ct. Mo. Certiorari denied. Reported below: 772 S. W. 2d 656.

No. 89-5762. *VASQUEZ, AKA GUZMAN v. UNITED STATES.* C. A. 11th Cir. Certiorari denied. Reported below: 874 F. 2d 1515.

No. 89-5784. *BOWYER v. UNITED STATES AIR FORCE ET AL.* C. A. 7th Cir. Certiorari denied. Reported below: 875 F. 2d 632.

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No. 89-5797. *RONEY v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 884 F. 2d 584.

No. 89-5814. *GREY BEAR ET AL. v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 883 F. 2d 1382.

No. 89-5817. *DENNIS v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 885 F. 2d 879.

No. 89-5827. *MORGAN v. TURNAGE*. C. A. 8th Cir. Certiorari denied.

No. 89-5833. *KING v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 882 F. 2d 885.

No. 89-5855. *RASHE v. SCHWARZER*. C. A. 9th Cir. Certiorari denied.

No. 89-5928. *MOORE v. TEXAS*. Ct. App. Tex., 3d Dist. Certiorari denied.

No. 89-5930. *AYARZA v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 874 F. 2d 647.

No. 89-6002. *SPANN, AS NEXT FRIEND FOR SPANN, A MINOR v. JONES ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 876 F. 2d 437.

No. 89-6019. *KIM v. PRINTEMPS*. Ct. App. Cal., 2d App. Dist. Certiorari denied.

No. 89-6026. *GRAVES v. PUCKETT, SUPERINTENDENT, MISSISSIPPI STATE PENITENTIARY*. C. A. 5th Cir. Certiorari denied.

No. 89-6034. *MAURER v. LOS ANGELES COUNTY SHERIFF'S DEPARTMENT ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 875 F. 2d 318.

No. 89-6039. *DAVIS v. VITATOE ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 884 F. 2d 1392.

No. 89-6042. *MCCULLOUGH v. DUGGER, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS, ET AL.* C. A. 11th Cir. Certiorari denied. Reported below: 883 F. 2d 77.

No. 89-6044. *COLLIER v. EVANS ET AL.* C. A. 11th Cir. Certiorari denied. Reported below: 887 F. 2d 1091.

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No. 89-6045. *FAVORS v. HICKS ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 881 F. 2d 1075.

No. 89-6046. *HARRIS v. JENNINGS ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 873 F. 2d 1438.

No. 89-6047. *CLAUSO v. BEYER, SUPERINTENDENT, NEW JERSEY PRISON, ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 888 F. 2d 1379.

No. 89-6049. *BREWSTER v. LEGURSKY, WARDEN.* Sup. Ct. App. W. Va. Certiorari denied.

No. 89-6060. *WALKER v. MICHIGAN.* Ct. App. Mich. Certiorari denied.

No. 89-6067. *VISSER v. COURT OF APPEAL OF CALIFORNIA, SECOND APPELLATE DISTRICT.* Sup. Ct. Cal. Certiorari denied.

No. 89-6081. *HEARD v. GREEN, WARDEN.* C. A. 11th Cir. Certiorari denied. Reported below: 886 F. 2d 1324.

No. 89-6082. *JENKINS v. BEYERS ET AL.* C. A. 3d Cir. Certiorari denied.

No. 89-6086. *JONES v. DELOACH, WARDEN, ET AL.* C. A. 11th Cir. Certiorari denied. Reported below: 883 F. 2d 78.

No. 89-6087. *MAHDAVI v. SAN FRANCISCO SUPERIOR COURT.* Sup. Ct. Cal. Certiorari denied.

No. 89-6093. *McMILLIAN v. JOHNSON.* C. A. 11th Cir. Certiorari denied.

No. 89-6095. *POWERS v. SOUTH DAKOTA ET AL.* C. A. D. C. Cir. Certiorari denied.

No. 89-6098. *MARTIN v. UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT.* C. A. 3d Cir. Certiorari denied.

No. 89-6102. *COUTIN v. PRESIDENT OF HASTINGS COLLEGE OF LAW ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 878 F. 2d 1438.

No. 89-6116. *CLARK v. PEABODY ET AL.* C. A. 5th Cir. Certiorari denied.

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No. 89-6117. *ANDREGG v. MERRILL LYNCH, PIERCE, FENNER & SMITH, INC., ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 883 F. 2d 1023.

No. 89-6120. *CORIZ v. TANSY, WARDEN, ET AL.* C. A. 10th Cir. Certiorari denied.

No. 89-6129. *ESPINO v. WORKERS' COMPENSATION APPEALS BOARD.* Ct. App. Cal., 1st App. Dist. Certiorari denied.

No. 89-6170. *DEERING v. UNITED STATES.* C. A. 11th Cir. Certiorari denied.

No. 89-6217. *PUENTE v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. Reported below: 887 F. 2d 1085.

No. 89-6225. *GRAY v. UNITED STATES.* C. A. 6th Cir. Certiorari denied. Reported below: 886 F. 2d 1317.

No. 89-6228. *ELZY v. SMITH, WARDEN, ET AL.* C. A. 5th Cir. Certiorari denied.

No. 89-6234. *DRAKE v. UNITED STATES.* C. A. 6th Cir. Certiorari denied. Reported below: 885 F. 2d 323.

No. 89-6235. *MARTINEZ-QUINONEZ v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. Reported below: 876 F. 2d 892.

No. 89-6241. *URZOLA v. UNITED STATES.* C. A. 11th Cir. Certiorari denied. Reported below: 889 F. 2d 274.

No. 89-6245. *LOTT ET AL. v. UNITED STATES.* C. A. 11th Cir. Certiorari denied. Reported below: 886 F. 2d 1324.

No. 88-7533. *BERRYHILL v. UNITED STATES.* C. A. 10th Cir. Motion of petitioner for leave to file amended petition for writ of certiorari granted. Certiorari denied. Reported below: 880 F. 2d 275.

No. 89-266. *PORTLAND GENERAL ELECTRIC CO. v. MONTANA DEPARTMENT OF REVENUE ET AL.* Sup. Ct. Mont. Motions of Pacific Gas & Electric Co. et al. and Mountain States Legal Foundation for leave to file briefs as *amici curiae* granted. Certiorari denied. Reported below: 237 Mont. 324, 773 P. 2d 1189.

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No. 89-364. PACIFIC POWER & LIGHT CO. ET AL. *v.* MONTANA DEPARTMENT OF REVENUE ET AL. Sup. Ct. Mont. Motion of Mountain States Legal Foundation for leave to file a brief as *amicus curiae* granted. Certiorari denied. Reported below: 237 Mont. 77, 773 P. 2d 1176.

No. 89-524. SAMMILINE CO., LTD., ET AL. *v.* WOODS ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 873 F. 2d 842.

JUSTICE WHITE, with whom THE CHIEF JUSTICE and JUSTICE KENNEDY join, dissenting.

The Fifth Circuit held in this case that, based on its duties to longshoremen outlined in *Scindia Steam Navigation Co. v. De los Santos*, 451 U. S. 156 (1981), a vessel can be held liable under § 5(b) of the Longshore and Harbor Workers' Compensation Act, as added, 86 Stat. 1263, and amended, 33 U. S. C. § 905(b) (1982 ed., Supp. V), for injuries to a longshoreman unloading a vessel caused by the defective stowage of cargo by an independent stevedore. 873 F. 2d 842, 846-849 (1989). As recognized by the court below, *id.*, at 848, the Third Circuit has held that a shipowner cannot be held liable for such injuries. See *Derr v. Kawasaki Kisen K. K.*, 835 F. 2d 490 (1987), cert. denied, 486 U. S. 1007 (1988).

The Fifth Circuit also reaffirmed its holding in *D/S Ove Skou v. Hebert*, 365 F. 2d 341 (1966), that a standard time charter clause (providing: "The Captain (although appointed by the Owners) shall be under the orders and directions of the Charterers as regards employment and agency, and Charterers are to load, stow, and trim, and discharge the cargo at their expense under the supervision of the Captain. . . .") does not shift operational control over cargo operations, and therefore responsibility for the actions of independent stevedores, from the shipowner to the time charterer. 873 F. 2d, at 856. The court acknowledged, *id.*, at 857, n. 18, that its reaffirmance of *Ove Skou* perpetuates a conflict with the Ninth and Second Circuits, which have held that that contractual language does shift operational control over cargo operations to the time charterer. See *Turner v. Japan Lines, Ltd.*, 651 F. 2d 1300, 1305-1306 (CA9 1981), cert. denied, 459 U. S. 967 (1982); *Fernandez v. Chios Shipping Co.*, 542 F. 2d 145, 151-153 (CA2 1976).

I would grant certiorari to resolve these conflicts.

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No. 89-729. ABBOTT ET AL. *v.* CITY OF VIRGINIA BEACH. C. A. 4th Cir. Certiorari denied. JUSTICE WHITE would grant certiorari. Reported below: 879 F. 2d 132.

No. 89-767. HARRIS *v.* PULLEY, WARDEN. C. A. 9th Cir.;

No. 89-5527. KIRKPATRICK *v.* BUTLER, WARDEN, ET AL. C. A. 5th Cir.;

No. 89-5847. GRIFFIN *v.* DUGGER, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS. C. A. 11th Cir.; and

No. 89-6113. COLEMAN *v.* OHIO. Sup. Ct. Ohio. Certiorari denied. Reported below: No. 89-767, 885 F. 2d 1354; No. 89-5527, 870 F. 2d 276; No. 89-5847, 874 F. 2d 1397; No. 89-6113, 45 Ohio St. 3d 298, 544 N. E. 2d 622.

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. 89-5715. CHINAGORAM, AKA GODWIN *v.* UNITED STATES. C. A. 4th Cir. Motion of petitioner to amend petition for writ of certiorari granted. Certiorari denied. Reported below: 878 F. 2d 380.

Rehearing Denied

No. 88-7466. SPEARMAN *v.* LYNAUGH, DIRECTOR, TEXAS DEPARTMENT OF CORRECTIONS, *ante*, p. 876;

No. 88-7467. SPEARMAN *v.* LYNAUGH, DIRECTOR, TEXAS DEPARTMENT OF CORRECTIONS, *ante*, p. 876;

No. 89-489. SMITH *v.* MASSACHUSETTS INSTITUTE OF TECHNOLOGY ET AL., *ante*, p. 965;

No. 89-561. LARAIA *v.* PHILLIS ET AL., *ante*, p. 965;

No. 89-5647. HOLBROOK *v.* WILLIAMS, WARDEN, ET AL., *ante*, p. 967; and

No. 89-5798. BLANKS *v.* KEMP, WARDEN, *ante*, p. 984. Petitions for rehearing denied.

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Dismissal Under Rule 46

No. 89-760. SANTA FE SOUTHERN PACIFIC CORP. ET AL. *v.* KRAUS ET AL. C. A. 9th Cir. Certiorari dismissed under this Court's Rule 46. Reported below: 878 F. 2d 1193.

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Miscellaneous Order

No. A-498. SMITH *v.* ARMONTROUT, WARDEN, *ante*, p. 1039. Motion of the Missouri Capital Punishment Resource Center for leave to intervene as next friend and for reconsideration of application for stay of execution 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 motion and 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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Affirmed on Appeal

No. 89-400. LUCAS ET AL. *v.* TOWNSEND, PRESIDENT OF THE BIBB COUNTY BOARD OF EDUCATION, ET AL. Affirmed on appeal from D. C. M. D. Ga. Reported below: 732 F. Supp. 1581.

Miscellaneous Orders

No. — — —. FALLIN *v.* CUNNINGHAM ET AL. Motion for leave to file copies of petition for writ of certiorari and appendix separately and out of time denied. JUSTICE BLACKMUN would grant the motion.

No. — — —. GRANVIEL *v.* LYNAUGH, DIRECTOR, TEXAS DEPARTMENT OF CORRECTIONS. Motion for leave to proceed *in forma pauperis* without an affidavit of indigency executed by petitioner granted.

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

No. — — —. MITCHELSON *v.* KEMMERER COAL CO. ET AL. Motion to direct the Clerk to file petition for writ of certiorari out of time denied.

No. A-488. NELSON *v.* JONES. Super. Ct. Alaska, 1st Jud. Dist. Application for stay, addressed to JUSTICE MARSHALL and referred to the Court, denied.

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No. D-814. IN RE DISBARMENT OF BERNSTEIN. Disbarment entered. [For earlier order herein, see *ante*, p. 949.]

No. D-820. IN RE DISBARMENT OF McDONNELL. Disbarment entered. [For earlier order herein, see *ante*, p. 949.]

No. D-822. IN RE DISBARMENT OF MASTERS. Disbarment entered. [For earlier order herein, see *ante*, p. 950.]

No. D-828. IN RE DISBARMENT OF KAVANAUGH. Disbarment entered. [For earlier order herein, see *ante*, p. 960.]

No. D-830. IN RE DISBARMENT OF NICHOLSON. Disbarment entered. [For earlier order herein, see *ante*, p. 961.]

No. D-831. IN RE DISBARMENT OF BRASS. Disbarment entered. [For earlier order herein, see *ante*, p. 961.]

No. D-832. IN RE DISBARMENT OF BATKIN. Disbarment entered. [For earlier order herein, see *ante*, p. 961.]

No. D-835. IN RE DISBARMENT OF THORP. Disbarment entered. [For earlier order herein, see *ante*, p. 961.]

No. D-854. IN RE DISBARMENT OF MCCALLUM. It is ordered that Thomas J. McCallum, of Fraser, 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-855. IN RE DISBARMENT OF RIVAS. It is ordered that Fred Rivas, of Chino, 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. 65, Orig. TEXAS *v.* NEW MEXICO. Motion of the River Master for approval of fees and expenses granted, and the River Master is awarded \$3,761.73 for the period July 1 through December 31, 1989, to be paid equally by the parties. [For earlier order herein, see, *e. g.*, *ante*, p. 929.]

No. 74, Orig. GEORGIA *v.* SOUTH CAROLINA. Accounting of the Special Master for expenses approved, and the Special Master is hereby discharged. [For earlier order herein, see, *e. g.*, *ante*, p. 1014.]

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No. 88-1972. ILLINOIS *v.* PERKINS. App. Ct. Ill., 5th Dist. [Certiorari granted, *ante*, p. 808.] Motion of Daniel M. Kirwan to vacate order of Court entered October 30, 1989 [*ante*, p. 930], and to appoint substitute counsel granted, and it is ordered that Dan W. Evers, Esq., of Mount Vernon, Ill., be appointed to serve as counsel for respondent in this case.

No. 89-275. COOTER & GELL *v.* HARTMARX CORP. ET AL. C. A. D. C. Cir. [Certiorari granted, *ante*, p. 916.] Motion of Washington Legal Foundation for leave to file a brief as *amicus curiae* granted.

No. 89-350. LANTANA CASCADE OF PALM BEACH, LTD. *v.* LANCA HOMEOWNERS, INC., *ante*, p. 964. Motion of respondent to tax appellate costs and to award appellate legal fees denied.

No. 89-386. PORT AUTHORITY TRANS-HUDSON CORP. *v.* FEENEY; and PORT AUTHORITY TRANS-HUDSON CORP. *v.* FOSTER. C. A. 2d Cir. [Certiorari granted, *ante*, p. 932.] Motion of Pan American World Airways, Inc., et al. for leave to file a brief as *amici curiae* granted.

No. 89-789. ALABAMA *v.* WHITE. Ct. Crim. App. Ala. [Certiorari granted, *ante*, p. 1042.] Motion of respondent for appointment of counsel granted, and it is ordered that David B. Byrne, Jr., Esq., of Montgomery, Ala., be appointed to serve as counsel for respondent in this case.

No. 89-894. CONNOLLY, SECRETARY OF STATE OF MASSACHUSETTS, ET AL. *v.* SECURITIES INDUSTRY ASSN. ET AL. C. A. 1st Cir. The Solicitor General is invited to file a brief in this case expressing the views of the United States.

No. 89-6168. LAYMAN *v.* ALABAMA HIGHWAY DEPARTMENT ET AL. C. A. 11th Cir. Motion of petitioner for leave to proceed *in forma pauperis* denied. Petitioner is allowed until February 12, 1990, within which to pay the docketing fee required by Rule 38(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 with-

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out reaching the merits of the motion to proceed *in forma pauperis*.

Certiorari Granted

No. 89-152. ENGLISH *v.* GENERAL ELECTRIC CO. C. A. 4th Cir. Certiorari granted. Reported below: 871 F. 2d 22.

No. 89-504. SULLIVAN, SECRETARY OF HEALTH AND HUMAN SERVICES *v.* FINKELSTEIN. C. A. 3d Cir. Certiorari granted. Reported below: 869 F. 2d 215.

No. 89-601. COMMISSIONER, IMMIGRATION AND NATURALIZATION SERVICE, ET AL. *v.* JEAN ET AL. C. A. 11th Cir. Certiorari granted. Reported below: 863 F. 2d 759.

No. 89-645. MILKOVICH *v.* LORAIN JOURNAL CO. ET AL. Ct. App. Ohio, Lake County. Certiorari granted. Reported below: 46 Ohio App. 3d 20, 545 N. E. 2d 1320.

No. 88-2041. SISSON *v.* RUBY ET AL. C. A. 7th Cir. Certiorari granted limited to Questions 1 and 2 presented by the petition. In addition the parties are requested to brief and argue the question whether or not the Court should reconsider its decision in *Richardson v. Harmon*, 222 U. S. 96 (1911). Reported below: 867 F. 2d 341.

Certiorari Denied

No. 88-2117. INCOME SECURITY CORP., INC., ET AL. *v.* LOUISIANA OILFIELD CONTRACTORS ASSN., INC., ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 871 F. 2d 119.

No. 89-444. AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES, AFL-CIO *v.* DEPARTMENT OF HEALTH AND HUMAN SERVICES ET AL.;

No. 89-566. NATIONAL TREASURY EMPLOYEES UNION *v.* DEPARTMENT OF THE TREASURY, FINANCIAL MANAGEMENT SERVICE, ET AL.; and

No. 89-853. FEDERAL LABOR RELATIONS AUTHORITY *v.* DEPARTMENT OF THE TREASURY, FINANCIAL MANAGEMENT SERVICE, ET AL. C. A. D. C. Cir. Certiorari denied. Reported below: 280 U. S. App. D. C. 236, 884 F. 2d 1446.

No. 89-610. NATIONAL TREASURY EMPLOYEES UNION *v.* DEPARTMENT OF THE TREASURY, OFFICE OF CHIEF COUNSEL, ET AL.; and

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No. 89-758. FEDERAL LABOR RELATIONS AUTHORITY *v.* DEPARTMENT OF THE TREASURY, OFFICE OF CHIEF COUNSEL, ET AL. C. A. D. C. Cir. Certiorari denied. Reported below: 277 U. S. App. D. C. 210, 873 F. 2d 1467.

No. 89-616. SCHOENFIELD *v.* COUNTY OF HUMBOLDT ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 875 F. 2d 870.

No. 89-635. NATIONAL FEDERATION OF FEDERAL EMPLOYEES *v.* CHENEY, SECRETARY OF DEFENSE, ET AL. C. A. D. C. Cir. Certiorari denied. Reported below: 280 U. S. App. D. C. 164, 884 F. 2d 603.

No. 89-671. AMERICAN INSURANCE Co. *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied. Reported below: 877 F. 2d 590.

No. 89-679. BELL ET AL. *v.* THORNBURGH, ATTORNEY GENERAL OF THE UNITED STATES, ET AL. C. A. D. C. Cir. Certiorari denied. Reported below: 278 U. S. App. D. C. 382, 878 F. 2d 484.

No. 89-690. HURWITZ *v.* UNITED STATES ET AL. C. A. 2d Cir. Certiorari denied. Reported below: 884 F. 2d 684.

No. 89-751. WILEY *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 885 F. 2d 868.

No. 89-786. CARRUTHERS, GOVERNOR OF NEW MEXICO, ET AL. *v.* DURAN ET AL. C. A. 10th Cir. Certiorari denied. Reported below: 885 F. 2d 1485.

No. 89-819. COLLINS ET AL. *v.* WOMANCARE ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 878 F. 2d 1145.

No. 89-825. ENGLISH ET UX., INDIVIDUALLY AND AS GUARDIANS OF ENGLISH *v.* NEW ENGLAND MEDICAL CENTER HOSPITAL, INC. Sup. Jud. Ct. Mass. Certiorari denied. Reported below: 405 Mass. 423, 541 N. E. 2d 329.

No. 89-826. FIRST ENGLISH EVANGELICAL LUTHERAN CHURCH OF GLENDALE, CALIFORNIA *v.* COUNTY OF LOS ANGELES. Ct. App. Cal., 2d App. Dist. Certiorari denied. Reported below: 210 Cal. App. 3d 1353, 258 Cal. Rptr. 893.

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No. 89-827. CAMERON *v.* CORBIN, ATTORNEY GENERAL OF ARIZONA. C. A. 9th Cir. Certiorari denied. Reported below: 886 F. 2d 334.

No. 89-837. SWANCO INSURANCE COMPANY-ARIZONA *v.* HAGER, COMMISSIONER OF INSURANCE OF IOWA. C. A. 8th Cir. Certiorari denied. Reported below: 879 F. 2d 353.

No. 89-844. MICHIGAN BELL TELEPHONE Co. *v.* CLEARY. C. A. 6th Cir. Certiorari denied. Reported below: 880 F. 2d 1321.

No. 89-850. CRONSON, AUDITOR GENERAL OF ILLINOIS *v.* CHICAGO BAR ASSN. ET AL. Sup. Ct. Ill. Certiorari denied. Reported below: 127 Ill. 2d 613, 545 N. E. 2d 106.

No. 89-855. O'NEILL *v.* ELLER ET AL. C. A. 4th Cir. Certiorari denied. Reported below: 883 F. 2d 69.

No. 89-860. ESTATE OF BRES *v.* HAMPTON, CHAIRMAN, CIVIL SERVICE COMMISSION, ET AL. C. A. D. C. Cir. Certiorari denied. Reported below: 278 U. S. App. D. C. 176, 877 F. 2d 111.

No. 89-863. HARPER ET UX. *v.* FEDERAL LAND BANK OF SPOKANE ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 878 F. 2d 1172.

No. 89-864. MIAMI CENTER LIMITED PARTNERSHIP ET AL. *v.* SMITH, INDIVIDUALLY AND AS TRUSTEE OF THE MIAMI CENTER LIQUIDATING TRUST, ET AL. C. A. 11th Cir. Certiorari denied. Reported below: 881 F. 2d 1086.

No. 89-868. LUM *v.* JENSEN ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 876 F. 2d 1385.

No. 89-873. JOHNSON *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 875 F. 2d 868.

No. 89-881. CONSTANT *v.* ADVANCED MICRO-DEVICES, INC. C. A. Fed. Cir. Certiorari denied. Reported below: 889 F. 2d 1099.

No. 89-883. TECHNOLOGY FOR ENERGY CORP. *v.* RADCAL ENGINEERING, INC., ET AL. C. A. 6th Cir. Certiorari denied. Reported below: 880 F. 2d 875.

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No. 89-884. *CRAWFORD v. WORKERS' COMPENSATION APPEALS BOARD*. Ct. App. Cal., 2d App. Dist. Certiorari denied. Reported below: 213 Cal. App. 3d 156, 259 Cal. Rptr. 414.

No. 89-885. *AIR-SEA FORWARDERS, INC. v. AIR ASIA Co., LTD., ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 880 F. 2d 176.

No. 89-886. *ROBERTS ET AL. v. THOMAS, CHAIRMAN, EQUAL EMPLOYMENT OPPORTUNITY COMMISSION.* C. A. 9th Cir. Certiorari denied. Reported below: 884 F. 2d 1395.

No. 89-896. *RED BARON-FRANKLIN PARK, INC., ET AL. v. TAITO CORP. ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 883 F. 2d 275.

No. 89-897. *GRIMES v. LOUISVILLE & NASHVILLE RAILROAD Co.* C. A. 7th Cir. Certiorari denied. Reported below: 869 F. 2d 1495.

No. 89-899. *LANTECH, INC. v. KAUFMAN COMPANY OF OHIO, INC.* C. A. Fed. Cir. Certiorari denied. Reported below: 878 F. 2d 1446.

No. 89-900. *SUFFOLK COUNTY TREASURER v. BARR, AS TRUSTEE OF PARR MEADOWS RACING ASSN., INC., ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 880 F. 2d 1540.

No. 89-904. *FORRESTER v. OHIO.* Ct. App. Ohio, Morgan County. Certiorari denied.

No. 89-918. *TEXAS v. WEST PUBLISHING Co.* C. A. 5th Cir. Certiorari denied. Reported below: 882 F. 2d 171.

No. 89-921. *CROWN ROLL LEAF, INC. v. UNITED STATES.* C. A. 3d Cir. Certiorari denied. Reported below: 888 F. 2d 1382.

No. 89-924. *GOULD ET AL. v. ALLECO, INC., ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 883 F. 2d 281.

No. 89-945. *WEDGE GROUP INC. v. THIRD NATIONAL BANK IN NASHVILLE.* C. A. 6th Cir. Certiorari denied. Reported below: 882 F. 2d 1087.

No. 89-955. *DEREWAL v. UNITED STATES.* C. A. 3d Cir. Certiorari denied. Reported below: 887 F. 2d 263.

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No. 89-962. *STORY v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 888 F. 2d 1377.

No. 89-5408. *SOTO v. GOVERNMENT OF THE VIRGIN ISLANDS*. C. A. 3d Cir. Certiorari denied. Reported below: 877 F. 2d 55.

No. 89-5452. *WEAVER v. SHEAFFER ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 877 F. 2d 58.

No. 89-5609. *DUNN v. WHITE ET AL.* C. A. 10th Cir. Certiorari denied. Reported below: 880 F. 2d 1188.

No. 89-5701. *PERCEVAL v. UNITED STATES*. C. A. 10th Cir. Certiorari denied.

No. 89-5747. *JENKINS v. LOUISIANA ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 874 F. 2d 992.

No. 89-5761. *MUNNA v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 871 F. 2d 515.

No. 89-5768. *SLADER v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 881 F. 2d 1080.

No. 89-5822. *SOSA v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 888 F. 2d 1395.

No. 89-5828. *CREEL v. DISTRICT ATTORNEY OF MEDINA COUNTY, TEXAS, ET AL.* Ct. App. Tex., 4th Dist. Certiorari denied.

No. 89-5856. *MILANO v. JOHNSON, SECRETARY, NORTH CAROLINA DEPARTMENT OF CORRECTION*. C. A. 4th Cir. Certiorari denied. Reported below: 881 F. 2d 1069.

No. 89-5861. *SILVA v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 878 F. 2d 387.

No. 89-5871. *PIERCE v. UNITED STATES*; and

No. 89-5873. *LANE v. UNITED STATES*. C. A. 10th Cir. Certiorari denied. Reported below: 883 F. 2d 1484.

No. 89-5883. *MCKEE v. FLORIDA*. Dist. Ct. App. Fla., 2d Dist. Certiorari denied. Reported below: 548 So. 2d 667.

No. 89-5893. *SANTOS v. KOLB, SUPERINTENDENT, FOX LAKE CORRECTIONAL INSTITUTION*. C. A. 7th Cir. Certiorari denied. Reported below: 880 F. 2d 941.

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No. 89-5904. *MARTINEZ v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 882 F. 2d 513.

No. 89-5914. *TORRES v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 880 F. 2d 113.

No. 89-6040. *MORALES v. OFFICE OF PERSONNEL MANAGEMENT*. C. A. Fed. Cir. Certiorari denied. Reported below: 862 F. 2d 321.

No. 89-6088. *WALKER v. JONES, SUPERINTENDENT, GREAT MEADOWS CORRECTIONAL FACILITY*. C. A. 2d Cir. Certiorari denied. Reported below: 872 F. 2d 1022.

No. 89-6089. *BROWN v. JOHNSON, WARDEN, ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 889 F. 2d 1084.

No. 89-6121. *WASHINGTON v. BUMGARNER ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 882 F. 2d 899.

No. 89-6124. *FERENC v. DUGGER, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS, ET AL.* C. A. 11th Cir. Certiorari denied. Reported below: 888 F. 2d 1395.

No. 89-6125. *CLARK v. COUNTY OF GARFIELD, COLORADO*. C. A. 10th Cir. Certiorari denied.

No. 89-6127. *COLE v. NEW YORK*. App. Div., Sup. Ct. N. Y., 1st Jud. Dept. Certiorari denied. Reported below: 151 App. Div. 2d 1052, 544 N. Y. S. 2d 405.

No. 89-6131. *CLARK v. DUGGER, DIRECTOR, FLORIDA DEPARTMENT OF CORRECTIONS*. C. A. 11th Cir. Certiorari denied. Reported below: 888 F. 2d 1395.

No. 89-6142. *POOLE v. OHIO*. Ct. App. Ohio, Allen County. Certiorari denied.

No. 89-6147. *WILLIS v. FIRST BANK NATIONAL ASSN. ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 878 F. 2d 1437.

No. 89-6149. *HILLIARD v. BUTLER, WARDEN*. C. A. 5th Cir. Certiorari denied. Reported below: 883 F. 2d 71.

No. 89-6159. *RANDALL v. MARYLAND*. C. A. 4th Cir. Certiorari denied. Reported below: 884 F. 2d 1389.

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No. 89-6163. *HILL v. INTERNATIONAL HARVESTER CO. ET AL.* C. A. 8th Cir. Certiorari denied. Reported below: 881 F. 2d 1081.

No. 89-6164. *KERN v. JACKSON, COMMISSIONER, MISSISSIPPI DEPARTMENT OF CORRECTIONS.* C. A. 5th Cir. Certiorari denied. Reported below: 885 F. 2d 868.

No. 89-6167. *LAIRD v. PUCKETT, SUPERINTENDENT, MISSISSIPPI STATE PENITENTIARY, ET AL.* C. A. 5th Cir. Certiorari denied.

No. 89-6171. *CASE v. PUNG, COMMISSIONER, MINNESOTA DEPARTMENT OF CORRECTIONS.* Ct. App. Minn. Certiorari denied.

No. 89-6173. *BYNUM v. FLORIDA BAR.* Dist. Ct. App. Fla., 1st Dist. Certiorari denied.

No. 89-6174. *BYNUM v. FLORIDA.* Dist. Ct. App. Fla., 1st Dist. Certiorari denied. Reported below: 545 So. 2d 1370.

No. 89-6177. *BRANHAM v. KOEHLER, WARDEN.* C. A. 6th Cir. Certiorari denied. Reported below: 888 F. 2d 1391.

No. 89-6179. *JORDAN v. DEPARTMENT OF THE AIR FORCE.* C. A. Fed. Cir. Certiorari denied. Reported below: 884 F. 2d 1398.

No. 89-6180. *WILBORNE v. REDMAN, WARDEN.* C. A. 6th Cir. Certiorari denied.

No. 89-6182. *ROGERS v. HILLS, WARDEN.* C. A. 6th Cir. Certiorari denied. Reported below: 884 F. 2d 252.

No. 89-6188. *DESIRE v. CALIFORNIA.* Ct. App. Cal., 2d App. Dist. Certiorari denied.

No. 89-6193. *KHALID v. KUBACKI, JUDGE, COURT OF COMMON PLEAS FOR THE CITY OF PHILADELPHIA, ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 887 F. 2d 261.

No. 89-6195. *NELSON v. BOWER, SUPERINTENDENT, OHIO SOUTHEASTERN CORRECTIONAL INSTITUTION.* C. A. 6th Cir. Certiorari denied. Reported below: 878 F. 2d 1436.

No. 89-6197. *TYLER v. MOSS ET AL.* C. A. 8th Cir. Certiorari denied. Reported below: 889 F. 2d 1093.

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No. 89-6199. *BOND v. RAIKES, JUDGE, ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 887 F. 2d 265.

No. 89-6220. *YKEMA v. UNITED STATES.* C. A. 6th Cir. Certiorari denied. Reported below: 887 F. 2d 697.

No. 89-6224. *BOND v. RAIKES, JUDGE, NELSON CIRCUIT COURT.* Sup. Ct. Ky. Certiorari denied.

No. 89-6237. *VINSON v. UNITED STATES.* C. A. 4th Cir. Certiorari denied. Reported below: 886 F. 2d 740.

No. 89-6242. *WATSON v. UNITED STATES ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 887 F. 2d 264.

No. 89-6249. *FURST v. UNITED STATES.* C. A. 3d Cir. Certiorari denied. Reported below: 886 F. 2d 558.

No. 89-6254. *EHRET v. UNITED STATES.* C. A. 8th Cir. Certiorari denied. Reported below: 885 F. 2d 441.

No. 89-6257. *BIONDI v. UNITED STATES.* Ct. Mil. App. Certiorari denied. Reported below: 29 M. J. 307.

No. 89-6263. *MANNER v. UNITED STATES.* C. A. D. C. Cir. Certiorari denied. Reported below: 281 U. S. App. D. C. 89, 887 F. 2d 317.

No. 89-6269. *BEAULIEU v. UNITED STATES.* Ct. Mil. App. Certiorari denied. Reported below: 29 M. J. 330.

No. 89-589. *CBS INC. v. BERDA ET UX.* C. A. 3d Cir. Motions of Merchants and Manufacturers Association and General Motors Corp. for leave to file briefs as *amici curiae* granted. Certiorari denied. Reported below: 881 F. 2d 20.

No. 89-838. *PINCKNEY ET AL. v. VALENTE-KRITZER VIDEO.* C. A. 9th Cir. Certiorari denied. JUSTICE WHITE would grant certiorari. Reported below: 881 F. 2d 772.

No. 89-857. *CBS INC. v. BRUNO.* C. A. 3d Cir. Motion of Merchants and Manufacturers Association for leave to file a brief as *amicus curiae* granted. Certiorari denied. Reported below: 882 F. 2d 760.

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No. 89-866. CONNECTICUT *v.* D'AMBROSIA. Sup. Ct. Conn. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 212 Conn. 50, 561 A. 2d 422.

No. 89-871. KENTUCKY *v.* WALLS; and

No. 89-872. KENTUCKY *v.* COSBY. Sup. Ct. Ky. Motions of respondents for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 776 S. W. 2d 367.

No. 89-5580. MESSIAH *v.* LOUISIANA. Sup. Ct. La.;

No. 89-6107. BUCHANAN *v.* VIRGINIA. Sup. Ct. Va.; and

No. 89-6244. KLOKOC *v.* FLORIDA. Sup. Ct. Fla. Certiorari denied. Reported below: No. 89-5580, 538 So. 2d 175; No. 89-6107, 238 Va. 389, 384 S. E. 2d 757.

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. 88-7274. ALSTON *v.* EDWARDS, *ante*, p. 830;

No. 88-7361. ALSTON *v.* GLUCH, WARDEN, *ante*, p. 833;

No. 88-7476. ALSTON *v.* GLUCH, WARDEN, ET AL., *ante*, p. 837;

No. 88-7519. ALSTON *v.* GLUCH, WARDEN, *ante*, p. 840;

No. 89-284. LOFTUS ET AL. *v.* COMMISSIONER OF INTERNAL REVENUE ET AL., *ante*, p. 991;

No. 89-434. JULIEN *v.* BAKER, *ante*, p. 955;

No. 89-5122. RADEMAKER *v.* VETERANS ADMINISTRATION, *ante*, p. 861;

No. 89-5670. BARELA *v.* BAKER, SECRETARY OF STATE, *ante*, p. 979;

No. 89-5718. RICHARDSON *v.* ARNOLD ET AL., *ante*, p. 980;

No. 89-5728. PREUSS *v.* DISTRICT OF COLUMBIA ET AL., *ante*, p. 980;

No. 89-5736. KIMELMAN *v.* CITY OF COLORADO SPRINGS ET AL., *ante*, p. 981;

No. 89-5779. JOHNS *v.* YEE, *ante*, p. 995;

No. 89-5782. FLANERY *v.* UNITED STATES, *ante*, p. 981;

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No. 89-5843. SMITH *v.* PUCKETT, SUPERINTENDENT, MISSISSIPPI STATE PENITENTIARY AT PARCHMAN, *ante*, p. 997;

No. 89-5917. NOE *v.* UNITED STATES, *ante*, p. 1005; and

No. 89-5953. IN RE STULL ET AL., *ante*, p. 990. Petitions for rehearing denied.

No. 88-1083. JOHN DOE AGENCY ET AL. *v.* JOHN DOE CORP., *ante*, p. 146. Respondent's petition for rehearing to modify and clarify the decision on the merits denied.

No. 89-200. OFMAN *v.* UNITED STATES, *ante*, p. 933; and

No. 89-5131. NICHOLAS *v.* UNITED STATES, *ante*, p. 861. Motions for leave to file petitions for rehearing denied.

JANUARY 23, 1990

Dismissals Under Rule 46

No. 89-831. PELICAN PRODUCTION CORP. *v.* MAR-SHER EXPLORATION, INC., ET AL. Sup. Ct. Okla. Certiorari dismissed under this Court's Rule 46.

No. 89-153. ROYAL SERVICE, INC. *v.* GOODY PRODUCTS, INC. C. A. 9th Cir. Certiorari dismissed under this Court's Rule 46. Reported below: 865 F. 2d 1271.

JANUARY 26, 1990

Miscellaneous Order. (For the Court's order prescribing amendments to the Federal Rules of Evidence, see *post*, p. 1175.)

FEBRUARY 6, 1990

Dismissal Under Rule 46

No. 89-849. WESTINGHOUSE ELECTRIC CORP. *v.* VERBRAEKEN. C. A. 11th Cir. Certiorari dismissed under this Court's Rule 46. Reported below: 881 F. 2d 1041.

FEBRUARY 8, 1990

Miscellaneous Orders

No. A-537 (89-6347). SMITH *v.* DUGGER, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS, 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,

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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 and the petition for writ of certiorari and would vacate the death sentence in this case.

FEBRUARY 13, 1990

Dismissal Under Rule 46

No. 89-996. CITY OF GEORGETOWN, TEXAS, ET AL. *v.* TEMPLO MONTE SINAI, INC., ET AL. C. A. 5th Cir. Certiorari dismissed under this Court's Rule 46. Reported below: 886 F. 2d 1312.

FEBRUARY 20, 1990

Dismissals Under Rule 46

No. 89-1031. MEIJER, INC., ET AL. *v.* FRANKENMUTH MUTUAL INSURANCE CO., INDIVIDUALLY AND/OR AS SUBROGEE OF GOLEMBIEWSKI. Ct. App. Mich. Certiorari dismissed under this Court's Rule 46. Reported below: 176 Mich. App. 675, 440 N. W. 2d 7.

No. 89-6143. KENDRICK, GUARDIAN AD LITEM FOR KENDRICK, A MINOR *v.* UNITED STATES. C. A. 4th Cir. Certiorari dismissed under this Court's Rule 46. Reported below: 877 F. 2d 1201.

Appeal Dismissed

No. 89-935. LIVELY EXPLORATION CO. ET AL. *v.* VALERO TRANSMISSION CO. Appeal from Ct. App. Tex., 4th Dist., dismissed for want of substantial federal question. Reported below: 751 S. W. 2d 649.

Miscellaneous Orders

No. — — —. HENDERSON *v.* BANK OF NEW ENGLAND. Motion to direct the Clerk to file petition for writ of certiorari out of time denied.

No. — — —. WALLS *v.* DELAWARE STATE POLICE ET AL. Motion to direct the Clerk to file petition for writ of certiorari

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out of time denied. JUSTICE BLACKMUN dissents and would grant the motion.

No. A-502 (89-6213). LUCKY *v.* VASQUEZ, WARDEN. Sup. Ct. Cal. Application for stay of execution of sentence of death, presented to JUSTICE O'CONNOR, and by her 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 issuance of the mandate of this Court.

No. A-519. ENGLISH *v.* CITY OF ATLANTIC CITY ET AL. Application for injunction, addressed to JUSTICE MARSHALL and referred to the Court, denied.

No. D-837. IN RE DISBARMENT OF MARCONE. Disbarment entered. [For earlier order herein, see *ante*, p. 972.]

No. D-852. IN RE DISBARMENT OF VOORHIES. Peter Gordon Voorhies, of Portland, Ore., having requested to resign as a member of the Bar of this Court, it is ordered that his name be stricken from the roll of attorneys admitted to practice before the Bar of this Court. The rule to show cause, heretofore issued on January 16, 1990 [*ante*, p. 1040], is hereby discharged.

No. D-856. IN RE DISBARMENT OF SANDS. It is ordered that Barry Gerald Sands, of Torrance, 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-857. IN RE DISBARMENT OF KAY. It is ordered that Robert L. Kay, of Bethesda, Md., be suspended from the practice of law in this Court and that a rule issue, returnable within 40 days, requiring him to show cause why he should not be disbarred from the practice of law in this Court.

No. D-858. IN RE DISBARMENT OF LOUDEN. It is ordered that John R. Loudon, of Dublin, 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.

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No. D-859. *IN RE DISBARMENT OF DAWES.* It is ordered that Kenneth J. Dawes, Jr., of Trenton, N. J., 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-860. *IN RE DISBARMENT OF HIPP.* It is ordered that David Charles Hipp, of Bolivar, 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-861. *IN RE DISBARMENT OF EISENBERG.* It is ordered that Stuart A. Eisenberg, 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-862. *IN RE DISBARMENT OF HELLER.* It is ordered that Melvin A. Heller, 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. 87-6700. *SELVAGE v. COLLINS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, INSTITUTIONAL DIVISION.* C. A. 5th Cir. [Certiorari granted *sub nom. Selvage v. Lynaugh*, *ante*, p. 888.] Motion of petitioner for leave to file a supplemental brief after argument granted.

No. 88-1260. *CITIBANK, N. A. v. WELLS FARGO ASIA LTD.* C. A. 2d Cir. [Certiorari granted, *ante*, p. 990.] Motion of the Solicitor General for leave to participate in oral argument as *amicus curiae* and for divided argument granted.

No. 89-5691. *HUGHEY v. UNITED STATES.* C. A. 5th Cir. [Certiorari granted, *ante*, p. 1018.] Motion of the Solicitor General to permit Amy L. Wax, Esq., to present oral argument *pro hac vice* granted.

No. 89-260. *IDAHO v. WRIGHT.* Sup. Ct. Idaho. [Certiorari granted, *ante*, p. 1041.] Motion of respondent for leave to proceed further herein *in forma pauperis* granted. Motion for appointment of counsel granted, and it is ordered that Rolf M.

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Kehne, Esq., of Boise, Idaho, be appointed to serve as counsel for respondent in this case.

No. 89-333. CALIFORNIA *v.* FEDERAL ENERGY REGULATORY COMMISSION ET AL. C. A. 9th Cir. [Certiorari granted, *ante*, p. 991.] Motion of respondent Rock Creek Limited Partnership for divided argument denied.

No. 89-386. PORT AUTHORITY TRANS-HUDSON CORP. *v.* FEENEY; and PORT AUTHORITY TRANS-HUDSON CORP. *v.* FOSTER. C. A. 2d Cir. [Certiorari granted, *ante*, p. 932.] Motion of American Airlines, Inc., et al. for leave to file a brief as *amici curiae* granted.

No. 89-867. F. & H. R. FARMAN-FARMAIAN CONSULTING ENGINEERS FIRM ET AL. *v.* HARZA ENGINEERING CO. C. A. 7th Cir.; and

No. 89-989. CITY OF NORFOLK, VIRGINIA, ET AL. *v.* COLLINS ET AL. C. A. 4th Cir. The Solicitor General is invited to file briefs in these cases expressing the views of the United States.

No. 89-1221. MICHIGAN *v.* MOORE. Ct. App. Mich. Motion of petitioner to expedite consideration of petition for writ of certiorari denied.

No. 89-6210. IN RE MILES;

No. 89-6236. IN RE MAXWELL;

No. 89-6250. IN RE HICKS; and

No. 89-6308. IN RE LYNCH. Petitions for writs of mandamus denied.

No. 89-6027. IN RE ABDUL-AKBAR; and

No. 89-6321. IN RE KLEINSCHMIDT. Petitions for writs of mandamus and/or prohibition denied.

Certiorari Granted

No. 89-658. CHEEK *v.* UNITED STATES. C. A. 7th Cir. Certiorari granted. Reported below: 882 F. 2d 1263.

No. 89-1048. FMC CORP. *v.* HOLLIDAY. C. A. 3d Cir. Certiorari granted. Reported below: 885 F. 2d 79.

No. 89-5011. POWERS *v.* OHIO. Ct. App. Ohio, Franklin County. Motion of petitioner for leave to proceed *in forma pauperis* granted. Certiorari granted.

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No. 89-5867. IRWIN *v.* DEPARTMENT OF VETERANS AFFAIRS ET AL. C. A. 5th Cir. Motion of petitioner for leave to proceed *in forma pauperis* granted. Certiorari granted. Reported below: 874 F. 2d 1092.

Certiorari Denied

No. 88-5826. HAMILTON *v.* UNITED STATES;

No. 88-5827. HAMILTON *v.* UNITED STATES;

No. 88-5829. HAMILTON *v.* UNITED STATES;

No. 88-5832. BLAKE *v.* UNITED STATES; and

No. 88-5834. BROWN *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 850 F. 2d 1038.

No. 88-7079. PEREZ ET AL. *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 866 F. 2d 390.

No. 88-7374. TINSLEY *v.* VIRGINIA. Sup. Ct. Va. Certiorari denied.

No. 89-483. NORTHWEST LAND & INVESTMENT, INC., ET AL. *v.* NEW WEST FEDERAL SAVINGS & LOAN ASSN. ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 878 F. 2d 386.

No. 89-485. ALEXANDER *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 869 F. 2d 808.

No. 89-506. VIRGINIA STATE CONFERENCE OF THE NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE ET AL. *v.* UPCHURCH. C. A. 4th Cir. Certiorari denied. Reported below: 878 F. 2d 1431.

No. 89-525. POPAL *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. Reported below: 880 F. 2d 1319.

No. 89-607. SMITH, EXECUTRIX OF THE ESTATE OF SMITH *v.* UNITED STATES ET AL. C. A. 11th Cir. Certiorari denied. Reported below: 877 F. 2d 40.

No. 89-649. ARANGO *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied. Reported below: 879 F. 2d 1501.

No. 89-675. AMBASE CORP. *v.* COMMISSIONER OF INTERNAL REVENUE. C. A. 2d Cir. Certiorari denied. Reported below: 875 F. 2d 377.

No. 89-688. GENERAL AMERICAN TRANSPORTATION CORP. ET AL. *v.* INTERSTATE COMMERCE COMMISSION ET AL. C. A. D. C.

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Cir. Certiorari denied. Reported below: 277 U. S. App. D. C. 78, 872 F. 2d 1048.

No. 89-696. NEVADA *v.* SKINNER, SECRETARY OF TRANSPORTATION, ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 884 F. 2d 445.

No. 89-697. DOWNRIVER COMMUNITY FEDERAL CREDIT UNION ET AL. *v.* PENN SQUARE BANK, THROUGH ITS RECEIVER, FEDERAL DEPOSIT INSURANCE CORPORATION. C. A. 10th Cir. Certiorari denied. Reported below: 879 F. 2d 754.

No. 89-699. COLORADO DEPARTMENT OF REVENUE *v.* UNITED STATES ET AL. C. A. 10th Cir. Certiorari denied. Reported below: 873 F. 2d 242.

No. 89-711. UNIVERSAL FABRICATORS, INC. *v.* SMITH ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 878 F. 2d 843.

No. 89-715. OWEN ET UX. *v.* COMMISSIONER OF INTERNAL REVENUE. C. A. 9th Cir. Certiorari denied. Reported below: 881 F. 2d 832.

No. 89-722. THOMAS *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 877 F. 2d 281.

No. 89-728. FIRST UNITED METHODIST CHURCH OF HYATTSVILLE, MARYLAND *v.* UNITED STATES GYPSUM Co. C. A. 4th Cir. Certiorari denied. Reported below: 882 F. 2d 862.

No. 89-735. WILLIAMS *v.* UNITED STATES. Ct. Mil. App. Certiorari denied. Reported below: 28 M. J. 484.

No. 89-739. DAVIS ENTERPRISES ET AL. *v.* UNITED STATES ENVIRONMENTAL PROTECTION AGENCY ET AL. C. A. 3d Cir. Certiorari denied. Reported below: 877 F. 2d 1181.

No. 89-748. SECURITIES INDUSTRY ASSN. *v.* CLARKE, CONTROLLER OF THE CURRENCY, ET AL. C. A. 2d Cir. Certiorari denied. Reported below: 885 F. 2d 1034.

No. 89-757. NEWAK *v.* UNITED STATES. Ct. Mil. App. Certiorari denied. Reported below: 29 M. J. 304.

No. 89-759. KOWALESKI ET AL. *v.* DIRECTOR, OFFICE OF WORKERS' COMPENSATION PROGRAMS, UNITED STATES DEPART-

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MENT OF LABOR, ET AL. C. A. 3d Cir. Certiorari denied. Reported below: 879 F. 2d 1173.

No. 89-764. RAWLS *v.* UNITED STATES. Ct. Mil. App. Certiorari denied. Reported below: 29 M. J. 323.

No. 89-779. SCHWIMMER *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. Reported below: 882 F. 2d 22.

No. 89-785. ALAMO BANK OF TEXAS *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 880 F. 2d 828.

No. 89-800. ALVARADO *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. Reported below: 882 F. 2d 645.

No. 89-815. CHALINE *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 887 F. 2d 505.

No. 89-841. LEEF ET AL. *v.* MARTIN, ADMINISTRATRIX OF THE ESTATE OF MARTIN. Sup. Ct. App. W. Va. Certiorari denied. Reported below: 181 W. Va. 308, 382 S. E. 2d 502.

No. 89-843. AMERICAN CYANAMID CO. ET AL. *v.* O'NEIL, ATTORNEY GENERAL OF RHODE ISLAND. C. A. 1st Cir. Certiorari denied. Reported below: 883 F. 2d 176.

No. 89-846. SUAREZ *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 885 F. 2d 878.

No. 89-848. KELLY ET AL. *v.* GEORGIA. Ct. App. Ga. Certiorari denied. Reported below: 192 Ga. App. 169, 384 S. E. 2d 197.

No. 89-851. NATIONAL FOOTBALL LEAGUE ET AL. *v.* UNITED STATES FOOTBALL LEAGUE ET AL. C. A. 2d Cir. Certiorari denied. Reported below: 887 F. 2d 408.

No. 89-858. HAPANIEWSKI ET AL. *v.* CITY OF CHICAGO HEIGHTS, ILLINOIS, ET AL. C. A. 7th Cir. Certiorari denied. Reported below: 883 F. 2d 576.

No. 89-859. MEDVIK *v.* OLLENDORFF ET AL. Ct. App. Mo., Eastern Dist. Certiorari denied. Reported below: 772 S. W. 2d 696.

No. 89-861. MORITA ET AL. *v.* APPLICATION ART LABORATORIES Co., LTD. C. A. Fed. Cir. Certiorari denied. Reported below: 883 F. 2d 1028.

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No. 89-862. *YOUNG ET VIR v. DEPARTMENT OF JUSTICE ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 882 F. 2d 633.

No. 89-874. *ILLINOIS CENTRAL GULF RAILROAD CO. v. RUSSELL.* Sup. Ct. Ala. Certiorari denied. Reported below: 551 So. 2d 960.

No. 89-875. *FELKER v. PENNSYLVANIA.* Super. Ct. Pa. Certiorari denied. Reported below: 389 Pa. Super. 647, 560 A. 2d 825.

No. 89-887. *SOUTHERN OHIO STATE EXECUTIVE OFFICES OF CHURCH OF GOD ET AL. v. FAIRBORN CHURCH OF GOD ET AL.* Ct. App. Ohio, Green County. Certiorari denied. Reported below: 61 Ohio App. 3d 526, 573 N. E. 2d 172.

No. 89-891. *CAMPOS v. ILLINOIS.* App. Ct. Ill., 2d Dist. Certiorari denied. Reported below: 181 Ill. App. 3d 1119, 553 N. E. 2d 453.

No. 89-903. *DAVIS ET UX. v. FARASY ET AL.* Ct. App. Md. Certiorari denied. Reported below: 316 Md. 364, 558 A. 2d 1206.

No. 89-905. *MUSCOGEE COUNTY SCHOOL DISTRICT ET AL. v. MITTEN, BY AND THROUGH HER FATHER AND NEXT FRIEND, MITTEN, ET AL.* C. A. 11th Cir. Certiorari denied. Reported below: 877 F. 2d 932.

No. 89-906. *J. H. H. ET AL. v. O'HARA ET AL.* C. A. 8th Cir. Certiorari denied. Reported below: 878 F. 2d 240.

No. 89-908. *AUTOMOBILE CLUB OF MICHIGAN, AKA AAA, ET AL. v. BULLOCK.* Sup. Ct. Mich. Certiorari denied. Reported below: 432 Mich. 472, 444 N. W. 2d 114.

No. 89-909. *TAYLOR, DBA EXPLORATION SERVICES v. UNITED STATES ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 881 F. 2d 207.

No. 89-911. *CONSOLIDATED OIL & GAS, INC. v. SOUTHERN UNION CO. ET AL.* C. A. D. C. Cir. Certiorari denied. Reported below: 273 U. S. App. D. C. 21, 857 F. 2d 812.

No. 89-912. *BABCOCK, BY AND THROUGH HER GUARDIAN, BABCOCK, ET AL. v. TYLER ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 884 F. 2d 497.

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No. 89-913. *ETHERIDGE v. ANDREWS ET UX.* Dist. Ct. App. Fla., 5th Dist. Certiorari denied. Reported below: 549 So. 2d 1021.

No. 89-916. *ILLINOIS v. KERNER.* App. Ct. Ill., 5th Dist. Certiorari denied. Reported below: 183 Ill. App. 3d 99, 538 N. E. 2d 1223.

No. 89-917. *MIAMI CENTER LIMITED PARTNERSHIP ET AL. v. BANK OF NEW YORK ET AL.* C. A. 11th Cir. Certiorari denied. Reported below: 880 F. 2d 418.

No. 89-919. *SMITH MACHINERY CO., INC. v. HESSTON CORP.* C. A. 10th Cir. Certiorari denied. Reported below: 878 F. 2d 1290.

No. 89-920. *ESTREMERA v. DUGGER, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS, ET AL.* C. A. 11th Cir. Certiorari denied. Reported below: 884 F. 2d 584.

No. 89-925. *TOVREA v. RAILROAD RETIREMENT BOARD ET AL.* C. A. 10th Cir. Certiorari denied.

No. 89-929. *ABBOTT ET AL. v. GOULD, INC.* Sup. Ct. Neb. Certiorari denied. Reported below: 232 Neb. 907, 443 N. W. 2d 591.

No. 89-932. *ARRINGTON ET UX. v. MATTOX, ATTORNEY GENERAL OF TEXAS.* Ct. App. Tex., 3d Dist. Certiorari denied. Reported below: 767 S. W. 2d 957.

No. 89-934. *WOODARD ET AL. v. CITY OF FORT WORTH, TEXAS.* Ct. App. Tex., 2d Dist. Certiorari denied.

No. 89-937. *DE KLEINMAN v. RESIDENTIAL BOARD OF MANAGERS OF THE OLYMPIC TOWER CONDOMINIUM ET AL.* App. Div., Sup. Ct. N. Y., 1st Jud. Dept. Certiorari denied.

No. 89-938. *PACYNNA v. PACYNNA.* Ct. App. N. Y. Certiorari denied. Reported below: 74 N. Y. 2d 842, 545 N. E. 2d 872.

No. 89-942. *ROOKER v. RIMER.* Ct. App. Tenn. Certiorari denied. Reported below: 776 S. W. 2d 124.

No. 89-943. *THOMAS J. KLINE, INC. v. LORILLARD, INC.* C. A. 4th Cir. Certiorari denied. Reported below: 878 F. 2d 791.

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No. 89-946. *LAFITTE v. CALIFORNIA*. Ct. App. Cal., 4th App. Dist. Certiorari denied. Reported below: 211 Cal. App. 3d 1429, 259 Cal. Rptr. 915.

No. 89-947. *CURRAN, ATTORNEY GENERAL OF MARYLAND, ET AL. v. MULLER ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 889 F. 2d 54.

No. 89-949. *AMERICAN HOME INSURANCE GROUP ET AL. v. AARON ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 876 F. 2d 1157.

No. 89-950. *UNITED TRANSPORTATION UNION v. BLANKENBAKER ET AL.* C. A. 10th Cir. Certiorari denied. Reported below: 878 F. 2d 1235.

No. 89-951. *MERRELL DOW PHARMACEUTICALS, INC. v. OXENDINE*. Ct. App. D. C. Certiorari denied. Reported below: 563 A. 2d 330.

No. 89-952. *UNITED STATES STEEL CORPORATION PLAN FOR EMPLOYEE INSURANCE BENEFITS ET AL. v. MUSISKO ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 885 F. 2d 1170.

No. 89-953. *SAFIR v. PRUDENTIAL INSURANCE COMPANY OF AMERICA ET AL.* C. A. 2d Cir. Certiorari denied.

No. 89-956. *SEARIGHT ET UX. v. CIMINO*. Sup. Ct. Mont. Certiorari denied. Reported below: 238 Mont. 218, 777 P. 2d 335.

No. 89-957. *TRANSPORTES DEL NORTE v. CLARK ET AL.* Sup. Ct. Tex. Certiorari denied. Reported below: 774 S. W. 2d 644.

No. 89-958. *FELTNER ET AL. v. FLEISCHHAUER ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 879 F. 2d 1290.

No. 89-959. *LOPEZ v. CALIFORNIA*. Ct. App. Cal., 4th App. Dist. Certiorari denied. Reported below: 212 Cal. App. 3d 289, 260 Cal. Rptr. 641.

No. 89-961. *LAMON ET UX. v. CITY OF WESTPORT ET AL.* Ct. App. Wash. Certiorari denied. Reported below: 44 Wash. App. 664, 723 P. 2d 470.

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No. 89-963. *ROGERS v. COUNTY OF HUMBOLDT, CALIFORNIA, ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 878 F. 2d 1439.

No. 89-965. *RAFTER v. LIBERTY LINES TRANSIT, INC., ET AL.* App. Div., Sup. Ct. N. Y., 2d Jud. Dept. Certiorari denied.

No. 89-966. *BIERMANN v. WREN, DIRECTOR, INTERNAL REVENUE SERVICE CENTER, ET AL.* C. A. 11th Cir. Certiorari denied. Reported below: 877 F. 2d 973.

No. 89-967. *MODI v. MODI.* Ct. App. Cal., 1st App. Dist. Certiorari denied.

No. 89-968. *NEWSOME v. UNITED STATES.* C. A. 6th Cir. Certiorari denied. Reported below: 887 F. 2d 1088.

No. 89-969. *WRENN v. LEDBETTER, COMMISSIONER, GEORGIA DEPARTMENT OF HUMAN RESOURCES, ET AL.* C. A. 11th Cir. Certiorari denied. Reported below: 880 F. 2d 420.

No. 89-970. *FIRST COMICS, INC. v. WORLD COLOR PRESS, INC.* C. A. 7th Cir. Certiorari denied. Reported below: 884 F. 2d 1033.

No. 89-971. *RUSS BERRIE & Co., INC. v. ROULO.* C. A. 7th Cir. Certiorari denied. Reported below: 886 F. 2d 931.

No. 89-972. *HUNSBERGER v. PENNSYLVANIA.* Sup. Ct. Pa. Certiorari denied. Reported below: 523 Pa. 92, 565 A. 2d 152.

No. 89-974. *PETROLEO BRASILEIRO, S. A. v. ATWOOD TURN-KEY DRILLING, INC., ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 875 F. 2d 1174.

No. 89-975. *AL-MARAYATI v. UNIVERSITY OF TOLEDO ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 884 F. 2d 578.

No. 89-976. *SUTTON v. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT ET AL.* C. A. 8th Cir. Certiorari denied. Reported below: 885 F. 2d 471.

No. 89-978. *VON RUECKER v. HOLIDAY INNS, INC., ET AL.* Ct. App. Mo., Eastern Dist. Certiorari denied. Reported below: 775 S. W. 2d 295.

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No. 89-979. *BAUSCH & LOMB INC. v. HEWLETT-PACKARD Co.* C. A. Fed. Cir. Certiorari denied. Reported below: 882 F. 2d 1556.

No. 89-980. *HEFTI ET UX. v. UNITED STATES ET AL.* C. A. 8th Cir. Certiorari denied. Reported below: 879 F. 2d 311.

No. 89-981. *GELBAND ET AL. v. TEXACO INC. ET AL.* App. Div., Sup. Ct. N. Y., 1st Jud. Dept. Certiorari denied. Reported below: 140 App. Div. 2d 1013, 529 N. Y. S. 2d 929.

No. 89-982. *SINDAK v. IDAHO.* Sup. Ct. Idaho. Certiorari denied. Reported below: 116 Idaho 185, 774 P. 2d 895.

No. 89-983. *ADAIR ET AL. v. CLAY ET AL.* Sup. Ct. Okla. Certiorari denied. Reported below: 780 P. 2d 650.

No. 89-984. *BUCKLEY LAND CORP. v. DEPARTMENT OF NATURAL RESOURCES OF MICHIGAN.* Ct. App. Mich. Certiorari denied. Reported below: 178 Mich. App. 249, 443 N. W. 2d 390.

No. 89-987. *STANDARD OIL COMPANY OF CALIFORNIA ET AL. v. CITY OF LONG BEACH ET AL.*; and

No. 89-990. *EXXON CORP. ET AL. v. CITY OF LONG BEACH ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 872 F. 2d 1401 and 886 F. 2d 246.

No. 89-988. *CHEVRON CORP. ET AL. v. CITY OF LONG BEACH ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 872 F. 2d 1410.

No. 89-991. *THOMPSON v. SCHRODER, JUDGE, KENTON DISTRICT COURT.* Cir. Ct. Ky., Kenton County. Certiorari denied.

No. 89-993. *BRYANT v. FORD MOTOR Co.* C. A. 9th Cir. Certiorari denied. Reported below: 886 F. 2d 1526.

No. 89-995. *MEYER ET AL. v. FOWLER ET UX.* Ct. App. Cal., 4th App. Dist. Certiorari denied.

No. 89-998. *MITCHELL v. ASSOCIATED BUILDING CONTRACTORS OF N. W. OHIO, INC., ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 884 F. 2d 1392.

No. 89-1000. *KAPLAN v. UNITED STATES.* C. A. 2d Cir. Certiorari denied. Reported below: 886 F. 2d 536.

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No. 89-1001. SWIN RESOURCE SYSTEMS, INC. *v.* LYCOMING COUNTY, PENNSYLVANIA, ET AL. C. A. 3d Cir. Certiorari denied. Reported below: 883 F. 2d 245.

No. 89-1003. MINERS ADVOCACY COUNCIL, INC. *v.* ALASKA DEPARTMENT OF ENVIRONMENTAL CONSERVATION ET AL. Sup. Ct. Alaska. Certiorari denied. Reported below: 778 P. 2d 1126.

No. 89-1004. DELANEY *v.* CALIFORNIA. Ct. App. Cal., 3d App. Dist. Certiorari denied.

No. 89-1005. CARUSO ET AL. *v.* CITY OF NEW YORK ET AL. Ct. App. N. Y. Certiorari denied. Reported below: 74 N. Y. 2d 854, 547 N. E. 2d 92.

No. 89-1006. MARTORANO *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied. Reported below: 866 F. 2d 62.

No. 89-1007. OXLEY *v.* CITY OF TULSA, OKLAHOMA, BY AND THROUGH THE TULSA AIRPORT AUTHORITY. Sup. Ct. Okla. Certiorari denied. Reported below: 794 P. 2d 742.

No. 89-1009. TALAMAS *v.* UNITED STATES;
No. 89-1152. CARY *v.* UNITED STATES; and
No. 89-6352. BAUMAN *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 887 F. 2d 546.

No. 89-1011. HELTON *v.* ALABAMA. Ct. Crim. App. Ala. Certiorari denied. Reported below: 549 So. 2d 589.

No. 89-1013. EAVES *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 877 F. 2d 943.

No. 89-1014. MCPHERSON ET UX. *v.* BARNES. C. A. 8th Cir. Certiorari denied. Reported below: 889 F. 2d 1091.

No. 89-1015. THOMAS *v.* OHIO. Ct. App. Ohio, Washington County. Certiorari denied.

No. 89-1017. NZONGOLA *v.* SUPERIOR COURT OF FULTON COUNTY, GEORGIA. Super. Ct. Ga., Fulton County. Certiorari denied.

No. 89-1019. SOUTH CAROLINA EDUCATION ASSN. ET AL. *v.* CAMPBELL, SECRETARY OF STATE OF SOUTH CAROLINA, ET AL. C. A. 4th Cir. Certiorari denied. Reported below: 883 F. 2d 1251.

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No. 89-1020. *MORFESIS v. DEPARTMENT OF HOUSING PRESERVATION AND DEVELOPMENT OF THE CITY OF NEW YORK*. App. Div., Sup. Ct. N. Y., 1st Jud. Dept. Certiorari denied. Reported below: 150 App. Div. 2d 181, 540 N. Y. S. 2d 711.

No. 89-1021. *MORALES v. BURROUGHS ET AL.* Ct. App. Kan. Certiorari denied. Reported below: 13 Kan. App. 2d xxxiii, 773 P. 2d 692.

No. 89-1024. *SICKELSMITH v. TOOLIS.* Ct. App. Ohio, Columbian County. Certiorari denied.

No. 89-1025. *ENGLAND, INDIVIDUALLY AND DBA VIDEO AMERICA, ET AL. v. HENDRICKS ET AL.* C. A. 10th Cir. Certiorari denied. Reported below: 880 F. 2d 281.

No. 89-1026. *INDIANA COAL COUNCIL, INC., ET AL. v. INDIANA DEPARTMENT OF NATURAL RESOURCES ET AL.* Sup. Ct. Ind. Certiorari denied. Reported below: 542 N. E. 2d 1000.

No. 89-1029. *STATE BOARD OF EQUALIZATION AND ASSESSMENT v. NORTHERN NATURAL GAS CO. ET AL.; and STATE BOARD OF EQUALIZATION AND ASSESSMENT v. TRAILBLAZER PIPELINE CO. ET AL.* Sup. Ct. Neb. Certiorari denied. Reported below: 232 Neb. 806, 443 N. W. 2d 249 (first case); 232 Neb. 823, 442 N. W. 2d 386 (second case).

No. 89-1032. *ALLEN ET AL. v. UNITED STATES.* C. A. 11th Cir. Certiorari denied. Reported below: 880 F. 2d 420.

No. 89-1034. *GOLDSTEIN v. DELTA AIR LINES, INC.* C. A. 11th Cir. Certiorari denied. Reported below: 878 F. 2d 1440.

No. 89-1036. *DEADWYLER ET AL. v. VOLKSWAGEN OF AMERICA, INC., ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 884 F. 2d 779.

No. 89-1038. *CARBONE v. UNITED STATES.* C. A. 1st Cir. Certiorari denied. Reported below: 880 F. 2d 1500.

No. 89-1039. *DALTON ET VIR v. STATE FARM MUTUAL AUTOMOBILE INSURANCE Co.* Super. Ct. N. J., App. Div. Certiorari denied. Reported below: 234 N. J. Super. 128, 560 A. 2d 683.

No. 89-1042. *NEWMAN v. BURGIN ET AL.* C. A. 1st Cir. Certiorari denied. Reported below: 884 F. 2d 19.

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No. 89-1045. HEALTHMASTER, INC., ET AL. *v.* CHATTAHOOCHEE VALLEY HOME HEALTH CARE, INC. Sup. Ct. Ga. Certiorari denied. Reported below: 259 Ga. 387, 385 S. E. 2d 290.

No. 89-1047. BOGGERTY ET UX. *v.* WILSON ET AL. Ct. App. Mich. Certiorari denied. Reported below: 160 Mich. App. 514, 408 N. W. 2d 809.

No. 89-1050. DADE COUNTY ET AL. *v.* LAKE LUCERNE CIVIC ASSN., INC., ET AL.; and

No. 89-1062. LAKE LUCERNE CIVIC ASSN., INC., ET AL. *v.* DOLPHIN STADIUM CORP. ET AL. C. A. 11th Cir. Certiorari denied. Reported below: 878 F. 2d 1360.

No. 89-1051. POWELL ET AL. *v.* WESTERN ILLINOIS ELECTRIC COOPERATIVE ET AL. App. Ct. Ill., 4th Dist. Certiorari denied. Reported below: 180 Ill. App. 3d 581, 536 N. E. 2d 231.

No. 89-1053. CAMOSCIO *v.* BOARD OF REGISTRATION IN PODIATRY. C. A. 1st Cir. Certiorari denied. Reported below: 879 F. 2d 853.

No. 89-1054. BITUMINOUS CASUALTY CORP. *v.* CORPORATION OF THE PRESIDING BISHOP OF CHURCH OF JESUS CHRIST OF LATTER-DAY SAINTS ET AL. C. A. 11th Cir. Certiorari denied. Reported below: 877 F. 2d 938.

No. 89-1055. NORFOLK SHIPBUILDING & DRYDOCK CORP. *v.* LATHEY. Ct. App. Va. Certiorari denied. Reported below: 8 Va. App. 306, 380 S. E. 2d 665.

No. 89-1057. J & N VIDEO, INC. *v.* KENTUCKY. Cir. Ct. Ky., Campbell County. Certiorari denied.

No. 89-1059. PAYNE *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 886 F. 2d 1317.

No. 89-1061. SEVENTH-DAY ADVENTIST CONGREGATIONAL CHURCH ET AL. *v.* GENERAL CONFERENCE CORPORATION OF SEVENTH-DAY ADVENTISTS. C. A. 9th Cir. Certiorari denied. Reported below: 887 F. 2d 228.

No. 89-1065. CAMOSCIO *v.* MURPHY ET AL. C. A. 1st Cir. Certiorari denied. Reported below: 887 F. 2d 259.

No. 89-1066. ALLOCATI *v.* CALIFORNIA. Ct. App. Cal., 2d App. Dist. Certiorari denied.

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No. 89-1069. *CLELAND ET UX. v. GRAYBAR ELECTRIC CO., INC.* C. A. 3d Cir. Certiorari denied. Reported below: 887 F. 2d 260.

No. 89-1070. *TERRY v. VIRGINIA.* Sup. Ct. Va. Certiorari denied.

No. 89-1071. *LYNCH v. BELDEN & Co., INC.* C. A. 7th Cir. Certiorari denied. Reported below: 882 F. 2d 262.

No. 89-1072. *LATSHAW v. PENNSYLVANIA ET AL.* Super. Ct. Pa. Certiorari denied. Reported below: 389 Pa. Super. 648, 560 A. 2d 826.

No. 89-1077. *AL-PAR, INC. v. BAIRD & WARNER, INC.* App. Ct. Ill., 1st Dist. Certiorari denied. Reported below: 183 Ill. App. 3d 467, 539 N. E. 2d 192.

No. 89-1083. *J. I. HASS Co., INC. v. GILBANE BUILDING Co.* C. A. 3d Cir. Certiorari denied. Reported below: 881 F. 2d 89.

No. 89-1092. *HIGGINS v. MAHER ET AL.* Ct. App. Cal., 4th App. Dist. Certiorari denied. Reported below: 210 Cal. App. 3d 1168, 258 Cal. Rptr. 757.

No. 89-1093. *BRIGGS v. SLETTEN, EXECUTIVE DIRECTOR, NORTH DAKOTA BOARD OF MEDICAL EXAMINERS, ET AL.* Sup. Ct. N. D. Certiorari denied. Reported below: 448 N. W. 2d 607.

No. 89-1095. *REED v. UNITED STATES.* C. A. 11th Cir. Certiorari denied. Reported below: 887 F. 2d 1398.

No. 89-1099. *ARIZONA EX REL. DEAN, TUCSON CITY ATTORNEY v. CITY COURT OF CITY OF TUCSON ET AL. (HARING ET AL., REAL PARTIES IN INTEREST).* Sup. Ct. Ariz. Certiorari denied. Reported below: 161 Ariz. 297, 778 P. 2d 1193.

No. 89-1102. *GATTO ET AL. v. MERIDIAN MEDICAL ASSOCIATES, INC., ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 882 F. 2d 840.

No. 89-1107. *SCHWAB v. UNITED STATES.* C. A. 2d Cir. Certiorari denied. Reported below: 886 F. 2d 509.

No. 89-1127. *AUSTIN v. UNITED STATES.* C. A. 9th Cir. Certiorari denied. Reported below: 887 F. 2d 1089.

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No. 89-1129. *HERTZKE ET UX., INDIVIDUALLY AND AS PARENTS OF HERTZKE, A MINOR v. REILEY ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 891 F. 2d 281.

No. 89-1132. *JONES v. UNITED STATES.* C. A. 4th Cir. Certiorari denied. Reported below: 887 F. 2d 492.

No. 89-1133. *VISLISEL v. UNIVERSITY OF IOWA ET AL.* Sup. Ct. Iowa. Certiorari denied. Reported below: 445 N. W. 2d 771.

No. 89-1147. *BIBACE v. FLORIDA BAR.* Sup. Ct. Fla. Certiorari denied.

No. 89-1151. *MOODY v. UNITED STATES.* C. A. 11th Cir. Certiorari denied. Reported below: 874 F. 2d 1575.

No. 89-1157. *LYNCH, SUCCESSOR PERSONAL REPRESENTATIVE OF THE ESTATE OF EVANS, ET AL. v. FLEMING, GUARDIAN AD LITEM FOR FLEMING.* Sup. Ct. S. C. Certiorari denied. Reported below: 299 S. C. 366, 384 S. E. 2d 748.

No. 89-1163. *VESEY v. MACY'S HERALD SQUARE.* Civ. Ct., City of New York, N. Y. Certiorari denied.

No. 89-1168. *KIEFER, EXECUTOR, ESTATE OF BOGRAD v. COMMISSIONER OF INTERNAL REVENUE.* C. A. 5th Cir. Certiorari denied. Reported below: 887 F. 2d 1084.

No. 89-1178. *CASAMENTO v. UNITED STATES.* C. A. 2d Cir. Certiorari denied. Reported below: 887 F. 2d 1141.

No. 89-1195. *ST. JOSEPH HOSPITAL v. CELOTEX CORP. ET AL.* C. A. 11th Cir. Certiorari denied. Reported below: 874 F. 2d 764.

No. 89-5712. *BRITO-MEJIA v. UNITED STATES;* and
No. 89-5734. *CARRASCO v. UNITED STATES.* C. A. 1st Cir. Certiorari denied. Reported below: 879 F. 2d 945.

No. 89-5742. *JERRY EL v. ZIMMERMAN ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 879 F. 2d 856.

No. 89-5767. *HARMON v. TENNESSEE.* Sup. Ct. Tenn. Certiorari denied. Reported below: 775 S. W. 2d 583.

No. 89-5792. *TUTINO v. UNITED STATES;* and

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No. 89-5878. *GUARINO v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 883 F. 2d 1125.

No. 89-5853. *LAMB v. SOWDERS, WARDEN, ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 880 F. 2d 1321.

No. 89-5877. *BROWN v. LABORERS' INTERNATIONAL UNION OF NORTH AMERICA ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 877 F. 2d 62.

No. 89-5909. *DOTTS v. UNITED STATES POSTAL SERVICE*. C. A. Fed. Cir. Certiorari denied. Reported below: 878 F. 2d 1444.

No. 89-5937. *GILBERT v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 884 F. 2d 454.

No. 89-5947. *WILLIAMS v. ARMONTROUT, WARDEN*. C. A. 8th Cir. Certiorari denied. Reported below: 877 F. 2d 1376.

No. 89-5948. *SPAULDING v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 884 F. 2d 1386.

No. 89-5949. *MANG SUN WONG v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 884 F. 2d 1537.

No. 89-5952. *LAUBACK v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 869 F. 2d 965 and 884 F. 2d 924.

No. 89-5959. *WILLIAMSON v. KENTUCKY*. Sup. Ct. Ky. Certiorari denied.

No. 89-5963. *PANZARDI-ALVAREZ v. UNITED STATES*. C. A. 1st Cir. Certiorari denied. Reported below: 879 F. 2d 975.

No. 89-5971. *GOSSETT v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 877 F. 2d 901.

No. 89-6011. *THARPE v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 884 F. 2d 1393.

No. 89-6013. *PARKER v. UNITED STATES*. C. A. 10th Cir. Certiorari denied. Reported below: 881 F. 2d 945.

No. 89-6017. *RENEER v. SEABOLD, WARDEN*. C. A. 6th Cir. Certiorari denied. Reported below: 883 F. 2d 75.

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No. 89-6024. *MCAFEE v. FIFTH CIRCUIT JUDGES ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 884 F. 2d 221.

No. 89-6028. *DEBUSK v. UNITED STATES.* C. A. 6th Cir. Certiorari denied. Reported below: 880 F. 2d 878.

No. 89-6030. *CREEKMORE v. UNITED STATES.* C. A. 11th Cir. Certiorari denied. Reported below: 885 F. 2d 878.

No. 89-6035. *HOCHBERG v. UNITED STATES.* C. A. 2d Cir. Certiorari denied. Reported below: 888 F. 2d 126.

No. 89-6053. *HORTON v. WISCONSIN.* Ct. App. Wis. Certiorari denied. Reported below: 151 Wis. 2d 250, 445 N. W. 2d 46.

No. 89-6054. *FLORES v. UNITED STATES.* C. A. 9th Cir. Certiorari denied. Reported below: 885 F. 2d 875.

No. 89-6056. *HENSON v. UNITED STATES.* Ct. App. D. C. Certiorari denied. Reported below: 563 A. 2d 1096.

No. 89-6070. *OWENS v. UNITED STATES.* C. A. 8th Cir. Certiorari denied. Reported below: 889 F. 2d 1091.

No. 89-6073. *BRADY v. PONTE.* C. A. 1st Cir. Certiorari denied.

No. 89-6076. *GHAFOOR v. UNITED STATES.* C. A. 3d Cir. Certiorari denied. Reported below: 872 F. 2d 414.

No. 89-6080. *HOFLIN v. UNITED STATES.* C. A. 9th Cir. Certiorari denied. Reported below: 880 F. 2d 1033.

No. 89-6085. *MARSH v. UNITED STATES.* C. A. 9th Cir. Certiorari denied. Reported below: 894 F. 2d 1035.

No. 89-6099. *TORTORICH v. UNITED STATES.* C. A. 9th Cir. Certiorari denied. Reported below: 878 F. 2d 387.

No. 89-6104. *WALDEN v. UNITED STATES.* C. A. 11th Cir. Certiorari denied. Reported below: 890 F. 2d 1165.

No. 89-6105. *DEMOS v. UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF WASHINGTON.* C. A. 9th Cir. Certiorari denied.

No. 89-6114. *FONTANEZ v. UNITED STATES.* C. A. 11th Cir. Certiorari denied. Reported below: 887 F. 2d 1091.

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No. 89-6119. *RODRIGUEZ v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 882 F. 2d 1059.

No. 89-6137. *RUSCOE v. CONNECTICUT*. Sup. Ct. Conn. Certiorari denied. Reported below: 212 Conn. 223, 563 A. 2d 267.

No. 89-6139. *POWELL v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 886 F. 2d 81.

No. 89-6152. *CHAVEZ v. UNITED STATES*. C. A. 10th Cir. Certiorari denied.

No. 89-6154. *BIG EAGLE v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 881 F. 2d 539.

No. 89-6158. *TINSLEY v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 888 F. 2d 1392.

No. 89-6160. *NASH v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 876 F. 2d 1359.

No. 89-6169. *BALLARD v. VOLUNTEERS OF AMERICA ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 882 F. 2d 93.

No. 89-6185. *IGNATIUS v. IMMIGRATION AND NATURALIZATION SERVICE; and IN RE IGNATIUS*. C. A. 5th Cir. Certiorari denied. Reported below: 889 F. 2d 272 (first case).

No. 89-6187. *SPINKS v. DIXON, WARDEN, ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 885 F. 2d 866.

No. 89-6198. *GARZA v. COLLINS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, INSTITUTIONAL DIVISION*. C. A. 5th Cir. Certiorari denied.

No. 89-6200. *CHAPEL v. CALIFORNIA*. Ct. App. Cal., 2d App. Dist. Certiorari denied.

No. 89-6206. *WRIGHT v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 887 F. 2d 264.

No. 89-6207. *EIERLE v. FLORIDA*. Dist. Ct. App. Fla., 3d Dist. Certiorari denied. Reported below: 547 So. 2d 646.

No. 89-6208. *EIERLE v. LAMBDIN, SUPERINTENDENT, GLADES CORRECTIONAL INSTITUTE, ET AL.* C. A. 11th Cir. Certiorari denied.

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No. 89-6211. *KURBEGOVICH v. VASQUEZ*. C. A. 9th Cir. Certiorari denied. Reported below: 883 F. 2d 1024.

No. 89-6212. *LEPISCOPO v. HOPWOOD ET AL.* C. A. 10th Cir. Certiorari denied.

No. 89-6216. *NORTHCOTT v. LOVE, WARDEN*. C. A. 6th Cir. Certiorari denied.

No. 89-6218. *SANDERS v. OHIO*. Ct. App. Ohio, Hamilton County. Certiorari denied.

No. 89-6221. *RANDOLPH v. ILLINOIS*. App. Ct. Ill., 1st Dist. Certiorari denied. Reported below: 179 Ill. App. 3d 1105, 551 N. E. 2d 1131.

No. 89-6222. *GIBBONS, NKA RACZKOWSKI v. L. W. BLAKE MEMORIAL HOSPITAL ET AL.* Dist. Ct. App. Fla., 2d Dist. Certiorari denied. Reported below: 538 So. 2d 1386.

No. 89-6227. *SEITU ET AL. v. UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF MISSISSIPPI*. C. A. 5th Cir. Certiorari denied.

No. 89-6231. *GREEN v. CALIFORNIA*. Ct. App. Cal., 3d App. Dist. Certiorari denied.

No. 89-6232. *HOWELL v. CALIFORNIA*. App. Dept., Super. Ct. Cal., Los Angeles County. Certiorari denied.

No. 89-6240. *MCGHEE v. CITY OF LOS ANGELES DEPARTMENT OF WATER AND POWER ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 876 F. 2d 897.

No. 89-6246. *TASBY, AKA AMEN-RA v. COLLINS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, INSTITUTIONAL DIVISION, ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 888 F. 2d 1390.

No. 89-6247. *WOOL v. FEFEL ET AL.* Ct. Sp. App. Md. Certiorari denied. Reported below: 79 Md. App. 777.

No. 89-6248. *BYNUM v. UNITED STATES*. C. A. 11th Cir. Certiorari denied.

No. 89-6251. *GIBSON v. COHN, SUPERINTENDENT, INDIANA STATE REFORMATORY*. C. A. 7th Cir. Certiorari denied.

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No. 89-6255. *POLING ET AL. v. CALDWELL ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 889 F. 2d 273.

No. 89-6256. *ABNER v. ESCAMBIA COUNTY SCHOOL DISTRICT, PENSACOLA, FLORIDA* (two cases). C. A. 11th Cir. Certiorari denied.

No. 89-6258. *EWING v. DAVIS ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 884 F. 2d 1383.

No. 89-6259. *CLAYTON v. UNITED STATES PAROLE COMMISSION.* C. A. 5th Cir. Certiorari denied. Reported below: 887 F. 2d 1085.

No. 89-6261. *LAWSON v. CALIFORNIA.* Sup. Ct. Cal. Certiorari denied.

No. 89-6262. *MITCHELL v. TOWSON STATE UNIVERSITY.* C. A. 4th Cir. Certiorari denied. Reported below: 887 F. 2d 1080.

No. 89-6265. *WILLIAMSON v. UNITED STATES.* C. A. 9th Cir. Certiorari denied.

No. 89-6267. *CHANDLER v. MOORE ET AL.* C. A. 8th Cir. Certiorari denied.

No. 89-6268. *BUCCI v. UNITED STATES.* C. A. 1st Cir. Certiorari denied. Reported below: 884 F. 2d 1483.

No. 89-6270. *CALPIN v. EISTER.* C. A. 3d Cir. Certiorari denied.

No. 89-6272. *LAIRD v. LACK, WARDEN, ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 884 F. 2d 912.

No. 89-6273. *GOFF v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. Reported below: 887 F. 2d 57.

No. 89-6275. *D'AMARIO v. CITY OF PROVIDENCE ET AL.* Sup. Ct. R. I. Certiorari denied.

No. 89-6276. *APPLEBY v. YOUNG, COMMISSIONER, SOCIAL AND REHABILITATION SERVICES OF VERMONT.* Sup. Ct. Vt. Certiorari denied. Reported below: 152 Vt. 415, 566 A. 2d 1310.

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No. 89-6277. *APPLEBY v. YOUNG, COMMISSIONER, SOCIAL AND REHABILITATION SERVICES OF VERMONT*. Sup. Ct. Vt. Certiorari denied. Reported below: 152 Vt. 487, 567 A. 2d 1139.

No. 89-6278. *DEMOS v. UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT*. C. A. 9th Cir. Certiorari denied.

No. 89-6280. *STIDUM v. TRICKEY, SUPERINTENDENT, MISSOURI EASTERN CORRECTIONAL CENTER*. C. A. 8th Cir. Certiorari denied. Reported below: 881 F. 2d 582.

No. 89-6281. *MCNEILL v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 887 F. 2d 448.

No. 89-6283. *KENROW v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 888 F. 2d 1389.

No. 89-6286. *SHAKUR v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 888 F. 2d 234.

No. 89-6288. *RANDALL ET AL. v. MICHIGAN*. Sup. Ct. Mich. Certiorari denied. Reported below: 432 Mich. 905, 444 N. W. 2d 522.

No. 89-6291. *SALERNO v. BRANSTAD ET AL.* C. A. 8th Cir. Certiorari denied.

No. 89-6294. *KINNEAR v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 881 F. 2d 1313.

No. 89-6295. *MECKLEY v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 888 F. 2d 1387.

No. 89-6297. *CARRALES v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 888 F. 2d 1389.

No. 89-6299. *BROWN v. MASONRY PRODUCTS, INC., ET AL.* C. A. 11th Cir. Certiorari denied. Reported below: 874 F. 2d 1476.

No. 89-6301. *BOOTH v. K MART CORP. ET AL.* C. A. 5th Cir. Certiorari denied.

No. 89-6304. *QUINTANA v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 886 F. 2d 1323.

No. 89-6306. *WHITAKER v. NEW TREAD ET AL.* Ct. App. Cal., 1st App. Dist. Certiorari denied.

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No. 89-6307. *GROWNEY v. MEYERS ET AL.* Ct. App. Mich. Certiorari denied.

No. 89-6309. *FERDIK v. ARIZONA.* Ct. App. Ariz. Certiorari denied.

No. 89-6310. *IGLESIAS v. UNITED STATES.* C. A. 9th Cir. Certiorari denied. Reported below: 881 F. 2d 1519.

No. 89-6314. *PICKETT v. GAITHER, SUPERINTENDENT, COASTAL CORRECTIONAL INSTITUTION.* C. A. 11th Cir. Certiorari denied. Reported below: 880 F. 2d 420.

No. 89-6315. *BECKER v. ILLINOIS REAL ESTATE ADMINISTRATION AND DISCIPLINARY BOARD ET AL.* C. A. 7th Cir. Certiorari denied. Reported below: 884 F. 2d 955.

No. 89-6318. *HAYES v. LOCKHART, DIRECTOR, ARKANSAS DEPARTMENT OF CORRECTION.* C. A. 8th Cir. Certiorari denied. Reported below: 881 F. 2d 1451.

No. 89-6319. *ANGULO FARRUFIA v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. Reported below: 889 F. 2d 272.

No. 89-6320. *LOSACCO v. UNITED STATES FIDELITY & GUARANTY CO.* App. Ct. Conn. Certiorari denied. Reported below: 19 Conn. App. 806, 563 A. 2d 1386.

No. 89-6323. *TURNER v. UNITED STATES.* Ct. App. D. C. Certiorari denied.

No. 89-6325. *WHITE v. UNITED STATES.* C. A. 6th Cir. Certiorari denied. Reported below: 888 F. 2d 1392.

No. 89-6326. *KILCREASE v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. Reported below: 881 F. 2d 1073.

No. 89-6328. *HUFFMAN v. YOUNGSTOWN STATE UNIVERSITY.* C. A. 6th Cir. Certiorari denied. Reported below: 885 F. 2d 871.

No. 89-6329. *BROWN v. FREY ET AL.* C. A. 8th Cir. Certiorari denied. Reported below: 889 F. 2d 159.

No. 89-6334. *JOHNSON v. UNITED STATES.* C. A. 7th Cir. Certiorari denied. Reported below: 886 F. 2d 1318.

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No. 89-6335. *D'AMARIO v. PROVIDENCE CIVIC CENTER AUTHORITY ET AL.* C. A. 1st Cir. Certiorari denied. Reported below: 893 F. 2d 1326.

No. 89-6336. *HOPE v. UNITED STATES.* C. A. 11th Cir. Certiorari denied. Reported below: 891 F. 2d 906.

No. 89-6337. *CONNER v. UNITED STATES.* C. A. 8th Cir. Certiorari denied. Reported below: 886 F. 2d 984.

No. 89-6339. *GUTIERREZ v. UNITED STATES.* C. A. 11th Cir. Certiorari denied. Reported below: 886 F. 2d 1323.

No. 89-6340. *D'AMARIO v. RHODE ISLAND.* Super. Ct. Providence & Bristol Counties, R. I. Certiorari denied.

No. 89-6341. *BLAKE v. LEONARDO, SUPERINTENDENT, GREAT MEADOW CORRECTIONAL FACILITY, ET AL.* C. A. 2d Cir. Certiorari denied.

No. 89-6343. *SIMS v. SULLIVAN, SUPERINTENDENT, SING SING CORRECTIONAL FACILITY.* C. A. 2d Cir. Certiorari denied.

No. 89-6344. *VISSER v. CALIFORNIA.* App. Dept., Super. Ct. Cal., County of Los Angeles. Certiorari denied.

No. 89-6346. *SHABAZZ, AKA PHILLIPS v. OKLAHOMA.* Ct. Crim. App. Okla. Certiorari denied.

No. 89-6348. *MITCHELL v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. Reported below: 886 F. 2d 1313.

No. 89-6349. *WILLIAMSON v. A. G. EDWARDS & SONS, INC., ET AL.* C. A. 8th Cir. Certiorari denied. Reported below: 876 F. 2d 69.

No. 89-6350. *JONES v. UNITED STATES.* C. A. 11th Cir. Certiorari denied. Reported below: 888 F. 2d 1395.

No. 89-6353. *DAVIS v. UNITED STATES.* C. A. 10th Cir. Certiorari denied.

No. 89-6354. *REDDING v. MINNESOTA ET AL.* C. A. 8th Cir. Certiorari denied. Reported below: 881 F. 2d 575.

No. 89-6355. *SAUVEY v. UNITED STATES.* C. A. 4th Cir. Certiorari denied. Reported below: 888 F. 2d 1387.

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No. 89-6356. *SOLON v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 888 F. 2d 1390.

No. 89-6358. *DEMOS v. SUPREME COURT OF WASHINGTON*. Sup. Ct. Wash. Certiorari denied.

No. 89-6361. *SPYCHALA v. CAMPOY*. C. A. 9th Cir. Certiorari denied. Reported below: 888 F. 2d 130.

No. 89-6365. *GUILES v. NOWLAND ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 880 F. 2d 1321.

No. 89-6366. *WEBER v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 887 F. 2d 568.

No. 89-6368. *HUNTER v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 887 F. 2d 1001.

No. 89-6369. *WARREN v. TEXAS*. Ct. Crim. App. Tex. Certiorari denied.

No. 89-6372. *ANDERSON v. GREEN ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 884 F. 2d 1394.

No. 89-6374. *LLERA v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 855 F. 2d 357.

No. 89-6379. *GARCIA v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 886 F. 2d 1312.

No. 89-6380. *CHAKA v. KLINCAR ET AL.* C. A. 7th Cir. Certiorari denied. Reported below: 886 F. 2d 332.

No. 89-6381. *CURRY v. MICHIGAN*. Sup. Ct. Mich. Certiorari denied.

No. 89-6382. *ALVAREZ v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 889 F. 2d 273.

No. 89-6384. *SCIRE v. UNITED STATES*. C. A. 11th Cir. Certiorari denied.

No. 89-6387. *HEREDIA v. STICKRATH, WARDEN*. C. A. 6th Cir. Certiorari denied. Reported below: 884 F. 2d 579.

No. 89-6388. *HARRIS v. UNITED STATES*. Ct. App. D. C. Certiorari denied.

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No. 89-6389. *SWEETING v. UNITED STATES*. C. A. 2d Cir. Certiorari denied.

No. 89-6399. *TANNER v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 888 F. 2d 1392.

No. 89-6400. *SMITH v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 891 F. 2d 905.

No. 89-6403. *BROWN v. UNITED STATES*. C. A. 10th Cir. Certiorari denied.

No. 89-6406. *CEBALLOS v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 891 F. 2d 284.

No. 89-6407. *TORRES v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 885 F. 2d 868.

No. 89-6410. *RAMIREZ v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 891 F. 2d 284.

No. 89-6412. *GARCIA-MOLINA v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 890 F. 2d 1162.

No. 89-6413. *ARIAS v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 892 F. 2d 87.

No. 89-6422. *BARNETT v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 891 F. 2d 287.

No. 89-6423. *PIRES v. SULLIVAN, SECRETARY OF HEALTH AND HUMAN SERVICES*. C. A. 4th Cir. Certiorari denied. Reported below: 885 F. 2d 866.

No. 89-6442. *DAVIS ET UX. v. UNITED STATES*. C. A. Fed. Cir. Certiorari denied. Reported below: 887 F. 2d 1095.

No. 89-6443. *CALLOWAY v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 889 F. 2d 274.

No. 89-6445. *SAUNDERS v. MAINE*. Sup. Jud. Ct. Me. Certiorari denied. Reported below: 565 A. 2d 996.

No. 89-6448. *QUIGLEY v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 890 F. 2d 1019.

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No. 89-6453. *PRINCE v. UNITED STATES*. C. A. 10th Cir. Certiorari denied.

No. 89-6460. *BREWER v. UNITED STATES*. Ct. App. D. C. Certiorari denied. Reported below: 559 A. 2d 317.

No. 89-6465. *CASELL v. LOCKHART, DIRECTOR, ARKANSAS DEPARTMENT OF CORRECTION*. C. A. 8th Cir. Certiorari denied. Reported below: 886 F. 2d 178.

No. 89-6473. *GONZALES v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 889 F. 2d 273.

No. 89-6474. *BISHOP v. UNITED STATES*. C. A. 10th Cir. Certiorari denied. Reported below: 890 F. 2d 212.

No. 89-6475. *PERLAZA-MOSQUERA v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 893 F. 2d 347.

No. 89-6478. *CASTO v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 889 F. 2d 562.

No. 89-6480. *SALINAS v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 893 F. 2d 344.

No. 89-6481. *COLLIER v. UNITED STATES*. C. A. 10th Cir. Certiorari denied.

No. 89-6483. *DAVIS v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 890 F. 2d 1373.

No. 89-6485. *DEQUIERO v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 893 F. 2d 347.

No. 89-6487. *PRESSLEY v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 892 F. 2d 88.

No. 89-6490. *GORDON v. ILLINOIS*. App. Ct. Ill., 1st Dist. Certiorari denied. Reported below: 184 Ill. App. 3d 1105, 562 N. E. 2d 408.

No. 89-6497. *BLOCH ET AL. v. PILGRIM PSYCHIATRIC CENTER*. Ct. App. N. Y. Certiorari denied. Reported below: 75 N. Y. 2d 789, 551 N. E. 2d 591.

No. 89-6524. *SCHULTZ v. WISCONSIN*. Sup. Ct. Wis. Certiorari denied. Reported below: 152 Wis. 2d 408, 448 N. W. 2d 424.

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No. 88-5811. *HARDCASTLE v. PENNSYLVANIA*. Sup. Ct. Pa.;
No. 88-6272. *WILSON v. ZANT, DEPUTY COMMISSIONER, GEORGIA DEPARTMENT OF CORRECTIONS*. Sup. Ct. Ga.;
No. 88-7299. *PRUITT v. GEORGIA*. Sup. Ct. Ga.;
No. 89-5223. *MACK v. ILLINOIS*. Sup. Ct. Ill.;
No. 89-6166. *TOMPKINS v. FLORIDA*. Sup. Ct. Fla.;
No. 89-6192. *MURRAY v. MISSOURI*. Sup. Ct. Mo.;
No. 89-6427. *SPENCER v. VIRGINIA*. Sup. Ct. Va.; and
No. 89-6435. *SPENCER v. VIRGINIA*. Sup. Ct. Va. Certiorari denied. Reported below: No. 88-5811, 519 Pa. 236, 546 A. 2d 1101; No. 88-7299, 258 Ga. 583, 373 S. E. 2d 192; No. 89-5223, 128 Ill. 2d 231, 538 N. E. 2d 1107; No. 89-6166, 549 So. 2d 1370; No. 89-6192, 775 S. W. 2d 89; No. 89-6427, 238 Va. 295, 384 S. E. 2d 785; No. 89-6435, 238 Va. 563, 385 S. E. 2d 850.

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. 89-324. *P*I*E NATIONWIDE, INC. v. PERRY ET AL.* C. A. 6th Cir. Certiorari denied. JUSTICE WHITE and JUSTICE O'CONNOR would grant certiorari. Reported below: 872 F. 2d 157.

No. 89-939. *HEALTHAMERICA ET AL. v. MENTON*. Sup. Ct. Ala. Certiorari denied. JUSTICE WHITE and JUSTICE O'CONNOR would grant certiorari. Reported below: 551 So. 2d 235.

No. 89-701. *TUOLUMNE PARK AND RECREATION DISTRICT ET AL. v. INTERSTATE COMMERCE COMMISSION ET AL.* C. A. 9th Cir. Motion of National Trust for Historic Preservation in the United States et al. for leave to file a brief as *amici curiae* granted. Certiorari denied. Reported below: 881 F. 2d 663.

No. 89-775. *GASTON COUNTY BOARD OF EDUCATION ET AL. v. SHOOK, BY AND THROUGH HER GUARDIAN AD LITEM, SHOOK*. C. A. 4th Cir. Certiorari denied. JUSTICE WHITE would grant certiorari. Reported below: 882 F. 2d 119.

No. 89-889. *LUBMAN ET AL. v. MAYOR AND CITY COUNCIL OF BALTIMORE CITY*. Ct. App. Md. Certiorari denied. JUSTICE

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WHITE would grant certiorari. Reported below: 317 Md. 72, 562 A. 2d 720.

No. 89-1033. ESTO, INC., ET AL. *v.* CALLAHAN, DBA C. E. CALLAHAN Co. C. A. 9th Cir. Certiorari denied. JUSTICE WHITE would grant certiorari. Reported below: 884 F. 2d 1180.

No. 89-5688. MACHOR *v.* UNITED STATES. C. A. 1st Cir. Certiorari denied. JUSTICE WHITE would grant certiorari. Reported below: 879 F. 2d 945.

No. 89-5901. FARRELL *v.* SULLIVAN, SECRETARY OF HEALTH AND HUMAN SERVICES. C. A. 1st Cir. Certiorari denied. JUSTICE WHITE would grant certiorari. Reported below: 887 F. 2d 258.

No. 89-798. LOCKHART, DIRECTOR, ARKANSAS DEPARTMENT OF CORRECTION *v.* HAYES. C. A. 8th Cir. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 881 F. 2d 1451.

No. 89-1113. NEW JERSEY *v.* HOWARD. Super. Ct. N. J., App. Div. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 235 N. J. Super. 243, 561 A. 2d 1202.

No. 89-1115. SOWDERS, WARDEN *v.* CRANE. C. A. 6th Cir. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 889 F. 2d 715.

No. 89-828. FRAME ET AL. *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied. JUSTICE O'CONNOR took no part in the consideration or decision of this petition. Reported below: 885 F. 2d 1119.

No. 89-869. HENRY HOLT & Co., INC. *v.* NEW ERA PUBLICATIONS INTERNATIONAL, APS. C. A. 2d Cir. Certiorari denied. THE CHIEF JUSTICE took no part in the consideration or decision of this petition. Reported below: 873 F. 2d 576.

No. 89-901. W. R. GRACE & Co.-CONN. *v.* DEPARTMENT OF REVENUE OF MONTANA ET AL. Sup. Ct. Mont. Motion of Committee on State Taxation of the Council of State Chambers of

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Commerce et al. for leave to file a brief as *amici curiae* granted. Certiorari denied. Reported below: 238 Mont. 439, 779 P. 2d 470.

No. 89-910. CHATHAS ET AL. *v.* SMITH, INDIVIDUALLY AND AS CHIEF OF POLICE, VILLAGE OF EVERGREEN PARK, ET AL. C. A. 7th Cir. Motion of Chicago Lawyers' Committee for Civil Rights Under Law, Inc., for leave to file a brief as *amicus curiae* granted. Certiorari denied. Reported below: 884 F. 2d 980.

No. 89-941. WESTCHESTER RADIOLOGICAL ASSOCIATES, P. C., ET AL. *v.* EMPIRE BLUE CROSS & BLUE SHIELD. C. A. 2d Cir. Motion of American College of Radiology et al. for leave to file a brief as *amici curiae* granted. Certiorari denied. Reported below: 884 F. 2d 707.

No. 89-1035. CSX TRANSPORTATION, INC. *v.* CALDWELL. Sup. Ct. Va. Motion of Norfolk Southern Corp. for leave to file a brief as *amicus curiae* granted. Certiorari denied. Reported below: 238 Va. 148, 380 S. E. 2d 910.

No. 89-1064. NEIL *v.* ESPINOZA ET AL. Ct. App. Colo. Motion of respondent Andrew Espinoza for leave to proceed *in forma pauperis* granted. Certiorari denied.

Rehearing Denied

No. 88-1474. UNITED STATES *v.* GOODYEAR TIRE & RUBBER CO. ET AL., *ante*, p. 132;

No. 88-7543. JOHNSON *v.* TEXAS, *ante*, p. 841;

No. 89-613. ENGEL *v.* CLARK COUNTY, NEVADA, *ante*, p. 993;

No. 89-5280. ALSTON *v.* DUBOIS ET AL., *ante*, p. 938;

No. 89-5802. HOLLADAY *v.* ALABAMA, *ante*, p. 1012;

No. 89-5825. QUARLES *v.* CHAMPION INTERNATIONAL CORP., *ante*, p. 1027;

No. 89-5854. FAZZINI *v.* UNITED STATES; *ante*, p. 982;

No. 89-5865. SPYCHALA *v.* BORG, WARDEN, *ante*, p. 1027;

No. 89-5899. JARRETT *v.* MINUTE MAN, INC., ET AL., *ante*, p. 1005;

No. 89-5941. WEAKLEY *v.* INDIANA, *ante*, p. 1005;

No. 89-5943. IN RE MANCHESTER, *ante*, p. 1016;

No. 89-5946. JACKSON *v.* HOROWITZ, *ante*, p. 1028;

No. 89-5966. HARTOG *v.* IOWA, *ante*, p. 1005;

No. 89-5968. LAWSE *v.* CORRY ET AL., *ante*, p. 1005;

No. 89-6009. RUBIN *v.* THRESHOLDS, INC., *ante*, p. 1031;

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No. 89-6020. LAWRENCE v. TEXAS EMPLOYMENT COMMISSION, *ante*, p. 1031;

No. 89-6066. VISSER v. UNITED STATES DISTRICT COURT FOR THE CENTRAL DISTRICT OF CALIFORNIA (WELLS FARGO BANK, REAL PARTY IN INTEREST), *ante*, p. 1032;

No. 89-6103. GREEN v. MASSACHUSETTS, *ante*, p. 1033;

No. 89-6112. MAY v. PRO-GUARD, INC., *ante*, p. 1034; and

No. 89-6132. BRANNER v. FREDERICK COUNTY JAIL ET AL., *ante*, p. 1034. Petitions for rehearing denied.